

Washington State Register

May 7, 2003

OLYMPIA, WASHINGTON

ISSUE 03-09



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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 May 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.

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504-0552, pursuant to RCW 34.08.020. Subscription rate is \$211.38 per year, sales tax included, postpaid to points in the United States. Periodical postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER

Code Reviser's Office
Legislative Building
P.O. Box 40552
Olympia, WA 98504-0552

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

John G. Schultz
Chair, Statute Law Committee

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Code Reviser

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Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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].

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
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02 - 22	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 10, 02	Jan 7, 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;

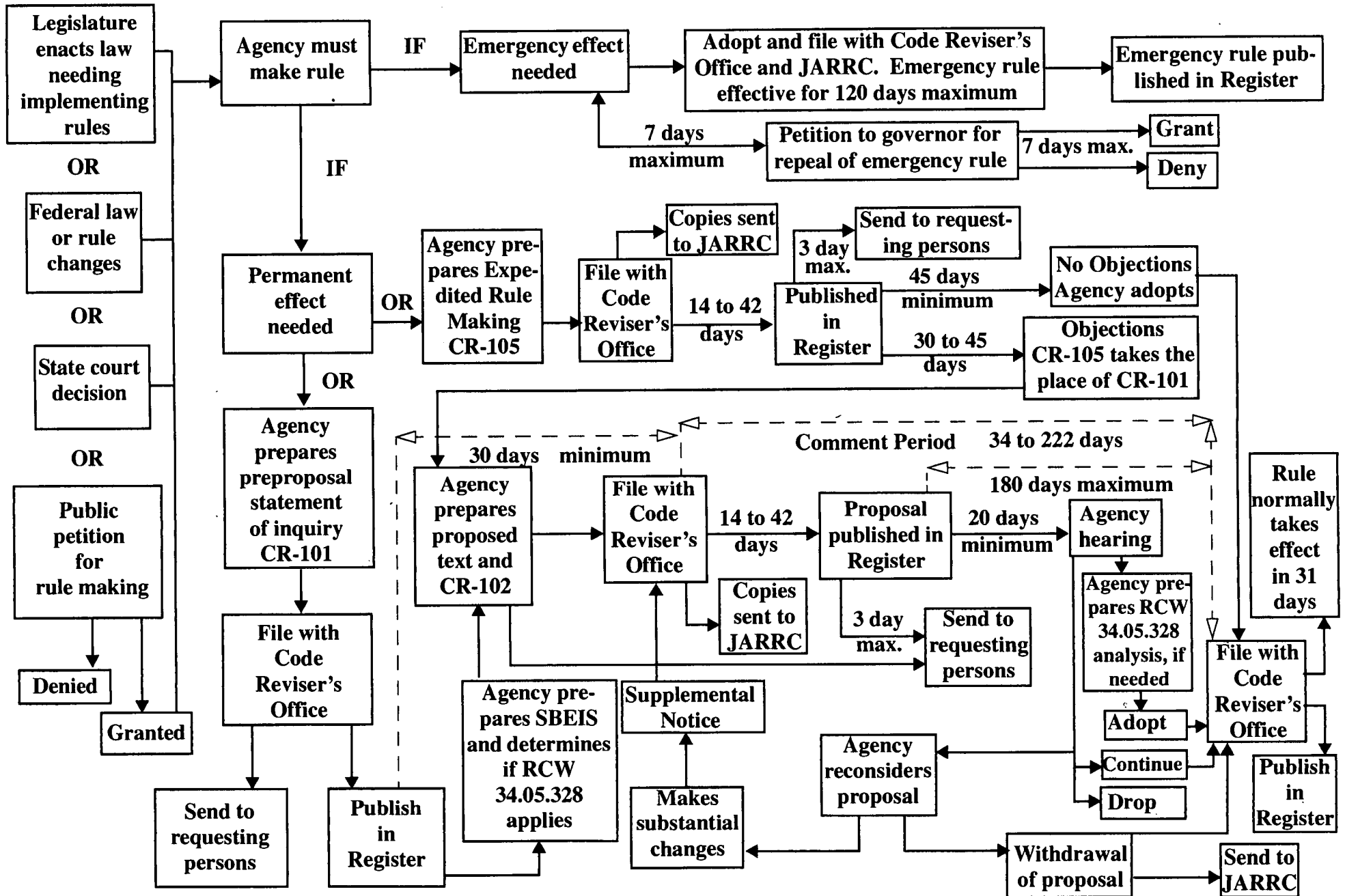
There is less than minor economic impact on business;

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 03-09-017**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed April 7, 2003, 9:04 a.m.]

Subject of Possible Rule Making: Chapter 246-562 WAC, J-1 physician visa waiver regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.185 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in November 2002 to the federal law authorizing this program increased the number of available waivers per year. The increase in total waivers provides the department with an opportunity to look at the rule to address concerns expressed by constituent groups and solicit additional input on the subject of specialists.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are federal rules that regulate the J1 visa waiver program. This program works closely with the United States Department of State (DOS) and Immigration and Naturalization Service (INS) to ensure compliance with the federal regulations. DOS and INS will be included in all mailings.

Process for Developing New Rule: Program staff will use mailings, a round table discussion at the annual Northwest Regional Rural Health Conference in Spokane, and community work sessions to solicit input on any rule amendments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennell Prentice at the Office of Community and Rural Health, P.O. Box 47834, Olympia, WA 98504-7834, fax (360) 664-9273, e-mail J1rules@doh.wa.gov.

April 3, 2003

M. C. Selecky
Secretary**WSR 03-09-019****PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed April 7, 2003, 11:36 a.m.]

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

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130 and 28.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

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

April 7, 2003

Larry Davis

Executive Director

WSR 03-09-020**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed April 7, 2003, 11:40 a.m.]

Subject of Possible Rule Making: WAC 180-78A-505 Overview—Teacher professional certificate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

April 7, 2003

Larry Davis

Executive Director

WSR 03-09-021**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed April 7, 2003, 11:41 a.m.]

Subject of Possible Rule Making: WAC 180-79A-308 Endorsement by examination.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendments to this rule will eliminate the provision which allows teachers to add an endorsement through a particular score on the Graduate Record Examination and will align the rules with the

endorsement requirements in WAC 180-79A-304, 180-82-204, and 182A-204 [180-82A-204].

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

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

April 7, 2003
Larry Davis
Executive Director

WSR 03-09-022

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed April 7, 2003, 11:43 a.m.]

Subject of Possible Rule Making: WAC 180-82-205 Assignment of classroom teachers within districts, the proposed amendment to this rule will clarify the manner in which school districts can assign classroom teachers.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment to this rule will clarify the manner in which school districts can assign classroom teachers.

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

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

April 7, 2003
Larry Davis
Executive Director

WSR 03-09-032

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed April 7, 2003, 3:49 p.m.]

Subject of Possible Rule Making: Amending chapters 196-12, 196-16, 196-20, 196-21, 196-24, 196-25, and 196-26A WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to these existing rules are needed in response to the change in the administration of the Board of Engineers licensing examinations, the implementation of chapter 18.235 RCW, the Uniform Regulation of Business and Professions, clarifying and defining terms and general appropriate "housekeeping" and reorganization, all of which will result in more understandable rules that reflect current practice.

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. Comments may be submitted through regular mail, phone, fax or e-mail to Joe Vincent Jr., P.O. Box 9025, Olympia, WA 98507-9025, phone (360) 664-1567, fax (360) 664-1575, e-mail engineers@dol.wa.gov. Draft language of rule amendments will be distributed to the board's list of interested persons.

April 3, 2003
George A. Twiss
Executive Director
Board of Registration for
Professional Engineers
and Land Surveyors

WSR 03-09-036

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

[Filed April 8, 2003, 11:13 a.m.]

Subject of Possible Rule Making: Rules governing the commercial harvest of clams.

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: Changes in legislation encourage the sale of shellfish other than oysters from the state oyster reserves. The changes being contemplated will facilitate the allowance of clam sales from the oyster reserve lands.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944. Contact by June 6, 2003. The expected date of filing is June 9, 2003.

April 8, 2003

Evan Jacoby
Rules Coordinator

WSR 03-09-040

PREPROPOSAL STATEMENT OF INQUIRY UNIVERSITY OF WASHINGTON

[Filed April 8, 2003, 3:54 p.m.]

Subject of Possible Rule Making: Chapter 478-04 WAC, Organization.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.20.130, 34.05.220, 34.05.330, and chapter 42.30 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To bring the rules concerning meetings of the University of Washington's board of regents up-to-date with current practices and consistent with the board's bylaws, and to make corrections in organizational information.

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. Written comments or inquiries may be directed to Rebecca Goodwin Deardorff, Director, Administrative Procedures Office by one of the following routes: United States Mail: University of Washington, 4014 University Way N.E., Seattle WA 98105-6203; campus mail: Box 355509; e-mail adminpro@u.washington.edu; or fax (206) 616-6294.

April 4, 2003

Rebecca Goodwin Deardorff
Director, Administrative Procedures

WSR 03-09-041

PREPROPOSAL STATEMENT OF INQUIRY BATES TECHNICAL COLLEGE

[Filed April 8, 2003, 3:55 p.m.]

Subject of Possible Rule Making: Update student rights and responsibilities to include definition of alternative learning methods, WAC 495A-121-011; prohibited student conduct, WAC 495A-121-041; and disciplinary student sanctions, WAC 495A-121-044.

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: The purpose of this rule

making is to update student rights and responsibilities to include alternative means of learning and technological advances. This proposal will clarify for students prohibited conduct relating to alternative learning and technological equipment.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Bates will notify the State Board for Community and Technical Colleges of this proposed change.

Process for Developing New Rule: Agency study; and modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Gwen Sailer, Student Services, Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405, phone (253) 680-7000, fax (253) 680-7043. Parties interested in the development of these rules may contact Amy Goings at (253) 680-7100 or community@bates.ctc.edu. The public may also participate by providing written comments or giving oral testimony after these rule changes are proposed during the public hearing process.

Date and Location of Public Meetings: Bates Technical College, Downtown Campus Cafeteria, 1101 South Yakima Avenue, Tacoma, WA 98405, on Monday, June 30, 2003, at 10:00 a.m. to 12 noon.

Assistance for Persons with Disabilities: Contact Amy Goings no later than ten days before the hearing date, TTY (253) 680-7045 or (253) 680-7100.

April 3, 2003

Amy Goings

Rules Coordinator and Director of
Development and Government Relations

WSR 03-09-043

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

[Filed April 9, 2003, 10:10 a.m.]

Subject of Possible Rule Making: Title 131 WAC, governing Washington's community and technical college system.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules might need to be revised in the area of tuition charges for certain ungraded courses as a result of changes in tuition.

Process for Developing New Rule: Normal rule-making process with emergency rules likely in July 2003 to carry-over through the summer until the next state board meeting in September 2003 when permanent rules may be adopted, if necessary.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting DelRae Oderman, Executive Assistant and Agency Rules Coordinator, State Board for Community

and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495.

April 9, 2003
DelRae Oderman
Executive Assistant
Agency Rules Coordinator

WSR 03-09-049
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed April 10, 2003, 11:14 a.m.]

Subject of Possible Rule Making: Handling of earnest money in real estate transactions. Will amend WAC 308-124C-010 Licensee's responsibilities, 308-124C-020 Required records, and 308-124E-013(4) Administration of funds held in trust.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.85.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In recent years, the real estate industry has allowed for buyers and sellers to negotiate an earnest money which could be delivered by any designated person to a third party other than the broker. These earnest moneys have sometimes not been delivered, receipts have not been obtained, and the third party holders (such as escrow and title companies) have not responded to demands for refund or forfeiture in the way a real estate broker is required to respond. The proposed rule amendments would require that real estate licensees obtain receipts for earnest money, deliver all receipts to brokers, and disclose to consumers the risks in depositing earnest money with third party holders.

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

Process for Developing New Rule: Negotiated rule making; and agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jana L. Jones, Real Estate Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 664-6524, fax (360) 586-0998.

April 10, 2003
Jana L. Jones
Assistant Administrator

WSR 03-09-054
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed April 11, 2003, 3:06 p.m.]

Subject of Possible Rule Making: Military service credit.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.04.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state retirement laws related to military service are intended to mirror the requirements in the federal law, 38 U.S.C. 101. This federal statute covers "the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress." The Department of Retirement Systems (DRS) proposes adopting rules, as needed, to clarify that military service rules apply to service in southern or central Asia as part of Operation Enduring Freedom or service during the period of Operation Iraqi Freedom.

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

Process for Developing New Rule: Department 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.

April 11, 2003
Merry A. Kogut
Rules Coordinator

WSR 03-09-068
PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket No. UE-030311—Filed April 15, 2003, 1:40 p.m.]

Subject of Possible Rule Making: Consider review of WAC 480-100-238 Least-cost planning, will be reviewed for content and readability consistent with Executive Order 97-02, with attention to the rule's need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness. A review of WAC 480-100-238 may consider whether substantive changes or additions should be made to the existing rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040 and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the period of 1999 to 2001, the Washington Utilities and Transportation Commis-

sion conducted a comprehensive review of chapter 480-100 WAC, Electric companies. WAC 480-100-238 Least-cost planning, was deferred from that review of chapter 480-100 WAC for further study pending the availability of sufficient resources. The commission intends to conduct such a review at this time. This review will examine whether the current rule provides the results that it was originally intended to achieve and whether the rule is consistent with laws, with appropriate and lawful policies, and with the advances in technology in the electric industry. Subjects included in this review may cover but are not limited to:

1. The roles of risk and uncertainty in resource planning;
2. The role of demand management;
3. The role of resource diversity, resource adequacy, and financial and physical hedging;
4. Planning issues, such as planning horizons and filing deadlines;
5. Portfolio analysis;
6. Rule process and enforcement issues;
7. The relationship of least-cost plans to commission review of specific generation or demand response projects;
8. The relevance of any changes in policies or requirements at the federal and state levels; and
9. Appropriate uses of least-cost plans.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: FERC.

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 publication 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, fax (360) 586-1150. Interested persons may file written comments on the CR-101 by **Friday, May 16, 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 on **Friday, June 13, 2003**, in Room 206 at the commission's headquarters, beginning at 9:30 a.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 **Friday, May 16, 2003**, for consideration at the **Friday, June 13, 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 (UE-030311).
- 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/030311>. 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. UE-030311 to ensure that you are placed on the appropriate service list. Questions may be addressed to Graciela Etchart, (360) 664-1310 or e-mail at getchart@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. UE-030311, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UE-030311, 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/030311>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

April 15, 2003

Carole J. Washburn
Secretary

WSR 03-09-069

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UG-030312—Filed April 15, 2003, 1:41 p.m.]

Subject of Possible Rule Making: Consider review of WAC 480-90-238 Least-cost planning, will be reviewed for

content and readability consistent with Executive Order 97-02, with attention to the rule's need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness. A review of WAC 480-90-238 may consider whether substantive changes or additions should be made to the existing rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040 and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the period 1999 to 2001, the Washington Utilities and Transportation Commission conducted a comprehensive review of chapter 480-90 WAC, Gas companies—Operations, in fulfillment of Executive Order 97-02 requirements. WAC 480-90-238 Least-cost planning, was deferred from that review of chapter 480-90 WAC for further study pending the availability of sufficient resources. The commission intends to conduct such a review at this time. This review will examine whether the current rule provides the results that it was originally intended to achieve and whether the rule is consistent with laws, with appropriate and lawful policies, and with the advances in technology in the electric industry. Subjects included in this review may cover but are not limited to:

1. The roles of risk and uncertainty in resource planning;
2. The role of demand management;
3. The role of resource diversity, resource adequacy, and financial and physical hedging;
4. Planning issues, such as planning horizons and filing deadlines;
5. Portfolio analysis;
6. Rule process and enforcement issues;
7. The relationship of least-cost plans to commission review of specific supply or demand response projects;
8. The relevance of any changes in policies or requirements at the federal and state levels; and
9. Appropriate uses of least-cost plans.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: FERC.

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 publication 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, fax (360) 586-1150. Interested persons may file written comments on the CR-101 by **Friday, May 16, 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 **Friday, June 13, 2003**, in Room 206 at the commission's headquarters, beginning at 9:30 a.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 **Friday, May 16, 2003**, for consideration at the **Friday, June 13, 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 (UG-030312).
- 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/030312>. 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. UG-030312 to ensure that you are placed on the appropriate service list. Questions may be addressed to Graciela Etchart, (360) 664-1310 or e-mail at <getchart@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. UG-030312, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UG-030312, 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/030312>>. **THOSE PARTIES WHO**

DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.

April 15, 2003
Carole J. Washburn
Secretary

**WSR 03-09-070
PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket No. UE-030423—Filed April 15, 2003, 1:42 p.m.]

Subject of Possible Rule Making: Consider review of chapter 480-107 WAC, Electric companies—Purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers, for content and readability consistent with Executive Order 97-02, with attention to the rule's need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness. A review of chapter 480-107 WAC may consider whether substantive changes or additions should be made to the existing rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040 and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Since 1997, the Washington Utilities and Transportation Commission has conducted a comprehensive review of the chapters of Title 480 WAC. At this time, the commission intends to conduct the review of chapter 480-107 WAC. This review will examine whether the current rules provide the results that it was originally intended to achieve and whether the rules are consistent with laws, with appropriate and lawful policies, and with the advances in technology in the electric industry. Subjects included in this review may cover but are not limited to:

- Conditions that trigger a request for proposals (RFP) process, such as a LCP filing or a "need for power" event;
- Conditions to waive a RFP process;
- Schedule for a RFP process;
- Staff role in a RFP process;
- The need to clarify the beneficiary of competitive markets under regulated monopolies, specifically fairness for providers or reasonableness for consumers;
- The need to ensure that only noninterested parties are reviewers of the RFP and the bidding process;
- Discussion of approval of acquisitions and projects prior to a general rate case;
- Consistency with chapter 480-146 WAC, Securities and affiliated interests; and
- Consistency with the Energy Policy Act (EPACT) and FERC 888/889 for wheeling issues.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: FERC.

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 publication 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, fax (360) 586-1150. Interested persons may file written comments on the CR-101 by **Friday, May 16, 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 on **Friday, June 13, 2003**, in Room 206 at the commission's headquarters, beginning at 9:30 a.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 **Friday, May 16, 2003**, for consideration at the **Friday, June 13, 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 (UE-030423).
- 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/030423>. 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. UE-030423 to ensure that you are placed on the appropriate service list. Questions may be addressed to Graciela Etchart, (360) 664-1310 or e-mail at getchart@wutc.wa.gov.

NOTICE

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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. UE-030423, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UE-030423, 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/030423>>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

April 15, 2003

Carole J. Washburn
Secretary

WSR 03-09-071

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF FISH AND WILDLIFE

[Filed April 15, 2003, 4:21 p.m.]

Subject of Possible Rule Making: Possession rules for recreational fisheries.

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: Certain bottomfish species are in need of additional protection from harvest. Current prohibition of landing does not adequately cover the aspect of possession to provide enforceability - the proposed change will close this enforcement gap.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: National Marine Fisheries Service provides regulation for bottomfish species in the three to two hundred mile offshore area and the regulation we are considering would be complimentary and parallel in state waters.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, by June 16, 2003. The expected filing date is June 18, 2003.

April 15, 2003

Evan Jacoby
Rules Coordinator

WSR 03-09-082

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 17, 2003, 10:47 a.m.]

Subject of Possible Rule Making: WAC 180-86-100 Reprimand or certificate suspension or revocation—Initiation of proceedings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010 Certification—State board duty—Rules and regulations—Record check—Lapsed certificates—Superintendent of public instruction as administrator.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed change will allow two sections in the state superintendent's office the discretionary authority to begin professional practice investigations of alleged misuse of aversive intervention with special needs students.

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

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

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

April 17, 2003

Larry Davis
Executive Director

WSR 03-09-083

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 17, 2003, 10:49 a.m.]

Subject of Possible Rule Making: WAC 180-86-116 Investigative priorities—Levels of acts or omissions of misconduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010 Certification—State board duty—Rules and regulations—Record check—Lapsed certificates—Superintendent of public instruction as administrator.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed change will allow two sections in the state superintendent's office the discretionary authority to begin professional practice investigations of alleged misuse of aversive intervention with special needs students and makes such investigations a Level II priority.

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

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

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

April 17, 2003

Larry Davis
Executive Director

WSR 03-09-084

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 17, 2003, 10:52 a.m.]

Subject of Possible Rule Making: WAC 180-86-115 Superintendent of public instruction annual report to state board of education.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to this rule will align it with proposed amendments to WAC 180-82-105 by requiring the Superintendent of Public Instruction to include summary data regarding endorsement-related assignments in its report to the State Board of Education.

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

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

April 15, 2003

Larry Davis
Executive Director

WSR 03-09-085

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 17, 2003, 10:55 a.m.]

Subject of Possible Rule Making: WAC 180-78A-264 Approval standard—Program design.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment to this rule will require colleges/universities to begin assessing teacher candidates on the pedagogy assessment instrument as of September 1, 2004.

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

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

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

April 15, 2003

Larry Davis
Executive Director

WSR 03-09-086

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 17, 2003, 10:55 a.m.]

Subject of Possible Rule Making: WAC 180-78A-250 Approval standard—Professional education advisory board.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment to this rule will require the professional education advisory board for teachers to review annually summaries of performance of the pedagogy assessment for teacher candidates.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator,

State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

April 15, 2003
Larry Davis
Executive Director

WSR 03-09-087
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed April 17, 2003, 1:28 p.m.]

Subject of Possible Rule Making: Commercial spot prawn 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: Issues of overcapitalization, excessive gear, and season length are of concern. Rules are needed to provide for the economic well-being of the industry and to protect the prawn resource.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, Marine Fish Resources Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by June 5, 2003, expected proposal filing June 6th.

April 17, 2003
Evan Jacoby
Rules Coordinator

WSR 03-09-089
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed April 18, 2003, 4:22 p.m.]

Subject of Possible Rule Making: WAC 388-71-05923 Social services for adults, related to training timelines for contracted home care for adults, and related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.39A.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The language that requires basic training to be completed within one hundred twenty days after beginning to work with their first Department of Social and Health Services (DSHS) client has been very difficult to implement. Data is not available for staff to track if

an individual provider has worked with any DSHS client under all DSHS administrations.

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

Process for Developing New Rule: Convene a work group of interested parties to determine a workable solution. The department welcomes public participation in the development of its rules. Contact the person listed below for information on how to participate.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dotti Wilke, Program Manager, Aging and Disability Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2539, fax (360) 725-2646, or e-mail at wilkedc@dshs.wa.gov.

April 17, 2003
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-09-090
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed April 18, 2003, 4:24 p.m.]

Subject of Possible Rule Making: Rules regarding the Division of Child Support (DCS) license suspension program: WAC 388-14A-4500 What is the division of child support's license suspension program? through 388-14A-4530 Administrative hearings regarding license suspension are limited in scope.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.20A.320.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DCS seeks to review and revise the rules regarding the license suspension program, especially to clarify who is subject to license suspension.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's regulatory improvement website, which can be found at <http://www-app2.wa.gov/dshs/esa/extpolicy/blue.asp>. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule-making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

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

lication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011, e-mail nkoptur@dshs.wa.gov.

April 16, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-09-093

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF RETIREMENT SYSTEMS

[Filed April 21, 2003, 10:00 a.m.]

Subject of Possible Rule Making: The Department of Retirement Systems (DRS) plans to put its long-standing interpretation of the time period in RCW 41.32.310 into WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.050(5), 41.32.310.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The time limit in RCW 41.32.310 is open to interpretation. DRS has long interpreted the time limit to mean "five school year endings." A recent superior court decision demonstrated that other interpretations are possible. Putting a clear explanation of the time limit into rule will provide clarity to both members and DRS staff.

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

Process for Developing New Rule: Department 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. The Department of Retirement Systems 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.

April 18, 2003

Merry A. Kogut
Rules Coordinator

WSR 03-09-094

PREPROPOSAL STATEMENT OF INQUIRY COMMUNITY COLLEGES OF SPOKANE

[Filed April 21, 2003, 10:02 a.m.]

Subject of Possible Rule Making: Chapters 132Q-02, 132Q-03, 132Q-04, 132Q-05, 132Q-06, 132Q-07, 132Q-20, 132Q-94, and 132Q-108 WAC.

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: Periodic review for updating in order to promote institutional efficiency.

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 Connie Stafford Sherman, Vice Chancellor for Systems Administration, 501 North Riverpoint Boulevard, P.O. Box 6000, Mailstop 1002, Spokane, WA 99217-6000, phone (509) 434-5060, fax (509) 434-5025, e-mail csherman@ccs.spokane.edu.

April 18, 2003

Connie Stafford Sherman
Vice Chancellor for
Systems Administration

WSR 03-09-100

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed April 21, 2003, 11:44 a.m.]

Subject of Possible Rule Making: WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096 and 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-40-680 explains how to determine timber volume harvested for the stumpage value tables. The rule provides several alternative methods for determining the harvested timber volume when Scribner Decimal C method is not used. In practice, harvesters sometimes rely upon a purchaser's approved sample scaling method. We anticipate clarifying in the rule whether the harvester may rely upon a purchaser's approved sample scaling method. The current rule does not provide explicit instructions to a harvester that uses a sample scaling method that is not approved. We anticipate clarifying how volume is determined when a sample scaling method is used that has not been approved by the department. The rule also has weight conversion tables intended for purchases of timber by weight. In recent years, these purchases by weight have been exclusively small logs. The last revision of the rule contained conversion factors intended only for small logs. We anticipate

discussion about this change and what clarifications are needed to apply the weight conversion provision correctly.

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 excise taxes upon timber.

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: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on May 15, 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.

April 21, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

THIS DRAFT IS NOT TO BE CONSIDERED A PROPOSED RULE AND IS ONLY PROVIDED FOR DISCUSSION PURPOSES TO DETERMINE WHAT AMENDMENTS A LATER PROPOSED RULE MIGHT ADDRESS. UNDER NO CIRCUMSTANCES IS THIS DISCUSSION DRAFT TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

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

AMENDATORY SECTION (Amending WSR 00-24-068, filed 12/1/00, effective 1/1/01)

WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value areas 1, 2, 3, 4, 5, and 10 is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value areas 6 and 7 is the Scribner Decimal C log rule described in the most current edition of the "National Forest Log Scaling Handbook" (FSH 2409.11) as published by the United States Forest Service. Lodgepole pine harvested in stumpage value areas 6, 7, or 10

must be scaled using a one inch taper allowance per log segment.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not to be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters, or purchasers, who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the Department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the ~~((original))~~ unit of measure used to set the purchase price was ~~((by))~~ weight, and the harvester, or the purchaser, ~~((has not applied for approval))~~ does not use an approved method of sample scaling to determine volume for the stumpage value tables, the following tables must be used for converting to Scribner Decimal C. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, 5, & 10)

BOARD FOOT WEIGHT SCALE FACTORS
(TONS/MBF)

Species	Quality Code			
	1	2	3	4
Douglas-fir ¹	5.0	<u>6.0</u>	<u>6.50</u>	<u>7.50</u>
Western Hemlock ²	6.0	<u>6.5</u>	<u>7.50</u>	<u>8.25</u>
Western Redcedar ³	7.0			
Red Alder ⁴	7.0	<u>7.8</u>		
Chipwood	9.0			

- ¹ Includes Douglas-fir, Western Larch, and Sitka Spruce.
- ² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- ³ Includes Alaska-cedar.
- ⁴ Maple, Black Cottonwood and other hardwoods.

(Stumpage Value Areas 6 & 7)

BOARD FOOT WEIGHT SCALE FACTORS
(TONS/MBF)

Species	Quality code	
	1	2
Ponderosa Pine	5.0	6.50
Douglas-fir ¹	5.50	
Lodgepole Pine	6.0	
Western Hemlock ²	5.50	
Englemann Spruce	4.50	
Western Redcedar ³	4.50	
Chipwood	9.0	
Small Logs	6.50	

- ¹ Includes Western Larch.
- ² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not

separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

³ Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value areas 6 and 7 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

(ii) In stumpage value areas 6 and 7 multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 10 and which has been scaled by methods and procedures published in the "National Forest Log Scaling Handbook" (FSH 2409.11) must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value areas 6 and 7 and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

Total Scribner Board Foot Volume
Stumpage Value Areas 1, 2, 3, 4, 5, and 10

Length	Pole Class ¹											Piling Class ²					
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210

Total Scribner Board Foot Volume
Stumpage Value Areas 1, 2, 3, 4, 5, and 10

	Pole Class ¹									Piling Class ²		
	85	90	95	100	105	110	115	120	125	130		
	910	1080	1170	1190	1310	1370	1440	1660	1840	1920	800	800
	800	930	1000	1030	1160	1220	1280	1460	1600	1680	660	660
	660	820	870	900	1000	1050	1100	1300	1410	1490	660	660
	660	690	750	760	860	910	960	1140	1250	1310	570	570
	490	590	640	660	740	780	860	970	1080	1120	490	490
	360	400	540	550	610	650	680	820	930	970	360	360
	260	220	240	250	270	300	310	400	400	400	260	260
	210							500			210	210

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume
Stumpage Value Areas 6 and 7

Length	Pole Class ¹											Piling Class ²					
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	50	40		130	110
35					190	160	140	100	100	70	60	60	50			140	100
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

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 03-09-101

PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION

[Filed April 21, 2003, 4:09 p.m.]

Subject of Possible Rule Making: Bingo operators: Petition/variance process from adjusted cash flow require-

ments.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Mr. Frank Miller, attorney, on behalf of the Washington Charitable and Civic Gaming Association.

The commission is currently considering removing the petition/variance process for bingo operators who fail to meet their adjusted cash flow requirements. The petitioner is submitting an alternative to removing the petition/variance process.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Ed Fleisher, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, (509) 663-0711, on May 8 and 9, 2003; at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101, on June 12 and 13, 2003; and at the Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100, on August 14 and 15, 2003.

April 21, 2003
Susan Arland
Rules Coordinator

WSR 03-09-102

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed April 21, 2003, 4:10 p.m.]

Subject of Possible Rule Making: Bingo operators: Petition/variance process from adjusted cash flow requirements.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Mr. Ronnie Strong, on behalf of the Charitable Nonprofit Voice. The commission is currently considering removing the petition/variance process for bingo operators who fail to meet their adjusted cash flow requirements. The petitioner is submitting an alternative to removing the petition/variance process.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Ed Fleisher, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

dinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

Meeting Dates and Locations: Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, (509) 663-0711, on May 8 and 9, 2003; at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101, on June 12 and 13, 2003; and at the Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100, on August 14 and 15, 2003.

April 21, 2003
Susan Arland
Rules Coordinator

WSR 03-09-106

WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed April 22, 2003, 11:54 a.m.]

In accordance with RCW 34.05.335(1), the Department of Labor and Industries withdraws the following preproposal statement of inquiry.

Workers' compensation general reporting and classification, chapter 296-17 WAC. The preproposal was filed as WSR 01-03-157 on January 24, 2001. This rule making is being withdrawn and the changes will be incorporated into the rule making filed February 19, 2003, WSR 03-05-072.

Paul Trause
Director

WSR 03-09-114

PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed April 22, 2003, 4:28 p.m.]

Subject of Possible Rule Making: Develop the board's administrative procedures and ethics rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220, 42.17.250, 42.17.260, and 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Forest Practices Board is considering development of rules that would:

- Govern the procedures before the agency,
- Describe the agency organization, and how to obtain information, and
- Address conflict of interest rules recommended by the Executive Ethics Board and provide guidance on other ethical issues.

Development of these rules would provide guidance and clarification on how state ethics laws pertain to the Forest Practices Board and provide clarity on administrative procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:

cies: Executive Ethics Board and Office of Financial Management will be advised during the rule development process.

Process for Developing New Rule: Consultation with assistance attorney general, staff, and board members to develop draft rules and policies as well as solicit public comments and prepare a draft for board consideration.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mailing, faxing, or e-mailing comments to Patricia Anderson, Rules Coordinator, Forest Practices Board, Department of Natural Resources, Forest Practices Division, 1111 Washington Street, 4th Floor, P.O. Box 47012, Olympia, WA 98504-4701, fax (360) 902-1428, e-mail forest.practicesboard@wadnr.gov.

April 16, 2003
Pat McElroy
Chair

WSR 03-09-120
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed April 22, 2003, 4:45 p.m.]

Subject of Possible Rule Making: Deer, elk, and cougar seasons, permits, and damage; waterfowl seasons, regulations, decoys, official hunting hours and game reserves/closures; nontoxic shot; game management units; deer and elk areas; small game seasons and regulations.

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: To provide recreational opportunity; wildlife damage control.

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 Dave Brittell, Assistant Director, Wildlife Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2504. Contact by June 13, 2003, rule proposal filing expected to be June 18, 2003.

April 22, 2003
Evan Jacoby
Rules Coordinator

WSR 03-09-121
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed April 22, 2003, 4:47 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: The department is planning on adopting the 2003 North of Falcon recommendations by expedited adoption. We have received notice that the Purse Seine Vessel Owners Association will object to the Puget Sound gill net and purse seine seasons. These two rules are being withheld from the expedited adoption filing in order to allow commission review of the purse seine owners' complaint.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies directly regulate the Puget Sound salmon seasons.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Phil Anderson, Intergovernmental Resources Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2720. Contact by June 5, 2003, expected proposal filing June 6th.

April 22, 2003
Evan Jacoby
Rules Coordinator

WSR 03-09-122
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed April 22, 2003, 4:49 p.m.]

Subject of Possible Rule Making: Commercial rules for shrimp fishing.

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: Pot gear escape mechanisms and requirements are no longer consistent with materials available in the industry - modifications will allow compliance with available materials. The creation of a new shrimp district is necessary for timely management of shrimp in a smaller geographic area - this will allow fisheries to occur while managing appropriately for the discrete shrimp beds.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091. Contact by June 16, 2003, expected filing date is June 18, 2003.

April 21, 2003
Evan Jacoby
Rules Coordinator

WSR 03-09-124
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed April 23, 2003, 9:12 a.m.]

Subject of Possible Rule Making: Chapter 246-887 WAC, regulations implementing the Uniform Controlled Substances Act. Placement of the substance, carisoprodol, in schedule IV of the Uniform Controlled Substances Act.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.005(7), 69.50.201.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board received a petition for rule making requesting the placement of carisoprodol in schedule IV of the Uniform Controlled Substances Act. Upon review of the petition and supporting data, the board determined that placement of the substance in schedule IV will limit abuse of the drug.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Drug Enforcement Administration is responsible for the placement of drugs in the Controlled Substances Act at the federal level. The Board of Pharmacy also has the authority to add, delete or reschedule drugs listed in the state Uniform Controlled Substances Act. The Board of Pharmacy will invite representatives of the Drug Enforcement Administration to participate in stakeholder meetings.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Salmi, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, phone (360) 236-4828, fax (360) 586-4359, e-mail Lisa.Salmi@doh.wa.gov. Information on public meetings can be obtained from Lisa Salmi, Board of Pharmacy.

April 4, 2003
 Grant Chester
 Operations Manager
 for Donald H. Williams
 Executive Director

WSR 03-09-125
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 [Filed April 23, 2003, 9:13 a.m.]

Subject of Possible Rule Making: WAC 246-976-021 EMS and trauma training course requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.71.205, 18.73.081, and 70.168.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The above stated statutes give the Department of Health the authority to prescribe training standards for emergency medical services (EMS) personnel. These standards help provide for a consistent, coordinated and preplanned response by quality trained pre-

hospital providers. WAC 246-976-021 establishes the specific training standards to be followed by EMS personnel in Washington state. The proposed rule amendments are house-keeping changes that would correct a current discrepancy between the identifying title of the current emergency medical technician (EMT) training course curriculum as printed and its reference in WAC, remove unnecessary lessons from IV technician and airway technician level curriculums, and remove excess verbiage in describing training course requirements.

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 this subject.

Process for Developing New Rule: Statutory and other EMS and trauma care committees, councils, personnel and constituents will participate in the review of the proposed rule changes through open public meetings and other forms of communication (mail, e-mail, Internet, etc.). Appropriate drafts of rules and meeting dates will be either mailed or e-mailed to them.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Statewide public review of the draft proposed rule language will be available at appropriate open public meetings and through other forms of communication (mail, e-mail, etc.). The final draft of the proposed WAC amended language will be sent out to all affected and interested parties before the formal public hearing is held.

Any questions or concerns regarding the EMS and trauma training course requirements (WAC 246-976-021) should contact Richard Benjamin, Manager, Education and Training Section, Office of Emergency Medical and Trauma Prevention, P.O. Box 47853, Olympia, WA 98504-7853, e-mail (dick.benjamin@doh.wa.gov), phone (360) 236-2841 or fax (360) 236-2829.

April 21, 2003
 Mary C. Selecky
 Secretary

WSR 03-09-126
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF HEALTH
 [Filed April 23, 2003, 9:14 a.m.]

Subject of Possible Rule Making: WAC 246-100-166 Immunization of child care and school children against certain vaccine-preventable diseases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.210.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This inquiry is being conducted in conformance with Executive Order 97-02, which requires review of all agency rules that have significant effects on businesses, labor, consumers, and the environment. The current rule may not meet the clarity criteria and may need to be redrafted to reduce the likelihood of confusion and to increase readability. Additionally, new technology makes it possible to consider a single reporting date for schools, and

preschools and child care centers and to offer electronic filing in addition to the paper form specified in the current rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 28A.210.150 requires the superintendent of public instruction to "provide procedures for schools to quickly verify the immunization records of students transferring from one school to another before immunization records are received." The State Board of Education, under chapter 180-38 WAC, sets procedural and substantive due process requirements governing exclusion of students for failure to comply with immunization requirements. Department of Social and Health Services sets immunization requirements for children in licensed day care settings under WAC 388-150-220. The board and department will work with these agencies to assure they are informed of any change in immunization requirements.

Process for Developing New Rule: Collaborative rule making. The Board of Health and Department of Health will work together and consult with interested parties to develop the proposed rule. In addition to working with the agencies identified in the previous section, the department and board will contact local health jurisdictions, schools, vaccine providers, the child care action council, child care resource and referral groups and other interested parties. The board and department will invite all interested persons to comment on the proposed rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Craig McLaughlin, Senior Policy Manager, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504-7990, phone (360) 236-4106, fax (360) 236-4088, e-mail Craig.McLaughlin@doh.wa.gov; or Tawney Harper, Vaccines for Children Program Coordinator, Washington State Department of Health, Immunization Program, P.O. Box 47843, Olympia, WA 98504-7843, phone (360) 236-3525, fax (360) 236-3590, e-mail tawney.harper@doh.wa.gov.

April 14, 2003

Don Sloma

Executive Director

WSR 03-09-131

PREPROPOSAL STATEMENT OF INQUIRY HORSE RACING COMMISSION

[Filed April 23, 2003, 9:18 a.m.]

Subject of Possible Rule Making: Revision and recodification of all chapters in Title 260 WAC. The Washington Horse Racing Commission intends to review all of its existing rules to (1) eliminate unnecessary or redundant rules; (2) ensure that all rules are internally consistent; and (3) modernize and clarify rules. Through this process, the agency expects to replace virtually all of its existing rules with new rules. In doing so, the agency will consider adopting in whole or in part, the model rules of flat racing developed by the Association of Racing Commissioners International, with

appropriate modifications. See <http://www.arci.com/mror/mrorindex.html>, visited April 7, 2003.

This rule revision package will contain changes that modify or streamline agency procedures, including but not limited to public records procedures, licensing procedures, and administrative hearing procedures. Substantive rule changes (other than eliminating outdated, redundant, or unnecessary rules) will not be included unless a separate pre-proposal statement of inquiry is filed on that subject.

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: The rules on horse racing will be clarified, modernized, and made consistent with the requirements of state statutes, governor's executive orders and current horse racing regulatory practices. The new rules will be written in a clear style and will eliminate unnecessary rules.

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, meetings with stakeholders.

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.

April 22, 2003

R. M. Leichner

Executive Secretary

WSR 03-09-137

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF RETIREMENT SYSTEMS

[Filed April 23, 2003, 9:35 a.m.]

Subject of Possible Rule Making: Implementation rules for annuities out of the trust fund.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.50.088.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Retirement Systems (DRS) seeks [to] clarify the types of annuities that are to be offered and the purchase process.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DRS will work with the Washington State Investment Board and the Office of the State Actuary in developing these rules.

Process for Developing New Rule: Department 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 pub-

lication. The Department of Retirement Systems 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.

April 22, 2003
Merry A. Kogut
Rules Coordinator

WSR 03-09-140

PREPROPOSAL STATEMENT OF INQUIRY SECRETARY OF STATE

[Filed April 23, 2003, 10:25 a.m.]

Subject of Possible Rule Making: Presidential primary rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29.19.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules on the presidential primary need to be updated to accommodate changes in political party rules and be updated from the last presidential primary.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting 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.

April 21, 2003
Steve Excell
Assistant Secretary of State

WSR 03-09-141

PREPROPOSAL STATEMENT OF INQUIRY SECRETARY OF STATE

[Filed April 23, 2003, 10:25 a.m.]

Subject of Possible Rule Making: Administrative complaint procedure to comply with the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002).

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: To adopt an administrative complaint procedure so that Washington state can comply with the Help America Vote Act and be in the position to receive federal funding.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting 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.

April 21, 2003
Steve Excell
Assistant Secretary of State



WSR 03-09-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed April 2, 2003, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-14-158.

Title of Rule: Minimum licensing requirements for child care centers in proposed new chapter 388-295 WAC, and repealing rules in existing chapter 388-150 WAC.

Purpose: The Department of Social and Health Services' Economic Services Administration (ESA) is proposing to repeal all sections of chapter 388-150 WAC, Minimum licensing requirements for child day care centers, and replace those with new chapter 388-295 WAC, Minimum licensing requirements for child care centers.

Statutory Authority for Adoption: Chapters 74.12 and 74.15 RCW.

Statute Being Implemented: Chapters 74.12 and 74.15 RCW.

Summary: The Department of Social and Health Services, Economic Services Administration is rewriting the WACs for the minimum licensing requirements (MLRs) for child care centers under new chapter 388-295 WAC. The child care center MLR's explains DSHS' responsibilities in licensing child care centers, as well as the minimum standards that those entities must comply with in order to become and remain licensed to provide child care. This chapter has been rewritten in clear rule-writing style, with a question and answer format, to make it more understandable to ESA's customers. In addition, rules pertaining to the health aspect of child care requirements have been included in this chapter.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elizabeth Egge, Licensing Policy Program Manager, 1009 College S.E., Lacey, WA 98504, (360) 413-3268.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Department of Social and Health Services' Economic Services Administration (ESA) is proposing to repeal all sections of chapter 388-150 WAC, Minimum licensing requirements for child day care centers, and replace those with new chapter 388-295 WAC, Minimum licensing requirements for child care centers.

Proposal Changes the Following Existing Rules: The sections of chapter 388-150 WAC have been reorganized and rewritten in clear rule-writing language and components of each section clarified. The intent of moving these rules is to reorganize and clarify the minimum licensing requirements (MLR's) to make it easier for child care providers to follow the MLR's. In addition, rules pertaining to the health aspect of child care requirements have been included in this chapter.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not have

an economic impact on small businesses. This rule revision does not contain any requirements that would result in an increase in costs to the licensed child care providers that are not already in the rules that are currently in effect.

RCW 34.05.328 does not apply to this rule adoption. The department has evaluated the proposed rules and has determined that they do not meet the definition of "significant legislative rules" per RCW 34.05.328 (5)(c)(iii).

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (public parking at 11th and Jefferson), 1115 Washington, Olympia, WA 98504, on June 10, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 4, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 10, 2003.

Date of Intended Adoption: Not earlier than June 11, 2003.

March 26, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 03-10 issue of the Register.

WSR 03-09-010
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed April 4, 2003, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-05-090.

Title of Rule: WAC 139-10-215 Basic corrections academy equivalency certification.

Purpose: Making this change will bring the corrections standards in line with the standards for the Basic Law Enforcement Academy (BLEA). The current corrections statute does not address breaks in service. This equates to receiving lifetime certification upon completion of a Corrections Officers Academy (COA). Requiring employees to obtain equivalency after a break in employment of two or more years will keep officers up-to-date on changes in laws and best practices in a quickly changing and challenging field limiting liability for the commission and its stakeholders.

Statutory Authority for Adoption: RCW 43.101.080.

Summary: Stakeholders were contacted by letter to advise of the intended rule amendments. Proposals also listed on the agency website.

Name of Agency Personnel Responsible for Drafting and Enforcement: Al Isaac, Burien, (206) 835-7306; and

Implementation: Michael D. Parsons, Burien, (206) 835-7347.

Name of Proponent: Criminal Justice Training Commission staff, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This change will increase the successful completion of basic corrections academies and will limit agencies from being required to send students through the academy a second time. Student success will increase, as staff will have the freedom to tailor retesting to ensure the specific skills or knowledge is gained. It will also provide a consistent standard for both BLEA and COA.

Proposal Changes the Following Existing Rules: The change will allow for flexibility in dealing with students with varying needs or remediation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, an SBEIS is not required. RCW 19.85.025(2), this chapter does not apply to a rule proposed for expedited adoption under **RCW 34.05.230 (1) through (8), unless a written objection is timely filed with the agency and the objection is not withdrawn.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, on June 11, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by June 9, 2003, TDD (206) 835-7300.

Submit Written Comments to: Sharon M. Tolton, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, fax (206) 439-3860, by June 9, 2003.

Date of Intended Adoption: June 11, 2003.

April 4, 2003

Sonja Hirsch

Confidential Secretary

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-10-215 Basic corrections academy equivalency certification. (1) A certificate of equivalent basic corrections training shall be issued only to corrections employees who successfully complete the equivalency process as required by the Washington state criminal justice training commission and shall be recognized in the same manner as the certificate of completion of a basic corrections academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time custody and case management employees of publicly funded corrections agencies within this state who have either:

(a) Obtained certification through successful completion of an accepted basic corrections training program in this or another state.

(b) Previously held certification in this state and incurred a break or interruption of corrections employment in excess of twenty-four months.

The determination of program acceptability shall be the responsibility of the commission's executive director or his/her designee and shall be based upon a description and/or curriculum specifying subject areas and hourly allocation thereto.

(3) The decision to request an employee's participation within the equivalency process shall be discretionary with the chief executive officer of the employing agency. Such request shall be made to the commission in the approved form, signed by the chief executive officer of the requesting agency and shall include:

(a) Documented certification of successful completion of a basic corrections training program accepted by the training commission for the purposes of equivalency participation pursuant to the provisions of section (2) above;

(b) Written curriculum detailing specific areas of training and hours of training in specific areas;

(c) Copies of current and valid basic cardiopulmonary resuscitation (CPR) card and current and valid basic or advanced first-aid card(s) taken within the past year;

(d) Statement of applicant's health and physical condition from a licensed physician giving clearance for participation in physical training and defensive tactics coursework.

(4) Following receipt and acceptance of the above by the training commission, the applicant may participate in the equivalency process which shall include written examinations of specific core material classes, practical testing in basic skill areas, and full participation in mock scenes.

(5) Upon completion of the examination process outlined in section (4) and evaluation of the applicant's performance, the training 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;

(c) Require completion of the appropriate basic corrections academy program.

(6) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the training commission if it is determined that sufficient justification exists for such action. Any action or determination by commission staff regarding a requestor or applicant for equivalency certification may, upon written request of the involved individual or agency, be appealed to the training commission executive director, or designee.

WSR 03-09-023

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-16-010.

Title of Rule: WAC 180-79A-231 Limited certificates.

Purpose: To align the requirements for individuals obtaining a conditional certificate to teach special education with federal regulations.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

Rule is necessary because of federal law, Individuals with Disabilities Education Act (IDEA) Public Law 105-17 to implement regulations in 34 C.F.R. - 300 series.

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Fife School District Administration Building, 5802 20th Street East, Tacoma, WA 98424-20000 [98424-2000], on June 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 6, 2003.

Date of Intended Adoption: June 20, 2003.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-13-027, filed 6/12/02, effective 7/13/02)

WAC 180-79A-231 Limited certificates. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The state board of education encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The state board of education asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness require-

ments of WAC 180-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a baccalaureate degree level school speech pathologist or audiologist certification preparation program, who were eligible for certification at the time of program completion and who have served in the role for three of the last seven years.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 180-79A-257 (1)(c) and (d).

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate

degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) A teacher whose continuing certificate has lapsed according to WAC 180-85-040 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must complete any continuing certificate reinstatement requirements established by the state board of education within two years of the date the holder was issued the transitional certificate in order to continue to be employed. The

transitional certificate expiration date shall not be calculated under state board policy WAC 180-79A-117.

(b) No teacher whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 180-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable.

WSR 03-09-024

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-020.

Title of Rule: WAC 180-82-204 Endorsement requirements and 180-82A-204 Endorsement requirements.

Purpose: Amendments to these rules will allow individuals with valid national board certification to have the endorsements on their national board certificate placed on their Washington certificate if those endorsements are endorsements in Washington.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Fife School District Administration Building, 5802 20th Street East, Tacoma, WA 98424-2000, on June 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 6, 2003.

Date of Intended Adoption: June 20, 2003.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-108, filed 6/20/01, effective 7/21/01)

WAC 180-82-204 Endorsement requirements. (1) Candidates for all primary teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)).

(2) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which shall include methodology (see WAC 180-78A-264(5)). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) Teachers may add an endorsement by achieving National Board certification in a Washington teaching endorsement area and possessing a valid National Board certificate.

(4) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

~~((4))~~ (5) Candidates from out-of-state shall be required to present verification that they completed a state-approved program in a Washington endorsement area, except as otherwise provided in WAC 180-79A-257 (1)(d).

~~((5))~~ (6) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

~~((6))~~ (7) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

~~((7))~~ (8) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-204 Endorsement requirements. (1) Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (see WAC 180-78A-264(5)) and field experi-

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ence/internship (see WAC 180-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 180-78A-264(5)) and addresses all endorsement-specific competencies adopted by the state board of education and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

WSR 03-09-026
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-021.

Title of Rule: WAC 180-82A-206 Endorsement program approval and 180-82A-215 Implementation policies.

Purpose: Amendments to these rules will revise the procedures by which college/universities seek approval for their competency-based endorsement programs and will allow individuals enrolled in endorsement programs prior to August 31, 2005, to meet endorsement requirements specified in chapter 180-82 WAC.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Fife School District Administration Building, 5802 20th Street East, Tacoma, WA 98424-2000, on June 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 6, 2003.

Date of Intended Adoption: June 20, 2003.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-206 Endorsement program approval.

(1) The state board of education shall approve endorsement programs at Washington colleges and universities pursuant to the requirements of this chapter. Only colleges and universities with state board of education approved residency certificate teacher preparation programs are eligible to apply for approval to offer endorsement programs.

(2) The state board of education will establish performance/competency criteria for obtaining an endorsement. Revision in adopted endorsement competencies may occur only as approved by the state board.

(3) The superintendent of public instruction will publish, and make available, competencies for all endorsement areas identified in chapter 180-82A WAC.

(4) By August 31, 2003, each college or university desiring to establish an endorsement program shall ((~~comply with the following:~~

~~((a) Identification of opportunities for candidate to develop the capacity to demonstrate each competency;~~

~~((b)) submit a timeline to meet the following requirements for full approval by August 31, 2004:~~

~~((a) Identification of strategies that will be used to assess candidates' capacity/performance ((~~on each competency~~)) related to the competencies;~~

~~((~~e~~)) (b) A description of evidences that candidates will provide to document ((~~eandidates'~~) their positive impact on student learning in the ((~~respective~~)) endorsement area; and~~

~~((~~d~~)) (c) A description of the ((~~process~~)) assessment system by which ((~~summaries of candidates' assessment data, relative to performance on each competency, will be compiled~~)) candidate performance, relative to the competencies,~~

will be aggregated, analyzed, and used for program improvement.

(5) The state board of education shall approve endorsement programs for a maximum of five years. Each institution shall submit endorsement programs for review when requested by the state board of education to ensure that the endorsement programs meet the competencies and to provide assessment data relative to candidate performance.

(6) The state board of education shall determine the schedule and process for endorsement program reviews.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-215 Implementation policies. (1) In order to offer an endorsement program after August 31, 2003, the timeline by which the colleges and universities will be in full compliance with the approval standards in this chapter shall be reviewed and approved. In order to offer an endorsement program after August 31, ((2003)) 2004, the endorsement program shall be reviewed and approved under the approval standards of this chapter. All teachers who obtain endorsements after September 1, 2003, shall meet the requirements in this chapter. Provided, that colleges and universities may permit an individual enrolled in programs in Washington state ((on or before September 1, 2003,)) to obtain endorsements under the requirements in chapter 180-82 WAC, if the individual completes the endorsement program on, or before August 31, 2005, and the college or university verifies endorsement program completion on or before December 31, 2005. Provided further, that the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers shall be required to obtain a minimum of one endorsement.

WSR 03-09-028
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-110.

Title of Rule: WAC 180-51-063 Certificate of mastery—High School graduation requirement—Effective date.

Purpose: Amend language to indicate notation on the high school transcript regarding the secondary Washington assessment of student learning (WASL) results.

Statutory Authority for Adoption: RCW 28A.230.090.

Summary: Amendment clarifies language regarding results of a student's performance on the secondary WASL and noting the results on the high school transcript.

Reasons Supporting Proposal: Language clarification for schools.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 180-51-063 is a rule that addresses the certificate of mastery as a high school graduation requirement. The rule amendment adds language addressing noting the secondary Washington assessment of student learning (WASL) results on the high school transcript.

Proposal Changes the Following Existing Rules: Adds new language regarding notation of WASL results on the high school transcript.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Fife School District, 5802 20th Street East, Tacoma, WA 98424-2000, on June 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 13, 2003, TTY (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 13, 2003.

Date of Intended Adoption: June 20, 2003.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-113, filed 6/20/01, effective 7/21/01)

WAC 180-51-063 Certificate of mastery—High school graduation requirement—Effective date. (1) Pursuant to RCW 28A.655.060 (3)(c):

(a) The certificate of mastery shall be a graduation requirement, but not the only requirement for graduation from high school; and

(b) The state board of education is responsible for determining when the secondary Washington assessment of student learning has been implemented and is sufficiently valid and reliable.

(2)(a) The state board of education establishes the 2007-08 school year as the first year in which graduating high school students shall be required to have attained the state certificate of mastery in order to graduate, in addition to other state and local graduation requirements.

(b) The state board of education fully recognizes that a higher standard of validity and reliability must be applied when the result of the assessment affects the ability of an individual student to receive a high school diploma. Therefore, the state board of education will continue to monitor the high school level Washington assessment of student learning. If the board finds that the assessment is lacking in this higher level of validity or reliability, or both, by the beginning of the 2004-05 school year, the state board may change the effective date of the certificate of mastery, for state graduation purposes, to a later school year.

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(c) Beginning the 2007-08 school year, the certificate of mastery shall consist of the subject areas under the student learning goals for which a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for graduation purposes. It is expected that the initial certificate of mastery will be comprised of reading, writing, communications, and mathematics.

(d) Beginning the 2009-10 school year, the certificate of mastery shall include science if a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for this subject area.

(e) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in social studies may be required to achieve the certificate of mastery or may lead to an endorsement on the high school transcript.

(f) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in arts and health and fitness may lead to an endorsement on the high school transcript.

(g) ~~((Effective with students who begin the ninth grade in 2003 (the graduating class of 2007), students who take the secondary Washington assessment of student learning and earn the certificate of mastery and/or meet the standard, attainment of the state certificate of mastery and/or meeting the standard shall be noted on the student's transcript pursuant to WAC 180-57-070.))~~ At such time as the state board of education determines that the high school Washington assessments of student learning are sufficiently reliable and valid and that retake opportunities are available, the transcript shall then include notation that the student has met or exceeded (noting the month and year) or not met the standard on each of the required secondary Washington assessments of student learning and/or earned (noting the month and year) or not earned the state certificate of mastery, or that the particular Washington assessment of student learning was waived or not taken. For purposes of this subsection, "exceeded" shall mean the performance standard on each of the required high school Washington assessments of student learning as determined by the superintendent of public instruction.

(3) Notwithstanding WAC 180-18-055 and 180-51-107, subsection (2) of this section shall not be waived.

(4) The certificate of mastery shall not be a graduation requirement for students who receive home-based instruction under RCW 28A.200.101(3) nor for students attending private schools under RCW 28A.195.010(6).

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-07-004.

Title of Rule: WAC 180-79A-117 Uniform expiration date.

Purpose: Explain teaching certificate expiration.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130 (1) through (4).

Summary: Amendment addressing granting an extension of the teaching certificate expiration date for educators who are called to active military duty.

Reasons Supporting Proposal: It is important to let those called to active military duty know they will be able to return to the education positions they left to defend the freedom of our country.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: A number of educators in Washington state are also in one of the United States military branches. This rule change addresses an extension of the teaching certificate expiration date.

Proposal Changes the Following Existing Rules: The proposed amendment adds a section that indicates any educator who is called to active duty by one of the United States military branches will be granted an extension of the expiration date of his/her teaching certificate. The extension is equal to the length of active duty plus the next uniform teaching certificate expiration date.

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: Fife School District Administration Building, 5802 20th Street East, Tacoma, WA 98424-2000, on June 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by June 13, 2003, TTY (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 13, 2003.

Date of Intended Adoption: June 20, 2003.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

WAC 180-79A-117 Uniform expiration date. (1) All certificates issued for one or more stated years shall expire on June 30 of the stated year and shall be calculated as follows:

(a) Certificates issued prior to June 30 of a calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the same calendar year regardless of the date of issuance.

(b) Certificates issued July 1 or later in the calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the next calendar year regardless of the date of issuance.

(c) All valid existing certificates scheduled to expire on August 31 of a given year shall be valid until June 30 of the following year.

(2) An applicant who holds a valid certificate, who submits an application for further certification prior to the expiration date of that certificate, and who meets all the requirements of WAC 180-79A-128, shall be granted a one hundred eighty-day permit as provided in chapter 180-79A WAC.

(3) Any educator who is called up to active duty by one of the U.S. military branches shall be granted an extension of the expiration date of his/her certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

WSR 03-09-031
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed April 7, 2003, 3:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-05-017.

Title of Rule: Chapter 308 [308-56A] WAC, Certificates of title [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, 46.12.020.

Summary: Amending WAC 308-56A-640 Odometer disclosure statement.

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.

Name of Proponent: None.

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 June 2, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by May 30, 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 May 30, 2003.

Date of Intended Adoption: June 24, 2003.

April 7, 2003

Eric R. Andersen

for Deborah McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 00-06-020, filed 2/23/00, effective 3/25/00)

WAC 308-56A-640 Odometer disclosure statement.

(1) **When is an odometer disclosure statement required?** An odometer disclosure statement must be completed and submitted with every application for certificate of ownership as required by RCW 46.12.124 and 49 Code of Federal Regulations (CFR), unless specifically exempted.

(2) **May a power of attorney be used to disclose the mileage of a vehicle?** The transferee and/or transferor may give a power of attorney to a disinterested third party for the purpose of odometer disclosure.

A ((~~secure~~)) power of attorney((~~power of attorney~~)) designated under chapter 11.94 RCW ((~~or other power of attorney approved by the department~~)) may be used with an odometer disclosure statement with the following limitations:

(a) The transferor may not give a power of attorney to the transferee of the same vehicle for the purpose of odometer disclosure unless the power of attorney is on a secure form and the conditions described in 49 CFR part 580.13 are met;

(b) The transferee may not give a power of attorney to the transferor of the same vehicle for the purpose of odometer disclosure unless the power of attorney is on a secure form and the conditions described in 49 CFR part 580.13 are met;

(c) A power of attorney may not be used to complete another power of attorney for the purposes of odometer disclosure.

(3) **Can a secure power of attorney described in 49 CFR part 580.13 be used by the transferee and transferor**

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to complete the odometer statement? Yes, the secure power of attorney may be used to transfer the mileage information onto the secure vehicle odometer disclosure statement be either transferee or transferor.

(4) What odometer disclosure statement forms will the department accept? Odometer disclosure statement forms approved by the department include, but are not limited to:

(a) An odometer disclosure statement on a certificate of ownership issued by any jurisdiction which complies with the Federal Truth in Mileage Act; or

(b) The odometer disclosure/title extension statement; or

(c) A form issued/approved by a foreign jurisdiction which satisfies the provisions of RCW 46.12.124 or the Federal Truth in Mileage Act.

((4)) (5) When is an odometer disclosure/title extension statement used? An odometer disclosure/title extension statement is a form used:

(a) With a certificate of ownership when an odometer disclosure statement is required and:

(i) All reassignments on the certificate of ownership are full; or

(ii) The certificate of ownership does not contain a section for the odometer disclosure information; or

(b) If ~~((the))~~ a certificate of ownership has not been issued or is unavailable; or

(c) If all reassignments on the certificate of ownership are full.

((5)) (6) When must a vehicle dealer process an odometer disclosure statement as a transferee? A vehicle dealer must process an odometer disclosure statement as a transferee and obtain the signature of the transferor when taking a vehicle in on trade, purchase, or otherwise acquiring a vehicle.

((6)) (7) When must a vehicle dealer process an odometer disclosure statement as a transferor? The vehicle dealer must complete an odometer disclosure statement as transferor when selling a vehicle at either wholesale or retail unless exempt under RCW 46.12.124 (3)(a) through (e).

((7)) (8) How is mileage disclosed when a vehicle is sold through an auction company? The seller/consignor signs as the transferor and the successful bidder/buyer signs as the transferee.

((8)) (9) How long must vehicle dealers and auction companies maintain odometer disclosure statements? The vehicle dealer or vehicle dealers doing business as an auction company must keep all odometer disclosure statement records for five years.

((9)) (10) Can ~~((one))~~ vehicle dealer representative(s) sign as transferee and transferor for the same transaction? No~~((-One person))~~, unless accompanied by a secure Power of Attorney form. The same entity or representatives cannot ~~((represent))~~ act on behalf of both the transferor and transferee for the purposes of odometer disclosure.

((10)) (11) When are odometer statements needed for leased vehicles? Odometer statements are needed for leased vehicles when~~((;))~~ establishing and terminating or buying out a lease. The lessor of a leased vehicle must notify

the lessee in writing that the lessee is required to provide to the lessor a written odometer disclosure statement at the termination of the lease. That notice may be given any time after execution of the lease contract and prior to the termination of the lease or transfer of ownership.

(a) When establishing a lease, the dealer or other transferor must disclose the mileage to the lessee on a written odometer statement, and the lessee must acknowledge the written odometer statement as the transferee.

(b) When terminating a lease, the lessee as the transferor must disclose the mileage to the lessor and provide the lessor with a copy of the odometer disclosure statement.

(c) The lessor shall retain each odometer disclosure statement for five years following the date ~~((they))~~ the lessor terminates a lease or transfers ownership of the leased vehicle.

((11)) (12) Who discloses the mileage on the odometer disclosure statement on a lease buyout? The lessee shall disclose the mileage on the odometer disclosure statement as transferee if the lessee purchases the vehicle at the termination of the lease. A transferor signature is not required on the odometer disclosure statement when submitted with the application for certificate of ownership.

((12)) (13) Is an odometer statement required when there is involuntary divestiture? Yes. If the interest of an owner in a vehicle passes to another through involuntary divestiture, an odometer disclosure statement must be completed under RCW 46.12.124 and the rules under 49 Code of Federal Regulations.

((13)) (14) When a vehicle is acquired by involuntary divestiture, are there any circumstances that may allow odometer disclosure statements to be completed by transferee only? Yes. Circumstances that may allow odometer disclosure statements to be completed by only the transferee include, but are not limited to:

(a) Auction sale of an abandoned vehicle by a registered tow truck operator;

(b) Chattel/landlord lien;

(c) Court order;

(d) Divorce;

(e) Estate liquidation;

(f) Repossession;

(g) Seized vehicle;

(h) Sheriff sale.

WSR 03-09-033

PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 7, 2003, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-01-060.

Title of Rule: New chapter 388-292 WAC, Seasonal child care program.

Purpose: The purpose of this proposed new chapter 388-292 WAC is to:

- Establish the seasonal child care program in Economic Services Administration's rules.
- Clarify existing eligibility criteria, income and copay calculations, rights and responsibilities, authorized services and program guidelines.
- Repeal WAC 388-165-130 currently in Children's Administration rules.

Other Identifying Information: These rules are being proposed to:

- Transfer the program authority from Children's Administration (CA) to Economic Services Administration (ESA). The Division of Child Care and Early Learning (DCCCEL) is a new division that combined offices from CA and ESA. The seasonal child care (SCC) program, formerly a responsibility of CA, is now a responsibility of ESA.
- Implement Executive Order 97-02 by establishing in WAC the program requirements that are currently in department policy.

Statutory Authority for Adoption: RCW 74.12.340 and chapter 74.15 RCW.

Statute Being Implemented: RCW 74.12.340, 74.13-086, and chapter 74.15 RCW.

Summary: The subject matter of the proposed rules currently exist in contracted program policies, WAC 388-165-130 and chapter 388-290 WAC.

Reasons Supporting Proposal: The rules describe client financial and program eligibility, and policies and procedures of the program operation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cecelia Callison, DCCCEL, 1009 S.E. College Street, Lacey, WA 98503, (360) 413-3288.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects:

- To transfer the program authority from Children's Administration (CA) to Economic Services Administration (ESA);
- To implement Executive Order 97-02 by establishing in WAC the program requirements that are currently in department policy. DCCCEL's contracted, legally required program policies and procedures, are currently contained in the program guidebook "*Seasonal Child Care, Screening and Referral POLICIES AND PROCEDURES GUIDEBOOK*";
- To update references to appropriate WACs.

Proposal Changes the Following Existing Rules: WAC 388-165-130 currently in Children's Administration will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules describe the client program and financial eligibility and the payment rates for families applying for or receiving seasonal

child care subsidies. The rules do not impose costs or requirements for small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed seasonal child care rules contain the same financial eligibility requirements currently in chapters 388-165 and 388-290 WAC, and the program procedures currently in department policy. The proposed rules consolidate these requirements into a new WAC chapter to clarify program procedures, and impose no new requirements for eligible participants. Therefore, under RCW 34.05.328 (5)(b)(iv) and (vii), the proposed new chapter is exempt from the requirements for significant legislative rules contained in RCW 34.05.328.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: Not earlier than May 28, 2003.

April 2, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-292 WAC

SEASONAL CHILD CARE PROGRAM

INTRODUCTION

NEW SECTION

WAC 388-292-0001 Introduction. The seasonal child care program helps eligible families who are seasonally employed in agriculturally related work to access licensed, culturally and developmentally appropriate child care. Families access this child care subsidy program through contracted community agencies. To be eligible, families must meet income and program guidelines and must not be currently receiving temporary assistance to needy families (TANF). The seasonal child care program prioritizes services for families who are not eligible for working connections child care.

PURPOSE

NEW SECTION

WAC 388-292-0003 What is the purpose of the seasonal child care program? The purpose of the seasonal child care (SCC) program is to protect children, whose eligi-

ble parents are involved in an approved activity, from potential harm due to:

- (1) Agricultural work hazards; or
- (2) Lack of appropriate supervision.

ELIGIBILITY GUIDELINES

NEW SECTION

WAC 388-292-0005 Am I eligible for the SCC program? You may be eligible for the SCC program, if you are not currently receiving temporary aid for needy families (TANF) and:

(1) You have parental control of one or more children, and you are the child's:

- (a) Parent;
- (b) Stepparent;
- (c) Guardian;
- (d) Adult sibling or step-sibling;
- (e) Aunt;
- (f) Uncle;
- (g) Niece or nephew;
- (h) Grandparent; or
- (i) Any of the above relatives with the prefix "great," such as great-aunt.

(2) Your family is described under WAC 388-292-0010;

(3) You are participating in an approved activity under WAC 388-292-0020;

(4) You and your children are eligible under WAC 388-292-0015;

(5) Your countable income as calculated in WAC 388-292-0050 is at or below the Federal Poverty Level (FPL) described in WAC 388-290-0065; and

(6) Your share of the child care cost, called a copayment (under WAC 388-290-0075(3)) is lower than the total DSHS maximum monthly payment for all children in the family who are eligible for SCC subsidized care.

(7) You agree to participate in the cost of child care by making monthly copayments to the authorized child care provider, as calculated under WAC 388-290-0075(3).

NEW SECTION

WAC 388-292-0010 How is my family size defined for SCC program eligibility purposes? For SCC program eligibility purposes, your family size is defined by reviewing the individuals who live together in the same household as follows:

(1) If you are:	We count the following individuals as part of the family for SCC program eligibility:
(a) A single parent, including a minor parent, living independently or residing in her/his parent's home with her/his children;	You and your children.
(b) Unmarried parents living together who have at least one mutual child;	Both parents and all their children living in the household.
(c) Unmarried parents living together with no mutual children;	Each parent and their own children, as separate families.

(1) If you are:	We count the following individuals as part of the family for SCC program eligibility:
(d) Married parents living together;	Both parents and all their children living in the household.
(e) A person with parental control as defined in WAC 388-292-0005(1)(c) through (h);	Only the children and their income.
(f) A parental figure who is out of the household because of employment requirements.	The parents and the children. All other family rules in this section apply.

(2) If your household includes siblings of the children requiring care who are:	All family rules in this section apply. In addition, we count the sibling as part of the family for SCC program eligibility (unless they are a parent themselves), as follows:
(a) Eighteen year olds who are enrolled in secondary education or general equivalency diploma (GED) program.	The eighteen year olds until they turn nineteen or complete high school/GED, whichever comes first.
(b) Twenty year olds, or less, who are participating in a program through the school district's special education department under RCW 28A.155.0202.	The sibling participating in the approved program up to twenty-one years of age.

NEW SECTION

WAC 388-292-0015 Are there special circumstances when I might be eligible for the SCC program? You might be eligible for the SCC program if you are part of a two-parent family and one parent is not able or available to provide care for your children while the other is working or traveling to and from work.

(1) "**Able**" means without a verifiable physical or mental disability that prevents you from caring for your child in a responsible manner.

(2) "**Available**" means not participating in an approved work activity under WAC 388-292-0020.

NEW SECTION

WAC 388-292-0020 What activities must I be involved in to be eligible for the SCC program? You may be eligible for SCC program subsidies for up to sixteen hours per day for the time you are involved in:

(1) Active employment in seasonally available agriculturally related work (in a two parent family, both parents must be so employed) in Washington state or in a bordering state within forty miles of the Washington state border;

(a) The agriculturally related work must be one of the following:

(i) Seasonally available labor directly related to the cultivation, production, or processing of crops;

(ii) Seasonally available labor directly related to the cultivation or harvesting of fruit trees.

(b) "**Seasonally available labor**" means labor that depends upon, and is available only during, a specific season that is identified with certain activities or crops, and occurs only during a portion of the calendar year.

PROPOSED

(2) Travel time between the child care location and the work site only;

(3) Job search, of no more than five days, if your seasonally available agricultural job ends and you are still eligible and continue to need child care; or

(4) Sleep time, up to eight hours per day when needed, if you work nights and sleep days.

NEW SECTION

WAC 388-292-0025 What additional criteria does my family need to meet to be eligible for SCC program subsidies? Additional eligibility criteria for SCC program subsidies requires that your family:

- (1) Live in Washington state;
- (2) Not be receiving TANF;
- (3) Have a child age twelve or younger, or a child with verified special needs age eighteen or younger;
- (4) Have a primary wage earner who was employed in seasonally available agricultural related work for eleven months or less with any one employer in the previous twelve months; and
- (5) Fifty percent or more of a family's earned income for the previous twelve months is derived from seasonally available agricultural work as defined in WAC 388-292-0020.

NEW SECTION

WAC 388-292-0030 When might my on-going eligibility for SCC subsidies stop, and when might I be eligible again? (1) Your continued eligibility for SCC program subsidies stops when you:

- (a) Are not participating in an approved activity as defined in WAC 388-292-0020;
- (b) Are found at your review to no longer meet eligibility criteria;
- (c) Do not complete the requested review information before the deadline noted in WAC 388-292-0140; or
- (d) Do not pay the copayment fees to your child care provider or do not make mutually acceptable arrangements with your child care provider for their payment.
- (e) Refuse to cooperate with investigations conducted by quality assurance staff or the division of fraud investigations.

(2) You might be eligible for SCC program subsidies again when:

- (a) You meet all SCC program eligibility requirements; and
- (b) Copayment fees are paid to your child care provider or mutually acceptable arrangements for their payment are made with your child care provider.
- (c) Cooperate with investigations conducted by quality assurance or division of fraud.

INCOME AND COPAYMENT CALCULATIONS

NEW SECTION

WAC 388-292-0035 What income is counted when determining eligibility and copayment for the SCC program? To determine income eligibility and co-payment for the SCC program, the following income is counted:

- (1) Wages and commissions earned from employment;
- (2) Unemployment compensation;
- (3) A TANF or other welfare grant;
- (4) Child support payments received;
- (5) Supplemental Security Income (SSI);
- (6) Other Social Security payments, such as SSA and SSDI;
- (7) Refugee assistance payments;
- (8) Payments from the Veterans' Administration;
- (9) Pensions or retirement income;
- (10) Payments from labor and industries (L&I), or disability payments;
- (11) Inheritance;
- (12) Reportable gambling winnings; and
- (13) Other types of income not listed in WAC 388-292-0045.

NEW SECTION

WAC 388-292-0040 How is my family's average monthly income calculated for the SCC program? For the SCC program, your average monthly income is calculated by totaling all income earned in the past twelve months, as listed in WAC 388-292-0035, and dividing by twelve.

NEW SECTION

WAC 388-292-0045 What is not counted, or is deducted, when figuring income eligibility for the SCC program? (1) For the SCC program the following is not counted when figuring income eligibility and copayment:

- (a) Savings accounts;
- (b) Money received from sale of personal property such as a house or car;
- (c) Tax refunds;
- (d) Earned income credits;
- (e) One-time insurance settlement payments;
- (f) Capital gains;
- (g) Basic food program;
- (h) Income earned by children as described in WAC 388-292-0010(2).

(2) For the SCC program the amount you pay for child support is deducted from your countable income.

NEW SECTION

WAC 388-292-0050 How is my family's income eligibility and copayment amount determined for the SCC program? For the SCC program, your family's income eligibility and copayment is determined by:

- (1) Your family size as defined under WAC 388-292-0010;
- (2) Your average monthly income as calculated under WAC 388-292-0040;
- (3) Your family's average monthly income as compared to the Federal Poverty Level (FPL); and
- (4) Your family's average monthly income as compared to the copay chart defined in WAC 388-290-0075(3).
- (5) If your family's income is above the FPL as defined in WAC 388-290-0075(3), your family is not eligible for the SCC program.

NEW SECTION

WAC 388-292-0055 When might my SCC program copayment change? Your SCC program copayment could change when:

- (1) Your family size increases or decreases; or
- (2) You are reauthorized for the SCC program and your new average monthly income places you in a different copayment category.
- (3) There is a mass change in subsidy benefits due to a change in law or program funding.

RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 388-292-0060 What rights do I have when I apply for or receive SCC program subsidies? When you apply for or receive SCC program subsidies, you have the right to:

- (1) Be treated politely and fairly - without regard to race, color, age, gender, sexual orientation, religion, creed, political affiliation, national origin, or disability (physical, mental or sensory);
- (2) Have an application accepted and acted upon within thirty days;
- (3) Be informed, in writing, of your legal rights and responsibilities related to SCC program subsidies, in your language;
- (4) Have your information held confidentially except when required by federal or state regulations to be shared with other agencies;
- (5) Get a written notice, at least ten days before changes are made to lower or stop SCC program subsidy payments except in WAC 388-292-0150;
- (6) Ask for a fair hearing if you do not agree with your eligibility decision;
- (7) Ask a supervisor or administrator to review a decision or action affecting your SCC program subsidies without affecting the right to a fair hearing;
- (8) Have interpreter or translator service for SCC program matters within a reasonable amount of time and at no cost to you;
- (9) Be allowed to choose your provider as long as the provider meets the requirements in WAC 388-292-0085; and
- (10) Refuse to speak to a fraud early detection (FRED) investigator from the division of fraud investigations. You

do not have to let an investigator into your home at that time. You may ask the investigator to come back. This request will not affect your eligibility for SCC program subsidies.

NEW SECTION

WAC 388-292-0065 What responsibilities do I have when I apply for or receive SCC program subsidies? When you apply for or receive SCC program subsidies you have a responsibility to:

- (1) Give the SCC program authorizing worker the information necessary to determine your eligibility and authorize child care subsidies correctly;
- (2) Choose a provider who meets requirements of WAC 388-292-0085 and make your own child care arrangements;
- (3) Pay, or make arrangements to have someone pay, your SCC program copayment directly to your child care provider;
- (4) Sign your child in and out of care each day with your full legal signature if the care is provided by a child care center;
- (5) Notify the SCC program authorizing worker before changing providers;
- (6) Notify the SCC program authorizing worker within ten days if:
- (a) Your work status, work hours, or employer changes;
- (b) You need to change the hours of child care;
- (c) You receive TANF assistance;
- (d) Your children become eligible for a migrant headstart program;
- (e) Your household size changes, such as any family member moves in or out of your home;
- (f) Your home address or telephone number changes; or
- (g) Your amount of child support paid out or received changes
- (7) Cooperate with auditors from quality assurance and the division of fraud investigations.

NEW SECTION

WAC 388-292-0070 Who are the SCC program staff and what responsibilities do they have? The SCC program staff work for community agencies who contract with DSHS to perform SCC program authorizations. They are responsible to:

- (1) Authorize SCC program subsidies for your children based on eligibility criteria established by DSHS, as defined in this chapter;
- (2) Ask if you have received, or are currently receiving, child care services from another subsidy program; and if you have, receive a copy of your termination letter from that program;
- (3) Ask if you have applied, and been denied, for working connections child care; and if you have, verify your denial from that program;
- (4) Complete intake documents in your presence, based on information you provide;
- (5) Authorize payments only to a child care provider of your choice who meets the requirements in WAC 388-292-

0085 and who allows you to see your children whenever they are in care;

(6) Authorize payments only when no adult in your family is "able or available" to care for your children as defined in WAC 388-292-0015;

(7) Give you an SCC program approved child care plan in order to enroll your children in licensed or certified child care;

(8) Inform you of:

(a) Your copayment amount as determined in WAC 388-292-0050 and defined in WAC 388-290-0075(3);

(b) Your rights and responsibilities under the SCC program when you apply or reapply;

(c) The types of child care providers the SCC program can pay;

(d) The community resources that can help you select child care when needed;

(e) Other options for child care subsidies, if you do not qualify for SCC program subsidies; and

(f) Your rights to a fair hearing under the SCC program;

(9) Respond to you within ten days if you report a change of circumstance that affects your SCC program eligibility or subsidies; and

(10) Authorize child care payments promptly.

NEW SECTION

WAC 388-292-0075 Do I have the right to ask for a hearing regarding SCC program subsidy payments, and how do I request one? You have the right to request a hearing regarding your SCC program subsidy payments under chapter 388-02 WAC:

(1) On any action affecting your SCC program subsidy payments, except for mass changes that result from a change in policy or law.

(2) By writing to the Office of Administrative Hearings, 919 Lakeridge Way SW, PO Box 42488, Olympia WA 98504-2488 within ninety days of the date any decision of an action is received.

NEW SECTION

WAC 388-292-0080 Can I use SCC programs subsidies while waiting for the outcome of a hearing, and when might it need to be repaid? (1) You can use SCC program subsidies while waiting for the outcome of a hearing, if you are currently authorized for the SCC program and:

(a) You request a hearing:

(i) On or before the effective date of an action; or

(ii) No more than ten days after you are sent a notice of adverse action.

"Adverse action" means an action to reduce or terminate your SCC subsidies.

(b) You request payments for child care payable to an eligible provider (under WAC 388-292-0100 and 388-292-0085).

(2) If you lose a hearing, any SCC program subsidies you use between the date of the adverse action and the date of the

hearing or hearing decision is an overpayment to you and will need to be repaid to DSHS.

PAYABLE SERVICES AND RATES

NEW SECTION

WAC 388-292-0085 What child care providers can I choose under the SCC program? To receive payment under the SCC program, the child care provider you choose must be:

(1) Licensed as required by chapter 74.15 RCW;

(a) Family child care homes; and

(b) Child day care centers.

(2) Exempt from licensing but certified by DSHS;

(a) Tribal child care facilities that meet the requirements of tribal law;

(b) Child care facilities on a military installation; and

(c) Child care facilities operated on public school property by a school district.

(3) Seasonal day camps that contract with DSHS to provide subsidized child care and are:

(a) Of a duration of three months or less;

(b) Engaged primarily in recreational or educational activities; and

(c) Accredited by the American Camping Association (ACA).

NEW SECTION

WAC 388-292-0090 When are the DSHS child care subsidy rates, used by the SCC program in this chapter, effective? DSHS child care subsidy rates in this chapter are effective as of the date stated in WAC 388-290-0180, when your family:

(1) Is newly authorized to receive child care subsidies;

(2) Has a household change that requires your authorization to be updated; or

(3) Is reauthorized to continue receiving child care subsidies.

NEW SECTION

WAC 388-292-0095 What DSHS child care subsidy rate does the SCC program use when my child is five year old? The DSHS child care subsidy rate paid by the SCC program for child care for a five year old child is:

(1) The preschool rate for a child who has not entered kindergarten; or

(2) The school-age rate for a child who has entered kindergarten.

NEW SECTION

WAC 388-292-0100 What services can be authorized for the SCC program, and at what rates? The SCC program authorizes payments to licensed/certified child care providers for:

PROPOSED

(1) Basic child care either full day or half day, at rates listed in WAC 388-290-0200 and 388-290-0205:

(a) A full day of child care is authorized when care is needed for five to ten hours per day;

(b) A half day of child care is authorized when care is needed for less than five hours per day;

(2) A registration fee, according to WAC 388-290-0245 (1) and (2);

(3) An infant bonus, according to WAC 388-290-0250, providing an infant bonus for that infant has not previously been paid to the provider by another DSHS subsidy program; and

(4) Special needs care when the child has a documented special need and a documented need for a higher level of care, according to WAC 388-290-0220, 388-290-0225, and 388-290-0230.

NEW SECTION

WAC 388-292-0102 When can my child care provider charge me more than the amount authorized by the SCC program? Your child care provider may charge you more than the amount authorized by the SCC program for child care services when:

(1) You are late picking up your child at the customary time due to personal reasons (i.e., shopping, appointments, etc.);

(2) You pick up your child after the provider's operating hours and the provider has a policy to charge all families an after hour charge;

(3) You request an optional enrichment program for your child and all parents who want it have to pay extra (i.e., gymnastics, swimming, dancing, etc.); or

(4) You pay the co-payment later than agreed upon and the provider has a late fee policy for all families.

NEW SECTION

WAC 388-292-0105 When can additional SCC program subsidy payments be authorized? Additional SCC program subsidy payments can be authorized for more than the basic DSHS child care subsidy daily rate when:

(1) Needed to accommodate a family's work schedule;

(2) Employer verification of work schedule is presented; and

(3) The child care provider has a written policy to charge all clients additional money for child care provided more than ten hours per day; or

(4) Child care is not available at the DSHS daily rate within a reasonable distance, in which case the provider's usual daily rate is authorized.

NEW SECTION

WAC 388-292-0110 What additional SCC program subsidy payments can be authorized? The following additional SCC program subsidy payments may be authorized for your approved activities, if justified by your employer verification:

(1) "Extended hour child care" may be authorized, for families whose fluctuating overtime work schedules require more than ten hours per day, up to a maximum of one hundred twenty hours per month. Care is authorized at the provider's usual and customary rate for the time needed - or at the DSHS maximum hourly subsidy rate represented in the chart below, whichever is less.

CHILD CARE CENTER Centers in Benton, Walla Walla and Whitman Counties paid at Region 6 rates				
	Infants (under 12 months)	Toddler (12 to 29 months)	Preschool (30 to 5 years)	School-age (5 to 12 years)
Region 1	\$4.00	\$3.90	\$3.22	\$3.22
Region 2	\$4.25	\$3.60	\$3.48	\$2.75
Region 3	\$4.30	\$4.39	\$3.75	\$4.50
Region 6	\$4.64	\$3.75	\$3.27	\$3.25
FAMILY HOMES				
Region 1	\$2.67	\$2.50	\$2.38	\$2.50
Region 2	\$3.00	\$2.78	\$2.50	\$2.88
Region 3	\$3.50	\$3.00	\$2.89	\$3.33

(2) "Additional hour child care" may be authorized, for families whose nonfluctuating work schedules require more than ten hours of care per day, at the provider's usual and customary rate for the time needed - or at the DSHS maximum half-day subsidy rate, whichever is less (under WAC 388-290-0200 and 388-290-0205).

(3) "Weekend child care" may be authorized at rates under WAC 388-290-0200 and 388-290-0205 if child care is needed more than five days a week.

START DATES

NEW SECTION

WAC 388-292-0115 If I am determined eligible for the SCC program, when does my child care subsidy begin? Your SCC program subsidy will begin according to the following situations:

(1) If you are determined eligible before your employment starts, your subsidy begins on the first day of your job that your children are in approved child care;

(2) If you are determined eligible after your job begins because:

(a) You requested an appointment before your job started but were denied one, your subsidy begins on the first day of your job that your children were in approvable child care;

(b) You did not provide all necessary documents when requested, your subsidy begins on the first day after you are determined eligible for the program, that you work and your children are in authorized child care.

(c) You did not request an appointment until after your job began, your subsidy begins on the first day after you are determined eligible for the program, that you work and your children are in authorized child care.

NEW SECTION

WAC 388-292-0120 Can I be authorized for the SCC program before I start a job? You may be pre-authorized for the SCC program, before your job starts, if:

- (1) You meet all eligibility criteria for the SCC program; and
- (2) You have employment verification that shows a future start date.

NEW SECTION

WAC 388-292-0125 I am pre-authorized for the SCC program, when do my SCC program child care subsidies begin? If you are pre-authorized for the SCC program, your SCC program child care subsidies begin according to the following conditions:

(1) If you are pre-authorized, AND you present verification of the date your employment starts to the SCC program authorizing worker within thirty days of your intake interview, your subsidy payments can begin:

- (a) The day you present your documentation; or
- (b) A maximum of fourteen days prior to the day you present the documentation, if you were working and your children were in approvable child care.

(2) If you are pre-authorized but no verification of an employment start date is provided to the SCC program authorizing worker within thirty days of the pre-authorization, no subsidy payments can be made. Your pre-authorization is closed and you must reapply to the SCC program.

NEW SECTION

WAC 388-292-0130 If I am reauthorized for the SCC program, when do my SCC program subsidies begin? If you are reauthorized for the SCC program:

- (1) Your SCC program child care subsidies will:
 - (a) Continue without a break if your review eligibility information is received no later than ten days after your previous eligibility period ends; or
 - (b) Begin the date your review eligibility information is stamped as received, if received more than ten days after your previous eligibility period ends.
- (2) You will be informed of your eligibility for continued SCC program subsidies based on your review information.

REVIEW PROCESSNEW SECTION

WAC 388-292-0135 When are my eligibility and co-payment information for the SCC program looked at? Your eligibility and co-payment information for the SCC program are looked at:

- (1) When you apply for the SCC program; and
- (2) At least every six months.

NEW SECTION

WAC 388-292-0140 How are my SCC program subsidies reauthorized and when may they continue? (1) Your SCC program subsidies are reauthorized by the SCC program authorizing worker who reviews your SCC program eligibility and will:

- (a) Request information related to your continued eligibility, prior to the end date of your current SCC program eligibility period;
- (b) Review the requested information; and
- (c) Determine if you are still eligible, according to DSHS established criteria.

(2) Your SCC program subsidies may continue if:

- (a) You meet all program, income and work criteria for the SCC program as described in chapter 388-292 WAC;
- (b) Your provider is eligible for payment under WAC 388-292-0085.

ADVANCE AND ADEQUATE NOTICENEW SECTION

WAC 388-292-0145 When might I receive advance and adequate notice of change in my SCC program subsidies? (1) You are given advance and adequate notice of changes in your SCC program subsidies when the change:

- (a) Results in a suspension, reduction, or termination of child care subsidies; or
- (b) Is not exempt from advance and adequate notice of payment changes as noted in WAC 388-292-0150.

(2) "Advance and adequate notice," means a written notice from the SCC program authorizing agency mailed at least ten days before the date of the intended action begins. It includes the Washington Administrative Code (WAC) supporting the action, and your right to request a fair hearing.

NEW SECTION

WAC 388-292-0150 When won't I receive advance and adequate notice of changes in my SCC program subsidies? You will not receive advance and adequate notice of changes in your SCC program subsidies when:

- (1) You tell the SCC program authorizing worker you no longer want SCC program subsidies;
- (2) Your eligibility review results in a change to your child care subsidies;
- (3) You are authorized for duplicate child care subsidies;
- (4) Your whereabouts are unknown to the SCC program authorizing worker; or
- (5) There is a mass change in subsidy benefits due to a change in law or program funding.

OVERPAYMENT NOTICESNEW SECTION

WAC 388-292-0155 What is an overpayment and when might I receive one? (1) An overpayment is payment for ineligible child care services;

(2) You may receive a client overpayment notice, regardless if you are a current or past recipient, if:

(a) You misrepresent your eligibility for the SCC program, or fail to report information that affects your eligibility; or

(b) You use child care when you are not involved in approved activities (under WAC 388-292-0020).

(3) Your overpayment is written by DSHS and you are expected to pay it back.

(a) Overpayments are written starting the date that child care subsidies were paid but were not eligible at that payment amount;

(b) DSHS reduces the overpayment by the amount of an underpayment when applicable.

NEW SECTION

WAC 388-292-0160 When might a child care provider receive an overpayment? (1) A child care provider may receive a vendor overpayment notice when they receive ineligible payments. This includes payments for:

(a) Child care that was not provided;

(b) Services that are not allowed; or

(c) Child care that is not supported by the provider's attendance records.

(2) The provider's overpayment is written by DSHS and the child care provider is expected to pay it back.

(a) Overpayments are written starting the date that child care subsidies were over paid.

(b) DSHS reduces the overpayment by the amount of an underpayment when applicable.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-165-130 Subsidized child care for seasonal workers.

WSR 03-09-035

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed April 8, 2003, 8:32 a.m.]

The department is formally withdrawing its proposed amendment to WAC 16-229-200 that added subsection (3). This amendment was proposed in WSR 03-05-075 on February 18, 2003. Public hearings on the proposed amendment were held on March 25, 2003. After reviewing the public comments on the proposed amendment, the department has decided to withdraw it.

Bob Arrington, Assistant Director
Pesticide Management Division

WSR 03-09-042

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 8, 2003, 4:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-064.

Title of Rule: Medically needy residential waiver program, amending rules in chapter 388-71 WAC and WAC 388-515-1540.

Purpose: To adopt rules within chapters 388-71 and 388-515 WAC to establish the medically needy residential waiver (MNRW) program. Amending, clarifying, and reorganizing COPEs (community options program entry system) rules to:

- Comply with the Governor's Executive Order 97-02 and the Secretary's Order on Regulatory Improvement;
- Reflect changes in program requirements and/or options.

Enrolled HB 1341 (chapter 269, Laws of 2001) authorized DSHS to develop a new waiver program for individuals in need of long-term care services in the community. The legislation specifically requires the department to adopt rules to establish eligibility criteria, applicable income standards, and specific waiver services to be provided. This change is also necessary to reflect amendments to the COPEs waiver.

This amendment is necessary to implement two-year old legislation and will result in budget savings, will afford clients choice in their long-term care, and will result in more efficient care and increased service delivery. These WACs have already been filed as an emergency rule, WSR 03-05-098, effective March 17, 2003. This current process is to implement permanent adoption.

Statutory Authority for Adoption: SHB 1341 (chapter 269, Laws of 2001), RCW 74.09.700, chapter 74.39 RCW, RCW 74.08.090, 74.04.050, and 74.09.575.

Statute Being Implemented: SHB 1341 (chapter 269, Laws of 2001), RCW 74.09.700, chapter 74.39 RCW, RCW 74.08.090, 74.04.050, and 74.09.575.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kristi Knudsen, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2537.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment is necessary to implement two-year old legislation and will result in budget savings, will afford clients choice in their long-term care, and will result in more efficient care and increased service delivery. This new program will allow individuals who cannot afford community residential care and who do not wish to go into a nursing facility, access to long-term care that they could otherwise not afford.

Proposal Changes the Following Existing Rules: Proposed amendments establish eligibility criteria, applicable income standards, and specific medically needy residential waiver services to be provided. This change is also necessary to reflect amendments to the COPEs waiver.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that no small businesses will be affected by this change.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vii) these amendments are exempt from this requirement. The rules relate only to DSHS client medical or financial eligibility.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaaax@dshs.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: Not earlier than May 28, 2003.

April 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003. This section describes the financial eligibility requirements for waiver services under the medically needy residential waiver (MNRW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNRW, a client must meet the following conditions:

- (a) Does not meet financial eligibility for Medicaid Personal Care or the COPEs program;
- (b) Is eighteen years of age or older;
- (c) Meets the SSI related criteria described in WAC 388-511-1105(1);
- (d) Requires the level of care provided in a nursing facility as described in WAC 388-71-0700;
- (e) In the absence of waiver services described in WAC 388-71-0410 and 388-71-0415, would continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;
- (f) Has attained institutional status as described in WAC 388-513-1320;
- (g) Has been determined to be in need of waiver services as described in WAC 388-71-0442;
- (h) Lives in one of the following department-contracted residential facilities:
 - (i) Licensed adult family home (AFH);

- (ii) Assisted living (AL) facility; or
- (iii) Enhanced Adult Residential Care (EARC) facility.
- (i) Is not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and
- (j) Meets the resource and income requirements described in subsections (2) through (6).
- (2) The department determines a client's nonexcluded resources under MNRW as described in WAC 388-513-1350 (1) through (4)(a) and WAC 388-513-1360;
- (3) Nonexcluded resources, after disregarding excess resources described in (4), must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).
- (4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:
 - (a) In an amount equal to incurred medical expenses such as:
 - (i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;
 - (ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or
 - (iii) Necessary medical care covered under the state's Medicaid plan.
 - (b) As long as the incurred medical expenses:
 - (i) Are not subject to third-party payment or reimbursement;
 - (ii) Have not been used to satisfy a previous spend down liability;
 - (iii) Have not previously been used to reduce excess resources;
 - (iv) Have not been used to reduce client responsibility toward cost of care; and
 - (v) Are amounts for which the client remains liable.
- (5) The department determines a client's countable income under MNRW in the following way:
 - (a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);
 - (b) Excludes income described in WAC 388-513-1340;
 - (c) Disregards income described in WAC 388-513-1345;
 - (d) Deducts monthly health insurance premiums, except Medicare premiums.
 - (6) If the client's countable income is:
 - (a) less than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW subject to availability per WAC 388-71-0465;
 - (b) more than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW when they meet the requirements described in subsections (7) through (9), subject to availability per WAC 388-71-0465.
 - (7) The portion of a client's countable income over the department-contracted rate is called "excess income."
 - (8) A client who meets the requirements for MNRW chooses a three or six month base period. The months must be consecutive calendar months.

(9) A client who has or will have "excess income" is not eligible for MNRW until the client has medical expenses which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(10) Medical expenses described in subsection (4) of this WAC may be used to meet spenddown if not already used in subsection (4) of this WAC to disregard excess resources or to reduce countable income as described in subsection (5)(d).

(11) In cases where spenddown has been met, medical coverage begins the day services are authorized.

(12) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Personal needs allowance (PNA) described in WAC 388-515-1505 (7)(b);

(c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources;

(d) Incurred medical expenses described in (4) not used to meet spenddown or reduce excess resources.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0194 Home and community services—Nursing services. (1) A registered nurse will review the plan of care for all Medicaid personal care clients.

(2) Upon department or designee referral, a registered nurse will consult about or visit a Community Options Program Entry System client, Medically Needy Residential waiver client or a Medicaid personal care client to perform a nursing service which may include the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to care providers and clients;

(c) Care coordination;

(d) Evaluation.

(3) The frequency and scope of the nursing service will be based on individual client need and will be provided as outlined in a nursing service design developed in coordination with each area agency on aging. Each design will include critical indicators of the need for the nursing service and must be approved by the following divisions as appropriate: aging and adult services administration, developmental disabilities, children's administration and mental health.

(4) This nursing service will not be provided if activities duplicate services that the client is receiving from some other resource. Coordination and/or referrals to appropriate health care providers will occur as necessary.

(5) The registered nurse providing this service will not perform skilled treatment except in the event of an emergency. The need for any skilled medical or nursing treatments will be referred to a health care provider, a home health agency or a contracted delegating nurse.

(6) The registered nurse must document the result of the nursing service provided on a department-approved form.

The registered nurse provides a copy to the staff who has case management responsibility.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0202 Long-term care services—Definitions. The department shall use the definition in this section for long-term care services.

"Long-term care services" means the services administered directly or through contract by the aging and adult services administration of the department, including but not limited to nursing facility care and home and community services.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

"Assessment" or **"reassessment"** means an inventory and evaluation of abilities and needs based on an in-person interview in the client's own home or other place of residence.

"Attendant care" means the chore personal care service provided to a grandfathered client needing full-time care due to the client's need for:

(1) Assistance with personal care; or

(2) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

~~("Available resources" is a term to describe a chore personal care client's assets accessible for use and conversion into money or its equivalent without significant depreciation in the property value.)~~

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the financial status of a person as defined under WAC 388-503-0310.

"Client" means an applicant for service or a person currently receiving services.

"Community residence" means:

(1) The client's **"own home"** as defined in this section;

- (2) Licensed adult family home under department contract;
- (3) Licensed boarding home under department contract;
- (4) Licensed children's foster home;
- (5) Licensed group care facility, as described in chapter 388-148 WAC; or
- (6) Shared living arrangement as defined in this section.

"Community spouse" means a person as described under WAC 388-513-1365 (1)(b).

"Companionship" means the activity of a person in a client's own home to prevent the client's loneliness or to accompany the client outside the home for other than personal care services.

"Contracted program" means services provided by a licensed and contracted home care agency or home health agency.

"COPEs" means community options program entry system.

"Department" means the state department of social and health services.

"Direct personal care services" means verbal or physical assistance with tasks involving direct client care which are directly related to the client's handicapping condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined in "personal care services" below.

"Disabled" means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Disabling condition" means a condition which prevents a person from self-performance of personal care tasks without assistance.

"Estate recovery" means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-527-2742.

"Grandfathered client" means a chore personal care services client approved for either:

- (1) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and
- (2) Family care services provided under the chore personal care program when these services began before December 14, 1987; and
- (3) The client was receiving the same services as of June 30, 1989.

"Home health agency" means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

- (a) Private duty nursing; or

(b) Skilled nursing services under an approved Medicaid waiver program.

"Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

"Income" means "income" as defined under WAC 388-500-0005.

"Individual provider" means a person employed by a community options program entry system (COPEs) or Medicaid personal care client when the person:

- (1) Meets or exceeds the qualifications as defined under WAC 388-71-0500 through 388-71-0580;
- (2) Has signed an agreement to provide personal care services to a client; and
- (3) Has been authorized payment for the services provided in accordance with the client's service plan.

"Individual provider program (IPP)" means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. "Institution" includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

"Institutional eligible client" means a person whose eligibility is determined under WAC 388-513-1315. "Institutionalized client" means the same as defined in WAC 388-513-1365(f).

"Institutional spouse" means a person described under WAC 388-513-1365 (1)(e).

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

- (1) Categorically needy as defined under WAC 388-503-0310; and
- (2) Medically needy as defined under WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined under WAC 388-503-0310 and 388-503-1105.

"Medical institution" means an institution defined under WAC 388-500-0005.

"Medically necessary" and **"medical necessity"** mean the same as defined under WAC 388-500-0005.

"Medically oriented tasks" means direct personal care services and household assistance provided as an integral but

subordinate part of the personal care and supervision furnished directly to a client.

"Mental health professional" means a person defined under WAC 388-865-0150.

"Own home" means the client's present or intended place of residence:

(1) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or

(2) In a building the client owns; or

(3) In a relative's established residence; or

(4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Personal care aide" means a person meeting the department's qualification and training requirements and providing direct ((Medicaid)) personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the ((Medicaid-personal care)) client.

"Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks, as listed in (1) through (17) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks performed by a licensed health professional.

(1) **"Ambulation"** means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the client if totally unable to walk alone or with a mechanical device.

(2) **"Bathing"** means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(3) **"Body care"** means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required and pedicure to trim toenails and apply lotion to feet. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services, dressing changes using clean technique and topical ointments must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

"Body care" excludes:

(a) Foot care for clients who are diabetic or have poor circulation; or

(b) Changing bandages or dressings when sterile procedures are required.

(4) **"Dressing"** means assistance with dressing and undressing. Dressing includes supervising and guiding client

when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(5) **"Eating"** means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(6) **"Essential shopping"** means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(7) **"Housework"** means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(8) **"Laundry"** means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(9) **"Meal preparation"** means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(10) **"Personal hygiene"** means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(11) **"Positioning"** means assisting the client to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

(12) **"Self-medication"** means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(13) **"Supervision"** means being available to:

(a) Help the client with personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, some medication assistance; and

(b) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(14) **"Toileting"** means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services colostomy care and catheterization using clean technique must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

(15) **"Transfer"** means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(16) **"Travel to medical services"** means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(17) **"Wood supply"** means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

"Physician" means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

"Plan of care" means a **"service plan"** as described under WAC ((388-71-205)) 388-71-0205.

"Property owned" means any real and personal property and other assets over which the client has any legal title or interest.

"Provider" or **"provider of service"** means an institution, agency, or person:

(1) Having a signed department agreement to furnish long-term care client services; and

(2) Qualified and eligible to receive department payment.

"Relative" means:

(1) For chore personal care service, a client's spouse, father, mother, son, or daughter;

(2) For Medicaid personal care service:

(a) **"Legally responsible relative"** means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(b) **"Nonresponsible relative"** means a parent caring for an adult child and an adult child caring for a parent.

"Service plan" means a plan for long-term care service delivery as described under WAC ((388-71-205)) 388-71-0205.

"Shared living arrangement" for purposes of Medicaid personal care means an arrangement where:

(1) A nonresponsible relative as defined in **"relative"** above is the personal care provider and resides in the same residence with common facilities, such as living, cooking, and eating areas; or

(2) A minor child age seventeen or younger lives in the home of a legally responsible relative as defined in **"relative"** above.

"SSI-related" means a person who is aged, blind, or disabled.

"Supervision" means a person available to a long-term care client as defined under **"personal care services."**

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Title XIX" is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, Medically Needy Residential waiver and Medicaid personal care home and community-based services.

"Transfer of resources" means the same as defined under WAC 388-513-1365 (1)(g).

"Unscheduled tasks" means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the person's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff or designee while assessing need for case management shall perform the assessment.

(b) Except for adult protective service, the assessors shall perform a separate assessment for each client.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment based on an in-person interview with the client in the client's home. A case manager may request the assessment be conducted in private.

(e) When performing the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) The adult client's functional ability to self-perform each personal care task and household task shall be determined using the following definitions of the assistance required:

(a) Ambulation:

(i) Independent. The client is mobile, with or without an assistive device, both inside and outside the household without the assistance of another person.

(ii) Minimal. The client is mobile inside without assistance but needs the assistance of another person outside; or the client needs occasional assistance of another person inside, and usually needs assistance of another person outside.

(iii) Substantial. The client is only mobile with regular assistance of another person both inside and outside.

(iv) Total. The client is not mobile.

(b) Bathing:

(i) Independent. The client can bathe self.

(ii) Minimal. The client requires oversight help or reminding only. The client can bathe without assistance or supervision, but must be reminded some of the time; or the client cannot get into the tub alone and physical help is limited to stand-by assist only.

(iii) Substantial. The client requires physical help in a large part of the bathing activity, for example, to lather, wash, and/or rinse own body or hair.

(iv) Total. The client is dependent on others to provide a complete bath.

(c) Body care:

(i) Independent. The client can apply ointment, lotion, change bandages or dressings, and perform exercises without assistance.

(ii) Minimal. The client requires oversight help or reminding only, or requires occasional assistance.

(iii) Substantial. The client requires limited physical help to apply ointment, lotion, or to perform dry bandage or dressing change.

(iv) Total. The client is dependent on others to perform all required body care.

(d) Dressing:

(i) Independent. The client can dress and undress without assistance or supervision.

(ii) Minimal. The client can dress and undress, but may need to be reminded or supervised to do so on some days; the client can assist dressing and undressing, but frequently or most of the time needs some physical assistance.

(iii) Substantial. The client always needs assistance to do parts of dressing and undressing.

(iv) Total. The client is dependent on others to do all dressing and undressing.

(e) Eating:

(i) Independent. The client can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.

(ii) Minimal. The client:

(A) Can feed self, chew and swallow foods, but needs reminding to maintain adequate intake;

(B) May need food cut up;

(C) Can feed self only if food is brought to the client.

(iii) Substantial. The client:

(A) Can feed self but needs standby assistance for occasional gagging, choking, or swallowing difficulty; or

(B) Needs reminders/assistance with adaptive feeding equipment; or

(C) Must be fed some or all food by mouth by another person.

(iv) Total. The client must be totally fed by another person and/or frequently gags or chokes due to difficulty in swallowing; or the client must be fed by another person by stomach tube or by venous access.

(f) Essential shopping:

(i) Independent. The client can drive and is licensed or the client is capable of using public transportation.

(ii) Minimal. The client can use available transportation and does not need assistance with shopping, but needs instructions or physical assistance to get to or from transportation vehicle.

(iii) Substantial. The client is dependent on being accompanied or helped by others to access community shops and needs assistance with shopping.

(iv) Total. The client is totally dependent on others to do essential shopping.

(g) Housework:

(i) Independent. The client can perform essential housework.

(ii) Minimal. The client needs assistance or needs cuing or supervision in self-performance of essential housework one or two times per month in client use areas.

(iii) Substantial. The client needs weekly assistance of another with essential housework in client use areas.

(iv) Total. The client is dependent on others to do all housework in client use areas.

(h) Laundry:

(i) Independent. The client is capable of using available laundry facilities.

(ii) Minimal. The client is physically capable of using laundry facilities, but requires cuing and/or supervision.

(iii) Substantial. The client is not able to use laundry facilities without physical assistance.

(iv) Total. The client is dependent upon others to do all laundry.

(i) Meal preparation:

(i) Independent. The client can prepare and cook required meals.

(ii) Minimal. The client requires some instruction or physical assistance to prepare meals.

(iii) Substantial. The client can participate but needs substantial assistance to prepare meals.

(iv) Total. The client cannot prepare or participate in preparation of meals.

(j) Personal hygiene:

(i) Independent. The client can manage personal hygiene and grooming tasks on a regular basis.

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(ii) Minimal. The client can manage their personal hygiene and grooming but must be reminded or supervised at least some of the time; the client regularly requires some limited assistance with both personal hygiene and grooming.

(iii) Substantial. The client regularly requires assistance with personal hygiene and grooming and cooperates in the process.

(iv) Total. The client is dependent on others to provide all personal hygiene and grooming.

(k) Positioning:

(i) Independent. The client can move to and from a lying position, position their body in bed, and get into and out of bed and chairs.

(ii) Minimal. The client can move to and from a lying position, turn from side to side, and position their body while in bed and chairs but requires assistance some of the time.

(iii) Substantial. The client needs occasional assistance to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(iv) Total. The client needs assistance most or all of the time to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(l) Self-medication:

(i) Independent. The client can take own medications or does not take medication.

(ii) Minimal. The client is physically able to take medications but requires another person to:

(A) Remind, monitor, or observe the taking of medications less than daily; or

(B) Open a container, lay out, or organize medications less than daily.

(iii) Substantial. The client can physically take medications, but requires another person to either remind, monitor, or observe the taking of medications daily; or the client can physically take medications if another person daily opens containers, lays out, organizes medications.

(iv) Total. The client cannot physically take medications and requires another person to assist and administer all medications.

(m) Toileting:

(i) Independent. The client can use the toilet without physical assistance or supervision; or the client can manage own closed drainage system if the system has a catheter or sheath; or the client uses and manages protective aids. The client may need grab bars or raised toilet seat.

(ii) Minimal. The client needs stand-by assistance for safety or encouragement. The client may need minimal physical assistance with parts of the task, such as clothing adjustment, washing hands, wiping, and cleansing. The client may need a protective garment and may or may not be aware of this need.

(iii) Substantial. The client cannot get to the toilet without assistance; or the client needs substantial physical assistance with part of the task; or the client needs someone else to manage care of a closed drainage system if it has a catheter or sheath. The client may or may not be aware of own needs.

(iv) Total. The client is physically unable to use toilet. Requires continual observation and total cleansing. The client may require protective garments or padding or linen changes. The client may or may not be aware of own needs.

(n) Transfer:

(i) Independent. The client can transfer without physical assistance.

(ii) Minimal. The client transfers without assistance most of the time, but needs assistance on occasion.

(iii) Substantial. The client can assist with own transfers, but frequently or most of the time needs assistance.

(iv) Total. The client transfers must be done by someone else.

(o) Travel to medical services:

(i) Independent. The client can drive and is licensed; or is capable of using available public transportation.

(ii) Minimal. The client cannot drive or can drive but should not; or public transportation is not available.

(iii) Substantial. The client requires physical assistance or supervision to both get into and out of a vehicle, but can use the transportation without assistance during the trip.

(iv) Total. The client is totally dependent on being accompanied or helped by others during the trip.

(p) Wood supply:

(i) Independent. The client does not rely on wood as the sole fuel source or is capable of splitting, stacking, or carrying wood for heating or cooking.

(ii) Minimal. The client can carry wood but needs occasional assistance with splitting or stacking wood.

(iii) Substantial. The client is not able to carry, split, or stack wood, but is able to use the wood supply once it is inside the residence.

(iv) Total. The client is dependent on another person to establish and maintain heat for cooking or residential heating.

(4) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, the assessor shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available to the client through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The assessor shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0 = none, M = minimal, S = substantial, and T = total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10

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TASK	0	M	S	T
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping	0	5	10	15
With client or For client	0	1	3	5
Meal preparation	0	4	7	10
Breakfast				
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry	0	1	2	3
Facilities in home or Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply		3	5	7

(c) The assessor shall add together the points awarded for each task to obtain the total score for the applicant or client.

(5) Hour computation. The assessor shall:

(a) Convert the total score into maximum hours per month which may be authorized using the scoring conversion chart.

Scoring Conversion Chart

MAXIMUM		MAXIMUM		MAXIMUM	
Score	Hours	Score	Hours	Score	Hours
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

(b) Recognize conversion hours show client need, and may not reflect department-paid hours as determined by program standards.

(6) The assessor shall determine the client's additional hours of supervision needed:

(a) Due to impaired judgment; and

(b) For standby assistance necessary for unscheduled tasks defined under WAC ((388-71-202)) 388-71-0202; and

(c) Recognize supervision hours show client need, and may not reflect department paid hours as determined by program standards.

(7) Department staff or the department's designee shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs or the eligibility criteria for the division authorizing the service. The department or the department's designee shall notify the client of the right to contest a denial or reduction of services.

(8) Department staff or the department designee shall be responsible for representing the department at any hearing involving the assessment or decisions made relating to such assessment.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0405 What are the home and community programs? The HCP are in-home and community residential services funded by:

(1) Community options program entry system (COPES), ~~((codified under subsection 1915(c) of the Social Security Act and 42 C.F.R. 441.300 and 310))~~ authorized under RCW 74.39A.030.

(2) Medicaid personal care services (MPC), ~~((found))~~ authorized under RCW 74.09.520 ((and in the Medicaid state plan)).

(3) Chore personal care services, a state-only funded program authorized under RCW ~~((74.08.090, 74.09.520, and 74.08.570))~~ 74.39A.110.

(4) Medically Needy Residential waiver, authorized under RCW 74.09.700 and 74.39A.041.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0410 What services may I receive under HCP? You may receive the following HCP services:

(1) For COPES, MPC or chore: Assistance with personal care tasks and household tasks ~~((in your own home)),~~ as defined in WAC ~~((388-71-202))~~ 388-71-0202; and

(2) For all HCP programs: Assistance with personal care tasks and household tasks in a residential setting, as described in WAC 388-71-0600. Note: Household tasks are included as part of the board and room rate. ~~((You may receive, under MPC:~~

~~(a) Up to thirty hours of personal care services in an adult residential care facility; or~~

~~(b) Up to sixty hours of personal care services in an adult family home)).~~

(3) For COPES, MPC: Personal care assistance when temporarily traveling out of state, as long as:

(a) Your provider is contracted with the state of Washington; and

(b) The travel plans are coordinated with your social service case manager prior to departure; and

(c) Services are authorized on your service plan prior to departure; and

(d) Services are strictly for your personal care, which does not include your provider's travel time, expenses, lodging or subsistence.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0415 What other services may I receive under the COPEs program? In addition to the services listed in WAC 388-71-0410, you may be eligible for other services under the COPEs (~~(program)~~) or Medically Needy Residential waiver as indicated in your assessment and documented in your plan of care. Under one of these programs you may be eligible to receive(=) the following services in your own home or in your residential setting. Note: The definition of own home as used throughout this section is defined in WAC 388-71-0202. The definition of residential settings is defined in WAC 388-71-0600.

(1) ~~((Adult day services, in an adult day care or adult day health center if you:~~

~~(a) Are ineligible for Medicaid state plan covered adult day health services;~~

~~(b) Are chronically ill or disabled, socially isolated and/or confused or have mild to moderate dementia; and~~

~~(c) Meet eligibility requirements for adult day services as required in:~~

~~(i) WAC 388-15-652, Eligibility for adult day care; or~~

~~(ii) WAC 388-15-653, Eligibility for adult day health))~~
For COPEs in-home clients, adult day care if you meet the eligibility requirements under WAC 388-15-652 or its successor.

(2) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes;

(e) Adaptions or improvements to the home, which are of general utility or add to the total square footage of the home are excluded.

(3) Home delivered meals provides nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(4) Home health aide service tasks in your own home, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;

(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2100) and are in addition to those available services; ~~((and))~~

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace Medicare home health services.

(5) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:

(a) Live alone in your own home; or

(b) Are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time.

(6) Skilled nursing in your own home, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.

(7) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005; and

~~(b))~~; or

(c) Necessary to increase your ability to perform activities of daily living; or

~~((=))~~ ~~(d)~~ Necessary for you to perceive, control, or communicate with the environment in which you live; and

~~((=))~~ ~~(e)~~ Directly medically or remedially beneficial to you; and

~~((=))~~ ~~(f)~~ In addition to and do not replace any medical equipment and/or supplies otherwise provided under ((the state plan)) Medicaid and/or Medicare.

(8) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(9) Transportation services if you live in your own home, if the service:

(a) Provides ~~((the client))~~ you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to ~~((Medicaid brokered transportation to medical services;))~~ and

~~((=))~~ does not replace the Medicaid-brokered transportation or transportation services available in the community.

(10) For COPEs or Medically Needy Residential waiver clients, skilled nursing in a residential setting, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100; and

(c) In addition to and does not replace the services required by DSHS contract in residential settings.

(11) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005; and

(b) Necessary for life support; or

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(c) Necessary to increase your ability to perform activities of daily living; or

(d) Necessary for you to perceive, control, or communicate with the environment in which you live; and

(e) Directly medically or remedially beneficial to you; and

(f) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare; and

(g) In addition to and do not replace the services required by DSHS contract in residential settings.

(12) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers; and

(d) The service is in addition to and does not replace the services required by DSHS contract in residential settings.

(13) Transportation services if you live in a residential setting, if the service:

(a) Provides you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential settings.

Note: Clients who reside in enhanced residential care, assisted living or adult family homes are not eligible for waiver funded adult day care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0420 What services are not covered under HCP? HCP does not cover the following services:

(1) For chore personal care and MPC:

(a) Teaching, including teaching how to perform personal care tasks;

(b) Development of social, behavioral, recreational, communication, or other types of community living skills;

(c) Nursing care.

(2) Personal care services provided outside of your residence, unless ~~((they))~~ the services are authorized in your written service plan.

(3) Child care;

(4) Sterile procedures, administration of medications, or other tasks requiring a licensed health professional, unless authorized as an approved nursing delegation task, client self-directed care task, or provided by a family member;

(5) Services provided over the telephone;

(6) Services provided outside the state of Washington if ~~((COPES or))~~ chore personal care;

(7) Services to assist other household members not eligible for services;

(8) Yard care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0425 Who can provide HCP services? The following types of providers may provide COPES, MPC, or chore services:

(1) ~~((Individual))~~ For in-home clients, individual providers, who must meet the requirements outlined in WAC 388-71-0500 through 388-71-0580;

(2) For in-home clients, home care agencies, which must be licensed under chapters 70.127 RCW and 246-336 WAC, or home health agencies, licensed under chapters 70.127 RCW and 246-327 WAC;

(3) For residential clients, licensed adult family home and boarding home providers who are contracted with DSHS (see WAC 388-71-0600); and

(4) As applicable, service providers who have contracted with the AAA to perform other waiver services under COPES or Medically Needy Residential waiver services listed in WAC 388-71-0415.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0430 Am I eligible for one of the HCP programs? You are eligible to receive HCP services if you meet the functional and financial eligibility requirements in WAC 388-71-0435 for COPES, WAC 388-71-0442 for Medically Needy Residential waiver, WAC 388-71-0440 for MPC, or WAC 388-71-0445 for Chore. Functional eligibility for all ~~((three))~~ four programs is determined through an assessment as provided under WAC ~~((388-71-203))~~ 388-71-0203. Your eligibility begins upon the date of the department's service authorization.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0435 Am I eligible for COPES-funded services? You are eligible for COPES-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements ~~((This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, Community options program entry system (COPES)))~~ as defined in WAC 388-515-1505.

(3) You:

(a) Are not eligible for Medicaid personal care services; or

(b) Are eligible for Medicaid personal care services, but the department determines that the amount, duration, or scope of your needs is beyond what Medicaid personal care can provide.

(4) Your comprehensive assessment shows you need the level of care provided in a nursing facility (or will likely need

the level of care within thirty days unless ((COPEs)) waiver services are provided) which means one of the following applies. You:

(a) Require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis;

(b) Have an unmet need requiring substantial or total assistance with at least two or more of the following activities of daily living (ADLS) as defined in WAC ((388-71-202 and 388-71-203)) 388-71-0202 and 388-71-0203:

- (i) Eating,
- (ii) Toileting,
- (iii) Ambulation,
- (iv) Transfer,
- (v) Positioning,
- (vi) Bathing, and
- (vii) Self-medication.

(c) Have an unmet need requiring minimal, substantial or total assistance in three or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section; or

(d) Have:

(i) A cognitive impairment and require supervision due to one or more of the following: disorientation, memory impairment, impaired judgment, or wandering; and

(ii) An unmet need requiring substantial or total assistance with one or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section.

(5) You have a completed service plan, per WAC ((388-71-205)) 388-71-0205.

NEW SECTION

WAC 388-71-0442 Am I eligible for Medically Needy Residential waiver services? You are eligible for Medically Needy Residential waiver services if you will be receiving services in a residential setting and meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet the financial eligibility requirements defined in WAC 388-515-1540.

(3) You are not eligible for Medicaid personal care services or COPEs.

(4) You meet the functional criteria for nursing facility level of care as defined in WAC 388-71-0435(4).

(5) You have a completed service plan, per WAC 388-71-0205.

(6) Note: Depending on the number of available spaces, you may be placed on a waiting list.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0445 Am I eligible for Chore-funded services? To be eligible for Chore-funded services, you must:

(1) Be eighteen years of age or older;

(2) Require assistance with at least one of the direct personal care tasks listed in WAC ((388-71-202)) 388-71-0202;

(3) Not be eligible for MPC or COPEs, Medically Needy Residential waiver, Medicare home health or other programs if these programs can meet your needs;

(4) Have net household income (as described in WAC 388-450-0005, 388-450-0020, 388-450-0040, and 388-511-1130) not exceeding:

(a) The sum of the cost of your chore services, and

(b) One-hundred percent of the FPL adjusted for family size.

(5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)

(6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0460 Are there limitations to HCP services I can receive? The following are limitations to HCP services you can receive:

(1) HCP services may not replace other available resources, both paid and unpaid.

(2) AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.

(3) The department will adjust payments to a personal care provider who is doing household tasks at the same time (e.g., essential shopping, meal preparation, laundry, house-work, travel to medical services, wood supply and supervision due to impaired judgement) for:

(a) More than one client living in the same household; or

(b) A client in a shared living arrangement (MPC).

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0465 Are there waiting lists for HCP services? ((If you are receiving)) For:

(1) COPEs services, a waiting list may be created if:

(a) The caseload or expenditures exceed the legislative funding, or

(b) ((HCFA)) The federal Centers for Medicare and Medicaid Services (CMS) or the legislature imposes caseload limits.

(2) ((Chore services, a waiting list may be created to maintain the monthly expenditures within the legislative appropriation. You receive priority if you:

(a) Have received chore as of June 30, 1995; or

(b) Need chore:

(i) To return to the community from a nursing home;

(ii) To prevent unnecessary nursing home placement; or

(iii) For protection based on referral from an APS investigation.

(3)) MPC, there is no waiting list. Note: Instead of waiting lists, the department may be required to revise HCP rules to reduce caseload size, hours, rates, or payments in order to stay within the legislative appropriation.

(3) For Medically Needy Residential waiver, the department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will be ranked in the following manner:

(a) Nursing home residents wanting MN waiver services will be ranked first on the wait list by date of application for services; and

(b) After nursing home residents are ranked, clients living in the community with a higher level of need as determined by the comprehensive assessment will be ranked higher on the wait list over clients with lower level of need; and

(c) As between two or more clients in the community with equal need levels, clients with earlier applications for services will have priority over later applications for services.

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0470 Who pays for HCP services? Depending on your income and resources, you may be required to pay participation toward the cost of your care. The department determines exactly what amount, if any, you pay. If you are receiving:

(1) COPEs in-home or residential,

(a) You participate income per rules in WAC 388-515-1505;

(b) If you have nonexempt income that exceeds the cost of COPEs services, you may retain the difference.

(2) MPC in-home services, you do not participate toward the cost of your personal care services.

(3) MPC services in a residential setting and you are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of at least thirty-eight dollars and eighty-four cents per month.

(b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of at least fifty-eight dollars and eighty-four cents per month.

(c) An SSI-related person per WAC 388-511-1105, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate (~~plus add-on hours~~). You will receive a personal allowance of fifty-eight dollars and eighty-four cents.

(d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of thirty-eight dollars and eighty-four cents only per month. The remainder of your grant must be paid to the facility.

(4) Medically Needy Residential waiver services, the amount you pay is determined in WAC 388-515-1540.

(5) Chore services, you may retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance and pay the

difference between the FPL and your **nonexempt** income. Exempt income includes:

(a) Income listed in WAC 388-513-1340;

(b) Spousal income allocated and actually paid as participation in the cost of the spouse's community options program entry system (COPEs) services;

(c) Amounts paid for medical expenses not subject to third party payment;

(d) Health insurance premiums, coinsurance or deductible charges; and

(e) If applicable, those work expense deductions listed as WAC 388-71-480(2).

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0480 If I am employed, can I still receive HCP services? If you are disabled, as determined under WAC 388-511-1105, you may be employed and still be eligible to receive HCP services.

(1) If you remain Medicaid eligible under the categorically needy program, you are financially eligible for MPC services.

(2) If you are receiving Medically Needy Residential waiver services in a residential setting, you may have earned income allowances per WAC 388-515-1540.

(3) If you are not Medicaid eligible due to your earned income and resources, ((you may be eligible to receive)) and are receiving chore personal care services.

(a) You may be required to pay participation per WAC 388-71-0470(4) for any earned income above one hundred percent of the federal poverty level.

(b) The department will exempt fifty percent of your earned income after work expense deductions. Work expense deductions are:

(i) Personal work expenses in the form of self-employment taxes (FICA); and income taxes when paid;

(ii) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars;

(iv) Expenses necessary for continued employment such as tools, materials, union dues, transportation to service customers is not furnished by the employer; and

(v) Uniforms needed on the job and not suitable for wear away from the job.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0600 What are residential services? The residential service program provides personal care services, as defined in WAC ((388-71-202)) 388-71-0202, room, board, supervision, and nursing services for elderly and disabled adults. Eligible individuals may choose to receive services from any of the following licensed and contracted residential settings:

(1) **Adult family homes** with a state contract provide services for two to six unrelated adults (chapter 388-76 WAC). Services include room, board and supervision. Residents may also receive limited nursing services, under nurse delegation or if the sponsor or the manager is a nurse. Services are authorized according to the department's comprehensive assessment and service plan.

(2) **Assisted living** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and II). Structural requirements include two hundred twenty square foot private room, private bathroom, and a kitchen in each unit. Resident services may include room, board, assistance with ADL and IADL, and limited nursing services. Services are authorized according to the department's comprehensive assessment and service plan.

(3) **Enhanced adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and III). Services may include a shared room, board, limited nursing services, assistance with ADL and IADL, limited nursing services, and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

(4) **Adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and IV). This service is not available under the COPES or MN waiver program. Services ~~((may))~~ include room, board and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

AMENDATORY SECTION (Amending WSR 01-14-055, filed 6/29/01, effective 7/30/01)

WAC 388-71-0605 Am I eligible for residential services? (1) If you apply for services, you may be eligible to have the department pay for your services through one of the programs listed below. The department assesses and determines your functional and financial eligibility for residential services under one of the following long-term care programs:

(a) Community options program entry system (COPES), described in WAC 388-71-0435; ~~((or))~~

(b) Medicaid personal care funding (MPC), described in WAC 388-71-0440; or

(c) Medically Needy Residential waiver described in WAC 388-71-0442.

(2) If you are not eligible for services under one of the programs listed above, you may receive state-only funding for residential services if you meet eligibility requirements for general assistance unemployable (GAU), described in WAC ~~((388-235-5000))~~ 388-400-0025.

(3) If you are on:

(a) MPC, you can receive services in adult family homes and adult residential care facilities.

Note: If you are under eighteen, you may receive MPC services in a children's foster family home or a children's group care facility.

(b) COPES/Medically Needy Residential waiver, you can receive services in adult family homes, enhanced adult residential care facilities, and assisted living facilities.

(c) GAU, you can receive state-funded services in adult family homes and adult residential care facilities.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0610 Who pays for residential care?

You must use your income to pay for your room and board and services. You are allowed to keep some of your income for ~~((clothing and))~~ personal ~~((incidental-CPI))~~ needs allowance (PNA). The department determines the amount of ~~((CPI))~~ PNA that you may keep. Rules regarding the amount you must pay or CPI are found in WAC 388-513-1380; 388-515-1505 for COPES; 388-515-1540 for Medically Needy Residential waiver, or 388-478-0045 for all other programs.

(1) The department pays the facility for the difference between what you pay and the department-set rate for the facility. AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.

(2) Washington state collects from your estate the cost of the care that the department provides based on chapter 388-527 WAC.

WSR 03-09-050
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed April 11, 2003, 9:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-033.

Title of Rule: Chapter 392-142 WAC, Transportation—Replacement and depreciation allocation.

Purpose: This revision will update the language to reflect the current configuration of the state school bus fleet by eliminating references to previous depreciation schedules. The categories of school buses are being removed from the WAC and will be described in the annual state determined purchase prices for school bus categories bulletin. There is also clarification to reflect practices used to determine reimbursement payments for used buses and salvage recovery for buses entering the system prior to September 1, 1982.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.160.195.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Charlie Schreck, Office of Superintendent of Public Instruction, (360) 725-6136; Implementation: Marcia Riggers, Office of Superintendent of Public Instruction, (360) 725-6175; and Enforcement: Allan J. Jones, Office of Superintendent of Public Instruction, (360) 725-6120.

Name of Proponent: Office of Superintendent of Public Instruction, governmental.

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

PROPOSED

PROPOSED

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

Proposal Changes the Following Existing Rules: The description of the school bus funding categories will be removed from the WAC and moved to the annual state determined purchase prices for school bus categories bulletin.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Educational Service District 113, 601 McPhee Road S.W., Board Room, Olympia, WA 98502-5080, on May 28, 2003, at 10 a.m.

Assistance for Persons with Disabilities: Contact Ben Gravely by May 18, 2003, TDD (360) 664-3631 or (360) 725-6142.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by May 27, 2003.

Date of Intended Adoption: May 29, 2003.

April 4, 2003

Tom J. Kelly

for Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-010 Purpose. The purpose of this chapter is to implement RCW 28A.160.200 by developing:

- (1) Student transportation vehicle categories;
- (2) State-determined purchase prices for student transportation vehicle categories;
- (3) Standards for operation and maintenance of school buses;
- (4) A replacement schedule (referred to in the statute as reimbursement schedule) and allocation process for district-owned school buses;
- (5) A depreciation schedule and allocation process for school buses contracted from private carriers; and
- (6) ~~((Provisions for the continuation of depreciation allocations to school districts for school buses purchased prior to September 1, 1982; and~~
- (7)) Competitive specifications for each category of school bus.

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-125 Definition—Student capacity. As used in this chapter, "student capacity" means the number of students designated by the school bus manufacturer that can be seated on a school bus (~~(-For school buses equipped with a wheelchair lift, student capacity means the number of students that could be seated in a school bus))~~ if the vehicle (~~(was not lift equipped and)~~) had a maximum complement of seats.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-145 Definition—Useful life. As used in this chapter, "useful life" means the number of years that a school bus is expected to be in use as assigned to the category of school bus by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 01-17-005, filed 8/1/01, effective 9/1/01)

WAC 392-142-155 Definition—School bus categories ~~((for those buses purchased after September 1, 1982)).~~ As used in this chapter, "school bus categories ~~((for those buses purchased after September 1, 1982;))~~" means ~~((the following:))~~ those school bus categories determined annually by the superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, including student capacity, fuel type, and useful life. The superintendent, in consultation with the regional transportation coordinators shall determine placement of buses into specific categories and lifetimes for those types of buses no longer available.

	(Student Capacity	Fuel-Type	Transmission-Type	Useful-Life	Bus-Type
(1)	10 to 24	Gas		8	A-1
(2)	10 to 24	Diesel	Automatic	8	A-1
(3)	10 to 34	Gas	Automatic	8	A-2
(4)	10 to 34	Diesel	Automatic	8	A-2
(5)	10 to 34	Gas	Automatic	8	B
(6)	10 to 34	Diesel	Automatic	8	B
(7)	35 to 48	Diesel	Automatic	13	C
(8)	35 to 48	Diesel	Automatic	13	D
(9)	49 to 60	Diesel	Automatic	13	C
(10)	49 to 60	Diesel	Automatic	13	D
(11)	61 to 77	Diesel	Automatic	13	C
(12)	61 to 84	Diesel	Automatic	13	D
(13)	Heavy 78 to 84	Diesel	Automatic	18	D
(14)	Heavy 85 to 90	Diesel	Automatic	18	D))

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-165 Definition—State-determined purchase price. As used in this chapter, "state-determined purchase price" means the state ~~((reimbursement rate for school bus))~~ replacement or depreciation rate for school buses which shall be based upon the lowest competitive price quote received from school bus dealers for each category of school bus ~~((es)),~~ documented in modified vendor bid proposals associated with meeting state-supported competitive specifications.

- Included in the lowest competitive price quote are:
- (1) Freight to the school district; and

(2) Cost associated with full payment within thirty days of delivery.

Sales tax is not included as a part of establishing the lowest price quote. Sales tax shall be included in the state-determined purchase price at the highest rate in the state as provided annually by the department of revenue.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-180 Definition—Total school bus ~~((depreciation))~~ replacement payments. As used in this chapter, "total school bus ~~((depreciation))~~ replacement payments" means the sum of all state school bus ~~((depreciation))~~ replacement payments for prior school years made for an individual school bus.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-185 Definition—Imputed interest earnings. As used in this chapter, "imputed interest earnings" means the sum of interest which is assumed to be earned on moneys assumed to be available in the ~~((vehicle))~~ transportation vehicle fund from state payments and ~~((imputed))~~ accumulated interest earnings. The rate used shall be the average of the treasury bill rate for ninety-day notes during the previous state fiscal year calculated on the basis of simple interest.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-190 Definition—Salvage value. As used in this chapter, for those school buses purchased after September 1, 1982, "salvage value" means the state-determined ~~((school bus))~~ purchase price for the year the school bus was placed on the state ~~((depreciation))~~ replacement schedule divided by the useful life and multiplied by twenty-five percent.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-195 Definition—SPI Form 1020. As used in this chapter, "SPI Form 1020" means that form prepared and distributed by the superintendent of public instruction and used by school districts to notify the superintendent of public instruction of the acquisition or disposition of a school bus ~~((or that the school bus has been taken out of service))~~.

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-212 Obtaining competitive price quotes. The superintendent of public instruction shall annually request competitive price quotations from school bus dealers for state-supported specifications for all school bus categories. The lowest price quote will be determined using only the base quote price as stated for the state-supported

base bus without options. The request for price quotes will at least include:

(1) A modified vendor bid proposal for one representative state-supported school bus in each category as defined in WAC 392-142-155.

(a) A list of selected state-supported ~~((options))~~ specifications; and

(b) A list of ~~((school district))~~ vendor options which may be purchased at the school district's discretion and expense.

(2) A requirement that each school bus dealer submit a statement of assurance that school districts may purchase school buses at the quoted price for a period of one year.

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-213 Purchase of school buses by school districts. (1) School districts may purchase school buses directly from the school bus dealer who has provided the lowest competitive price quote in each school bus category without regard to RCW 28A.335.190 ~~((competitive bid law))~~.

(2) School districts that do not purchase school buses in accordance with subsection (1) of this section may conduct their own competitive bid process in accordance with RCW 28A.335.190. School districts that choose to conduct their own bid shall:

(a) Use vendor bid proposal forms provided by the superintendent of public instruction.

(b) Prepare a summary of all bids received for retention in school district files and submission to the superintendent of public instruction.

(3) School buses which have been acquired by school districts or educational service districts, in accordance with subsection (1) or (2) of this section, are entitled to reimbursement payments for school bus replacement in accordance with this chapter.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-225 Placement of used school buses on state replacement or depreciation schedules. A used school bus(es) shall be placed on the state replacement or depreciation schedule ~~((in effect at the time of the school bus' manufacture as follows:~~

~~((1) For those used school buses manufactured after September 1, 1982, state depreciation payments shall be calculated))~~ as if it had been ~~((purchased))~~ issued a school bus operation permit on the first of September in the year of manufacture, including an estimate by the superintendent of public instruction of:

~~((a))~~ (1) Prior school years total state replacement or depreciation payments;

~~((b))~~ (2) Imputed interest earnings (if purchased by a school district); and

~~((c))~~ (3) Salvage value (if purchased by a school district).

~~((2) For those used school buses purchased by a school district that were manufactured prior to September 1, 1982,~~

PROPOSED

they will be placed on the depreciation schedule with the following eligible purchase price:

~~(a) A school bus owned by one school district is purchased by another school district. Such a bus shall be placed on the purchasing district's depreciation schedule at its original appreciated price schedule or at the purchase price paid for the used bus, whichever is less.~~

~~(b) A school bus purchased from a private party by a school district. Such a bus shall be placed on the purchasing school district's depreciation schedule at the purchase price paid for the used bus or the depreciable value, whichever is less.~~

~~The superintendent of public instruction shall establish that the purchase price of the school bus appropriately reflects its depreciable value.)~~

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

WAC 392-142-240 Calculation of annual state ~~(depreciation)~~ replacement payment for district-owned school buses ~~((purchased after September 1, 1982))~~. The superintendent of public instruction shall calculate each school district's annual state ~~(depreciation)~~ replacement payment for district-owned school buses ~~((purchased after September 1, 1982,))~~ as follows:

(1)~~((a))~~ For district-owned school buses issued a school bus operation permit prior to the fifteenth of the month of the current school year:

~~(a) Place each school bus in the appropriate school bus category set forth in WAC 392-142-155((:));~~

~~(b) ((Add the state determined purchase price for the appropriate school bus category determined in (a) of this subsection to the state determined specialized equipment price if any;~~

~~(e)) Divide the ((result obtained in (b) of this subsection)) state determined purchase price by the useful lifetime in months as determined in (a) of this subsection; and~~

~~((d)) (c) Multiply the result obtained in ((e)) (b) of this subsection by the number of months remaining in the school year.~~

~~(2)((a)) For school buses issued a school bus operation permit prior to the current school year:~~

~~(a) Place each school bus in the appropriate school bus category set forth in WAC 392-142-155((:));~~

~~(b) ((Add the state determined purchase price for the appropriate school bus category determined in (a) of this subsection to the state determined specialized equipment price if any;~~

~~(e)) Divide the ((result obtained in (b) of this subsection)) state determined purchase price by the useful lifetime in months determined in (a) of this subsection;~~

~~((d)) (c) Multiply the result obtained in ((e)) (b) of this subsection by the total number of months the school bus has been on the ((depreciation)) replacement schedule including the months for the current school year;~~

~~((e)) (d) Subtract from the result obtained in ((d)) (c) of this subsection the total school bus ((depreciation)) replacement payments made in prior school years;~~

~~((f)) (e) Subtract from the result obtained in ((d)) (c) of this subsection the imputed interest earnings; and~~

~~((g)) (f) Subtract from the result obtained in ((f)) (e) of this subsection the salvage value of the school bus if the current school year is the final year of the vehicle's useful life.~~

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-245 Calculation of annual state depreciation payment for contractor-owned school buses ~~((purchased after September 1, 1982))~~. The superintendent of public instruction shall calculate each school district's state depreciation payment for contractor-owned school buses ~~((purchased after September 1, 1982, by))~~ as follows:

(1) For contractor-owned school buses issued a school bus operation permit prior to the fifteenth of the month of the current school year~~((, multiply the state determined purchase price for the appropriate school bus category by the remaining months of the current school year and divide by twelve and further divide by the useful lifetime for the appropriate school bus category; or))~~:

~~(a) Place each bus in the appropriate school bus category set forth in WAC 392-142-155;~~

~~(b) Divide the state determined purchase price by the useful lifetime in months determined in (a) of this subsection; and~~

~~(c) Multiply the result obtained in (b) of this subsection by the number of months remaining in the school year.~~

(2) For contractor-owned school buses issued a school bus operation permit in a prior school year:

~~(a) Place each school bus in the appropriate school bus category set forth in WAC 392-142-155; and~~

~~(b) Divide the state-determined purchase price at the time the school bus was purchased by the useful lifetime for the appropriate school bus category set forth in WAC 392-142-155.~~

AMENDATORY SECTION (Amending Order 91-12, filed 7/26/91, effective 8/26/91)

WAC 392-142-250 Allocation of state replacement or depreciation payment ~~((support—School buses purchased after September 1, 1982))~~. The superintendent of public instruction shall apportion school bus replacement or depreciation payments each school year calculated as follows:

(1) Pursuant to WAC ~~((392-142-235))~~ 392-142-240 in:

~~(a) The September apportionment payment for those school buses issued school bus operating permits in prior school years; or~~

~~(b) The first apportionment payment after the issuance of the school bus operating permit for school buses purchased in the current school year; or~~

(2) Pursuant to WAC ~~((392-142-240))~~ 392-142-245 according to the schedule set forth in RCW 28A.510.250.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-255 Deposit of ((state support)) payments in transportation vehicle fund. School districts shall deposit proceeds for the rent, sale, or lease of school buses and ((depreciation)) replacement payments allocated pursuant to WAC ((392-142-235 and)) 392-142-240 in the transportation vehicle fund. School districts shall not deposit school bus depreciation payments allocated pursuant to WAC 392-142-245 in the transportation vehicle fund. For school buses placed on the reimbursement system between September 1, 1975, and August 31, 1980, the superintendent of public instruction shall recover ninety percent of the net proceeds of the sale of such vehicles by deduction from the next annual reimbursement allocation. For school buses placed on the reimbursement system between September 1, 1980, and August 31, 1982, the superintendent of public instruction shall recover one hundred percent of the net proceeds of the sale of such vehicles by deduction from the next annual reimbursement allocation.

AMENDATORY SECTION (Amending Order 25, filed 11/19/91, effective 12/20/91)

WAC 392-142-260 Allowable uses of transportation vehicle fund. School districts shall use moneys in the transportation vehicle fund for the following purposes:

(1) The purchase of ((approved transportation vehicles)) school buses;

(2) Performing major repairs of a school bus receiving prior approval by the superintendent of public instruction. Repairs costing less than twenty-five percent of the current state determined purchase price for that type and category of vehicle shall not be considered a major repair.

(3) The transfer of moneys from the transportation vehicle fund to the debt service fund exclusively for the payment of debt and interest incurred by the transportation vehicle fund shall not be considered to be a transfer of moneys from the transportation vehicle fund to any other fund within the meaning of RCW 28A.160.130.

AMENDATORY SECTION (Amending Order 21, filed 1/2/90, effective 2/2/90)

WAC 392-142-270 Disposition of school buses. Each school district shall notify the superintendent of public instruction ((whenver a school bus is taken out of service as)) of the disposition of a school bus on SPI Form 1020 within thirty days of this action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-142-090	Definition—Washington state patrol inspection officer.
WAC 392-142-120	Definition—Seating reference point.

WAC 392-142-140	Definition—Transmission.
WAC 392-142-150	Definition—School bus categories for those buses purchased before September 1, 1982, and after September 1, 1975.
WAC 392-142-170	Definition—State-determined specialized equipment price.
WAC 392-142-200	Definition—SPI Form 1029.
WAC 392-142-230	Calculation of annual state depreciation payment for buses purchased after September 1, 1975, and before September 1, 1982.
WAC 392-142-235	Allocation of state depreciation payment for school buses purchased after September 1, 1975, and before September 1, 1982.

WSR 03-09-051 PROPOSED RULES BOARD OF ACCOUNTANCY

[Filed April 11, 2003, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-01-101.

Title of Rule: WAC 4-25-720 How do I apply to take the CPA examination?

Purpose: To set transition and conditioning requirements to facilitate the move to a computer-based format.

Statutory Authority for Adoption: RCW 18.04.105(2).

Statute Being Implemented: RCW 18.04.105(2).

Summary: Beginning in 2004, the uniform CPA exam will be computerized. The board wishes to transition to the computerized exam at the very same time all other states make the change. The board anticipates November 2003 will be the final paper-and-pencil exam. To support nationwide consistency, the board proposes to adopt the Uniform Accountancy Act recommendations regarding conditioning for the new exam and the transition from the paper-and-pencil version to the computerized version.

Reasons Supporting Proposal: The uniform certified public accountant (CPA) examination is moving to a computer-based format. The board's proposed rule sets transition and conditioning requirements necessary to facilitate the move to a computer-based format.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, Olympia, Washington, (360) 586-0163.

Name of Proponent: Primarily the Washington State Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board's goal with all of its rule proposals is to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

Specifically, RCW 18.04.105(2) directs the board to "prescribe the methods of applying for and taking the examination, including methods for grading examinations and determining a passing grade required of an applicant for a license and to establish provisions for transitioning to a new examination structure or to a new media for administering the examination." The proposed rule will ensure that the transition of the CPA exam to a computer-based format will be smooth and fair for Washington candidates.

Proposal Changes the Following Existing Rules: Adds the board's policy regarding the proctoring of exam candidates to the board rule; permits candidates to sit for each section of the exam individually, and in any order; allows candidates to retain credit for any section(s) passed for eighteen months, without having to attain a minimum score on failed sections and without regard to whether they have taken other sections; prohibits candidates from retaking a failed section(s) within the same three-month "examination window"; requires candidates to pass all four sections of the exam within a "rolling eighteen-month period." The "rolling eighteen-month period" would begin on the date that the first section(s) passed is taken; if a candidate does not pass all four sections of the exam within the "rolling eighteen-month period," credit for section(s) passed outside the eighteen-month period will expire (and the candidate must retake that section); provides candidates holding conditional credits on the paper-and-pencil exam credit for the corresponding sections of the computer-based exam. Allows these candidates six attempts or three years (whichever is first exhausted) to complete the remaining section(s) of the exam.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: DoubleTree Hotel - Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on July 25, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 18, 2003, TDD (800) 833-6384 or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, Executive Director, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 7, 2003.

Date of Intended Adoption: July 25, 2003.

February 28, 2003
Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 02-04-064, filed 1/31/02, effective 3/15/02)

WAC 4-25-720 How do I apply to take the CPA examination? (1) Application form and due dates:

(a) For examinations held prior to January 1, 2004:

(i) Your application to take the CPA examination must be made on a form provided by the board's designee and filed with the board's designee on or before March 1 for the May examination and September 1 for the November examination. Applications, including all required documentation, for the May examination must be postmarked by March 1 (and received by March 10). Applications, including all required documentation, for the November examination must be postmarked by September 1 (and received by September 10). An application is not considered filed until the ~~((examination fee has been received by the))~~ board's designee has received the examination fee.

(ii) **Proctoring CPA exam candidates:** The board may agree to request the assistance of another accountancy board in proctoring Washington's applicants at out-of-state exam sites and may agree to proctor another accountancy board's applicants at a Washington exam site, both subject to space and staffing constraints. The board will not arrange for out-of-state proctoring for applicants domiciled out-of-state who wish to take the uniform CPA exam as Washington candidates. Such applicants must take the CPA exam in Washington on a space available basis.

(b) **For examinations held after December 31, 2003:** Your application to take the CPA examination must be made on a form provided by the board's designee and filed with the board's designee by the due date specified by the board on the application form. Your application is not considered filed until all of the following are received by the board's designee:

- Fee(s);
- Proof that you have met the education requirements;
- Your proof of identity as determined by the board and specified on the application form;
- Other required supporting documents; and
- Proof from NASBA's National Candidate Data Base that you have not previously taken, or applied to take, the exam during the current examination period.

(2) **Failure to attend the exam:** If you fail to appear for examination ~~((or reexamination))~~, you forfeit the fees charged for examination ~~((and reexamination))~~.

(3) **Notice of admittance to the examination or denial of your application:**

(a) **For examinations held prior to January 1, 2004:** Notice of the denial of your application, or notice of your admittance to the examination along with the time and place of the examination, will be mailed to you at least ten days prior to the date set for the examination.

~~((4))~~ (b) **For examinations held after December 31, 2003:** Notice of the denial of your application, or notice of your eligibility to take the examination will be mailed to you by the board's designee. You will contact the board's designee or the approved test site to schedule the time and location for your examination. Your notice of eligibility to take the examination will be valid for one taking of the examination

within the six months following the date of your notice of eligibility to take the examination.

(4) Examination content: The CPA examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the board may require. The examination will consist of the following four sections: Auditing and attestation; financial, accounting and reporting; regulation; and business environment and concepts.

(5) Examination, grading and conditioning:

(a) For examinations held prior to January 1, 2004:

The board uses all parts of the uniform CPA examination and the advisory grading services of the American Institute of Certified Public Accountants. Seventy-five or better is a passing grade for each section of the examination. Each time you sit for the examination you must take all sections you have not previously passed. You are required to pass all sections of the examination in order to qualify for a license. If at a given sitting of the examination you pass two or more, but not all sections of the examination, then you will receive credit for those sections that you pass and you will not be required to take those sections again provided:

((a)) (i) You took all unpassed sections of the examination at that sitting;

((b)) (ii) You attained a minimum grade of fifty on each section of the examination not passed at that sitting;

((c)) (iii) You pass the remaining sections of the examination within six consecutive examinations given after the one at which the first sections were passed;

((d)) (iv) At each subsequent sitting you take all sections not yet passed and you attain a minimum grade of fifty on those sections taken but not passed at that sitting; and

((e)) (v) In order to receive credit for passing additional sections in a subsequent sitting you attain a minimum grade of fifty on sections taken but not passed at that sitting.

((5)) (b) For examinations held after December 31, 2003: The board uses all parts of the uniform CPA examination and the advisory grading services of the American Institute of Certified Public Accountants.

(i) To qualify to apply for a license you must attain the national uniform passing grade, approved by the board by policy, on all four sections of the examination.

(ii) You may take the required four sections individually and in any order. Credit for any section(s) taken and passed after December 31, 2003, will be valid for eighteen months from the actual date you took the passed section, without having to attain a minimum score on any failed section(s) and without regard to whether you have taken other sections.

(iii) You must pass all four sections of the examination within a rolling eighteen-month period, which begins on the date that the first section(s) is passed. When determining the date that a section is passed the date that is used is the date that you took the exam section and not the date that your grade(s) is released.

(iv) You may not retake a failed section(s) in the same examination window. An examination window refers to a three-month period in which candidates have an opportunity to take the examination (comprised of two months in which

the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed).

(v) In the event you do not pass all four sections of the examination within the rolling eighteen-month period, credit for any section(s) passed prior to the eighteen-month period will expire and you must retake that section(s).

(c) Transitioning for candidates obtaining conditional credits under the provisions of (a) of this subsection:

(i) If you earned conditional credit(s) under the provisions of (a) of this subsection and as of February 15, 2004, those conditional credits remained valid under the provisions of (a) of this subsection, you will retain conditional credit for the corresponding sections of the examination as follows:

<u>Examination section taken prior to January 1, 2004</u>	<u>Examination section taken after December 31, 2003</u>
<u>Auditing</u>	<u>Auditing and Attestation</u>
<u>Financial Accounting and Reporting (FARE)</u>	<u>Financial Accounting and Reporting</u>
<u>Accounting and Reporting (ARE)</u>	<u>Regulation</u>
<u>Business Law and Professional Responsibilities (LPR)</u>	<u>Business Environment and Concepts</u>

(ii) If you qualify for conditional credit(s) for a section of the examination under (c)(i) of this subsection, you will lose the conditional credit(s) for the section unless you complete all remaining section(s) of the examination within the transition period which is the lesser of:

- The maximum number of testing opportunities that you had remaining to complete all sections of the examination under the provisions of (a) of this subsection; or
- The number of remaining testing opportunities you had remaining to complete all sections of the examination under the provisions of (a) of this subsection multiplied by six months.

(iii) If you do not pass all remaining sections during the transition period, the conditional credit for the section(s) you passed under the provision of (a) of this subsection will become invalid. Any section you pass after December 31, 2003, will be subject to the provisions of (b) of this subsection with the following exception:

- You will not lose conditional credit for any section passed during the transition period, even though more than eighteen months may have elapsed from the date the section is passed, until the end of your transition period.

(iv) You will retain credit for any and all sections of an examination passed in another state if credit would have been given under the Washington state requirements in effect on the date you took the examination.

(v) If you pass a section of the examination, the date you took the section of the examination is the date you receive credit for passing the section.

(6) Ethics exam: Upon passing the CPA examination, applicants for licensure are required to attain and demonstrate

PROPOSED

a passing grade of ninety percent or better on the AICPA professional code of conduct examination.

~~((6) Proctoring CPA exam candidates: The board may agree to request the assistance of another accountancy board in proctoring Washington's applicants at out-of-state exam sites and may agree to proctor another accountancy board's applicants at a Washington exam site, both subject to space and staffing constraints. The board will not arrange for out-of-state proctoring for applicants domiciled out of state who wish to take the uniform CPA exam as Washington candidates. Such applicants must take the CPA exam in Washington on a space available basis.))~~

WSR 03-09-052
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed April 11, 2003, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-05-012.

Title of Rule: WAC 4-25-721 What does the board consider to be cheating on the CPA examination, what actions may the board take if cheating is suspected, and what sanctions may the board impose if cheating occurs?

Purpose: The uniform certified public accountant (CPA) examination is moving to a computer-based format. The rule making is necessary to transition to a computer-based format.

Statutory Authority for Adoption: RCW 18.04.105(2).

Statute Being Implemented: RCW 18.04.105(2).

Summary: Beginning in 2004, the uniform CPA examination will be computerized. The board plans to transition to the computerized exam at the very same time all other states make the change. The board anticipates November 2003 will be the final paper-and-pencil exam. The board proposes to amend its rule regarding cheating to reflect the changes in the exam's format.

Reasons Supporting Proposal: The uniform certified public accountant (CPA) examination is moving to a computer-based format. The board's proposed rule revises the rule to facilitate the move to a computer-based format.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, Olympia, Washington, (360) 586-0163.

Name of Proponent: Primarily the Washington State Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board's goal with all of its rule proposals is to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

Specifically, RCW 18.04.105(2) directs the board to "establish provisions for transitioning to a new examination

structure or to a new media for administering the examination." The proposed rule will ensure that the transition of the CPA exam to a computer-based format will be smooth and fair for Washington candidates.

Proposal Changes the Following Existing Rules: Removes reference to language specific to a paper-and-pencil exam that will not be relevant to a computer-based exam such as: "Examination booklet or paper," "answer sheet," "essay question paper." Adds a subsection specifically prohibiting the retaking of the exam by an individual other than a legitimate candidate; individuals holding a license, or individuals with unexpired credit for passing the section.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: DoubleTree Hotel - Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on July 25, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 18, 2003, TDD (800) 833-6384 or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, Executive Director, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 7, 2003.

Date of Intended Adoption: July 25, 2003.

February 28, 2003

Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 02-04-064, filed 1/31/02, effective 3/15/02)

WAC 4-25-721 What does the board consider to be cheating on the CPA examination, what actions may the board take if cheating is suspected, and what sanctions may the board impose if cheating occurs? (1) Cheating includes, but is not limited to:

(a) ~~((Communication between candidates inside or outside of the examination room during the examination;~~

~~(b))) Unauthorized communication with others inside or outside of the examination room ((during the examination)) while the examination is in progress;~~

~~((e)) (b) Substitution by a candidate of another person to ((write one or more of the examination papers for him/her)) sit in the test site and take the examination on behalf of the candidate;~~

~~((d)) (c) Referencing crib sheets, text books, or other unauthorized material or electronic media inside or outside the examination room ((during the examination)) while the examination is in progress;~~

~~((e)) (d) Copying or attempting to copy another candidate's answers;~~

~~((f) Taking, removing, copying, transmitting, attempting to take, attempting to remove, attempting to copy, or attempting to transmit an examination booklet or paper,~~

~~answer sheet, essay question paper, or notes from the examination site;~~

~~((g))~~ (e) Disclosing or attempting to disclose examination questions and/or answers to others;

~~((h))~~ (f) Bringing unauthorized prohibited items into the examination site~~((;))~~ or ~~((+))~~ possessing unauthorized prohibited items in the examination site;

(g) Retaking or attempting to retake a section by an individual who holds a license or who has unexpired credit for passing the section, unless the individual has been expressly authorized by the board to participate in a "secret shopper" program.

(2) Cheating on the CPA examination is dishonesty directly related to the professional responsibilities of a CPA and demonstrates a lack of good character. When determining appropriate sanctions for cheating, the board may impose one or more of the following penalties:

(a) Enter a failing grade for any or all parts of the candidate's examination;

(b) Bar a candidate from writing future examinations; or

(c) Notify other jurisdictions of the board's conclusions and order.

(3) If a candidate is suspected of cheating, ~~((a))~~ the board or its representative(s) may expel the candidate from the examination~~((;))~~ or move the candidate suspected of cheating ~~((away from other candidates and/or confiscate unauthorized prohibited items)) to a position in the test center that is away from other examinees or where the candidate may be more closely observed.~~ The board or its representatives may require a candidate suspected of cheating, or a candidate who may have observed cheating, to respond to board inquiry. The board may schedule a hearing to determine the validity of the charge of cheating.

WSR 03-09-058

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed April 14, 2003, 12:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-080.

Title of Rule: Will amend WAC 308-124H-029 and 308-124H-061(6).

Purpose: Provide for mandatory evaluations on distance education courses and require that providers explain how they arrived at the number of hours requested for a course. Also amends rules for denial or withdrawal of course approval.

Statutory Authority for Adoption: RCW 18.85.040(1).

Statute Being Implemented: RCW 18.85.040(4).

Summary: To amend rules relating to distance education delivery method approval criteria so as to provide for mandatory student evaluations for each course and to require providers to explain how they arrived at the number of clock hours requested. Will also amend rules for grounds for denial or withdrawal of course approval to include failing to meet

the requirements under WAC 308-124H-026 and 308-124H-029.

Reasons Supporting Proposal: To provide better information for the department to assess eligibility for course approval and to provide better information in the event of an investigation.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Requires student evaluations on each distance education course. Requires providers to explain how they arrived at number of hours requested for course approval. Amends rule allowing for withdrawal of course approval.

Proposal Changes the Following Existing Rules: Amends WAC 308-124H-029 and 308-124H-061(6) to require student evaluations of distance education courses.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does [not] impact small business.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing exempt.

Hearing Location: AmeriTel Inn, 4520 Martin Way, Olympia, WA 98516, on June 12, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jana Jones by June 11, 2003, TDD (360) 753-1966 or (360) 664-6524.

Submit Written Comments to: Jana L. Jones, Assistant Administrator, Real Estate, P.O. Box 2445, Olympia, WA 98507, fax (360) 58-0998 [586-0998], by June 11, 2003.

Date of Intended Adoption: June 12, 2003.

April 14, 2003

Alan E. Rathbun

Assistant Director

Business and Professions Division

AMENDATORY SECTION (Amending WSR 03-02-001, filed 12/19/02, effective 1/19/03)

WAC 308-124H-029 Distance education delivery method approval required. Applicants are required to submit an application for each separate distance education delivery method for which they propose to offer approved courses for clock hours. When submitting a distance education delivery method application, the following minimum criteria must be provided by the applicant:

(1) Specify the course learning objectives for each learning unit and clearly demonstrate that the learning objectives cover the subject matter and how these relate to the practice of real estate. Objectives must be specific to ensure that all content is covered adequately to ensure mastery;

(2) Demonstrate how mastery of the material is provided by:

(a) Dividing the material into major learning units, each of which divides the material into modules of instruction;

(b) Specifying learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(c) Specifying an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;

(3) Demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction and how the provider will know that the student completed the required number of clock hours;

(4) Describe consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course learning objectives. The application must identify the interactive events included in the course and specify how the interactive events contribute to achievement of the stated learning objectives;

(5) Demonstrate how the course provides a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process;

(6) Measure, at regular intervals, the student's progress toward completion of the mastery requirement for each learning unit or module. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;

(7) Demonstrate that approved instructors are available to answer questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail and fax;

(8) Demonstrate how reasonable security will be provided to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the approved school and the student must certify in writing that the student has completed the course, and the required number of clock hours;

(9) Provide a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims; ~~(and)~~

(10) Provide an orientation session with the instructor or an affiliated representative of an approved school. Mechanisms must be clearly in place which allow students an early orientation to discuss course specifics;

(11) Demonstrate how the provider determined the number of clock hours requested in the distance education delivery method approval application; and

(12) Provide with each distance education delivery method approval application a copy of a course evaluation form. The provider must provide each student with the man-

datory evaluation form and retain the completed form in the school records as required under WAC 308-124H-245(4).

AMENDATORY SECTION (Amending WSR 02-03-056, filed 1/10/02, effective 2/10/02)

WAC 308-124H-061 Grounds for denial or withdrawal of course approval. Course approval may be denied or withdrawn if the instructor or any owner, administrator or affiliated representative of a school, or a course provider or developer:

(1) Submits a false or incomplete course application or any other information required to be submitted to the department;

(2) Includes in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," and "real estate practice" if the course was not submitted for approval of clock hours pursuant to WAC 308-124H-012;

(3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;

(4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;

(5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content;

(6) Failed to meet the requirements under WAC 308-124H-025, 308-124H-026, and 308-124H-029;

(7) If a course or prescribed core curriculum was approved through the mistake or inadvertence of the director(;

~~(8) If course approval was granted through the mistake or inadvertence of the director).~~

**WSR 03-09-059
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed April 14, 2003, 12:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-02-002.

Title of Rule: Will amend WAC 308-124B-150, affecting real estate transaction recordkeeping.

Purpose: To allow out-of-state real estate licensees working under a license recognition agreement to maintain their Washington transaction records with the out-of-state broker to whom they are licensed.

Statutory Authority for Adoption: RCW 18.85.040(1).

Statute Being Implemented: RCW 18.85.040(3).

Summary: To allow for real estate licensees from other jurisdictions, who obtain their Washington real estate license through a license recognition agreement with Washington, to maintain Washington real estate transaction records in their out-of-state jurisdiction and with the out-of-state broker to whom they are licensed. That broker shall be responsible for those records and the records shall be subject to the record keeping and inspection requirements as with any Washington

real estate transaction records and the record-keeping requirements of that broker's jurisdiction.

Reasons Supporting Proposal: Better facilitate efficiency of license recognition agreements.

Name of Agency Personnel Responsible for Drafting: Jana L. Jones, DOL Black Lake Complex, P.O. Box 2445, Olympia, WA (360) 664-6524; Implementation and Enforcement: DOL Real Estate Program, DOL Black Lake Complex, P.O. Box 2445, Olympia, WA 9360) 664-6524.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: To allow for out-of-state real estate licensees working in Washington under a license recognition agreement to retain Washington records of real estate transaction with the out-of-state broker to whom they are licensed.

Proposal Changes the Following Existing Rules: Amends WAC 308-124B-150, allowing for Washington records to be retained by out-of-state broker under license recognition agreement.

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

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this law.

Hearing Location: AmeriTel Inn, 4520 Martin Way, Olympia, WA 98516, on June 12, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jana Jones by June 11, 2003, TDD (360) 753-1966 or (360) 664-6524.

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

Date of Intended Adoption: June 12, 2003.

April 14, 2003

Alan E. Rathbun

Assistant Director

Business and Professions Division

AMENDATORY SECTION (Amending WSR 02-03-054, filed 1/10/02, effective 2/10/02)

WAC 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction. The term "office" in RCW 18.85.180 for a broker actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the Washington location where trust account and transaction records are maintained. Such records are required to be maintained for three years. The trust account and transaction records shall be open and accessible to representatives of the department of licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A broker actively licensed in another jurisdiction seeking licensure in Washington, whose headquarter office is located in that other jurisdiction, shall notify the department of the location address where the records are maintained in

the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the location where the records are being maintained.

Within thirty days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment, in the geographic location (Seattle or Olympia) nearest to the location of the records to sign the audit report.

If a real estate licensee actively licensed in another jurisdiction, whose headquarter office is located in that other jurisdiction, has obtained a Washington real estate license through a license recognition agreement, that licensee may maintain required Washington real estate transaction records in their out-of-state jurisdiction and with the out-of-state broker to whom they are licensed, providing it is allowed for in the license recognition agreement.

WSR 03-09-073

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 15, 2003, 4:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-06-057.

Title of Rule: WAC 388-450-0080 What is self-employment income and 388-450-0085 How does we count your self-employment income?

Purpose: The department is amending the rules to clarify what activities qualify as self-employment, what deductions the department allows for self-employed individuals, and rewrite the text of the rules to be more easily understood.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510.

Summary: These rules explain which income-earning activities qualify as self-employment and what deductions the department allows when calculating self-employment income for cash, basic food, and medical programs for children, pregnant women and families.

Reasons Supporting Proposal: These changes are necessary to clarify which activities the department counts as self-employment, and how the department calculates an individual's self-employment income.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 413-3232.

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

Rule is necessary because of federal law, Title 7 of the Code of Federal Regulations, Part 273.9(b).

Explanation of Rule, its Purpose, and Anticipated Effects: Rule: WAC 388-450-0080 What is self-employment income and 388-450-0085 How does we count your self-employment income?

Purpose and Effect: See Purpose, Summary, and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by modifying immigrant eligibility provisions to the sponsor deeming requirements for food assistance benefits.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which state in part "[t]his section does not apply to... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule adopts federal requirements mandated by Title 7 of the Code of Federal Regulations Part 273, 273.9(b) regarding self-employment income for federal food stamp benefits. The department also applies the same requirements for cash assistance and medical benefits for children, pregnant women and families.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernax@dshs.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: No earlier than May 28, 2003.

April 14, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-19-020, filed 9/11/01, effective 10/1/01)

WAC 388-450-0080 What is self-employment income? This section applies to TANF/SFA, GA, RCA, Basic Food ((assistance)), and medical programs for children, pregnant women and families.

(1) Self-employment income is income you earn from operating a business ((you own or operate rather than income from an employer. It does not have to be a licensed business to qualify as self-employment. Some examples of self-employment include:

- (a) Childcare;
- (b) Operating an adult family home;
- (c) Farming/fishing;
- (d) Driving a taxi cab;
- (e) Selling self-produced or supplied items;
- (f) Working as a subcontractor; and

~~(g) Operating a lodging for roomers and/or boarders. Roomer income includes money paid to you for shelter costs by someone who lives with you if you:~~

~~(i) Own your residence; or~~

~~(ii) Rent your residence and charge the other people more than the total rent), performing a service, selling items you make, or re-selling items to make a profit.~~

~~(2) ((Most self-employment income is considered earned income as described in WAC 388-450-0030.~~

~~(3))) You are self-employed if you earn income without having an employer/employee relationship with the person who pays you. Your self-employment does not have to be a licensed business for your business or activity to qualify as self-employment. Some examples of self-employment include:~~

~~(a) Childcare;~~

~~(b) Driving a taxi cab;~~

~~(c) Farming/fishing;~~

~~(d) Odd jobs such as mowing lawns, house painting, gutter cleaning, or car maintenance;~~

~~(e) Operating a lodging for roomers and/or boarders. Roomer income includes money paid to you for shelter costs by someone who lives with you if you:~~

~~(i) Own your residence; or~~

~~(ii) Rent all or a part of your residence and the total rent you charge all others in your home is more than your total rent.~~

~~(f) Operating an adult family home;~~

~~(g) Providing services such as a massage therapist or a professional escort;~~

~~(h) Retainer fees to reserve a bed for a foster child;~~

~~(i) Selling self-produced or supplied items;~~

~~(j) Selling or donating your own biological products such as blood, plasma, eggs, sperm, or hair; and~~

~~(k) Working as a subcontractor.~~

~~(3) If you are an employee of a company or individual who performs the activities listed in subsection (2) above as a part of your job, we do not count the activity as self-employment. If the person or company who pays you must report your income using IRS form W-2, you are an employee.~~

~~(4) Most self-employment income is considered earned income as described in WAC 388-450-0030.~~

~~(5) For TANF/SFA and Basic Food ((assistance)) there are special rules about renting or leasing out property or real estate that you own.~~

~~(a) We count the income you get as unearned income unless you spend at least twenty hours per week managing the property.~~

~~(b) For TANF/SFA, we count the income as unearned income unless the use of the property is a part of your approved individual responsibility plan.~~

AMENDATORY SECTION (Amending WSR 01-19-020, filed 9/11/01, effective 10/1/01)

WAC 388-450-0085 How we count your self-employment income? This section applies to TANF/SFA, GA, RCA, Basic Food ((assistance)), and medical programs for children, pregnant women and families.

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(1) We decide how much of your self-employment income to count by:

(a) Adding together your gross self-employment income and ~~((your capital gains (all of the income you receive from the sale of))~~ any profit you make from selling your business property or equipment~~((?))~~;

(b) Subtracting your business expenses as described in subsection (2) below; and

(c) Dividing the remaining amount of self-employment income by the number of months over which the income will be averaged.

(2) We automatically subtract one hundred dollars as a business expense even if your costs are less than this. If you want to claim more than one hundred dollars, you must itemize and provide proof of your expenses in order for us to count them. We never allow the following expenses:

(a) Federal, state, and local income taxes;

(b) Money set aside for retirement purposes;

(c) Personal work-related expenses (such as travel to and from work);

(d) Net losses from previous periods;

(e) Depreciation; or

(f) Any amount that exceeds the payment you get from a boarder for lodging and meals.

(3) If you have worked at your business for less than a year, we figure your gross self-employment income by averaging:

(a) The income over the period of time the business has been in operation; and

(b) The monthly amount estimated for the coming year.

WSR 03-09-075

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed April 16, 2003, 9:05 a.m.]

The Department of Licensing hereby withdraws WSR 03-09-031 filed on April 7, 2003.

D. McCurley, Administrator
Title and Registration Services

WSR 03-09-078

PROPOSED RULES COLUMBIA RIVER GORGE COMMISSION

[Filed April 17, 2003, 8:42 a.m.]

Original Notice.

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

Title of Rule: Appeals from county ordinances. This rule is the appellate procedural rule for filing an appeal of a county land use decision in the Columbia River Gorge National Scenic Area.

Purpose: The purpose of the rule is to define the process and standards used by the Gorge Commission in hearing

appeals of county land use decisions in the National Scenic Area.

Other Identifying Information: Commission Rule 350-60.

Statutory Authority for Adoption: 16 U.S.C. § 544c(b), RCW 42.97.015.

Statute Being Implemented: 16 U.S.C. § 544c(b), RCW 42.97.015.

Summary: This rule making is to amend the rules to clarify, simplify, and expedite the appeals process.

Reasons Supporting Proposal: The proposal contains amendments that have long been sought by appellate parties.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeffrey Litwak, Counsel, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule governs the Gorge Commission process and standards for appeals of land use decisions by the executive director of the Gorge Commission. The Gorge Commission has implemented this rule since 1993 in substantially the same form. Over the past ten years, the Gorge Commission and frequent appellants under the rules have identified changes that will clarify, simplify, and expedite the process.

Proposal Changes the Following Existing Rules: Significant changes include: Allowing filing by fax for uncontested motions (350-60-040(5)); allowing filing to be accomplished by mail instead of by receipt at the commission office (350-60-040(5)); allowing shortened records as stipulated by parties (350-60-60 [350-60-060] (1)(f)); requiring parties to note whether they believe the case could be resolved using ADR, in which case the Gorge Commission would facilitate ADR (350-60-075); clarifying the process for oral argument to provide a time for questions prior to argument, uninterrupted oral argument, and a time for questions after oral argument (350-60-120(4)); a process for filing motions and responses to motions, and for expedited motions (350-60-130); that Gorge Commission will issue orders on motions for intervention (350-60-160(7)); allowing stipulated motions for extensions of time to be automatic for the first one, and presumed granted for all subsequent extensions (350-60-190 (4) - (6)); allowing for involuntary dismissal of an appeal by the commission when the appeal is moot or not diligently prosecuted (350-60-125); allowing a county to request a voluntary remand of a case under certain circumstances (350-60-220(2)); a special process for filing of an appeal after expiration of the appeal period under certain extraordinary and rare circumstances (350-60-240).

The Gorge Commission is especially interested in public comment concerning proposed rule 350-60-240, including alternative means of addressing the problem identified in that rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules are process and procedural and do not target small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments are not a "significant legislative rule" under RCW 34.05.328 (3)(c)(iii).

Hearing Location: Discovery Center, 5000 Discovery Drive, The Dalles, Oregon, on June 10, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Nancy Andring by June 6, 2003, 9:00 a.m.

Submit Written Comments to: Columbia River Gorge Commission, P.O. Box 730, White Salmon, WA 98672, fax (509) 493-2229, by June 2, 2003.

Date of Intended Adoption: June 10, 2003.

April 14, 2003
Nancy Andring
Rules Coordinator

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 03-10 issue of the Register.

WSR 03-09-079
PROPOSED RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed April 17, 2003, 8:44 a.m.]

Original Notice.

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

Title of Rule: Appeals from decisions under Gorge Commission ordinances. This rule is the appellate procedural rule for filing an appeal of a land use decision by the executive director of the Columbia River Gorge Commission.

Purpose: The purpose of the rule is to define the process and standards used by the Gorge Commission in hearing appeals of land use decisions by the executive director of the Gorge Commission.

Other Identifying Information: Commission Rule 350-70.

Statutory Authority for Adoption: 16 U.S.C. § 544c(b), RCW 42.97.015.

Statute Being Implemented: 16 U.S.C. § 544c(b), RCW 42.97.015.

Summary: This rule making is to amend the rules to clarify, simplify, and expedite the appeals process.

Reasons Supporting Proposal: The proposal contains amendments that have long been sought by appellate parties.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeffrey Litwak, Counsel, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule governs the Gorge Commission process and standards for appeals of land use decisions by the executive director of the Gorge Commission. The Gorge Commission has implemented this rule since 1993 in substantially the same form. Over the past ten years, the Gorge Commission

and frequent appellants under the rules have identified changes that will clarify, simplify, and expedite the process.

Proposal Changes the Following Existing Rules: Significant changes include: Changing the role of the executive director from being a "party" to the appeal, to being the staff of the commission; allowing filing by fax for uncontested motions (350-70-040(6)); allowing filing to be accomplished by mail, instead of by receipt at the commission office (350-70-040(6)); requiring appellants to note whether they are willing to try ADR to settle the case, in which case the Gorge Commission would facilitate ADR (350-70-085); including a process for filing motions and responses to motions, and for expedited motions (350-70-120); revising the appeal hearing to resemble a local government de novo appeal hearing (350-70-140); allowing any person to testify at the appeal hearing instead of only persons who have intervened; allowing intervention to participate in prehearing matters (350-70-170); allowing stipulated motions for extensions of time to be automatic for the first one, and presumed granted for all subsequent extensions (350-70-200 (4) - (6)); allowing for involuntary dismissal of an appeal by the commission when the appeal is moot or not diligently prosecuted (350-70-225); allowing the executive director to request a voluntary remand of a case under certain circumstances and deleting the requirement that the commission identify "error" in the executive director's decision (350-70-230).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules are process and procedural and do not target small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments are not a "significant legislative rule" under RCW 34.05.328 (3)(c)(iii).

Hearing Location: Discovery Center, 5000 Discovery Drive, The Dalles, Oregon, on June 10, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Nancy Andring by June 6, 2003, 9:00 a.m.

Submit Written Comments to: Columbia River Gorge Commission, P.O. Box 730, White Salmon, WA 98672, fax (509) 493-2229, by June 2, 2003.

Date of Intended Adoption: June 10, 2003.

April 14, 2003
Nancy Andring
Rules Coordinator

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 03-10 issue of the Register.

WSR 03-09-091
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 18, 2003, 4:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-18-082.

Title of Rule: Amendments to program of all-inclusive care for the elderly (PACE), WAC 388-71-0800, 388-71-0805, 388-71-0810, 388-71-0815, 388-71-0820, 388-71-0825, 388-71-0835, 388-71-0840, and 388-71-0845.

Purpose: To amend and clarify PACE program requirements and add specific additional options under PACE rules.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.04.057, 74.09.-520, 74.09.523.

Summary: The proposed rules amend and clarify PACE program requirements; makes PACE program requirements consistent with federal PACE regulations (42 C.F.R. Part 460) and updates WAC references; and adds medicaid covered mental health and substance abuse treatment services to the PACE service package.

Reasons Supporting Proposal: Adds clarity to rules and makes PACE program requirements consistent with federal PACE regulations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kristi Knudsen, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2537, knudskl@dshs.wa.gov.

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

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

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

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has found that changes to these rules will not adversely affect any small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules concern client financial or medical eligibility, and under RCW 34.05.328 (5)(b)(vii) these amendments are exempt from requirements of this statute.

Hearing Location: Blake Office Park East, Rose Room, 4500 10th Avenue S.E. (behind Goodyear Courtesy Tire), Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaaax@dshs.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: Not earlier than May 28, 2003.

April 14, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0800 What is PACE? (1) PACE, which stands for the program of all-inclusive care for the elderly, is a managed care program that provides:

(a) All Medicaid and Medicare services in a comprehensive(;) and coordinated ((acute medical and long-term care services)) manner for a frail elderly population; and

(b) A home and community-based alternative to nursing facility care.

(2) PACE is ((a Medicare/Medicaid program,)) authorized under ((section)) sections 1934 and 1894 of the Social Security Act and is administered by the department. The laws allow the department to expand home and community-based care options for the frail elderly population.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0805 What services does PACE cover? Under their contract with the department, the PACE provider develops ((a care)) an individualized plan of care, as defined in 42 CFR 460.106, that integrates necessary long-term care ((and acute)), medical services, mental health services, and alcohol and substance abuse treatment services.

(1) The care plan includes, but is not limited to any of the following long-term care services:

(a) ((Case management, to access and monitor services)) Care coordination;

(b) Home and community-based services:

(i) Personal (in-home) care;

(ii) Residential care ((e.g., boarding home, adult family home)).

(c) And, if necessary, nursing facility care.

(2) The care plan may also include, but is not limited to the following medical services:

(a) ((Routine)) Primary medical care;

(b) Vision care;

(c) Hospice care;

(d) Restorative therapies, including speech, occupational, and physical therapy;

(e) Oxygen therapy;

(f) Audiology (including hearing aids);

(g) Transportation;

(h) Podiatry;

(i) Durable medical equipment (e.g., wheelchair);

(j) Dental care;

(k) Pharmaceutical products;

(l) ((Shots)) Immunizations and vaccinations;

(m) Emergency room visits and inpatient hospital stays.

(3) The care plan may also include any other services determined necessary by the interdisciplinary team to improve and maintain the client's overall health status.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0810 Who provides these services? (1) A PACE ((multidisciplinary)) interdisciplinary team, with

PROPOSED

the help of the client, family, and ~~((easeworker))~~ department case manager, develops and delivers necessary long-term care ~~((and acute))~~ medical services ~~((Members of the team may include))~~, mental health services, and alcohol and substance abuse treatment services. The PACE interdisciplinary team is composed of at least the following members:

- (a) Primary care ~~((physicians and nurses))~~ physician;
- (b) Registered nurse;
- (c) Social worker;
- (d) Physical therapists;
- ~~((c))~~ Home care workers;
- ~~(d)~~ Social workers;
- ~~(e)~~ Transportation coordinators))
- (e) Occupational therapist;
- (f) Recreation therapist or activity coordinator;
- (g) Dietitian;
- (h) PACE center manager;
- (i) Home care coordinator;
- (j) Personal care attendant;
- (k) Van driver or his or her representative.

(2) As needed, the PACE provider may subcontract with other qualified professionals to provide services.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0815 Where are these services provided? In general, most of the covered services are offered at the PACE ((site, which is a licensed adult day health)) center. The PACE team may also provide care in homes, hospitals, ((and)) nursing facilities, and community-based residential settings including adult family homes, assisted living facilities, and boarding homes.

AMENDATORY SECTION (Amending WSR 02-15-138, filed 7/22/02, effective 8/22/02)

WAC 388-71-0820 How do I qualify for Medicaid-funded PACE services? To qualify for Medicaid-funded PACE services, you must apply for an assessment by contacting your local Home and Community Services office. A case ~~((worker))~~ manager will assess and determine whether you:

(1) Are age:

(a) Fifty-five or older, and blind or disabled as defined in WAC ~~((388-15-202, Long-term care services—Definitions))~~ 388-511-1105, SSI-related eligibility requirements; or

(b) Sixty-five or older.

(2) Need nursing facility level of care as defined in WAC 388-71-0435(4), titled Am I eligible for COPES-funded services? Note: If you are already enrolled, but no longer need nursing facility care, you ~~((might))~~ may still be eligible for PACE services if the case manager reasonably expects you to need nursing facility care within the next six months in the absence of continued PACE coverage;

(3) Live within the designated service area of the PACE provider ~~((, currently the central Seattle area));~~ and

(4) Meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC

~~((388-513-1315, Eligibility determination—Institutional))~~ 388-515-1505.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0825 What are my appeal rights? If the department determines you are ineligible, but you disagree, you may appeal the department's decision. For more information on your appeal rights, refer to chapter ~~((388-08))~~ 388-02 WAC, ~~((Practice and procedures—Fair hearing))~~ DSHS hearing rules and 42 CFR 460.124, Additional appeal rights under Medicare or Medicaid.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0835 How do I enroll into the PACE program? Once you qualify for PACE, enrollment into the program is voluntary. However, before you can ~~((join))~~ participate, you must:

(1) Contact your local PACE provider or local home and community services office.

(2) Not be enrolled in any other medical coverage plan that purchases services on a prepaid basis (e.g., ~~((HMO))~~ prepaid health plan); and

~~((2))~~ (3) Agree to receive services exclusively ((from)) through the PACE provider and the PACE provider's network of contracted providers.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0840 How do I disenroll from the PACE program? (1) You may ~~((voluntarily))~~ choose to voluntarily disenroll from the PACE program without cause at any time. To do so, you must give the PACE provider written notice. If you give notice:

(a) Before the fifteenth of the month, disenrollment is effective at the end of the month.

(b) After the fifteenth, disenrollment is not effective until the end of the following month.

(2) You may also be involuntarily disenrolled from the program by the PACE provider ((may also end services)), if you:

(a) Move out of the designated service area or are out of the service area for more than thirty consecutive days, unless the PACE provider agrees to a longer absence due to extenuating circumstances;

(b) ~~((Exhibit violent or abusive behavior or fail to cooperate with the provider to the point where the provider cannot effectively or safely provide services))~~ Engage in disruptive or threatening behavior such that the behavior jeopardizes your health or safety, or the safety of others;

(c) ~~((Refuse services and/or do not participate in your agreed upon care plan))~~ Fail to comply with your plan of care or the terms of the PACE enrollment agreement;

(d) Fail to pay or make arrangements to pay your part of the costs after the thirty-day grace period;

(e) Become financially ineligible for Medicaid services, unless you choose to pay privately; ((€))

(f) Are enrolled with a provider that loses its license and/or contract; or

(g) No longer meet the nursing facility level of care requirement as defined in WAC 388-71-0435(4) and are not deemed PACE eligible.

(3) For any of the above reasons, the PACE provider must give you written notice, explaining that they are terminating benefits. If the provider gives you notice:

(a) Before the fifteenth of the month, then you may be disenrolled at the end of the month.

(b) After the fifteenth, then you may be disenrolled at the end of the following month.

(4) Before the PACE provider can involuntarily disenroll you from the PACE program, the department must review and approve all proposed involuntary disenrollments.

AMENDATORY SECTION (Amending WSR 99-19-048, filed 9/13/99, effective 10/14/99)

WAC 388-71-0845 What are my rights as a PACE ((participant)) client? You have a right to:

(1) Receive any information regarding your care under PACE;

(2) Participate in creating or changing your treatment plan;

(3) Receive confidential treatment;

(4) Disenroll at any time; and

(5) ((Voice)) Express grievances when a disagreement exists. For information on resolving a disagreement, refer to your contract with the PACE provider.

WSR 03-09-098

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 21, 2003, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-100.

Title of Rule: ~~WAC 458-12-360 ((Assessment and evaluation—Notice of value change—Real property))~~ Notice of change in value of real property.

Purpose: To explain the requirement of county assessors to notify taxpayers of any change in the true and fair value of real property.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, and 34.05.230.

Statute Being Implemented: RCW 84.40.045.

Summary: WAC 458-12-360 explains the requirement of county assessors to provides notice to taxpayers of any change in the true and fair value of real property as provided by RCW 84.40.045. It provides information on when a notice of value change (revaluation notice) must be provided, who is entitled to receive a revaluation notice, and what information must be contained in a revaluation notice.

Reasons Supporting Proposal: This rule needs to be revised to incorporate changes to RCW 84.40.045, the statute being implemented, and also to incorporate information currently contained in Property Tax Bulletins 91-4 (Notice of Value Change) and 91-18 (Revaluation Notice).

Name of Agency Personnel Responsible for Drafting: Mark Mullin, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6112; Implementation and Enforcement: Gary O'Neil, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides important information for county assessors, their staff, and the general public concerning the requirement that county assessors provide notice to taxpayers of any change in the true and fair value of real property as provided by RCW 84.40.045. It explains when a notice of value change (revaluation notice) must be provided, to whom the revaluation notice is sent to, and what information must be contained in a revaluation notice.

This rule is being revised to reflect changes to RCW 84.40.045, the statute being implemented. In addition, the department intends to incorporate information currently contained in Property Tax Bulletin (PTB) 91-4 (Notice of Value Change) and PTB 91-18 (Revaluation Notice). PTB 91-4 explains that failure of the assessor to give timely notice of value change as required by RCW 84.40.045 does not invalidate an assessment appearing on the assessment roll for the current year. PTB 91-18 provides additional information about what information is to be included on a revaluation notice. The department plans on canceling these bulletins in conjunction with this rule-making action.

Proposal Changes the Following Existing Rules: This is a revision to WAC 458-12-360 to incorporate changes to the statute being implemented information currently contained in Property Tax Bulletins 91-4 (Notice of Value Change) and 91-18 (Revaluation Notice).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose a responsibility or require a small business to perform something that is not already required by law.

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

Hearing Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on Thursday, June 12, 2003, at 9:30 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.

Submit Written Comments to: Mark Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail MarkM@dor.wa.gov, by June 12, 2003.

PROPOSED

Date of Intended Adoption: June 23, 2003.

April 21, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

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

WAC 458-12-360 (~~Assessment and evaluation~~—) **Notice of change in value** (~~(change—)~~) **of real property.** (~~Whenever there is a change in the true and fair value of real property, a notice of such change for the tract or lot of land and any improvements shall be mailed for by the assessor to the taxpayer. A copy shall be sent to the legal owner where such is requested, his address is given or is known, and the legal owner is different from the taxpayer.~~)

The notice shall be mailed on or before June 15th of each year and shall contain a statement of the true and fair value on which the assessment of the property is based, and a brief statement of the procedure for appeal to the board of equalization including the time, date, and place of the meetings of the board.

"Taxpayer" shall mean the person charged, or whose property is charged with property tax, and whose name appears on the most recent tax roll or has been otherwise provided to the assessor.

"Legal owner" shall mean the person holding legal title to the property against which property tax is charged. (Rule derived from section 10, chapter 146, 1967 ex. sess.)

Introduction. This rule explains the requirement of county assessors to notify taxpayers of any change in the true and fair value of real property as provided by RCW 84.40.045. The notice of a change in the true and fair value of real property is commonly referred to as a value notice or revaluation notice.

(2) When must a revaluation notice be provided? All revaluation notices must be mailed within thirty days of the completed appraisal, except that no revaluation notices can be mailed during the period from January 15th to February 15th of each year. Also, if the true and fair value of the real property appraised has not changed, no revaluation notice need be sent to the taxpayer following the completed appraisal.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) On January 5th the assessor completes an appraisal of a home and the land upon which it sits. The total value of the land and home increased as a result of the appraisal. The assessor must mail a revaluation notice to the taxpayer by February 16th; however, the assessor is not allowed to mail the revaluation notice between January 15th and February 15th.

(b) The assessor appraises a home and the land upon which it sits. The value of the home decreases, and the value of the land increases; however, the total value of the home and land remain unchanged. The assessor is not required to

mail a revaluation notice to the taxpayer. Under RCW 84.40.045, revaluation notices are only required when there is a change in the true and fair value of the real property that is the subject of the appraisal. In this example, although there is a change in the true and fair value of the home and land, there is no overall change in the true and fair value of the real property that was the subject of the appraisal.

(3) What if an assessor fails to provide a timely revaluation notice? The failure to provide a timely revaluation notice as required by RCW 84.40.045 does not invalidate the assessment. RCW 84.40.045 does not affect RCW 84.40.020 which provides, in relevant part, that all real property in this state subject to taxation must be listed and assessed every year, at its value on January 1st of the assessment year.

A taxpayer who fails to timely appeal an assessor's determination of value to the county board of equalization (board) because of the assessor's failure to timely provide a revaluation notice may still petition the board for a review of the assessor's determination of value. A board may reconvene on its own authority in certain circumstances as provided in WAC 458-14-127, including upon request of a taxpayer who has not received a timely revaluation notice. Under WAC 458-14-127, the taxpayer must submit to the board a sworn affidavit stating that a revaluation notice for the current assessment year was not received by the taxpayer at least fifteen calendar days prior to the deadline for filing the petition for review of the assessor's determination of value, and the taxpayer can show proof that the value was actually changed. The request to reconvene and the sworn affidavit must be filed with the board by April 30th of the tax year immediately following the board's regularly convened session. (For additional information about appealing an assessor's determination of value to the county board, refer to chapter 458-14 WAC.)

(4) Who is entitled to receive a revaluation notice? The assessor is required by law to mail revaluation notices to the taxpayer. RCW 84.40.045. For purposes of this rule, "taxpayer" means the person charged, or whose property is charged, with property tax and whose name appears on the most recent tax roll or has been otherwise provided to the assessor.

If any taxpayer, as shown by the tax rolls, holds only a security interest under a mortgage, contract of sale, or deed of trust in the real property that is the subject of the revaluation notice, the taxpayer is required to supply, within thirty days of receiving a written request from the assessor, the name and address of the person making payments under the mortgage, contract of sale, or deed of trust. The assessor must mail a copy of the revaluation notice to the person making payments under the mortgage, contract of sale, or deed of trust at the address provided by the taxpayer. The assessor is required to make the request provided for in this subsection during the month of January. A taxpayer who willfully fails to comply with such a request from the assessor within the thirty-day time limitation is subject to a maximum civil penalty of five thousand dollars. The civil penalty is recoverable in an action by the county prosecutor and, when recovered, must be deposited in the county current expense fund.

(5) What information must a revaluation notice contain? A revaluation notice must contain the following information:

- (a) The name and address of the taxpayer;**
- (b) A description of the real property that is the subject of the revaluation notice;**
- (c) The previous and new true and fair values, stating separately land and improvement values;**
- (d) A statement that the assessed value is one hundred percent of the true and fair value;**
- (e) If the property is classified on the basis of its current use, the previous and new current use value of the property, stating separately land and improvement values;**
- (f) A statement informing taxpayers that if they would like to learn more about how their property was valued for tax purposes and how their property taxes will be determined, they may obtain an information pamphlet describing the property tax system from the assessor's office free of charge;**
- (g) A statement that land used for farm and agricultural purposes, to preserve open space, or for the commercial growth and harvesting of forest crops may be eligible for assessment based on the land's current use rather than its highest and best use. This statement must also provide information on the method of making application and availability of further information on current use classification;**
- (h) A statement informing taxpayers that if they own and live in a residence in the county, including a mobile home, are now or will be sixty-one years of age by December 31st of the current year, or are retired because of physical disability, and if their combined disposable income is under the limits provided in RCW 84.36.381, they may be eligible to receive a property tax exemption. Although not statutorily required, it is suggested that a revaluation notice contain a statement informing taxpayers that if they are a senior citizen or a disabled person, they may be able to defer payment of their property taxes. This statement should include information about how further information about property tax deferrals for senior citizens and disabled persons may be obtained; and**
- (i) A brief statement of the procedure for appeal to the county board of equalization and the time, date, and place of the meetings of the board. The following language is suggested: "You may appeal either the true and fair value and/or current use assessed value to the county board of equalization. An appeal petition may be obtained from the board of equalization. Petitions for a hearing must be filed with the board of equalization on or before July 1st of the assessment year, or within (number of days) of the date of the revaluation notice, whichever is later. Petitions received after those dates will be denied on the grounds of not having been timely filed. The board of equalization will convene on July 15th in the (name of office) at (name of city or town), Washington, and will continue in session for a period not to exceed four weeks. The board of equalization is to review and equalize the assessments of the current year for taxes payable the following year."**

WSR 03-09-107
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 22, 2003, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-01-095.

Title of Rule: Medical aid rules—Conversion factors and maximum daily fees, WAC 296-20-135, 296-23-220, and 296-23-230.

Purpose: Medical aid updates regarding rate setting for most professional health care services for injured workers. These updates also impact rates for health care services provided to crime victims.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

Summary: (1) Change conversion factor used to calculate payment levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) change conversion factor used to calculate payment for anesthesia services; and (3) increase the maximum daily payment for physical and occupational therapy.

Reasons Supporting Proposal: Update provider payment rates.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Robert Malooly, Assistant Director, Tumwater, Washington, (360) 902-4209.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to update the department's payment rates for health care services by (1) increasing the conversion factors used to calculate maximum payment for services paid with the resource based relative value scale (RBRVS) fee schedule; (2) increasing the conversion factor used to calculate maximum payment for anesthesia services; and (3) increasing the maximum daily payment for physical and occupational therapy services.

The conversion factor updates are made in accordance with WAC 296-20-132 Determination of conversion factor adjustments. The anticipated effect of this rule change is to have access to health care services.

Proposal Changes the Following Existing Rules: WAC 296-20-135(2), increase the RBRVS conversion factor from \$50.51 to \$50.58.

WAC 296-20-135(3), increase the anesthesia conversion factor from \$2.78 to \$2.80.

WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$102.65 to \$103.65.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(b)(vi).

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on May 28, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tom Davis by May 21, 2003, TDD 1-800-833-6388 or fax (360) 902-4249 or e-mail dato235@lni.wa.gov.

Submit Written Comments to: Tom Davis, P.O. Box 4322, Olympia, WA 98501-4322, phone (360) 902-6687, fax (360) 902-4249, e-mail dato235@lni.wa.gov, by June 6, 2003.

Date of Intended Adoption: June 24, 2003.

April 22, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$50.54)~~) **\$50.58**. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.78)~~) **\$2.80** per minute, which is equivalent to (~~(\$41.70)~~) **\$42.00** per 15 minutes. The base units and payment policies can be found in the fee schedules.

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided

to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$102.65)~~) **\$103.65** whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ((~~\$102.65~~)) \$103.65 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

WSR 03-09-108
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 22, 2003, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-04-098.

Title of Rule: Fees and other related changes for elevator (chapter 296-96 WAC), factory assembled structures (chapters 296-150C, 296-150P, 296-150R, 296-150T, and 296-150V WAC), and plumber certification (chapter 296-400A WAC).

Purpose: The department is proposing a 3.29% (rounded down to the nearest tenth of a dollar) general increase in fees for the factory assembled structures (excluding manufactured/mobile home and factory-built housing fees) and plumber certification programs. The 3.29% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2003. The general fee increases are necessary to help offset inflation and maintain the financial health and operational effectiveness of the programs.

In addition, a few changes have been made to the elevator inspection fees. The department has the authority to set these fees in excess of the fiscal growth factor in response to the passage of the 2001 operating budget (chapter 7, Laws of 2001 - ESSB 6153) to ensure the fees fully fund the cost of the elevator program. Section 217(3) of ESSB 6153 authorized these fee changes:

"It is the intent of the legislature that elevator inspection fees shall fully cover the cost of the elevator inspection program. Pursuant to RCW 43.135.055, during the 2001-03 fiscal biennium the department may increase fees in excess of the fiscal growth factor, if the increases are necessary to fully fund the cost of the elevator inspection program."

Lastly, the plumber certification fee schedule was restructured to combine all the fees into one location for purposes of clarity.

Statutory Authority for Adoption: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, and chapter 7, Laws of 2001 (ESSB 6153).

Statute Being Implemented: Chapters 43.22, 70.87, and 18.106 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Josh Swanson, Tumwater, (360) 902-6411; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

PROPOSED

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No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed rules will not place a more than minor impact on any business or contractor or are exempted by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) from the small business economic impact requirements.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does apply to these rule changes because the exempt criteria outlined in RCW 34.05.328(5) was not met.

Hearing Location: Yakima School District (Administration Offices), 104 North 4th Avenue, Yakima, WA, on May 27, 2003, at 1:00 p.m.; and at the Department of Labor and Industries Building, S 118, 7273 Linderson Way S.W., Tumwater, WA, on May 27, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by May 20, 2003, at (360) 902-6411.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lni.wa.gov, fax (360) 902-5292, by May 27, 2003. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: May 28, 2003.

April 22, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-01005 When do I need a permit? (1) You must obtain a permit from the department before you begin constructing, altering or relocating any conveyance as described in the definitions for this chapter. To obtain your permit, you need to complete the permit application and pay the appropriate fee. Once your application is approved, a permit will be issued and you may begin work on your project.

(2) Construction and alteration permits are valid for one year from the date of issue; however, permits may be renewed if you:

- (a) Apply for a renewal permit before your current permit expires;
- (b) The department approves your request for a renewal permit;
- (c) You pay a ~~((one-))~~ fifty-dollar renewal fee to the department for each permit you renew; and
- (d) If your permit has expired you must reapply for a new permit.

(3) You are not required to obtain permits and pay fees for repairs and replacement associated with normal functions and necessary maintenance done with parts of equivalent materials, strength and design; or for any conveyance exempted by RCW 70.87.200.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01030 What is the process for installation and alteration plan approval? Prior to the start of construction, you must submit to the department for approval two copies of plans for new installations or major alterations. To be approved, the plan must comply with the latest adopted edition of the American Society of Mechanical Engineers (ASME) ~~((A17.1))~~, the National Electrical Code (NEC) and applicable Washington Administrative Codes (WAC). In addition, the plans must include all information necessary in determining whether each installation/alteration complies with all applicable codes. You must keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan must be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing your plans are:

For each installation/major alteration \$25.00
 If more than two sets of plans are submitted, the fee for each additional set \$10.00

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01050 How do I get a supplemental inspection? Any person, firm, corporation or governmental agency can request a supplemental inspection from the department by paying a fee of ~~(((\$150.00))~~ \$60.00 per ~~((conveyance plus \$50.00 per hour in travel time and))~~ hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. This fee is for inspections occurring during regular working hours.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01055 Are technical services available and what is the fee? You may request elevator field technical services from the department by paying a fee of \$60.00 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150C-3000 Commercial coach fees.

((WAC 296-150C-3000 COMMERCIAL COACH FEES))	
INITIAL FILING FEE	\$(29.60) <u>30.50</u>
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$(203.00) <u>209.60</u>
INITIAL FEE - ONE YEAR DESIGN	\$(83.20) <u>85.90</u>
RENEWAL FEE	\$(35.30) <u>36.40</u>
RESUBMIT FEE	\$(59.40) <u>61.30</u>
ADDENDUM (Approval expires on same date as original plan)	\$(59.40) <u>61.30</u>
ELECTRONIC PLAN SUBMITTAL FEE \$(4.60) <u>4.70</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (When required by <u>chapter 296-46B WAC ((296-46A-140))</u>). Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$(59.40) <u>61.30</u>
Service/feeder Ampacity:	
0 - 100	\$(26.40) <u>27.20</u>
101 - 200	\$(32.90) <u>33.90</u>
201 - 400	\$(61.50) <u>63.50</u>
401 - 600	\$(72.60) <u>74.90</u>
601 - 800	\$(93.50) <u>96.50</u>
801 - 1000	\$(114.40) <u>118.10</u>
Over 1000	\$(124.10) <u>128.10</u>
Over 600 volts surcharge	\$(19.70) <u>20.30</u>
Thermostats:	
First	\$(11.80) <u>12.10</u>
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$(10.70) <u>11.00</u>
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	
	\$(70.30) <u>72.60</u>
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$(57.00) <u>58.80</u>
FIRST STATION	\$(57.00) <u>58.80</u>
EACH ADDITIONAL STATION	\$(21.00) <u>21.60</u>
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$(90.60) <u>93.50</u>
INITIAL FEE - ONE YEAR DESIGN	\$(54.80) <u>56.60</u>
RENEWAL FEE	\$(54.80) <u>56.60</u>
ADDENDUM	\$(54.80) <u>56.60</u>

PROPOSED

PROPOSED

((WAC 296-150C-3000 COMMERCIAL COACH FEES))	
PLANS APPROVED BY PROFESSIONALS	\$((41.40)) 42.70
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((11.30)) 11.60
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((59.40)) 61.30
TRAVEL (Per hour)	\$((59.40)) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((59.40)) 61.30
TRAVEL (Per hour*)	\$((59.40)) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((18.20)) 18.70
EACH ADDITIONAL SECTION	\$((11.30)) 11.60
ALTERATION	\$((29.60)) 30.50
REISSUED-LOST/DAMAGED	\$((11.30)) 11.60
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((59.40)) 61.30
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.30)) 11.60
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

((WAC 296-150T-3000 TEMPORARY WORKER HOUSING FEES))	
INITIAL FILING FEE	\$((41.40)) 42.70
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	\$((119.10)) 123.00
RENEWAL FEE	\$((41.40)) 42.70
RESUBMIT FEE	\$((59.40)) 61.30
ADDENDUM (Approval expires on same date as original plan)	\$((59.40)) 61.30
ELECTRONIC PLAN SUBMITTAL FEE \$((4.60)) 4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$((70.30)) 72.76

PROPOSED

APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((11.30)) <u>11.60</u>
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((59.40)) <u>61.30</u>
TRAVEL (Per hour)*	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((59.40)) <u>61.30</u>
TRAVEL (Per hour*)	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((167.00)) <u>172.40</u>
EACH ADDITIONAL SECTION	\$((16.30)) <u>16.80</u>
REISSUED-LOST/DAMAGED	\$((41.40)) <u>42.70</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((59.40)) <u>61.30</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year)	\$((11.30)) <u>11.60</u>
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150P-3000 Recreational park trailer fees.

((WAC 296-150P-3000 RECREATIONAL PARK TRAILER FEES))	
INITIAL FILING FEE	\$((29.60)) <u>30.50</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$((83.20)) <u>85.90</u>
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$((109.80)) <u>113.40</u>
RESUBMITTAL FEE	\$((59.40)) <u>61.30</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((59.40)) <u>61.30</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((4.60)) <u>4.70</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
QUALITY CONTROL/MANUAL FEES:	
INITIAL APPROVAL	\$((11.30)) <u>11.60</u>
RESUBMITTAL FEE	\$((59.40)) <u>61.30</u>
ADDENDUM	\$((59.40)) <u>61.30</u>

PROPOSED

((WAC 296-150R-3000 RECREATIONAL PARK TRAILER FEES))	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$(59.40) 61.30
TRAVEL (per hour)*	\$(59.40) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$(59.40) 61.30
TRAVEL (per hour)*	\$(59.40) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
STATE CERTIFIED	\$(11.10) 11.40
ALTERATION	\$(29.60) 30.50
REISSUED-LOST/DAMAGED	\$(11.10) 11.40
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$(59.40) 61.30
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$(11.30) 11.60
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150R-3000 Recreational vehicle fees.

((WAC 296-150R-3000 RECREATIONAL VEHICLE FEES))	
STATE PLAN	
INITIAL FILING FEE	\$(29.60) 30.50
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE	\$(83.20) 85.90
RESUBMITTAL FEE	\$(59.40) 61.30
ADDENDUM (Approval expires on same date as original plan.)	\$(59.40) 61.30
QUALITY CONTROL/MANUAL FEES:	
INITIAL APPROVAL	\$(11.30) 11.60
RESUBMITTAL FEE	\$(59.40) 61.30
ADDENDUM	\$(59.40) 61.30
ELECTRONIC PLAN SUBMITTAL FEE \$(4.60) 4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$(59.40) 61.30

PROPOSED

((WAC 296-150R-3000 RECREATIONAL VEHICLE FEES))	
TRAVEL (per hour)*	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((59.40)) <u>61.30</u>
TRAVEL (per hour)*	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
STATE CERTIFIED	\$((10.70)) <u>11.00</u>
ALTERATION	\$((29.60)) <u>30.50</u>
REISSUED-LOST/DAMAGED	\$((10.70)) <u>11.00</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((59.40)) <u>61.30</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((11.30)) <u>11.60</u>
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

((WAC 296-150R-3000 RECREATIONAL VEHICLE FEES))	
SELF CERTIFICATION	
INITIAL FILING FEE	\$((29.60)) <u>30.50</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE (one time fee)	\$((83.20)) <u>85.90</u>
RESUBMITTAL FEE	\$((59.40)) <u>61.30</u>
ADDENDUM (Approval expires on same date as original plan.)	\$((59.40)) <u>61.30</u>
ELECTRONIC PLAN SUBMITTAL FEE \$((4.60)) <u>4.70</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
SELF CERTIFICATION/MANUAL FEES:	
INITIAL APPROVAL	\$((11.30)) <u>11.60</u>
RESUBMITTAL FEE	\$((59.40)) <u>61.30</u>
ADDENDUM	\$((59.40)) <u>61.30</u>
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$((59.40)) <u>61.30</u>
TRAVEL (per hour)*	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	

PROPOSED

((WAC 296-150R-3000 RECREATIONAL VEHICLE FEES))	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$(59.40) 61.30
TRAVEL (per hour)*	\$(59.40) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
SELF CERTIFIED	\$(10.70) 11.00
ALTERATION	\$(29.60) 30.50
REISSUED-LOST/DAMAGED	\$(10.70) 11.00
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$(59.40) 61.30
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$(11.30) 11.60
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
***Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

((WAC 296-150V-3000 CONVERSION VENDOR UNITS AND MEDICAL UNITS))	
INITIAL FILING FEE	\$(29.60) 30.50
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$(203.00) 209.60
INITIAL FEE - ONE YEAR DESIGN	\$(83.20) 85.90
RENEWAL FEE	\$(35.60) 36.70
RESUBMIT FEE	\$(59.40) 61.30
ADDENDUM (Approval expires on same date as original plan)	\$(59.40) 61.30
ELECTRONIC PLAN SUBMITTAL FEE \$(4.60) 4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
RECIPROCAL PLAN REVIEW: ((Pending))	
INITIAL FEE - MASTER DESIGN	\$(90.60) 93.50
INITIAL FEE - ONE YEAR DESIGN	\$(54.80) 56.60
RENEWAL FEE	\$(54.80) 56.60
ADDENDUM	\$(54.80) 56.60
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$(11.30) 11.60
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$(59.40) 61.30
TRAVEL (Per hour)*	\$(59.40) 61.30
PER DIEM**	
HOTEL***	
MILEAGE**	

PROPOSED

((WAC 296-150V-3000 CONVERSION VENDOR UNITS AND MEDICAL UNITS))	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((59.40)) <u>61.30</u>
TRAVEL (Per hour*)	\$((59.40)) <u>61.30</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((17.30)) <u>17.80</u>
ALTERATION	\$((29.60)) <u>30.50</u>
REISSUED-LOST/DAMAGED	\$((11.30)) <u>11.60</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((59.40)) <u>61.30</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.30)) <u>11.60</u>
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 02-14-074, filed 6/28/02, effective 7/1/02)

WAC 296-400A-045 What fees will I have to pay? The following are the department's plumbers fees:

(1) Fees related to journeyman and specialty plumber certification (~~((excluding backflow assembly maintenance and repair specialty certification))~~):

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	\$((108.25)) <u>111.80</u>
Reciprocity application	Per application	\$((108.25)) <u>111.80</u>
Trainee certificate**	One year	\$((32.50)) <u>33.50</u>
Temporary permit (<u>not applicable for backflow assembly maintenance and repair specialty</u>)	90 days	\$((54.00)) <u>55.70</u>
Journeyman or <u>residential specialty certificate***</u>	Two years (<u>fee may be prorated based on months</u>)	\$((86.75)) <u>89.60</u>
<u>Backflow assembly maintenance and repair specialty certificate</u>	Two years (<u>fee may be prorated based on months</u>)	<u>\$61.90</u>
((<u>Journeyman or specialty certificate</u>	Less than two years	\$3.50 per month with a minimum fee of \$32.50))
Medical gas endorsement examination application	Per application	\$((40.00)) <u>41.30</u>
Medical gas endorsement***	One year	\$((30.00)) <u>30.90</u>
Medical gas endorsement	Less than one year	\$2.50 per month with a minimum fee of \$((17.50)) <u>18.00</u>
Medical gas endorsement examination fee****		See note below.

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Medical gas endorsement training course fee*****	See note below.
Reinstatement ((ef) <u>fee for residential and journeyman certificates</u>)	\$((173.50)) <u>179.20</u>
Reinstatement fee for backflow assembly maintenance and repair specialty certificates	<u>\$103.20</u>
Replacement ((ef) <u>fee for all certificates</u>)	\$((15.00)) <u>15.40</u>

- * Reciprocity application is only allowed for applicants that are applying work experience toward certification that was obtained in state(s) that the department has a reciprocity agreement with.
- ** The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.
- *** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination or the medical gas piping installer endorsement examination and paid the certificate fee, you will be issued a plumber certificate of competency or a medical gas endorsement that will expire on your birthdate.
The annual renewal of a Medical Gas Piping Installer Endorsement shall include a continuity affidavit verifying that brazing work has been performed within the past year.

- **** This fee is paid directly to a nationally recognized testing agency under contract with the department. It covers the cost of preparing and administering the written competency examination and the materials necessary to conduct the practical competency examination required for the medical gas piping system installers endorsement. **This fee is not paid to the department.**
- ***** This fee is paid directly to a training course provider approved by the department, in consultation with the state advisory board of plumbers. It covers the cost of providing training courses required for the medical gas piping system installer endorsement. **This fee is not paid to the department.**
- ***** If more than 90 days the applicant must reapply and pay the applicable fees.

(2) ((Fees related to the backflow assembly maintenance and repair specialty certificate:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Examination application	Per examination	\$108.25
Reciprocity application*	Per application	\$108.25
Trainee certificate**	One year	\$32.50
Backflow assembly maintenance and repair specialty certificate	Two years	\$60.00
Backflow assembly maintenance and repair specialty certificate	Less than two years	\$2.50 per month with a minimum fee of \$17.50
Reinstatement fee		\$100.00
Replacement of certificates		\$15.00

- * ~~Reciprocity application is only allowed for applicants that are applying work experience toward certification that was obtained in state(s) that the department has a reciprocity agreement with.~~
- ** ~~The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.~~

(3)) If your birth year is:

- (a) In an even-numbered year, your certificate will expire on your birthdate in the next even-numbered year.
- (b) In an odd-numbered year, your certificate will expire on your birthdate in the next odd-numbered year.

Purpose: The purpose of this rule making is to implement changes to the rules authorized by chapter 268, Laws of 2002 (SSB 6364) that was enacted in 2002, including:

- Changes to the fee schedules for mobile/manufactured homes and factory-built housing and commercial structures rules (several of these fees are currently in place via emergency rules);
 - Provisions to allow the department to waive mobile/manufactured home alteration permit fees for indigent permit applicants;
 - Revisions to the disclosure requirements pertaining to the sale of mobile/manufactured homes;
 - Allowing the parties involved to enter into a conditional sales agreement as is consistent with the sale of a site-built home;
 - New provisions and penalties associated with auditing contractors that are performing work on manufactured/mobile homes;
 - Changes to the department's ability to prohibit the sale or lease of mobile/manufactured homes; and
 - Establishing notification provisions when an inspection is requested and if alterations to the home constitute a hazard to life, safety, or health.
- In addition, these rules:

WSR 03-09-109
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed April 22, 2003, 11:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-03-070.

Title of Rule: Factory assembled structures (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, and 296-150V WAC).

- Make changes to clarify how the department regulates commercial coaches that are used as medical units.
- Correct a reference in WAC 296-150P-0020 relating to the National Electrical Code;
- Adopt the latest edition of the American National Standards Institute (ANSI) and correct a reference to the National Electrical Code in WAC 296-150R-0020;
- Remove the definition for temporary locations in WAC 296-150V-0020;
- Adopt the latest edition of the National Electrical Code and clarify the particular national consensus codes and requirements that pertain to conversion vendor units or medical units;
- Remove the provisions that solid fuel appliances may not be installed in conversion vendor units or medical units in WAC 296-150V-1090;
- Make other necessary clarification and housekeeping changes; and
- Incorporate necessary policy into rule.

Statutory Authority for Adoption: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, 43.22.485, and chapter 268, Laws of 2002 (SSB 6364).

Statute Being Implemented: Chapter 43.22 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Josh Swanson, Tumwater, (360) 902-6411; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed changes are exempted

by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) from the small business economic impact requirements and/or do not impose a more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule changes because the exempt criteria outlined in RCW 34.05.328(5) was met.

Hearing Location: Yakima School District (Administration Offices), 104 North 4th Avenue, Yakima, WA, on May 27, 2003, at 1:00 p.m.; and at the Department of Labor and Industries Building, S 118, 7273 Linderson Way S.W., Tumwater, WA, on May 27, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by May 21, 2003, at (360) 902-6411 or swaj235@LNI.wa.gov for special assistance/accommodation needs.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lni.wa.gov, fax (360) 902-5292, by May 27, 2003. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: May 30, 2003.

April 22, 2003

Paul Trause

Director

NEW SECTION

WAC 296-150C-0150 How does the department regulate commercial coaches that are used as medical units as defined in chapter 296-150V WAC? (1) Commercial coaches that are used as medical units may either:

(a) Comply with the requirements of this chapter; or

(b) Receive approval by the department to comply with the applicable requirements found in chapter 296-150V WAC.

(2) You must contact the department to receive the approval required in subsection (1)(b) of this section prior to using the commercial coach as a medical unit by demonstrating that the commercial coach is being used for medical unit purposes.

AMENDATORY SECTION (Amending WSR 01-12-035, filed 5/29/01, effective 6/29/01)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

((WAC 296-150F-3000 FACTORY-BUILT HOUSING AND COMMERCIAL STRUCTURES))	
INITIAL FILING FEE	\$(40.30) 54.00
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$(197.50) 266.00
INITIAL FEE - ONE YEAR DESIGN	\$(115.00) 156.00
RENEWAL FEE	\$(40.30) 54.00
RESUBMIT FEE	\$(57.80) 78.00
ADDENDUM (Approval expires on same date as original plan.)	\$(57.80) 78.00
ELECTRONIC PLAN SUBMITTAL FEE \$(4.50) 4.60 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	

PROPOSED

PROPOSED

((WAC 296-150F-3000 FACTORY BUILT HOUSING AND COMMERCIAL STRUCTURES))	
ELECTRICAL PLAN REVIEW (When required by ((WAC 296-46A-140)) chapter 296-46A WAC, Plan review for educational, institutional or health care facilities and other buildings):	
Electrical Plan submission fee	\$((57.80)) <u>59.40</u>
Service/feeder Ampacity:	
0 - 100	\$((25.70)) <u>26.40</u>
101 - 200	\$((32.10)) <u>32.90</u>
201 - 400	\$((59.90)) <u>61.50</u>
401 - 600	\$((70.70)) <u>72.60</u>
601 - 800	\$((91.00)) <u>93.50</u>
801 - 1000	\$((111.30)) <u>114.40</u>
Over 1000	\$((120.80)) <u>124.10</u>
Over 600 volts surcharge	\$((19.20)) <u>19.70</u>
Thermostats:	
First	\$((11.50)) <u>11.80</u>
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$((10.50)) <u>10.70</u>
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*	\$((68.40)) <u>70.30</u>
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$((55.50)) <u>74.00</u>
FIRST STATION	\$((55.50)) <u>74.00</u>
EACH ADDITIONAL STATION	\$((20.50)) <u>27.00</u>
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN	\$((88.20)) <u>119.00</u>
INITIAL FEE-ONE YEAR DESIGN	\$((53.40)) <u>72.00</u>
RENEWAL FEE	\$((53.40)) <u>72.00</u>
ADDENDUM	\$((53.40)) <u>72.00</u>
PLANS APPROVED BY DESIGN PROFESSIONALS	\$((40.30)) <u>54.00</u>
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((11.00)) <u>14.00</u>
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((57.80)) <u>69.00</u>
TRAVEL (Per hour*)	\$((57.80)) <u>69.00</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

PROPOSED

((WAC 296-150F-3000 FACTORY BUILT HOUSING AND COMMERCIAL STRUCTURES))	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((57.80)) 69.00
TRAVEL (Per hour*)	\$((57.80)) 69.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((162.50)) 220.00
EACH ADDITIONAL SECTION	\$((15.90)) 20.00
REISSUED-LOST/DAMAGED	\$((40.30)) 54.00
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((57.80)) 69.00
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$((23.90)) 30.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.00)) 11.30
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 02-03-048, filed 1/9/02, effective 1/9/02)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 CFR 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration. This also includes other types of work and installations (plumbing, electrical, etc.) that are incidental to the structural alteration.

"Equipment" means the appliances used in the alteration or installation of a manufactured home.

Examples of appliances that require an alteration inspection include:

- Furnace;
- Water heater;
- Air conditioner; and
- Heat pump.

Examples of appliances that do not require an alteration inspection include:

- Microwave oven;

• Washer;
• Dryer; and
• Dishwasher and range that are connected to their source of power by a plug-in cord.

"**Equivalent air conditioning/heat pump components**" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"**Footing**" is the portion of a support system that transmits loads from the manufactured home to the ground.

"**Foundation skirting**" or "**skirting**" is the material that surrounds and encloses the space under the manufactured home.

"**Homeowner**" is an individual who owns a manufactured home. Dealers, distributors, and developers are not regarded as homeowners.

"**HUD**" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"**Indigent**" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the most recently published federal poverty level.

"**Installation**" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"**Installed manufactured or mobile home**" is a manufactured or mobile home that has been placed on either private property or in a park and has been installed for occupancy. Installation includes the approval of the blocking of the home, and the connection of the home to all of the utilities, including water, sewer and electrical.

"**IPIA**" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"**Local enforcement agency**" is an agency of city or county government with power to enforce local regulations governing the building site and installation of a manufactured home.

"**Manufactured home**" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 CFR 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in CFR 3282.13.

"**Mobile home**" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"**Park site**" is the installation location of a manufactured home within a residential area for manufactured homes.

"**Repair**" is to restore an item to sound condition, to fix.

"**Replacement**" is the act or process of replacing, to substitute.

"**Structural alteration-custom design**" is a design that can only be used once.

"**Structural alteration-master design**" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"**System**" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

AMENDATORY SECTION (Amending WSR 02-03-048, filed 1/9/02, effective 1/9/02)

WAC 296-150M-0049 What must be done prior to the sale of ((a)) an installed manufactured or ((b)) mobile((c)) home by a homeowner? (1) Prior to the sale of any installed manufactured((d)) or mobile home, the homeowner must:

(a) Deliver to the buyer a completed property transfer disclosure statement ~~((including))~~ in accordance with chapter 64.06 RCW, unless the seller is exempt or the buyer waives his or her rights pursuant to chapter 64.06 RCW. The disclosure statement must include all the criteria specified in RCW 64.06.020 and any variance(s) granted according to WAC 296-150M-0140~~((, and))~~. In addition, the homeowner must:

~~((a))~~ (i) Have all department insignia required by this chapter; or

~~((b))~~ (ii) Have all department insignia required by this chapter for alterations performed during ownership of the home and include in the property transfer disclosure statement all alterations that were known to have been performed by any previous owner or occupant of the home.

~~((2))~~ (b) Nothing in subsection (1) of this section shall have any effect on any written warranty(ies) required by RCW 46.70.135.

~~((3))~~ (c) Subsection (1)~~((b))~~ (a)(ii) of this section does not ~~((apply to))~~ permit the sale of an unsafe manufactured((d)) or mobile home~~((s-that))~~ when the use of which may constitute a hazard to life, safety, or health.

(2) The homeowner may enter into a conditional sale of an altered manufactured or mobile home. A conditional sales agreement may be executed only if, prior to execution, the seller has complied with subsection (1) of this section. For

PROPOSED

purposes of this subsection "conditional sale" means an agreement between the seller and the purchaser which is contingent on the seller fulfilling the conditions established by the purchaser (i.e., the sale of the home is contingent on the seller ensuring that alterations performed to the manufactured or mobile home are in compliance with these rules).

(3) The homeowner may request an inspection by the department. If after the inspection the department determines that an alteration may constitute a hazard to life, safety, or health, the department must notify the homeowner in writing within thirty days of completing the inspection. The department may also notify the local official responsible for enforcing the fire code adopted under chapter 19.27 RCW and/or the local health officer.

Note: In addition to the homeowner requesting an inspection by the department, any party including the buyer and/or party financing the sale may also request an inspection. The department will conduct the inspection and if after the inspection the department determines that an alteration may constitute a hazard to life, safety, or health, the department shall notify the interested parties identified by the requesting party in writing within thirty days of completing the inspection. The department may also notify the local official responsible for enforcing the fire code adopted under chapter 19.27 RCW and/or the local health officer.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0050 ((~~Can I sell or lease a manufactured home that has been~~)) **When can a manufactured home be posted with a prohibited sale or lease notice?** (1) ((If we find your manufactured home violates this chapter or federal standards in 24 CFR 3280, we may attach a prohibited sale or lease notice to your unit.

(2) You may not sell, lease, or offer for sale a manufactured home that is posted with a prohibited sale or lease notice.

(3) A prohibited sale or lease notice shall remain posted until the code violation is corrected, we inspect and approve the correction, and you pay the required fees. (See WAC 296-150M-3000-)) A manufactured home may be posted with a prohibited sale notice when:

(a) The home is being sold or offered for sale by a retailer, dealer, distributor or manufacturer and we find that the home is not an installed manufactured or mobile home per WAC 296-150M-0020 and the home has alterations without required insignia or approval; or

(b) The home is being sold or offered for sale by a homeowner and it is not an installed manufactured or mobile home per WAC 296-150M-0020.

(2) A manufactured home may be posted with a prohibited lease notice whenever the home is offered for lease by any party and we find that the home has alterations that constitute a hazard to life, safety, or health.

manufactured home that is posted with a prohibited sale or lease notice.

(2) A prohibited sale or lease notice shall remain posted until the code violation(s) are corrected, we inspect and approve the correction, and you pay the required fees. (See WAC 296-150M-3000.)

AMENDATORY SECTION (Amending WSR 02-03-048, filed 1/9/02, effective 1/9/02)

WAC 296-150M-0302 What are some examples of work to manufactured ((€)) or mobile((§)) homes that either require or do not require a permit and inspection?

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(1) Air Conditioner/Heat Pump		
(a) New installation	X	
(b) Replacement	X	
(c) Reconnection after moving home	X	
(d) Repair		X
(e) Adjustment and/or maintenance		X
(2) Bottom Board - Repair		X
(3) Clothes Washer		
(a) New installation		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(4) Clothes Dryer (Electric)		
(a) New installation (Pre-wired electrical)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas clothes dryer when modifications to electrical or gas systems are performed	X	
(5) Clothes Dryer (Gas)		
(a) New installation (Pre-plumbed gas)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric clothes dryer when modifications to electrical or gas systems are performed	X	
(6) Dishwasher		
(a) New installation	X	
(b) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

NEW SECTION

WAC 296-150M-0051 Can I sell or lease a manufactured home that has been posted with a prohibited sale or lease notice? (1) You may not sell, lease, or offer for sale a

PROPOSED

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(7) Doors (Interior and Exterior)		
(a) Additional*	X	
(b) Replacement of door that fits into the same opening		X
(8) Electrical		
(a) Replacing main electrical panel	X	
(b) Adding circuits	X	
(c) Extending existing circuit(s)	X	
(d) Replacing lighting fixtures	X	
(e) Replacing circuit breakers/fuses		X
(f) Replacing switches, receptacles, light bulbs, fluorescent tubes and glass or plastic shades		X
(g) Repairing bath exhaust fans		X
(h) Repairing fans in kitchen range hoods		X
(9) Exterior Finish		
(a) Painting		X
(b) Replacement of siding	X	
(10) Furnace (Electric)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas furnace	X	
(11) Furnace (Gas)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Change from LP Gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(e) Adjustment and/or maintenance		X
(f) Replacement with electric furnace	X	
(12) Gas Lines		
(a) New installation	X	
(b) Extend existing gas line	X	
(c) Repair	X	
(13) Interior		
(a) Painting, wall papering and similar finish work		X
(b) Replacement or addition of curtains, drapes, blinds, window shades and other window coverings		X
(c) Replacement of carpeting and other floor-covering materials with similar materials		X
(14) Microwave Oven (Over range)		
(a) New installation when electrical system modifications are performed	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(b) Replacement		X
(c) Repair		X
(d) Adjustment and/or maintenance		X
(15) Microwave Oven (Countertop)		X
(16) Pellet Stove		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(17) Plumbing		
(a) Adding plumbing fixtures***	X	
(b) Repairing damage***	X	
(c) Replacing fixtures***		X
(d) Repairing fixtures***		X
(e) Replacement/repair of shower doors and curtains		X
(18) Range/Cook Top/Eye Level Oven (Electric)		
(a) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(b) Repair with approved parts		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas appliance(s)	X	
(19) Range/Cook Top/Eye Level Oven (Gas)		
(a) New installation	X	
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric appliance(s)	X	
(20) Roofing		
(a) Reroofing	X	
(b) Applying liquid or mastic roof sealant to a metal roof		X
(c) Repair of damaged composition shingles		X
(21) Structural changes		
(a) Adding a dormer*	X	
(b) Truss repairs*	X	
(c) Add opening in wall**	X	
(d) Add gypsum board to walls or ceilings	X	
(e) Repair or replacing floor decking/joists	X	
(22) Water Heater (Electric)		
(a) Replacement w/electric water heater	X	
(b) Repair		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas water heater	X	

PROPOSED

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(23) Water Heater (Gas)		
(a) Replacement w/gas water heater	X	
(b) Repair		X
(c) Change from LP gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric water heater	X	
(24) Windows		
(a) Replacement (Except bedroom egress) is same opening with no structural changes		X
(b) Replacement of bedroom egress	X	
(c) Replacement when structural changes are required	X	
(d) Replacement of glass		X
(25) Wood Stove/Fireplace		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

* May also require a plan review. Please contact your local L&I representative.

** May also require a plan review. The department has detailed drawings you may use for openings in sidewalls. Please contact your local L&I representative.

*** Fixtures include: faucets, sinks, lavatories, laundry tubs, water closets (toilets), tubs, showers and tub/shower combos.

NOTE: Exemption from the permit and inspection requirements shall not be deemed to grant authorization for any work to be done in violation of the applicable code, Chapter 296-150M WAC.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0320 What must I provide to request approval of an alteration? (1) For approval of an alteration, you must complete and return our alteration permit application form. The application must contain:

- (a) A description of the proposed alteration(s);
- (b) Applicable specifications, engineering data, test procedures and results; and
- (c) Payment of the alteration permit fee, alteration insignia fee, and any inspection fees. (See WAC 296-150M-3000.)

Note: The department may waive alteration permit fees for indigent permit applicants. (See WAC 296-150M-0322.)

(2) For approval of a structural alteration, we must approve the design plan. This is in addition to the requirements stated in subsection (1) of this section. (See WAC 296-150M-0370.)

NEW SECTION

WAC 296-150M-0322 Data requirements for the identification of indigent persons. (1) Any one of the following documents shall be considered sufficient evidence upon which to base the final determination of indigent status, when the income information is annualized as may be appropriate:

- (a) A "W-2" withholding statement from all employers for the previous year;
- (b) Pay stubs from all employers for the previous year;
- (c) An income tax return from the most recently filed calendar year;
- (d) Forms approving or denying eligibility for Medicaid and/or state-funded medical assistance;
- (e) Forms approving or denying unemployment compensation; or
- (f) Written statements from all employers for the previous year or welfare agencies.

(2) In the event that the responsible party is not able to provide any of the documentation described above, the department shall rely upon written and signed declarations under penalty of perjury from the responsible party for making a final determination of eligibility for classification as an indigent person.

(3) Information requests, from the department to the responsible party, for the verification of income and family size shall be limited to that which is reasonably necessary to substantiate the responsible party's qualification for indigent status, and may not be used to discourage applications for such status. Only those facts relevant to eligibility may be verified.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0360 When is design plan approval required for an alteration? (1) Design plan approval is required when you make a structural alteration to your manufactured home.

(2) A structural alteration is a change to the body or frame of a manufactured home. For example:

- (a) An alteration is made if you change the size of a room or the pitch of a roof on your manufactured home.
- (b) Any addition such as a carport that adds structural load to the manufactured home and is not fully self-supporting is an alteration.

(c) Alterations or installations of other types of work (plumbing, electrical, etc.) that are incidental to the structural alteration.

AUDIT

NEW SECTION

WAC 296-150M-0705 Definitions applicable to this part. "Audit" means an assessment, evaluation, examination or investigation of a contractor's accounts, books and records for the purpose of verifying the contractor's compli-

ance with RCW 43.22.360 through 43.23.390 requiring permits for alterations to manufactured and mobile homes.

"Records" include, but are not limited to, all bids, invoices, billing receipts which show that the work was performed on a manufactured/mobile home, permits purchased from labor and industries for alterations to manufactured/mobile homes, purchases of materials and payroll records.

NEW SECTION

WAC 296-150M-0715 May the department audit the records of a contractor? Yes, based on RCW 43.22.434 the department may audit the records of contractors as defined in chapter 18.27, 18.106, or 19.28 RCW when the department has reason to believe that a violation of the permitting requirements has occurred.

NEW SECTION

WAC 296-150M-0725 What procedures will the department follow when auditing the records of construction, plumbing and electrical contractors? The department will follow the following procedures when auditing:

(1) The time period covered by the audit may be less than one year but will not exceed three years from the date of notification of an audit.

(2) Every construction, plumbing and electrical contractor must keep records of jobs performed for at least the time frames specified in subsection (1) of this section. Upon the request of the director's authorized representative, these records must be made available to the department for inspection within seven business days.

(3) The department's audits may include, but may not be limited to, the following:

(a) An audit to determine if the contractor performed work on a manufactured or mobile home without procuring the proper permit;

(b) An audit to determine if the contractor failed to correct within twenty days any violations noted on an alteration permit; and

(c) An audit covering a specific time period and examining a contractor's records, which may include billing information, location of where the work was performed, type of work performed, for whom the work was performed, etc.

(4) Any information obtained as a result of an audit under provisions of RCW 43.22.434 is confidential and is not open to public inspection under chapter 42.17 RCW.

PENALTIES

NEW SECTION

WAC 296-150M-0800 Definitions applicable to this part. "Administrative law judge" is any person appointed by the chief administrative law judge (as defined in RCW 34.12.020(2)) to preside at a notice of infraction appeal hearing convened under chapter 43.22 RCW.

"Appeal hearing" is any proceeding in which an administrative law judge is empowered to determine legal

rights, duties or privileges of specific parties on behalf of the director.

"Appellant" means any person, contractor, firm, partnership, corporation, or other entity that has filed an appeal.

"Compliance inspector" refers to the departmental staff responsible for investigating potential violations of chapter 43.22 RCW.

"Contractor" is as defined in chapters 18.27, 18.106, and 19.28 RCW.

"Department" refers to the department of labor and industries.

"Infraction" means a violation of chapter 43.22 RCW as cited by the department's compliance inspectors.

NEW SECTION

WAC 296-150M-0805 How does the department ensure that a contractor, firm, partnership, or corporation complies with the requirements of chapter 43.22 RCW? The department of labor and industries ensures that contractors, firms, partnerships, and corporations comply with the requirements of chapter 43.22 RCW and this chapter which require a permit and inspection by the department of alterations to manufactured and mobile homes by:

(1) Inspecting manufactured and mobile home job sites by the department's compliance inspectors; or

(2) Auditing the records of contractors per WAC 296-150M-0720.

NEW SECTION

WAC 296-150M-0810 What violations of chapter 43.22 RCW can result in the issuance of a notice of infraction? (1) Under chapter 43.22 RCW, the department can issue a notice of infraction to a contractor for:

(a) Failure to obtain a permit before altering a manufactured or mobile home as required by chapter 296-150M WAC;

(b) Failure to correct violations noted as a result of an inspection requested as a result of having purchased a permit.

(2) Each worksite at which a violation occurs constitutes a separate infraction.

(3) Each day on which a violation occurs constitutes a separate infraction.

(4) See WAC 296-150M-0860 for the specific monetary penalties associated with each of the violations discussed in this section.

NEW SECTION

WAC 296-150M-0815 What information must be included in a notice of infraction? When a contractor violates chapter 43.22 RCW, the department may issue a notice of infraction which must contain the following:

(1) A description of the violation;

(2) A statement of what is required to correct the violation;

(3) The date by which the department requires corrections to be achieved; and

(4) Notice of the individual or department office that must be contacted to obtain a permit or other compliance information.

NEW SECTION

WAC 296-150M-0820 Who can be issued a notice of infraction? A contractor, firm, partnership, or corporation may be issued a notice of infraction for violations of chapter 43.22 RCW and this chapter.

The department must by certified mail send the written notice of civil penalties imposed under chapter 43.22 RCW and this chapter to the last known address of the party named in the notice.

NEW SECTION

WAC 296-150M-0830 How does a contractor, firm, partnership, or corporation appeal a notice of infraction? The contractor, firm, partnership, or corporation must:

(1) File two copies of an appeal notice, specifying the reasons for the appeal, at the office designated on the notice of infraction; and

(2) File the appeal notice within twenty days of the mailing of the infraction.

NEW SECTION

WAC 296-150M-0835 Who presides over an appeal hearing and where is it held? An administrative law judge from the office of administrative hearings will preside over the hearing and give a decision. The hearing shall be conducted in the county where the infraction occurred. However, both the appellant and the department have a right to ask the administrative law judge to change the hearing's location.

NEW SECTION

WAC 296-150M-0840 Who will represent the appellant and the department at the appeal hearing? Appellants may either represent themselves or be represented by an attorney. The department shall be represented by the office of attorney general.

NEW SECTION

WAC 296-150M-0845 How is the appeal hearing conducted? The hearing process shall be conducted according to chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC. All appeals of the hearing decision shall be to the superior court according to chapter 34.05 RCW.

NEW SECTION

WAC 296-150M-0855 What does the department do with the appeal notices that they receive? (1) Appeal notices that are received timely are first reviewed by the department for purposes of reconsideration.

(2) Appeal notices that are not received timely will be returned to the appellant with appeal rights stated.

(3) Appeal notices that are received timely and are not reconsidered according to subsection (1) of this section are recorded and forwarded to the office of the attorney general then to the office of administrative hearings.

NEW SECTION

WAC 296-150M-0860 What monetary penalties will be assessed for an infraction issued for violations of chapter 43.22 RCW and this chapter? Monetary penalties that may be assessed for a violation of chapter 43.22 RCW and this chapter are:

Monetary Penalties	Dollar Amount
First Violation	\$ 200.00*
Second Violation	\$ 400.00
Third Violation	\$ 800.00
Each Additional Violation	\$ 1,000.00

* Minimum penalty per violation. Once a violation of chapter 43.22 RCW and this chapter becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the above table.

NEW SECTION

WAC 296-150M-0865 When must a contractor, firm, partnership, or corporation pay assessed monetary penalties? (1) If a contractor, firm, partnership, or corporation named in a notice of infraction does not choose to appeal the notice, then the contractor, firm, partnership, or corporation must pay the department the amount of the penalty prescribed for the infraction.

(2) After an administrative law judge decides that an infraction has been committed, a contractor who does not appeal the decision to a superior court, has thirty days to pay any outstanding monetary penalties.

PROPOSED

AMENDATORY SECTION (Amending WSR 01-12-035, filed 5/29/01, effective 6/29/01)

WAC 296-150M-3000 Manufactured home fees.

PROPOSED

<u>((WAC 296-150M-3000 MANUFACTURED HOME FEES))</u>	
INITIAL FILING FEE	(\$28.80) \$ 29.60
DESIGN PLAN FEES:	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	(\$115.00) \$ 119.10
STRUCTURAL ALTERATION - ONE YEAR DESIGN	(\$81.00) \$ 80.00
RENEWAL FEE	(\$34.70) \$ 35.60
RESUBMITTAL FEE	(\$57.80) \$ 59.40
ADDENDUM (Approval expires on the same date as original plan.)	(\$57.80) \$ 59.40
ELECTRONIC PLAN SUBMITTAL FEE (\$4.50) \$4.60 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
INSPECTION ((Per hour*))	(\$57.80)
MECHANICAL	
Heat Pump	\$ 30.00
Combination Heat Pump (new) and Furnace (replacement)	\$ 40.00
Air Conditioning	\$ 30.00
Combination Air Conditioning (new) and Furnace (replacement)	\$ 40.00
Furnace Installation (gas*** or electric)	\$ 30.00
Gas*** Piping	\$ 30.00
Wood Stove	\$ 30.00
Pellet Stove	\$ 30.00
Gas*** Room Heater	\$ 30.00
Gas*** Decorative Appliance	\$ 30.00
Range: Changing from electric to gas***	\$ 30.00
Gas*** Water Heater Replacement	\$ 20.00
Water Heater: Changing from electric to gas***	\$ 20.00
Any combination of Furnace, Range, and Water Heater changing from electric to gas*** and includes Gas Piping charge	\$ 60.00
ELECTRICAL	
Heat Pump	\$ 40.00
Heat Pump (when home is prewired for a heat pump)	\$ 10.00
Combination Heat Pump (new) and Furnace (replacement)	\$ 50.00
Air Conditioner	\$ 40.00
Air Conditioner (when home is prewired for an air conditioner)	\$ 10.00
Combination Air Conditioner (new) and Furnace (replacement)	\$ 50.00
Furnace Installation (gas or electric)	\$ 40.00
Wood Stove (if applicable)	\$ 40.00
Pellet Stove (if applicable)	\$ 40.00
Gas*** Room Heater (if applicable)	\$ 40.00
Gas*** Decorative Appliance (if applicable)	\$ 40.00
Range: Changing from gas*** to electric	\$ 40.00
Electric Water Heater Replacement	\$ 40.00
Electric Water Heater replacing Gas*** Water Heater	\$ 40.00
Each added or modified 120 volt circuit (maximum charge is two circuits)	\$ 40.00
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)	\$ 40.00
Hot Tub or Spa (power from home electrical panel)	\$ 40.00
Replace main electrical panel	\$ 40.00
Low voltage fire/intrusion alarm	\$ 40.00
Fire Safety	\$ 40.00

PROPOSED

((WAC 296-150M 3000 MANUFACTURED HOME FEES))	
Any combination of Furnace, Range and Water Heater changing from electric to gas***	\$ 40.00
PLUMBING	
Fire sprinkler system (also requires a plan review)	\$ 20.00
Each added fixture	\$ 20.00
Replacement of water piping system (this includes two inspections)	\$ 90.00
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	\$ 40.00
Reroofs (may require a plan review)	\$ 70.00
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	\$ 70.00
Other structural changes (may require a plan review)	\$ 70.00
Fire Safety (may also require an electrical fire safety inspection)	\$ 40.00
MISCELLANEOUS	
Other structural changes (may require a plan review)	\$ 70.00
Plan Review	\$ 80.00
OTHER REQUIRED INSPECTIONS (Per hour*)	((\$57.80) \$ 55.00
ALL REINSPECTIONS (Per hour*)	((\$57.80) \$ 55.00
INSIGNIA FEES:	
ALTERATION	((\$28.80) \$ 10.00
REISSUED - LOST/DAMAGED	((\$16.90) \$ 10.00
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	((\$26.40) \$ 27.10
Second and succeeding inspections of ((unlabelled)) <u>unlabeled</u> sections (Per hour*)	((\$57.80) \$ 59.40
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (Per hour* separate from other fees)	((\$57.80) \$ 59.40
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Attendance at manufacturers training classes (Per hour* only)	((\$57.80) \$ 59.40
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Alterations to a ((labelled)) <u>labeled</u> unit (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)	((\$57.80) \$ 59.40
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	((\$57.80) \$ 59.40
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	((\$57.80) \$ 59.40
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	((\$57.80) \$ 59.40
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	\$ 59.40
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	((\$57.80) \$ 55.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$11.00) \$ 11.30
<u>VARIANCE INSPECTION FEE</u>	\$ 80.00
<u>HOMEOWNER REQUESTED INSPECTION</u>	\$ 80.00
<u>DECERTIFICATION OF A MOBILE/MANUFACTURED HOME</u>	\$ 80.00
<u>DEMOLITION OF A MOBILE/MANUFACTURED HOME</u>	\$ 80.00

PROPOSED

(WAC 296-150M-3000 MANUFACTURED HOME FEES)	
NOTE: Local jurisdictions may have other fees that apply.	
*	Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
**	Per state guidelines.
***	((Actual charges incurred.)) Gas means all gases; natural, propane, etc.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150P-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, 1998 edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to imple-

ment and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" see Appendix 'C' of ANSI ((A119.2)) A119.5 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150R-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational vehicles. For the purposes of this chapter, references to ANSI mean ANSI A119.2 Recreational Vehicles, ((1996)) 2002 edition. ((Effective September 1, 1999, the 1999 edition shall become effective.))

"Approved" is approved by the department of labor and industries.

"**Audit**" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"**Comprehensive design plan**" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"**Consumer**" is a person or organization who buys or leases recreational vehicles.

"**Dealer**" is a person or organization whose business is offering recreational vehicles for sale or lease.

"**Department**" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"**Equipment**" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"**Manual**" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"**National Electrical Code**" see Chapter ((§)) 2 of ANSI A119.2 for reference to the appropriate edition to use for compliance.

"**Quality control**" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"**Recreational vehicle**" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"**Self-certification insignia**" is an insignia which is obtained under the self-certification approval process.

"**State-plan insignia**" is an insignia which is obtained under the state design-plan approval process.

"**System**" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"**Vehicle**" for the purposes of this chapter, is a recreational vehicle.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-0020 What definitions apply to this chapter? "**Alteration**" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction for concentrated floor loads, fire and life safety, or the plumbing, mechanical, and electrical systems of a conversion vendor unit or medical unit.

The following are not considered alterations:

- Repairs with approved parts;
- Modifications of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"**Approved**" is approved by the department of labor and industries.

"**Consumer**" is a person or organization, excluding a manufacturer or dealer of conversion vendor units or medical units, who buys or leases a conversion vendor unit or medical unit.

"**Conversion vendor unit**" means a motor vehicle or other structure that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be 8 feet 6 inches or less in width (exterior floor measurement) in the set-up position, and the inside working area must be less than 40 feet in length (interior floor measurement). Conversion vendor units:

- Are transported in only one section;
- Are designed for highway use;
- Are temporarily occupied for distribution of items, e.g., food;
- Are built on a permanent chassis; and
- Include at least one of the following systems: Plumbing, mechanical or 120 and/or 240 volt electrical.

"**Damaged in transit**" means damage that affects the integrity of a concentrated floor load design or any of the systems.

"**Dealer**" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading conversion vendor units, or medical units.

"**Department**" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, P.O. Box 44440, Olympia, WA 98504-4440.

"**Design plan**" is a plan for the construction or alteration of a conversion vendor unit or medical unit or conversion of a vehicle to a conversion vendor unit or medical unit including floor plans, specifications, or test results necessary for a complete evaluation of the design, if applicable.

"**Design option**" is a design that a manufacturer may use as an option to its conversion vendor unit or medical unit design plan.

"**Equipment**" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a conversion vendor unit or medical unit.

"**Factory assembled structure (FAS) advisory board**" is a board authorized to advise the director of the

PROPOSED

department regarding the issues and adoption of rules relating to conversion vendor units and medical units.

"**Insignia**" is a label that we attach to a conversion vendor unit or medical unit to verify that the structure meets the requirements of this chapter and the applicable codes.

"**Install**" is to erect, construct, assemble, or set a conversion vendor unit or medical unit in place.

"**Labeled**" is to bear the department's insignia.

"**Listed**" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"**Local enforcement agency**" is an agency of city or county government with power to enforce local regulations governing the installation of a conversion vendor unit or medical unit.

"**Medical unit**" is a type of self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles, and which:

- Is transportable;
- Is temporarily placed and used;
- Is built on a permanent chassis;
- Includes at least one system;
- Is for temporary use only.

"**One-year design plan**" is a design plan that expires one year after approval or when a new state building code has been adopted.

"**System**" is part of a conversion vendor unit or medical unit designed to serve a particular function. Examples include plumbing, electrical, or mechanical systems.

~~("Temporary locations" means a maximum of thirty days on a site.)~~

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-150V-0800 What ((~~manufacturing~~)) codes apply to conversion vendor units or medical units? (1) A conversion vendor unit or medical unit must comply with the following codes where applicable:

(a) The Uniform Mechanical Code, with the amendments made by the Washington State Building Code Council, chapter 51-42 WAC((;)).

(b)(i) For conversion vending units Article 551, Parts I through VI of National Electrical Code/National Fire Protection Agency (NFPA) 70, 2002 edition or Article 552, Parts I through V Article of National Electrical Code/National Fire Protection Agency (NFPA) 70, 2002 edition.

(ii) For medical units the National Electrical Code as referenced in chapter 19.28 RCW and chapter 296-46A WAC, installing electric wires and equipment((;)).

(c) Chapter 7 of American National Standards Institute (ANSI) A119.2, 2002 edition or the Uniform Plumbing Code as adopted and amended according to chapter 19.27 RCW((;)).

(d) The Washington State Building Code Council, chapter 51-40 WAC, Uniform Building Code, Chapter 11, Accessibility as applies to the exterior of the unit relating to customer service facilities in section 1105.4.7((;and)).

(e) The Washington State Energy Code, as adopted according to chapter 19.27A RCW, and the Washington State Ventilation and Indoor Air Quality Code, chapter 51-13 WAC, when heating and/or air conditioning is installed.

(2) Provide minimum health and safety to the occupants of conversion vendor units and medical units and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The conversion vendor unit or medical unit may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Exception: Sign circuits required by Article 600 of the National Electrical Code will not be required.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1090 What are the standards for equipment and installations? ((~~(1)~~)) The manufacturer's equipment and installation specifications must be followed. Other approved standards are acceptable when:

((~~(a)~~)) • Installed according to the manufacturer's installation instructions; and

((~~(b)~~)) • Approved by a listing or testing agency.

~~((~~(2)~~) No solid fuel (e.g., charcoal) appliances may be installed in a conversion vendor unit or medical unit.))~~

Note: Gas furnaces, gas water heaters, and gas refrigerators must be sealed combustion or completely separated from the interior of the conversion vendor unit or medical unit.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1530 What general plumbing requirements apply? This chapter also applies to the installation of plumbing equipment in any conversion vendor unit or medical unit bearing or required to bear a department insignia. Plumbing fixtures, equipment, and installations in conversion vendor units and medical units must conform to the provisions of Chapter 7 of ANSI 119.2, 2002 edition or the Uniform Plumbing Code and the amendments adopted by the State Building Code Council, except part 1, unless specifically exempted or required by this section. ((~~However,~~)) The following ((~~exceptions~~)) also apply:

(1) We will allow a 1-1/4 inch drain for handwashing sinks with an antisiphon vent.

(2) An antisiphon vent will be allowed on one and two compartment sinks in units as long as there is one vent to the exterior so the system will function. Sinks with three or more compartments must be installed as required by the Uniform Plumbing Code.

~~((~~(3)~~) Vent pipes may terminate through the roof or through the sidewall at a point as high as possible and not less than six feet from ground level.))~~

NEW SECTION

WAC 296-150V-1600 What are the requirements associated with medical and conversion vending units that have been manufactured and used outside the state according to RCW 43.22.380? (1) If the unit does not have any alterations made to body and frame design, construction, plumbing, heating or electrical installations since it was constructed, it will need an insignia issued by the department. In order to receive the insignia, the unit must have been:

(a) Manufactured outside the state of Washington. Proof of this must be demonstrated by a certificate of origin, bill of sale, proof of purchase of materials, manufacture identification tag or serial number, or any other means acceptable to the department that shows that the unit was manufactured outside the state.

(b) Used outside the state for at least six months or more. Proof of this must be demonstrated by showing the purchase of a license plate, a permit(s) issued by another state agency for use in another state, insurance certificate, bill of sale, or any other means acceptable to the department that shows that the unit was used outside the state for at least six months.

(2) If the unit has had alterations made to the body and frame design, construction, plumbing, heating or electrical installations since it was constructed, it will need an insignia issued by the department. In order to receive the insignia, the alterations to the unit must be inspected and approved by the department and the unit must have been:

(a) Manufactured outside the state of Washington. Proof of this must be demonstrated by a certificate of origin, bill of sale, proof of purchase of materials, manufacture identification tag or serial number, or any other means acceptable to the department that shows that the unit was manufactured outside the state.

(b) Used outside the state for at least six months or more. Proof of this must be demonstrated by showing the purchase of a license plate, a permit(s) issued by another state agency for use in another state, insurance certificate, bill of sale, or any other means acceptable to the department that shows that the unit was used outside the state for at least six months.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-150V-1220	What code and installation requirements apply to conversion vendor unit or medical unit electrical systems?
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WSR 03-09-116
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Management Services Administration)
 [Filed April 22, 2003, 4:36 p.m.]

Original Notice.

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

Title of Rule: WAC 388-02-0215 What is the authority of the ALJ?

Purpose: The department is amending subsection (4) of the rule to clarify that review of an administrative law judge's (ALJ) initial order by the DSHS Board of Appeals (BOA) is appropriate for cases where the hearing right existed, the request for a hearing was received by the Office of Administrative Hearings (OAH) or DSHS before November 15, 2002, and other rules do not require the ALJ to enter a final order. The proposed rule also makes clarifying revisions to BOA review rights contained in amendments [to] the rule as adopted on October 15, 2002, as WSR 02-21-061, and corrects WAC cross references.

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V.

Summary: See Purpose above.

Reasons Supporting Proposal: The amended rule will clarify the right to a DSHS Board of Appeals review of initial orders entered by an Office of Administrative Hearings administrative law judge for individuals requesting or receiving DSHS services or providers and other entities having the right to request a hearing concerning DSHS actions. The proposed rule also preserves the hearing review rights as they existed before the rule was amended as WSR 02-21-061 for individuals or entities that requested a hearing on or before November 14, 2002.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brian Lindgren, Manager, BOA-RPAU, P.O. Box 45850, Olympia, WA 98504-5850, (360) 664-6093.

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

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

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

This rule is proposed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 notice is not required for "rules that adopt, amend or repeal a procedure, practice or requirement relating to agency hearings" per RCW 34.05.310 (4)(g). Interested parties have participated in the development of the rule prior to the filing of this proposed rule.

Proposal Changes the Following Existing Rules: 1. The following subsections of WAC 388-02-0215(4) will be amended:

(e): To clarify that the review of cases concerns placement on a state registry of personal care aides;

(f), (g), (h), and (i): To clarify that only the client may request a hearing concerning denial or termination of a provider contract;

(j): To provide BOA review of cases concerning social service eligibility under new chapter 388-72A WAC;

(w), (x), and (y): To correct incorrect WAC cross references.

2. A new subsection (dd) is added to subsection (4) of this rule to clarify that the review is permitted for cases concerning denial of authorization for unsupervised access to children or to individuals with developmental disabilities under WAC 388-06-0240(1).

3. A new subsection (ee) is added to subsection (4) of this rule to clarify the appeal rights in cases where the individual and entity requested a hearing before November 15, 2002, where a hearing right existed and other rules do not require the administrative law judge to enter a final order.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for rules that adopt, amend or repeal a procedure, practice or requirement related to agency hearings. See RCW 19.85.025(3) and 34.05.310(4)(g).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply, since the rule does not meet the definition of a "significant legislative rule." WAC 388-02-0215 is a "procedural rule" that amends a procedure, practice or requirement related to agency hearings. See RCW 34.05.328 (5)(c)(i)(A) and (5)(c)(iii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dsht.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Rules Coordinator, DSHS Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaa@dsht.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: Not earlier than May 28, 2003.

April 16, 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) Placement of personal aides providing self-directed care on a state registry under RCW 74.39A.050(9) and WAC 388-71-0150 and 388-71-0155;

(f) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider for placing clients in imminent jeopardy under RCW 74.39A.095(7) and WAC 388-71-0551;

(g) Where the client has requested a hearing under WAC 388-71-0560, the termination of a 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) Where the client has requested a hearing under WAC 388-71-0560, the denial of a contract to a provider due to inability of the provider to appropriately meet the care needs of clients under RCW 74.39A.095(8) and WAC 388-71-0546;

(i) Where the client has requested a hearing under WAC 388-71-0560, the denial or termination of a contract and subsequent denial of payment 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(5) and WAC 388-71-0540(3) through (5);

(j) Social service eligibility under WAC 388-71-0400 through 388-71-0480, 388-71-0202, and 388-71-0203, and

under chapter 388-72A WAC, except for WAC 388-72A-0055(2), 388-72A-0060(1), and 388-72A-0065(4) through (6);

(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 388-140, 388-145, 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~~) 388-825-030 and 388-825-035, 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~~) 388-825-055, 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) Background checks under WAC 388-06-0110 that result in denial of authorization for unsupervised access to children or to individuals with developmental disabilities, for which a hearing has been held under WAC 388-06-0240(1); or

(ee) 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 03-09-117
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 22, 2003, 4:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-109.

Title of Rule: Amending WAC 388-513-1365 Evaluating the transfer of an asset made on or after March 1, 1997, and before April 1, 2003, for long-term care (LTC) services; and WAC 388-561-0100 Trusts.

Purpose: (1) To add a closing date to WAC 388-513-1365 now that new WAC 388-513-1364 became effective April 1, 2003.

(2) To amend WAC 388-561-0100 Trusts, to make the following changes and clarifications:

- Federal law allows transferring assets into a sole benefit trust for a spouse, blind or disabled child, or disabled individual without applying a penalty period. Although there is no penalty applied for transferring an asset to a spouse, sole benefit trusts established for a spouse not applying for long-term care benefits will be treated as resources available to the institutionalized spouse in determining Medicaid eligibility.
- Amending WAC for special needs and pooled trusts to require the state to be repaid if the trust is terminated for any reason before the client dies.
- Clarifying that pooled trusts must be irrevocable, and established solely for the benefit of the disabled individual by:
 - The individual,
 - The individual's spouse, where the spouse is acting in the place of or on behalf of the individual,
 - The individual's parent, grandparent, legal guardian,
 - A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse, or
 - A person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.
- Clarifying that special needs trusts established before the individual turns sixty-five continue to be considered an unavailable resource even after the individual turns sixty-five, but additional transfers made to the trust after the individual reaches age sixty-five would

be considered available resources and would be subject to a transfer penalty.

- Clarifying that the department can apply a transfer penalty period to pooled trusts if the trust is established for a disabled individual age sixty-five or older.
- Clarifying that payments made from trusts to the client will be considered unearned income.

Other Identifying Information: Proposed WAC 388-561-0100 was previously proposed as WSR 03-02-055. The department withdrew that proposed rule and after further revision is repropounding it with this notice.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.575.

Statute Being Implemented: RCW 74.04.050, 74.04.-057, and 74.09.575.

Summary: These proposed rules add an end date for transfers that use this rule for the evaluation of the transfer for long-term care programs.

Reasons Supporting Proposal: These revisions are related to the recently adopted new WAC 388-513-1364 Evaluating transfers occurring on or after March 1, 2003, for long-term care programs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Lou Percival, ADSA/Home and Community, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2318.

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

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses. It only affects client eligibility for medical assistance.

RCW 34.05.328 does not apply to this rule adoption. This rule is exempt under RCW 34.05.328 (5)(b)(vii), which states that rules of the Department of Social and Health Services relating only to client eligibility for medical or financial assistance are exempt from this provision. The rule only affects client eligibility for medical assistance.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 23, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dshs.wa.gov.

Submit Written Comments to: Identify WAC Number, Rules Coordinator, DSHS Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaa@dshs.wa.gov, by 5:00 p.m., May 27, 2003.

Date of Intended Adoption: Not sooner than May 28, 2003.

April 18, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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

WAC 388-513-1365 Evaluating the transfer of an asset made on or after March 1, 1997 and before April 1, 2003 for long-term care (LTC) services. This section describes how the department evaluates the transfer of an asset made on or after March 1, 1997 and before April 1, 2003, by a client who is applying or approved for LTC services. The department must consider whether a transfer made within a specified time before the month of application requires a penalty period in which the client is not eligible for these services. Refer to WAC 388-513-1366 for rules used to evaluate the transfer of an asset made before March 1, 1997. Refer to WAC 388-513-1364 for rules used to evaluate the transfer of an asset made on or after March 31, 2003.

(1) The department disregards the following transfers by the client, if they meet the conditions described:

(a) Gifts or donations totaling one thousand dollars or less in any month;

(b) The transfer of an excluded resource described in WAC 388-513-1360 with the exception of the client's home, unless the transfer meets the conditions described in subsection (1)(d);

(c) The transfer of an asset for less than fair market value (FMV), if the client can provide evidence to the department that satisfies one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation;

(ii) The transfer is not made to qualify for LTC services;

(iii) The client is given back ownership of the asset;

(iv) The denial of eligibility would result in an undue hardship.

(d) The transfer of ownership of the client's home, if it is transferred to the client's:

(i) Spouse; or

(ii) Child, who:

(A) Meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c); or

(B) Is less than twenty-one years old; or

(iii) A son or daughter, who:

(A) Lived in the home for at least two years immediately before the client's current period of institutional status; and

(B) Provided care that enabled the client to remain in the home; or

(iv) A brother or sister, who has:

(A) Equity in the home, and

(B) Lived in the home for at least one year immediately before the client's current period of institutional status.

(e) The transfer of an asset other than the home, if the transfer meets the conditions described in subsection (4), and the asset is transferred:

(i) To the client's spouse or to another person for the sole benefit of the spouse;

(ii) From the client's spouse to another person for the sole benefit of the spouse;

(iii) To the client's child who meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c) or to a trust established for the sole benefit of this child; or

(iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c).

(f) The transfer of an asset to a member of the client's family in exchange for care the family member provided the client before the current period of institutional status, if a written agreement that describes the terms of the exchange:

(i) Was established at the time the care began;

(ii) Defines a reasonable FMV for the care provided that reflects a time frame based on the actuarial life expectancy of the client who transfers the asset; and

(iii) States that the transferred asset is considered payment for the care provided.

(2) When the fair market value of the care described in subsection (1)(f) is less than the value of the transferred asset, the department considers the difference the transfer of an asset without adequate consideration.

(3) The department considers the transfer of an asset in exchange for care given by a family member without a written agreement as described under subsection (1)(f) as the transfer of an asset without adequate consideration.

(4) The transfer of an asset or the establishment of a trust is considered to be for the sole benefit of a person described in subsection (1)(e), if the transfer or trust:

(a) Is established by a legal document that makes the transfer irrevocable; and

(b) Provides for spending all funds involved for the benefit of the person for whom the transfer is made within a time frame based on the actuarial life expectancy of that person.

(5) When evaluating the effect of the transfer of an asset on a client's eligibility for LTC services received on or after October 1, 1993, the department counts the number of months before the month of application to establish what is referred to as the "look-back" period. The following number of months apply as described:

(a) Thirty-six months, if all or part of the assets were transferred on or after August 11, 1993; and

(b) Sixty months, if all or part of the assets were transferred into a trust as described in WAC ((388-505-0595)) 388-561-0100.

(6) If a client or the client's spouse transfers an asset within the look-back period without receiving adequate compensation, the result is a penalty period in which the client is not eligible for LTC services. If a client or the client's spouse transfers an asset on or after March 1, 1997 and before April 1, 2003, the department must establish a penalty period as follows:

(a) If a single or multiple transfers are made within a single month, then the penalty period:

(i) Begins on the first day of the month in which the transfer is made; and

(ii) Ends on the last day of the number of whole months found by dividing the total uncompensated value of the assets

by the statewide average monthly private cost for nursing facilities at the time of application.

(b) If multiple transfers are made during multiple months, then the transfers are treated as separate events and multiple penalty periods are established that:

(i) Begin on the latter of:

(A) The first day of the month in which the transfer is made; or

(B) The first day after any previous penalty period has ended; and

(ii) End on the last day of the whole number of months as described in subsection (6)(a)(ii).

(7) If an asset is sold, transferred, or exchanged, the portion of the proceeds:

(a) That is used within the same month to acquire an excluded resource described in WAC 388-513-1360 does not affect the client's eligibility;

(b) That remains after an acquisition described in subsection (7)(a) becomes an available resource as of the first day of the following month.

(8) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).

(9) If the transfer of an asset for which adequate compensation is not received is made to a person other than the client's spouse and includes the right to receive a stream not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:

(a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;

(b) The amount described in (9)(a) is divided by the statewide average monthly private cost for nursing facilities at the time of application; and

(c) A penalty period equal to the number of whole months found by following subsections (9)(a) and (b) is applied that begins on the latter of:

(i) The first day of the month in which the client transfers the income; or

(ii) The first day of the month after any previous penalty period has ended.

(10) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless:

(a) Both spouses are receiving LTC services; and

(b) A division of the penalty period between the spouses is requested.

(11) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a hearing as described in chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 01-06-043, filed 3/5/01, effective 5/1/01)

WAC 388-561-0100 Trusts. (1) The department determines how trusts affect eligibility for medical programs.

(2) The department disregards trusts established, on or before April 6, 1986, for the sole benefit of a client who lives

in an intermediate care facility for the mentally retarded (ICMR).

(3) For trusts established on or before August 10, 1993 the department counts the following:

(a) If the trust was established by the client, client's spouse, or the legal guardian, the maximum amount of money (payments) allowed to be distributed under the terms of the trust is considered available income to the client if all of the following conditions apply:

(i) The client could be the beneficiary of all or part of the payments from the trust;

(ii) The distribution of payments is determined by one or more of the trustees; and

(iii) The trustees are allowed discretion in distributing payments to the client.

(b) If an irrevocable trust doesn't meet the conditions under subsection (3)(a) then it is considered either:

(i) An **unavailable** resource, if the client established the trust for a beneficiary other than the client or the client's spouse; or

(ii) An **available** resource in the amount of the trust's assets that:

(A) The client could access; or

(B) The trustee distributes as actual payments to the client and the department applies the transfer of assets rules of WAC 388-513-1364 or 388-513-1365.

(c) If a revocable trust doesn't meet the description under subsection (3)(a):

(i) The full amount of the trust is an available resource of the client if the trust was established by:

(A) The client;

(B) The client's spouse, and the client lived with the spouse; or

(C) A person other than the client or the client's spouse only to the extent the client had access to the assets of the trust.

(ii) Only the amount of money actually paid to the client from the trust is an available resource when the trust was established by:

(A) The client's spouse, and the client did not live with the spouse; or

(B) A person other than the client or the client's spouse; and

(C) Payments were distributed by a trustee of the trust.

(iii) The department considers the funds a resource, not income.

(4) For trusts established on or after August 11, 1993:

(a) The department considers a trust as if it were established by the client when:

(i) The assets of the trust, as defined under WAC 388-470-0005, are at least partially from the client;

(ii) The trust is not established by will; and

(iii) The trust was established by:

(A) The client or the client's spouse;

(B) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(C) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(b) Only the assets contributed to the trust by the client are available to the client when part of the trust assets were contributed by any other person.

(c) The department does not consider:

(i) The purpose for establishing a trust;

(ii) Whether the trustees have, or exercise, any discretion under the terms of the trust;

(iii) Restrictions on when or whether distributions may be made from the trust; or

(iv) Restrictions on the use of distributions from the trust.

(d) For a revocable trust established as described under subsection (4)(a) of this section:

(i) The full amount of the trust is an available resource of the client;

(ii) Payments from the trust to or for the benefit of the client are income of the client; and

(iii) Any payments from the trust, other than payments described under subsection (4)(d)(ii), are considered a transfer of client assets.

(e) For an irrevocable trust established as described under subsection (4)(a) of this section:

(i) Any part of the trust from which payment can be made to or for the benefit of the client is an available resource. When payment is made from such irrevocable trusts, we will consider the payments as:

(A) Income to the client when payment is to or for the client's benefit; or

(B) The transfer of an asset when payment is made to any person for any purpose other than the client's benefit;

(ii) A trust from which a payment cannot be made to or for the client's benefit is a transfer of assets. For such a trust, the transfer of assets is effective the date:

(A) The trust is established; or

(B) The client is prevented from receiving benefit, if this is after the trust is established.

(iii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(5) For trusts established on or after July 1, 2003:

(a) The department considers a trust as if it were established by the client when:

(i) The assets of the trust, as defined under WAC 388-470-0005, are at least partially from the client;

(ii) The trust is not established by will; and

(iii) The trust was established by:

(A) The client or the client's spouse;

(B) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(C) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(b) Only the assets contributed other than by will to the trust by either the client or the client's spouse are available to the client or the client's spouse when part of the trust assets were contributed by persons other than the client or the client's spouse.

- (c) The department does not consider:
- (i) The purpose for establishing a trust;
- (ii) Whether the trustees have, or exercise, any discretion under the terms of the trust;
- (iii) Restrictions on when or whether distributions may be made from the trust; or
- (iv) Restrictions on the use of the distributions from the trust.
- (d) For a revocable trust established as described under subsection (5)(a) of this section:
- (i) The full amount of the trust is an available resource of the client;
- (ii) Payments from the trust to or for the benefit of the client are income of the client; and
- (iii) Any payments from the trust, other than payments described under subsection (5)(d)(ii), are considered a transfer of client assets.
- (e) For an irrevocable trust established as described under subsection (5)(a) of this section:
- (i) Any part of the trust from which payment can be made to or for the benefit of the client or the client's spouse is an available resource. When payment is made from such irrevocable trusts, the department will consider the payment as:
- (A) Income to the client or the client's spouse when payment is to or for the benefit of either the client or the client's spouse; or
- (B) The transfer of an asset when payment is made to any person for any purpose other than the benefit of the client or the client's spouse;
- (ii) A trust from which a payment cannot be made to or for the benefit of the client or client's spouse is a transfer of assets. For such a trust, the transfer of assets is effective the date:
- (A) The trust is established; or
- (B) The client or client's spouse is prevented from receiving benefit, if this is after the trust is established.
- (iii) The value of the trust includes any payments made from the trust after the effective date of the transfer.
- (6) Trusts established on or after August 11, 1993 are not considered available resources if they contain the assets of either:
- (a) A person sixty-four years of age or younger who is disabled as defined by SSI criteria (as described in WAC 388-503-0510) and the trust:
- (i) Is established for the sole benefit of this person by their parent, grandparent, legal guardian, or a court; and
- (ii) Stipulates that the state will receive all amounts remaining in the trust upon the death of the client, up to the amount of Medicaid spent on the client's behalf; or
- (b) A person regardless of age, who is disabled as defined by SSI criteria (as described in WAC 388-503-0510), and the trust ((is managed by a nonprofit association which)) meets the following criteria:
- (i) ((Maintains separate accounts for each trust beneficiary; and
- (ii) May pool such separate accounts only for investment and fund management purposes; and
- (iii) Stipulates that either:)) It is irrevocable;

- (ii) It is established and managed by a nonprofit association;
- (iii) A separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds the trust pools the funds in these accounts;
- (iv) Accounts in the trust are established solely for the benefit of the disabled individual as defined by the SSI program;
- (v) Accounts in the trust are established by:
- (A) The individual;
- (B) The individual's spouse, where the spouse is acting in the place of or on behalf of the individual;
- (C) The individual's parent, grandparent, legal guardian;
- (D) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or
- (E) A person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.
- (vi) It stipulates that either:
- (A) The state will receive all amounts remaining in the client's separate account upon the death of the client, up to the amount of Medicaid spent on the client's behalf; or
- (B) The funds will remain in the trust to benefit other disabled beneficiaries of the trust.
- ~~(((6) The department considers payments made from trusts in subsection (5) to be unearned income.))~~
- (7) Trusts established on or after July 1, 2003 are not considered available resources if they contain the assets of either:
- (a) A person sixty-four years of age or younger who is disabled as defined by SSI criteria (as described in WAC 388-503-0510) and the trust:
- (i) Is irrevocable;
- (ii) Is established for the sole benefit of this person by their parent, grandparent, legal guardian, or a court; and
- (iii) Stipulates that the state will receive all amounts remaining in the trust upon the death of the client, the end of the disability, or the termination of the trust, whichever comes first, up to the amount of Medicaid spent on the client's behalf; or
- (b) A person regardless of age, who is disabled as defined by SSI criteria (as described in WAC 388-503-0510), and the trust meets the following criteria:
- (i) It is irrevocable;
- (ii) It is established and managed by a nonprofit association;
- (iii) A separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds the trust pools the funds in these accounts;
- (iv) Accounts in the trust are established solely for the benefit of the disabled individual as defined by the SSI program;
- (v) Accounts in the trust are established by:
- (A) The individual;
- (B) The individual's spouse, where the spouse is acting in the place of or on behalf of the individual;
- (C) The individual's parent, grandparent, legal guardian;

(D) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(E) A person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(vi) It stipulates that either:

(A) The state will receive all amounts remaining in the client's separate account upon the death of the client, the end of the disability, or the termination of the trust, whichever comes first, up to the amount of Medicaid spent on the client's behalf; or

(B) The funds will remain in the trust to benefit other disabled beneficiaries of the trust.

(8) Trusts described in subsection (6)(a) and (7)(a) continue to be considered an unavailable resource even after the individual becomes age sixty-five. However, additional transfers made to the trust after the individual reaches age sixty-five would be considered an available resource and would be subject to a transfer penalty.

(9) The department does not apply a penalty period to transfers into a trust described in subsections (6)(b) and (7)(b) if the trust is established for the benefit of a disabled individual under age sixty-five as described in WAC 388-513-1364 and the transfer is made to the trust before the individual reaches age sixty-five.

(10) The department considers any payment from a trust to the client to be unearned income. The department considers any payment to or for the benefit of either the client or client's spouse as described in subsections (4)(e) and (5)(e) to be unearned income.

(11) The department will only count income received by the client from trusts and not the principal, if:

(a) The beneficiary has no control over the trust; and

(b) It was established with funds of someone other than the client, spouse or legally responsible person.

~~((8))~~ (12) This section does not apply when a client establishes that undue hardship exists.

~~((9))~~ (13) WAC 388-5113-1364, 388-513-1365 ((applies)), and 388-513-1366 apply under this section when the department determines that a trust or a portion of a trust is a transfer of assets.

WSR 03-09-118
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed April 22, 2003, 4:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-03-092.

Title of Rule: Amending WAC 388-550-3700 DRG high-cost and low-cost outliers.

Purpose: The proposed amendment: (1) Clarifies that for inpatient hospital claims paid under the diagnosis-related (DRG) payment methodology, only a Medicaid claim that

qualifies as a DRG high-cost outlier is paid 75% of the allowed charges above the outlier threshold, multiplied by the specific hospital's RCC rate, plus the applicable DRG payment. (2) Adds language to clarify that DRG high-cost and low-cost outlier claims for state-administered programs are paid according to WAC 388-550-4800.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.08.090, 74.09-500.

Summary: Clarifies how the department pays hospitals for Medicaid claims that qualify as DRG high-cost outliers. Also clarifies that the department pays hospitals for DRG high-cost and low-cost outlier claims for state-administered programs according to WAC 388-550-4800.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: John Hanson, P.O. Box 45510, Olympia, WA 98504, (360) 725-1856.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule adds language to clarify that only a Medicaid claim that qualifies as a DRG high-cost outlier is paid 75% of the allowed charges above the outlier threshold, multiplied by the hospital's RCC rate, plus the applicable DRG payment. The proposed rule also adds language to clarify that DRG high-cost outlier and low-cost outlier claims for state-administered programs are paid according to WAC 388-550-4800.

The purpose of the rules is to adopt into permanent rule clarifying language to reflect current department policy and business practices.

The anticipated effects are to identify the payment method for Medicaid claims that qualify as DRG high-cost outlier claims and clarify that DRG high-cost outlier and low-cost claims for state-administered programs are paid according to WAC 388-550-4800.

Proposal Changes the Following Existing Rules: The department has added language to clarify and reflect current department policy.

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

RCW 34.05.328 does not apply to this rule adoption. MAA has determined the proposed rule clarifies existing department policy and is not "significant" as defined in the statute. The proposed rule does not: Adopt substantive provisions of law pursuant to delegated legislative authority, subjecting a violator of such rule to a penalty or sanction; establish, alter, or revoke any qualification or standard for the issuance, suspension, or revocation of a license or permit; or adopt a new, or make significant amendments to, a policy or regulatory program.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

PROPOSED

Assistance for Persons with Disabilities: Contact Andy Fernando by May 20, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by May 27, 2003.

Date of Intended Adoption: Not sooner than May 28, 2003.

April 18, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

WAC 388-550-3700 DRG high-cost and low-cost outliers. This section applies to inpatient hospital claims paid under the diagnosis-related group (DRG) payment methodology. (1) A Medicaid or state-administered claim qualifies as a ~~((diagnosis-related group-))~~DRG(~~(3))~~ high-cost outlier when:

(a) The client's admission date ~~((for))~~ on the claim is before January 1, 2001, the stay did not meet the definition of "administrative day," and the allowed charges exceed:

- (i) A threshold of twenty-eight thousand dollars; and
- (ii) A threshold of three times the applicable DRG payment amount.

(b) The client's admission date ~~((for))~~ on the ~~((case))~~ claim is January 1, 2001, or after, the stay did not meet the

definition of "administrative day," and the allowed charges exceed:

- (i) A threshold of thirty-three thousand dollars; and
- (ii) A threshold of three times the applicable DRG payment amount.

(2) If the claim qualifies as a DRG high-cost outlier, the high-cost outlier threshold, for payment purposes, is the amount in subsection (1)(a)(i) or (ii), whichever is greater, for an admission date before January 1, 2001; or subsection (1)(b)(i) or (ii), whichever is greater, for an admission date January 1, 2001 or after.

(3) The department determines payment for Medicaid claims ~~((qualifying))~~ that qualify as DRG high-cost outliers as follows:

(a) ~~((Payment for))~~ All qualifying claims, except for claims in psychiatric DRGs 424-432 and in-state children's hospitals, are paid seventy-five percent of the allowed charges above the outlier threshold determined in subsection (2) of this section, multiplied by the hospital's RCC rate, plus the applicable DRG payment.

(b) In-state children's hospitals are paid eighty-five percent of the allowed charges above the outlier threshold determined in subsection (2) of this section, multiplied by the hospital's RCC rate, plus the applicable DRG payment.

(c) Psychiatric DRG high-cost outliers for DRGs 424-432 are paid one hundred percent of the allowed charges above the outlier threshold determined in subsection (2) of this section, multiplied by the hospital's RCC rate, plus the applicable DRG payment.

Examples for DRG high-cost outlier claim qualification and payment calculation (admission dates are January 1, 2001, or after).

((DRG)) Allowed Charges	Applicable DRG Payment	Three times App. DRG Payment	((DRG)) Allowed Charges > \$33,000?	((DRG)) Allowed Charges > Three times App. DRG Payment?	DRG High-Cost Outlier Payment	Hospital's Individual RCC Rate
\$17,000	\$5,000	\$15,000	No	Yes	N/A	64%
*\$33,500	5,000	15,000	Yes	Yes	**\$5,240	64%
10,740	35,377	106,131	No	No	N/A	64%

Medicaid Payment calculation example for ((DRG)) allowed charges of:	Nonpsych DRGs/Nonin-state children's hospital (RCC is 64%)
*\$33,500	((DRG)) Allowed charges
- \$33,000	The greater amount of 3 x app. DRG pymt (\$15,000) or \$33,000
\$ 500	
x 48%	75% of allowed charges x hospital RCC rate (nonpsych DRGs/nonin-state children's) (75% x 64% = 48%)
\$ 240	Outlier portion
+ \$ 5,000	Applicable DRG payment
**\$ 5,240	Outlier payment

(4) DRG high-cost outliers for state-administered programs are paid according to WAC 388-550-4800.

(5) A Medicaid or state-administered claim qualifies as a DRG low-cost outlier if:

(a) The client's admission date ~~((for))~~ on the claim is before January 1, 2001, and the ~~((and))~~ allowed charges are:

(i) Less than ten percent of the applicable DRG payment; or

(ii) Less than four hundred dollars.

(b) The client's admission date ~~((for))~~ on the claim is January 1, 2001, or after, and the allowed charges are:

(i) Less than ten percent of the applicable DRG payment; or

(ii) Less than four hundred fifty dollars.

~~((5))~~ (6) If the claim qualifies as a DRG low-cost outlier:

(a) For an admission date before January 1, 2001, the low-cost outlier amount is the amount in subsection ~~((4))~~ (5)(a)(i) or (ii), whichever is greater; or

(b) For an admission date on January 1, 2001, or after, the low-cost outlier amount is the amount in subsection ~~((4))~~ (5)(b)(i) or (ii), whichever is greater.

~~((6))~~ (7) The department ~~((s))~~ determines payment for a Medicaid claim that qualifies as a DRG low-cost outlier ~~((s))~~ by multiplying the allowed charges for ~~((the))~~ each claim ~~((multiplied))~~ by the hospital's RCC rate.

~~((7))~~ The department does not pay administrative days until the case exceeds the DRG high-cost outlier threshold for that claim.)

(8) DRG low-cost outliers for state-administered programs are paid according to WAC 388-550-4800.

(9) The department makes day outlier payments to hospitals in accordance with section 1923 (a)(2)(C) of the Social Security Act, for clients who have exceptionally long stays that do not reach DRG high-cost outlier status. A hospital is eligible for the day outlier payment if it meets all of the following criteria:

(a) The hospital is a disproportionate share hospital (DSH) and the client served is under age six, or the hospital may not be a DSH hospital but the client served is a child under age one;

(b) The payment methodology for the admission is DRG;

(c) The allowed charges for the hospitalization are less than the DRG high-cost outlier threshold as defined in subsection ~~((1))~~ (2) of this section; and

(d) The client's length of stay exceeds the day outlier threshold for the applicable DRG payment amount. The day outlier threshold is defined as the number of days in an average length of stay for a discharge (for an applicable DRG payment), plus twenty days.

~~((9))~~ (10) The department bases the day outlier payment on the number of days that exceed the day outlier threshold, multiplied by the administrative day rate.

~~((10))~~ (11) The department's total payment for day outlier claims is the applicable DRG payment plus the day outlier or administrative days payment.

~~((11))~~ The department pays day outliers only for claims that do not reach a DRG high-cost outlier status.)

(12) A client's outlier claim is either a day outlier or a high-cost outlier, but not both.

Title of Rule: New chapter 388-557 WAC, Disease management program; WAC 388-557-5000 Disease management program—General, 388-557-5050 Disease management program—Definitions, 388-557-5100 Disease management program—Client eligibility and assignment, 388-557-5150 Requirements for becoming an MAA-contracted disease management organization (DMO), 388-557-5200 MAA-contracted disease management organization (DMO)—Confidentiality and data sharing, 388-557-5250 Disease management program—Scope of services, and 388-557-5300 Disease management program services—Billing limits.

Purpose: To incorporate into rule the disease management program.

Statutory Authority for Adoption: RCW 74.08.090, Washington State Omnibus Operating Budget 2001-03 (section 209(6), Part II, chapter 7, Laws of 2001).

Statute Being Implemented: RCW 74.08.090, Washington State Omnibus Operating Budget 2001-03 (section 209(6), Part II, chapter 7, Laws of 2001).

Summary: The new rule establishes the disease management program that was directed as a pilot project by the Washington State Omnibus Operating Budget 2001-03 (section 209(6), Part II, chapter 7, Laws of 2001).

Reasons Supporting Proposal: To incorporate the disease management program pilot project into rule.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 5533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Alison Robbins, P.O. Box 5530, Lacey, WA 98504, (360) 725-1634.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Formerly a pilot project, the new rule incorporates the disease management program into rule. The purpose of the rule is to assist eligible clients who have been diagnosed with targeted diseases to "self-manage" their conditions. MAA clients who have been diagnosed with specific diseases and who meet the eligibility criteria will benefit because the new rule provides for maximum available treatment and improved health outcomes.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and concluded that no new costs will [be] imposed on businesses affected by them.

RCW 34.05.328 applies to this rule adoption. The department has analyzed the proposed rule and determined that it meets the definition of a "significant legislative rule." A determination of the probable costs and benefits is available from the person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando by May 20, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernax@dshs.wa.gov.

WSR 03-09-119
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed April 22, 2003, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-110.

Submit Written Comments to: Identify WAC Number, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by May 27, 2003.

Date of Intended Adoption: Not sooner than May 28, 2003.

April 18, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-557 WAC

DISEASE MANAGEMENT PROGRAM

NEW SECTION

WAC 388-557-5000 Disease management program—General. (1) The medical assistance administration's (MAA's) disease management program provides population case management and coordination activities for clients diagnosed with specific diseases. Disease management organizations (DMOs) contracted by MAA provide and/or coordinate services that optimize treatment, improve health outcomes for clients, and promote cost-effectiveness.

(2) Disease management program services do not:

- (a) Change the scope of services available to a client eligible under a Title XIX Medicaid program;
- (b) Interfere with the relationship between an enrolled client and the client's chosen MAA-enrolled provider(s);
- (c) Duplicate case management activities available to a client in the client's community; or
- (d) Substitute for established activities that are available to a client and provided by programs administered through other department of social and health services (DSHS) divisions or state agencies.

NEW SECTION

WAC 388-557-5050 Disease management program—Definitions. The following terms and definitions apply to the disease management program:

"Disease management organization (DMO)" - See **"MAA-contracted disease management organization (DMO)."**

"Disease management program services" are specialized services provided through medical assistance administration (MAA)-contracted disease management organizations (DMOs) to clients with multiple health, behavioral, and social needs. Disease management program services are aimed at care coordination, client education, and improved client self-care.

"Eligible client" means a medical assistance administration (MAA) client who has the disease management program's specified combination of eligibility and disease factors.

"Enrolled client" means an eligible client who has been notified in writing by the medical assistance administration (MAA) of enrollment in the disease management program

and eligibility to receive disease management program services, and who has not declined to participate.

"Evidence-based healthcare practice" means a clinical approach to practicing medicine based on the clinician's awareness of evidence and the strength of that evidence to support the management of a disease treatment process.

"MAA-contracted disease management organization (DMO)" means a clinically-qualified disease management company that has a valid disease management program contract with the medical assistance administration (MAA).

NEW SECTION

WAC 388-557-5100 Disease management program—Client eligibility and assignment. (1) To receive disease management program services:

(a) A client must:

- (i) Be a recipient of the temporary assistance for needy families (TANF) program or a children's medical program that is not a managed care program and be diagnosed with asthma; or
- (ii) Be a recipient of the supplemental security income (SSI) program or general assistance with expedited medical categorically needy (GAX) program and be diagnosed with at least one of the following medical conditions:

- (A) Asthma;
- (B) Congestive heart failure;
- (C) Diabetes;
- (D) Chronic kidney disease; or
- (E) End stage renal disease.

(b) A client must not be:

- (i) Receiving Medicare benefits;
- (ii) Residing in an institution, as defined in WAC 388-71-0202, for more than thirty days;
- (iii) Eligible for third party coverage that provides disease management program services or requires administrative controls that would duplicate or interfere with MAA's disease management program;

(iv) Enrolled with a managed care organization contracted with MAA; or

(v) Receiving case management services that disease management program services would duplicate.

(2) MAA may add other targeted diseases and client populations to the disease management program based on one or more of the following:

- (a) The availability of a contractor to serve clients in a disease group;
 - (b) Cost-effectiveness;
 - (c) Available funding from the state legislature; and
 - (d) Other applicable criteria as determined by MAA.
- (3) MAA selects and assigns a client to an appropriate disease management organization (DMO).
- (4) A client meeting the eligibility requirements in this section:

- (a) Is automatically enrolled in the disease management program;
- (b) Is notified of the enrollment in writing by MAA;
- (c) May request disenrollment at any time; and
- (d) May request re-enrollment at any time.

(5) If an enrolled client who receives disease management program services subsequently becomes a mandatory enrollee in an MAA managed care program, the client:

(a) Is no longer eligible for disease management services through an MAA-contracted DMO;

(b) Is not eligible for an enrollment exemption from the managed care program because of their existing relationship with a DMO's contracted vendor(s); and

(c) May only be exempt from mandatory enrollment in the managed care program under the provisions of WAC 388-538-080(3).

(6) A client who does not agree with a decision regarding disease management program services has a right to a fair hearing under chapter 388-02 WAC.

NEW SECTION

WAC 388-557-5150 Requirements for becoming an MAA-contracted disease management organization (DMO). To become a medical assistance administration (MAA)-contracted disease management organization (DMO), a vendor must provide documentation to MAA that shows the vendor has all of the following:

(1) An appropriate method for using MAA healthcare data to identify populations with targeted diseases;

(2) An evidence-based healthcare practice guideline for each targeted disease;

(3) Existing collaborative healthcare practice models that include MAA's contracted providers, including physicians and support-service providers;

(4) Patient self-care management methods and education materials appropriate to each population with targeted diseases;

(5) Provisions for clients to access a nurse consultant twenty-four hours a day, seven days a week;

(6) Existing systems for process and outcomes measurement, evaluation, and management of the disease management program;

(7) Verifiable financial resources or backing that guarantee program savings and cost-effectiveness;

(8) Existing processes for routine reporting that support MAA's disease management program goals; and

(9) Successful and demonstrable experience in providing disease management program services to the targeted disease populations.

NEW SECTION

WAC 388-557-5200 MAA-contracted disease management organization (DMO)—Confidentiality and data sharing. (1) A medical assistance administration (MAA)-contracted disease management organization (DMO) must meet the confidentiality and data sharing requirements that apply to clients eligible under Title XIX Medicaid programs and as specified in the disease management program contract.

(2) MAA:

(a) Shares healthcare data with MAA-contracted DMOs under the provisions of RCW 70.02.050 and the Health Insur-

ance Portability and Accountability Act of 1996 (HIPAA); and

(b) May limit provider participation:

(i) To protect the integrity of data collection; or

(ii) For other administrative or program reasons.

NEW SECTION

WAC 388-557-5250 Disease management program—Scope of services. (1) Disease management program services provided by a disease management organization (DMO) must meet:

(a) The conditions of the contract between the medical assistance administration (MAA) and the DMO;

(b) The scope of practice appropriate to the provider of the services; and

(c) Other applicable WAC and federal requirements.

(2) A DMO:

(a) Evaluates each client enrolled in the disease management program;

(b) May prioritize disease management program services provided to an enrolled client based on the client's need or other criteria, as appropriate; and

(c) May contact and coordinate with a department or department-authorized case manager(s) for planned service delivery to an enrolled client.

(3) Disease management program services must provide one or more of the following to each enrolled client:

(a) Assistance in locating an MAA-enrolled provider or source of routine outpatient preventive healthcare. (Refer to chapter 388-529 WAC for the scope of covered medical services available to eligible clients.)

(b) Educational materials.

(c) Instruction regarding self-managing the targeted condition(s).

(d) Assessment of available services, equipment, and supplies that might enhance the client's ability to manage the client's disease process(es).

(e) Coordination with a department or department-authorized case manager(s).

(4) MAA evaluates a request for a disease management program service that is in excess of the program's limitations or restrictions, or is not included in the disease management program's scope of services, according to the provisions of WAC 388-501-0165.

NEW SECTION

WAC 388-557-5300 Disease management program services—Billing limits. Only a medical assistance administration (MAA)-contracted disease management organization (DMO) may bill and be reimbursed for providing disease management program services described in chapter 388-557 WAC. Billing requirements and payment methodology are described in the contract between the DMO and MAA.

WSR 03-09-127
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Center for Health Statistics)
 [Filed April 23, 2003, 9:15 a.m.]

Supplemental Notice to WSR 03-05-024.

Preproposal statement of inquiry was filed as WSR 02-11-106.

Title of Rule: Chapter 246-455 WAC, Hospital patient discharge information reporting.

Purpose: The establishment of the collection and maintenance of patient discharge data, including data necessary for identification of discharges by diagnosis-related groups. The department is filing a supplemental as a result of changes made to the original proposal during the public comment period.

Statutory Authority for Adoption: RCW 43.70.040 and [43.]70.170.

Statute Being Implemented: RCW 43.70.040.

Summary: Rule amendment responds to current and pending Federal UB92/UB02 Center for Medicare and Medicaid Services (CMS) reporting requirements. Amendments also provide some housekeeping items to update reference names and add some clarifying language.

Reasons Supporting Proposal: Recommended changes will correct reference names and improve overall clarity.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Hettick, Department of Health, Center for Health Statistics, (360) 236-4210.

Name of Proponent: Center for Health Statistics, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for the collection and maintenance of inpatient discharge records from Washington hospitals. This information is useful for the general public to help understand health care issues and to become better consumers. Purchasers, payers and providers use this information to make health care choices and to negotiate payments. Public officials use this data to develop state health policy and to analyze health care issues. Researchers use this information for disease surveillance, medical efficiencies, and to monitor hospitalizations and disease outbreaks. This information aids in the delivery of more efficient and cost-effective health care in the state.

Proposal Changes the Following Existing Rules: The proposed amendments to WAC 246-455-001 corrects the RCW reference from RCW 70.17.100 to 43.70.040.

The proposed amendments to WAC 246-455-010 allow for the pending federal change in the uniform billing document from UB-92 to UB-02. Amendments in the section also update the reference from the Washington state to the National Uniform Billing Committee, with a corresponding website address.

The proposed amendments to WAC 246-455-030 reduces the reported number of E-codes from two to one.

The proposed amendments to WAC 246-455-080 correct the reference from the human research to the Washington state institutional review board.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments to chapter 246-455 WAC do not require hospitals to submit any additional information or incur any additional expense. Furthermore, all hospitals in the state have more than fifty employees, and as such do not qualify as a small business under the Regulatory Fairness Act, RCW 19.85.-020(1).

RCW 34.05.328 does not apply to this rule adoption. This is not a significant rule since it imposes no penalty for violation, it does not set qualifications for a license or permit and it does not significantly amend a policy or regulatory program.

Hearing Location: Eastside Plaza, 1102 S.E. Quince Street, Conference Room, 2nd Floor, Olympia, WA 98504, on May 27, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Larry Hettick by May 13, 2003, TDD (800) 833-6388.

Submit Written Comments to: Larry Hettick, 1102 S.E. Quince Street, P.O. Box 47811, Olympia, WA 98504-7811, fax (360) 664-8579, by May 13, 2003.

Date of Intended Adoption: June 10, 2003.

April 21, 2003

Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-001 Purpose. This chapter is adopted by the Washington state department of health pursuant to RCW ((70.170.100)) 43.70.040 relating to the collection and maintenance of patient discharge data, including data necessary for identification of discharges by diagnosis-related groups.

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-010 Definitions. As used in this chapter, unless the context requires otherwise,

- (1) "Department" means department of health.
- (2) "Diagnosis-related groups" is a classification system that groups hospital patients according to principal and secondary diagnosis, presence or absence of a surgical procedure, age, presence or absence of significant comorbidities or complications, and other relevant criteria.
- (3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

(4) Uniform Billing "UB-92/UB-02 data set" means the data element specifications developed by the ((Washington state)) National Uniform Billing Committee ((and set forth in the state of Washington UB-92 Procedure Manual, which is available to the public upon request)) which can be found at www.NUBC.org.

(5) "Patient discharge" means the termination of an inpatient admission or stay, including an admission as a result of a birth, in a Washington hospital.

(6) "HMO" means a health maintenance organization.

(7) "SNF" means a skilled nursing facility.

(8) "HCF" means a health care facility.

(9) (~~"ICF" means an intermediate care facility.~~

~~(10))~~ "HHA" means a home health agency.

~~((11))~~ (10) "IV" means intravenous.

~~((12))~~ (11) "UPIN" means unique physician identification number.

~~((13))~~ (12) "CHARS" means comprehensive hospital abstract reporting system.

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-020 Reporting of UB-92 data set information. (1) Effective with all hospital patient discharges on or after April 1, 1994, hospitals shall collect and report the following UB-92 or UB-02 data set elements to the department:

(a) Patient control number

Patient's unique alpha-numeric number assigned by the hospital to facilitate retrieval of individual patient records. This number should be constructed to allow prompt hospital access to the patient's discharge record for data verification.

(b) Type of bill

This three-digit code requires 1 digit each, in the following sequence form: Type of facility, bill classification, frequency.

Digit #1 must be "1" to indicate a hospital.

Digit #2 must be a "1," a "2" or an "8" to indicate an inpatient.

Digit #3 must be a "1" to indicate admit through discharge claim.

(c) Medicare provider number

This is the number assigned to the provider by Medicare.

(d) Patient identifier

The patient identifier shall be composed of the first two letters of the patient's last name, the first two letters of the patient's first name, or one or two initials if no first name is available, or when the last name is a single letter add three letters of first name, and the patient's birthdate.

(e) ZIP Code

Patient's five or nine digit ZIP Code. In the case of a foreign country, enter the first nine characters of the name.

(f) Birthdate

The patient's date of birth in MMDDYYYY format.

(g) Sex

Patient's sex in M/F format.

(h) Admission date

Admission date in MMDDYY format.

(i) Type of admission

This field is filled with one of the following codes:

- 1 Emergency
- 2 Urgent
- 3 Elective

4 Newborn

(j) Source of admission

This field is completed with one of the following codes:

- 1 Physician referral
- 2 Clinic referral
- 3 HMO referral
- 4 Transfer from another hospital
- 5 Transfer from a SNF
- 6 Transfer from another HCF
- 7 Emergency room
- 8 Court/law enforcement
- 9 Other

When type of admission is a "4 newborn," enter one of the following for source of admission:

- 1 Normal delivery
- 2 Premature delivery
- 3 Sick baby
- 4 Extramural birth
- 5 Multiple birth

(k) Patient status

Patient discharge disposition in one of the following codes:

- 01 Discharged home or self care
- 02 Discharged to another short-term general hospital
- 03 Discharged to SNF
- 04 Discharged to an ICF
- 05 Discharged to another type institution
- 06 Discharged to home under care of HHA
- 07 Left against medical advice
- 08 Discharged/transferred to home under care of home IV provider
- 20 Expired

(l) Statement covers period

This is the beginning and ending dates for which the UB-92 covers.

(m) Revenue code

The Medicare required revenue code (as defined in the *UB-92 Procedure Manual*), which identifies a specific accommodation, ancillary service or billing calculation.

(n) Units of service

The Medicare required units of service (as defined in the *UB-92 Procedure Manual*) which provide a quantitative measure of services rendered by revenue category to or for the patient. Where no units of service are required by Medicare, the units of service may be those used by the hospital.

(o) Total charges by revenue code category

Total charges pertaining to the related revenue code.

(p) Payer identification #1

Enter the three-digit code that identifies the primary payer. The required code options include:

- 001 for Medicare
- 002 for Medicaid
- 004 for health maintenance organizations
- 006 for commercial insurance
- 008 for workers' compensation which includes state fund, self-insured employers, and labor and industries crime victims claims
- 009 for self pay
- 610 for health care service contractors, e.g., Blue Cross, county medical bureaus, Washington Physicians Service
- 625 for other sponsored patients, e.g., CHAMPUS, Indian health
- 630 charity care, as defined in chapter 70.170 RCW

(q) Payer identification #2

Same requirements as in payer identification #1. This field should only be completed when a secondary payer has been identified.

(r) Principal diagnosis code

ICD-9-CM code describing the principal diagnosis (the condition established after study to be chiefly responsible for causing the admission of the patient for care).

(s) Other diagnoses codes

ICD-9-CM codes identifying up to eight additional conditions that coexist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay).

(t) Principal procedure code

The ICD-9-CM code that identifies the principal procedure performed during the patient admission.

(u) Other procedure codes

ICD-9-CM codes identifying up to five significant procedures other than the principal procedure performed during the admission.

(v) Attending physician identification

The UPIN number of the licensed physician who would normally be expected to certify and recertify the medical necessity of the services rendered and/or who has primary responsibility for the patient's medical care and treatment. For physicians who do not have a UPIN number, the state Medicaid number or the state license number should be used.

(w) Other physician identification

The UPIN number of the licensed physician who performed the principal procedure. For physicians who do not have a UPIN number, the state Medicaid number or the state license number should be used. If no principal procedure was performed, this field should be left blank.

(2) The hospital shall report all inpatients discharge data described in WAC 246-455-020. Each patient discharge must carry a separate, unique patient control number on a separate UB-92 record. For example, a mother and her newborn require separate UB-92s, each with a separate, unique patient control number.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-455-030 Reporting of E-Codes. Effective with hospital patient discharges occurring on or after January 1, 1989, hospitals shall collect and report (~~up to two~~) one ICD-9-CM codes identifying the external cause of injury and poisoning (E-Codes), when applicable.

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-040 Acceptable media for submission of data. Hospitals shall submit data in the form prescribed by the department in the *CHARS Procedure Manual*. A copy of the CHARS Procedure Manual may be obtained by contacting the department or on the department's website.

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-080 Confidentiality of data. The department and any of its contractors or agents shall maintain the confidentiality of any information which may in any manner identify individual patients(~~(-)~~) per RCW 70.170.090 and federal Health Insurance Portability and Accountability Act standards.

The following confidential data elements are not public data: Patient control number, patient identifier, patient birth-date, admission date, discharge day, and nine-digit ZIP Code. The following data elements are public data: Patient's age at admission, discharge month and year, length of stay, and a five-digit ZIP Code.

Records containing confidential data elements may be disclosed for research purposes after approval from the (~~human research~~) Washington state institutional review board in accordance with RCW 42.48.020.

AMENDATORY SECTION (Amending WSR 94-12-090, filed 6/1/94, effective 7/2/94)

WAC 246-455-100 Penalties for violation. RCW 70.170.070 describes the penalty for violation of any valid orders, rules, regulations, and reporting requirements. The department may grant extensions of time to file the information(~~(-in which cases)~~). If such an extension is granted, failure to file the information shall not (~~constitute~~) be considered a violation until the extension period has expired.

WSR 03-09-132

PROPOSED RULES

HORSE RACING COMMISSION

[Filed April 23, 2003, 9:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-05-067.

Title of Rule: WAC 260-24-510 Stewards.

Purpose: Transfer the responsibility of setting the stewards period of authority from the commission to the executive secretary.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: The responsibility to assign additional authority to the stewards is being transferred to the executive secretary.

Reasons Supporting Proposal: Improves efficiency in regulating horse racing.

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 anticipates the need to assign additional responsibilities to the stewards to regulate a meet when necessary. The proposed amendment transfers these responsibilities from the commission to the executive secretary.

Proposal Changes the Following Existing Rules: Transfers authority to appoint stewards when necessity requires from the commission to the executive secretary.

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 June 12, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA, (360) 459-6462, fax (360) 459-6461, by June 11, 2003.

Date of Intended Adoption: June 12, 2003.

April 22, 2003
R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 98-01-145, filed 12/19/97, effective 1/19/98)

WAC 260-24-510 Stewards. (1) General authority:

(a) The stewards for each meeting shall be responsible to the commission for the conduct of the race meeting in accordance with these rules;

(b) The stewards shall enforce these rules and the racing laws of this jurisdiction;

(c) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with these rules;

(d) All nominations, entries, declarations and scratches shall be conducted under the supervision of the stewards;

(e) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules;

(f) The stewards shall take notice of any questionable conduct with or without complaint thereof;

(g) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules;

(h) Should any case occur which may not be covered by these rules of racing, it shall be determined by the stewards of the race meeting in conformity with justice and in the best interest of racing; and the stewards of the meeting are hereby given authority to exercise their full power, recommending to the commission the impositions of more severe penalties, if in their judgment the penalty should be more drastic.

(2) The stewards' period of authority shall commence 10 days prior to the beginning, or at such other time as is necessary in the opinion of the ~~((commission))~~ executive secretary, of each meeting and shall terminate with the completion of their business pertaining to the meeting. One of the three stewards shall be designated as the presiding steward by the commission.

(3) Disciplinary action:

(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters;

(b) The stewards shall have authority to charge any licensee with a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules;

(c) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing;

(d) The stewards may at any time inspect license documents, registration papers and other documents related to racing;

(e) The stewards shall have the power to administer oaths and examine witnesses;

(f) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation;

(g) The stewards may impose any of the following penalties on a licensee for a violation of these rules;

(i) Issue a reprimand;

(ii) Assess a fine;

(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;

(iv) Place a licensee on probation;

(v) Suspend a license or racing privileges;

(vi) Revoke a license; or

(vii) Exclude from grounds under the jurisdiction of the commission.

(h) The stewards may suspend a license for not more than one year per violation; or they may impose a fine not to exceed \$2,500 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing. For violations covered by Chapter 260-70 WAC Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690;

(i) A stewards' ruling shall not prevent the commission from imposing a more severe penalty;

(j) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter;

(k) Purses, prizes, awards and trophies shall be redistributed if the stewards or commission order a change in the official order of finish;

(l) All fines imposed by the stewards shall be paid to the commission within 48 hours after the ruling is issued, unless otherwise ordered.

(4) Protests, objections and complaints. The stewards shall cause an investigation to be conducted and shall render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling. The stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(5) Stewards' presence:

(a) On each racing day at least one steward shall be on duty at the track from 3 hours prior to first race post time. The full board of stewards shall sit in regular session to exercise their authority and perform the duties imposed on them by the rules of racing;

(b) Three stewards shall be present in the stewards' stand during the running of each race. In case of emergency, the stewards may, during the meeting, appoint a substitute subject to the confirmation of the commission.

(6) Order of finish for parimutuel wagering:

(a) The stewards shall determine the official order of finish for each race in accordance with these rules of racing;

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the parimutuel wagering pool.

(7) The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a parimutuel pool for a race or races, if such action is necessary to protect the integrity of parimutuel wagering.

(8) Records and reports:

(a) The stewards shall prepare a daily report, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, objections and hearings and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission;

(b) Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the commission a written report regarding the race meeting. The report shall contain:

(i) The stewards' observations and comments regarding the conduct of the race meeting, the overall conditions of the association grounds during the race meeting; and

(ii) Any recommendations for improvement by the association or action by the commission.

(9) Stewards' list:

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that may endanger the health or safety of other participants in racing;

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse;

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing;

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

(10) When the stewards feel that a rule, other than a rule of the race, has been violated by any person, the procedure shall be as follows:

(a) He or she shall be summoned to a hearing before the stewards, called for that purpose;

(b) Adequate notice of said hearing shall be given to the summoned party. The stewards' decision as to what is adequate notice shall be final;

(c) No penalty shall be imposed until such hearing;

(d) Nonappearance of the summoned party after adequate notice shall be construed as a waiver of right to hearing before the stewards;

(e) No special announcement of the hearing or of the alleged infraction of rules shall be made until after said hearing. Immediately after a hearing, provided the matter is settled, the stewards shall transmit their findings in a stewards ruling to the commission and to the party in question. Thereafter, if a penalty is imposed for the infraction of the rules but only in the case of penalty, the commission may make a public statement.

(11) Nothing in this rule shall prohibit the stewards from taking necessary action to prevent or avoid the immediate danger to the public health, safety or welfare or the integrity of racing.

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

WSR 03-09-133

PROPOSED RULES

HORSE RACING COMMISSION

[Filed April 23, 2003, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-05-068.

Title of Rule: WAC 260-48-890 Trifecta pools, 260-48-900 Twin trifecta pools, and 260-48-910 Superfecta pools.

PROPOSED

Purpose: Allowing for more common ties in exotic pools.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Amending exotic pools to allow for more common ties.

Reasons Supporting Proposal: Provide greater betting opportunities 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: The purpose for this rule change is to relax the current criteria for allowing a trifecta/superfecta/twin trifecta on races with more than one common tie.

This is being requested due to the decreasing number of trainers forcing the larger stables to run more than one entry in a race. This would give the public fuller fields on which to wager.

This is being supported with the stipulations that the stewards approve the expansion on a race-to-race basis. This would also be done in consultation with the racing secretary depending on the quality of horses in a particular race.

The rule explains how a trifecta/superfecta/twin trifecta is determined and how the payoffs will be distributed in the case of a dead-heat. In addition it states the criteria for the number of common ties in order to allow these wagers. The change will permit the management in consultation with the stewards to allow trifecta/superfecta/twin trifecta with more than one common tie in a race. This is currently allowed in stakes races and has not been any problem to date. The effect of the change will be more opportunity for these types of wagers in addition to giving owners and trainers more chances to run their horses.

Proposal Changes the Following Existing Rules: Allows for more common ties with approval of the board of stewards for trifecta, twin trifecta, and superfecta pools.

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, on June 12, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA, 98516-5578, fax (360) 459-6461, by June 11, 2003.

Date of Intended Adoption: June 12, 2003.

April 22, 2003
R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 98-01-148, filed 12/19/97, effective 1/19/98)

WAC 260-48-890 Trifecta pools. (1) The trifecta requires selection of the first three finishers, in their exact order, for a single race.

(2) The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool shall be refunded on trifecta wagers for that race.

(3) If less than three betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(7) There shall be only one instance of two horses having common ties in any trifecta race, ~~((stakes races are))~~ except~~((ed))~~ with permission of the stewards.

AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96, effective 6/11/96)

WAC 260-48-900 Twin trifecta pools. (1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. Winning first-half wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

(2) Twin trifecta wagering may be conducted by Class A and B licensees at the discretion of the commission upon written application by an association.

(3) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: The first-half twin trifecta pool and the second-half twin trifecta pool. The percentage allocated to each pool must be approved by the commission.

(4) In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interest; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be cancelled.

(5) If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carry-over pool.

(6) Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

(a) As a single price pool, including any existing carry-over monies, to those whose combination finished in correct sequence as the first three betting interest; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that race shall be added to any existing carry-over monies and retained for the corresponding second-half twin trifecta pool of the next consecutive race card.

(7) Subject to subsection 19(e) of the twin trifecta rules, if a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(8) Coupled entries and mutuel fields shall be prohibited in twin trifecta races.

(9) There shall be only one instance of two horses having common ties through a trainer in any twin trifecta race except with the permission of the stewards.

(10) Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

(11) Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the

scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(12) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of dead heat occurring in:

(a) The first-half of the twin trifecta, the payoff shall be calculated as a profit split

(b) The second-half of the twin trifecta, the payoff shall be calculated as a single price pool.

(13) If either of the twin trifecta races are cancelled prior to the first twin trifecta race, or the first twin trifecta race is declared "no race," the entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be cancelled.

(14) If the second-half twin trifecta race is cancelled or declared "no race," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not the twin trifecta carry-over. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subsections (4) of the twin trifecta rules.

(15) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than 6, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin pool for that race as a single price pool, but not the twin trifecta carry-over.

(16) If it be determined by the stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open (nonstarter) in the second-half of the twin trifecta only, there will be no refund or consolation payoff. The official order of finish as posted shall be used to determine payoffs. This will not affect other pools for this race.

(17) A written request for permission to distribute the twin trifecta carry-over on a specific race card may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of race card for the distribution.

(18) Contrary to subsection (5) of the twin trifecta rules, during a race card designated to distribute the twin trifecta carry-over, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations as described in subsection (4) of the twin trifecta rules.

(19) Should the twin trifecta carry-over be designated for distribution on a specified date, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) As a single price pool to holders of valid exchange tickets.

(e) As a single price pool to holders of outstanding first-half winning tickets.

(20) The twin trifecta carry-over shall be designated for distribution on a specified date and race card only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (17) of the twin trifecta rules.

(b) On the closing race card of the meet or split meet.

(21) If, for any reason, the twin trifecta carry-over must be held over to the corresponding twin trifecta pool of the association's subsequent meet, the carry-over shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carry-over plus accrued interest shall then be added to the second-half twin trifecta pool of the association's following meet.

(22) If racing is cancelled prior to the first-half of the twin trifecta on the closing race card of the meet or split meet, the carry-over will be held over in accordance with subsection (20) of the twin trifecta rules.

(23) If racing is cancelled after the running of the first-half but before the running of the second-half on the closing race card of the meet or split meet, the carry-over pool will be paid as a single price to holders of exchange tickets or outstanding winning tickets from the first-half.

(24) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communications between totalisator and parimutuel department employees for processing of pool data.

(25) The acceptance of a twin trifecta ticket by taking an issued ticket away from the window of the terminal from which it was issued shall constitute an acknowledgment by the bettor that the ticket is correct. Exchange tickets may not be canceled and/or reissued except as provided by these rules. The association, totalisator company, and state may not be liable to any person for a twin trifecta ticket which is not:

(a) A winning ticket in accordance with the provisions of this rule; or

(b) Delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, phone line failure, or other cause.

(26) Twin trifecta tickets shall be sold and exchanged only by the association through parimutuel machines.

(27) The twin trifecta carry-over may be capped at a designated level approved or set by the commission so that if, at the close of any race card, the amount in the twin trifecta carry-over equals or exceeds the designated cap, the twin trifecta carry-over will be frozen until it is won or distributed

under other provisions of this rule. After the twin trifecta carry-over is frozen, 100 percent of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

AMENDATORY SECTION (Amending WSR 99-06-026, filed 2/23/99, effective 3/26/99)

WAC 260-48-910 Superfecta pools. (1) The superfecta requires selection of the first four finishers, in their exact order, for a single race.

(2) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(d) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(e) The entire pool shall be refunded on superfecta wagers for that race.

(3) If less than four betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5) If there is a dead heat for second involving:

(a) Horses representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(b) Horses representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(8) There shall be only one instance of two horses having common ties through a trainer in any superfecta race, ((stakes races are)) except((ed)) with permission of the stewards.

WSR 03-09-134
PROPOSED RULES
HORSE RACING COMMISSION

[Filed April 23, 2003, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-22-025.

Title of Rule: WAC 260-72-010 Communication systems, commission approval required—Closure during racing.

Purpose: To update rules and eliminate language that is no longer applicable to obsolete.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Repeal WAC 260-72-010.

Reasons Supporting Proposal: Removes obsolete language.

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: Repeal WAC 260-72-010.

Proposal Changes the Following Existing Rules: Repeals language adopted in 1961.

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 June 12, 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 June 11, 2003.

Date of Intended Adoption: June 12, 2003.

April 22, 2003
 R. M. Leichner
 Executive Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 260-72-010

Communication systems, commission approval required—Closure during racing.

WSR 03-09-135
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 23, 2003, 9:32 a.m.]

Original Notice.

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

Title of Rule: Tariffs, and pilotage rates for the Grays Harbor pilotage district.

Purpose: To establish a Grays Harbor pilotage district annual tariff.

Other Identifying Information: WAC 363-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

Summary: The proposed rule reflects a tariff increase in the pension charge category only.

Reasons Supporting Proposal: A new tariff must be set annually. Current rates for the Grays Harbor pilotage district expire on July 31, 2003.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2911 2nd Avenue, Suite 100, Seattle, WA 98121, (206) 515-3904.

Name of Proponent: Port of Grays Harbor, public.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: All requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed would set a new annual tariff that would provide an increase in the pension charge category.

The revenue would support retirement plans for Washington state-licensed pilots.

Proposal Changes the Following Existing Rules: The proposed rule changes the existing rule in the pension charge category by increasing the amount charged per pilotage assignment from \$140.00 to \$172.00.

All other tariff charges remain the same.

The board may adopt a rule that varies from the proposed rule upon consideration of oral and written comments from any interested party or member of the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is

PROPOSED

being considered in the context of the required annual setting of rates charged for pilotage services.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Washington State Board of Pilotage Commissioners concludes that implementation of this new rule does not impose a more than minor cost on businesses in the shipping industry and, therefore, a small business economic impact statement is not required according to RCW 19.85.030 (1)(a).

RCW 34.05.328 does not apply to this rule adoption. The Washington State Board of Pilotage Commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

Hearing Location: 2911 2nd Avenue, Level B Conference Room, Seattle, WA 98121, on June 12, 2003, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by June 9, 2003, (206) 515-3904.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2911 2nd Avenue, Suite 100, Seattle, WA 98121, fax (206) 515-3969, by June 5, 2003.

Date of Intended Adoption: June 12, 2003.

April 22, 2003
Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 02-13-076, filed 6/17/02, effective 6/17/02)

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours August 1, 2003, through 2400 hours July 31, (~~2003~~) 2004.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$80.99 per meter (or \$24.64 per foot) and the tonnage charge shall be \$0.2583 per net registered ton. The minimum net registered tonnage charge is \$903.79. The charge for an extra vessel (in case of tow) is \$516.48.

Boarding fee:

Per each boarding/deboarding from a boat or helicopter \$389.67

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage \$647.88
Delays per hour \$154.49
Cancellation charge (pilot only) \$258.22
Cancellation charge (boat or helicopter only) \$774.69

Pension charge:

Charge per pilotage assignment, including cancellations \$((140.00))
172.00

Travel allowance:

Transportation fee per assignment \$55.00

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$903.82 for each day or fraction thereof, and the travel expense incurred \$903.82

Bridge transit:

Charge for each bridge transited \$283.61
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam. \$785.22

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

WSR 03-09-143
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER
[Filed April 23, 2003, 10:45 a.m.]

Supplemental Notice to WSR 03-03-132.
Preproposal statement of inquiry was filed as WSR 02-15-173.

Title of Rule: WAC 284-30-390 Automobile claims, repairs, and total loss settlements.

Purpose: Automobile total loss settlement is the single largest source of consumer inquiries and complaints received by the property and casualty section of the consumer advocacy division. The commissioner has reviewed WAC 284-30-390 and this proposed regulation clarifies, simplifies, and makes this chapter more effective.

Other Identifying Information: Insurance Commissioner Matter No. R 2002-06.

Statutory Authority for Adoption: RCW 48.02.060, 48.30.010.

Statute Being Implemented: RCW 48.02.060, 48.30-010.

Summary: WAC 284-30-390 is amended, clarified and presented in more consumer-friendly language. The subject is the single largest source of consumer complaints received by the property and casualty section of the consumer advocacy division.

Reasons Supporting Proposal: Automobile total loss settlement is the single largest source of consumer inquiries and complaints received by the property and casualty section of the consumer advocacy division. Considerable time is spent by the Office of the Insurance Commissioner (OIC) and industry in administering the regulation. A clearer, more understandable regulation will be better understood by consumers and easier to implement.

Name of Agency Personnel Responsible for Drafting: Jon Hedegard, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7039; Implementation and Enforcement: Scott Jarvis, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7262.

Name of Proponent: Mike Kreidler, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Automobile total loss settlement is the single largest source of consumer inquiries and complaints received by the property and casualty section of the consumer advocacy division. The current WAC 284-30-390 is entitled "Standards for prompt, fair and equitable settlements applicable to automobile insurance" and addresses claims handling processes, valuation, repair, and total losses. Considerable agency staff time is spent working with consumer complaints through the existing regulation. Even more time is spent by the insurers themselves responding to the complaints whether received by the OIC or directly from their insureds. One goal of this rule making is to make these processes more understandable to consumers. Consumers should have a greater awareness of their rights and clearer expectations of what may occur in the claims process. Another goal is to create more certainty in the standards for compliance for the industry representatives who administer the claims process. Another goal is a reduction in the time and cost spent by the OIC and insurer staff in responding to consumer complaints due to the increased clarity and specific changes to the rules.

A previous CR-102 was filed in this rule-making process on January 22, 2003, and a previous public hearing held on February 26, 2003. The commissioner received many comments and suggestions. The commissioner decided that all parties would be best served by the ability to comment on a revised draft that incorporated many of the suggestions proposed by interested parties.

Proposal Changes the Following Existing Rules: WAC 284-30-390 would be amended and new WAC 284-30-3901 through 284-30-3916 would be created.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

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 03-10 issue of the Register.

A copy of the statement may be obtained by writing to Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacys@oic.wa.gov, fax (360) 586-3109.

RCW 34.05.328 applies to this rule adoption. This proposal is a significant legislative rule for the purposes of RCW 34.05.328.

Hearing Location: Insurance Commissioner's Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, on June 10, 2003, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Lori Villaflores by June 6, 2003, TDD (360) 664-3154 or (360) 407-0198.

Submit Written Comments to: Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, by June 6, 2003.

Date of Intended Adoption: June 11, 2003.

April 23, 2003

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 87-5, filed 4/21/87)

WAC 284-30-390 (~~Standards for prompt, fair and equitable settlements applicable to automobile insurance~~) Regulation of settlements of insurance claims relating to vehicles. (~~The following standards apply to insurance claims relating to motorcycles and private passenger automobiles as defined in RCW 48.18.297:~~

~~(1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:~~

~~(a) The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.~~

~~(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fee incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by~~

~~(i) The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area. Any settlement offer which relies upon prices of automobiles advertised for sale in local newspapers may include only prices for automobiles verified by the insurer as being comparable in age and condition to the insured automobile; or~~

~~(ii) One of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area. An insurer must accurately describe the age and condition of the insured automobile to the dealers surveyed and may use only price quotations for the retail selling price of a comparable automobile.~~

(c) ~~When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (1)(a) and (1)(b) of this section, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.~~

(2) ~~Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.~~

(3) ~~Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop, or to obtain a temporary rental or loaner automobile.~~

(4) ~~Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. An insurer shall keep first party claimants apprised of its efforts relative to subrogation claims.~~

(5) ~~If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be itemized and shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and shall, upon request, furnish to the claimant the names of repair shops convenient to the claimant that will satisfactorily complete the repairs for the estimated cost, having in mind, particularly, the problems associated with the repair of unibody vehicles.~~

(6) ~~In first party claim situations, if an insurer elects to exercise a contract right to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.~~

(7) ~~In any claim situation, an insurer shall make a good faith effort to honor a claimant's request for repairs to be made in a specific repair shop of the claimant's choice, and shall not arbitrarily deny such request. A denial of such a request solely because of the repair shop's hourly rate is arbitrary if such rate does not result in a higher overall cost of repairs. The insurer shall make an appropriate notation in its claim file setting forth the reason it has rejected a claimant's request.~~

(8) ~~Deductions for betterment and depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation shall be limited to the lesser of an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, or the amount which the resale~~

~~value of the vehicle is increased by the repair or replacement. Calculations for betterment, depreciation, and normal useful life must be included in the insurer's claim file.)) WAC 284-30-390 through 284-30-3915 are the standards for prompt, fair, and equitable settlements for insurance claims relating to vehicles.~~

NEW SECTION

WAC 284-30-3901 Definitions for settlement of vehicle claims. In addition to the definitions in WAC 284-30-320, the following definitions apply to WAC 284-30-3901 through 284-30-3915.

(1) "Actual cash value" means the cost to you to replace your vehicle with a comparable vehicle.

(2) "Comparable vehicle" means a vehicle that has been verified by the insurer to be the same make and model, same or newer year, similar body style, similar options and mileage as your vehicle and in as good or better overall condition as established by current data. To achieve comparability, any deductions or additions for options, mileage or condition can only be made as determined and measured within the principally garaged area.

(3) "Current data" means data no older than ninety days from the date of loss.

(4) "Principally garaged" means the zip code where the vehicle is normally kept.

(5) "Settlement" means when the payment is actually made to you and/or your lien holder.

NEW SECTION

WAC 284-30-3902 When my vehicle is repairable, what can I expect from the insurer? (1) The insurer must provide you a copy of the itemized estimate it is using as the basis for payment.

(2) Upon your request, the insurer must provide you names of repair shops within your principally garaged area that will satisfactorily complete the repairs for the estimated cost.

(3) The insurer cannot require you to travel unreasonably to:

- (a) Inspect a replacement vehicle;
- (b) Obtain a repair estimate;
- (c) Have the vehicle repaired at a specific repair shop; or
- (d) Obtain a temporary rental or loaner vehicle.

(4) Deductions for betterment and depreciation may be taken only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation are limited to the increase in the actual cash value of the vehicle caused by the replacement of the part, or the amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, whichever is less.

(5) Your insurer may elect to exercise its right, under the terms of your insurance contract, to repair your vehicle and designate a specific repair shop for your vehicle repairs. In this case, the insurer shall restore your vehicle to its condition prior to the loss at no additional cost to you other than as stated in your policy.

NEW SECTION

WAC 284-30-3903 Can I get my vehicle repaired at a shop of my choice? (1) The insurer must make a good faith effort to honor your request for repairs to be made in a specific repair shop and cannot arbitrarily deny your request.

(2) A denial of your request solely because of the repair shop's hourly rate is arbitrary if the rate does not result in a higher overall cost of repairs.

(3) If the overall cost of repairs cannot be agreed upon, the insurer will:

(a) Provide you with the name of a reputable repair shop that can satisfactorily complete the repairs for the amount of their estimate; and

(b) Make an appropriate notation in its claim file setting forth the reason it has rejected your request.

(4) If you choose to take your vehicle to a repair facility in which the overall cost for a satisfactory repair is higher than the insurer's estimate, you may be liable for any additional amount above their estimate.

NEW SECTION

WAC 284-30-3904 Will my insurer pursue collection of my deductible? (1) Yes, if the company is pursuing collection of its interest, you may request they pursue collection of your deductible for you.

(2) The insurer will inform you of its efforts relative to collection of your deductible.

NEW SECTION

WAC 284-30-3905 If my insurer collects my deductible back, will I recover the full amount of my deductible?

(1) At a minimum, recovery will be shared on a proportionate basis with your insurer.

(2) No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery, and then only for the pro rata share of the allocated loss adjustment expense.

NEW SECTION

WAC 284-30-3906 If another party is responsible for my vehicle damage, can that party's insurer refuse to settle my vehicle damage and force me to use my own collision coverage? When liability and damages are reasonably clear, another party's insurer cannot recommend that you make a claim under your own collision coverage solely to avoid paying the claim.

NEW SECTION

WAC 284-30-3907 How can an insurer settle my vehicle total loss claim? An insurer can adjust and settle vehicle total losses by one of the following methods:

(1) Replacing your vehicle: An insurer can settle your claim by offering to replace your vehicle with a comparable vehicle that is available for inspection within a reasonable distance from where your vehicle is principally garaged. An

insurer must advise you by phone or in writing of their settlement offer. This communication must be documented in the claim file. If it is a phone call, the documentation must include the date, time, and name of the person in your household they spoke with.

(2) Cash settlement: An insurer can settle your claim by offering a cash settlement based on the actual cash value to purchase a comparable vehicle. Only vehicles identified as comparable may be used to arrive at the actual cash value. You can request a copy of the "valuation report" that notes the information used to determine the amount of the cash settlement. The offer of a cash settlement must use one of the following methods:

(a) The actual cash value of a comparable vehicle based on current data obtained from the principally garaged area. If a comparable vehicle cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of twenty-five mile increments until a comparable vehicle is identified.

(b) Quotations for the actual cash value of a comparable vehicle obtained from two or more licensed dealers located within the principally garaged area. If two or more licensed dealers cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of twenty-five mile increments until two or more quotes for comparable vehicles are obtained.

(c) The actual cash value of two or more comparable vehicles advertised for sale in the local media if the advertisements are no older than ninety days. The vehicle must be located within the principally garaged area. If two or more comparable vehicles cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of twenty-five mile increments until two or more comparable vehicles are identified.

(d) Any source for determining statistically valid actual cash values within your vehicle's principally garaged area that meets all of the following criteria:

(i) The source must give primary consideration to the values of vehicles in the zip code where your vehicle was principally garaged.

(ii) The source's data base must produce values for at least eighty-five percent of all makes and models for a minimum of fifteen years taking into account the values of all major options for such vehicles.

(iii) The source must produce actual cash values based on current data available from the principally garaged area. If comparable vehicles cannot be found within the principally garaged area, the search area may be expanded until comparable vehicles are identified to assure statistical validity.

(iv) The source must rely upon the actual cash value of comparable vehicles that are currently available or were available in the market place within ninety days from the date of loss.

(v) Any adjustments for betterment or depreciation must be in compliance with WAC 284-30-3908.

(vi) The source must provide a list of the comparable vehicles (minimum thirty) used to determine the actual cash value.

(e) When you and your insurer both agree, an evaluation that varies from the methods described in (a) through (d) of

this subsection may be used. The determination of value must be supported by documentation. The insurer must take reasonable steps to validate that the value so determined is accurate and representative of what the actual cash value would be of a comparable vehicle in the principally garaged area.

(f) Insurers remain responsible for the accuracy of evaluations based on outside sources used to establish actual cash values.

(3) Appraisal: If you and your insurer fail to agree on the actual cash value of your vehicle and your policy has an appraisal provision, you or your insurer may request that the appraisal provision of your policy be used as a method to resolve disputes concerning the actual cash value.

(4) Applicable taxes, license fees, and other fees incidental to transfer of evidence of ownership must be added to the actual cash value.

NEW SECTION

WAC 284-30-3908 Are there factors that may reduce my settlement? Your settlement may be reduced by one of the following methods:

(1) Deductions are allowable for prior damage. The amount of deduction can be no greater than the decrease in actual cash value due to prior damage.

(2) When you retain your total loss vehicle, your insurer may deduct the salvage value from the actual cash value, including all applicable taxes and fees. The insurer must provide you with the name and address of a salvage dealer or dismantler who will purchase the salvage for the amount deducted with no additional charge. This option must be available for at least thirty days after receipt of the settlement. This option will not be available if, after settlement, the condition of the salvage has been changed.

(3) Any additions or deductions from the actual cash value must be measurable, discernible, itemized and specified as to dollar amounts.

NEW SECTION

WAC 284-30-3909 If my vehicle is determined to be a total loss, can I keep it? (1) If your claim is being handled by another person's liability insurer, you may negotiate to keep your vehicle.

(2) If your claim is being handled under your insurance policy, it will depend on the terms and conditions in your policy.

NEW SECTION

WAC 284-30-3910 Can the insurer move my vehicle prior to settlement of the claim? Yes, the insurer may move your vehicle with your consent. An insurer may seek to move your vehicle to eliminate additional storage costs. If you do not consent to move your vehicle, you may be held liable for those additional storage costs.

NEW SECTION

WAC 284-30-3911 What information must be included in the insurer's valuation report? The valuation report must include:

(1) All information collected during the initial inspection that sets forth the condition, equipment, and mileage of the vehicle;

(2) All information that the insurer used to arrive at the actual cash value of the vehicle;

(3) A list of the comparable vehicles used by the insurer to arrive at the actual cash value. This list must include:

(a) The source of the information used;

(b) The date of the information;

(c) The seller's telephone number;

(d) The asking price;

(e) The sold price, if the sold price is available and verified;

(f) The location of each vehicle at the time of the valuation.

(g) When an insurer uses a source for determining statistically valid actual cash values meeting the requirements of WAC 284-30-3907 (2)(d), the list required under this section must include a minimum of thirty comparable vehicles and give primary consideration to vehicles in the zip code where your vehicle was principally garaged.

Any supplemental or ancillary information must be clearly identified with a separate heading. Any weighing of identified vehicles to arrive at an average must be documented and explained.

NEW SECTION

WAC 284-30-3912 What if I, as an insured, accept the settlement based on the insurer's valuation and cannot find a comparable vehicle within a reasonable distance of my vehicle's principally garaged area? (1) When you accept the settlement, your insurer must provide you with written notice regarding reopening of your claim file.

(2) If you notify your insurer within thirty-five days of receipt of the settlement that you cannot purchase a comparable vehicle for the settlement amount and you located, but did not purchase a comparable vehicle in excess of the settlement amount, the insurer must reopen your claim file and either:

(a) Locate a comparable vehicle that is currently available for the settlement amount;

(b) Pay you the difference between the settlement amount before applicable deductions and the cost of the comparable vehicle or purchase the comparable vehicle for you; or

(c) If not previously utilized, conclude the loss settlement in the manner provided in the appraisal section of your insurance policy in force at the time of the loss.

(3) Your insurer is not required to reopen your claim file if:

(a) At the time of settlement, you were provided written notification of the availability and location of a specific and comparable vehicle that could have been purchased for the settlement amount; and

(b) You did not purchase the vehicle within thirty-five days of the receipt of the settlement.

NEW SECTION

WAC 284-30-3913 What must the insurer do prior to the denial of storage and towing costs? The insurer must:

(1) Advise you by phone or in writing before they stop payment for storage of your vehicle. This communication must be documented in the claim file. If it is a phone call, the documentation must include the date, time, name of the person in your household they spoke with, and specifics of the conversation;

(2) Provide reasonable time, in no event greater than five business days, for you to remove your vehicle from storage before stopping payment; and

(3) Pay any and all reasonable towing charges unless otherwise provided in your policy. You may use any towing company unless the insurer provides you with the name of a specific towing company before your vehicle is towed.

NEW SECTION

WAC 284-30-3914 When I am dealing with someone else's insurer, what are my rights regarding a rental vehicle? In vehicle property damage liability claims in which liability is reasonably clear, the insurer will negotiate the reasonable and necessary costs in direct proportion to the extent of its liability for the rental of another vehicle and may not require you to rent a vehicle to actually cover these costs.

NEW SECTION

WAC 284-30-3915 What if the other person's insurer offers a flat rental amount per day, week, or month? When the insurer offers a flat rental amount per day, week, or month, they must disclose to you where you can obtain a vehicle for the amount of its payment.

NEW SECTION

WAC 284-30-3916 In a total loss situation, what happens if I have a loan or lease on my vehicle and the outstanding balance exceeds the actual cash value of my vehicle? Unless you have purchased auto loan/lease gap coverage, you will be responsible for the difference between the actual cash value of your vehicle and the outstanding balance owing to the lessor or finance company if your vehicle is a total loss. For example, if your vehicle's actual cash value is \$15,000 but you owe \$20,000 to the lessor or finance company, you will be responsible for the extra \$5,000. The insurer is not required to pay the difference unless you have purchased specific coverage for it, subject to your policy's terms and conditions.

**WSR 03-09-145
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD**

[Filed April 23, 2003, 11:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-06-081.

Title of Rule: Student residency rules.

Purpose: To establish regulations for the administration of student residency status in higher education.

Statutory Authority for Adoption: RCW 28B.15.015.

Statute Being Implemented: RCW 28B.15.013.

Summary: To clarify and strengthen rules regarding the determination of student residency status, including:

- General level of proof required.
- Supporting documentation.
- Proof of financial dependence and independence.
- Establishment of domicile.

Reasons Supporting Proposal: To establish uniform rules concerning residency status for tuition purposes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nina Oman, 917 Lakewood Way, Olympia, WA 98504, (360) 753-7855.

Name of Proponent: Higher Education Coordinating Board, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal changes existing student residency rules. Key changes include:

- Reinforcing that establishment of a domicile be for other than educational purposes.
- Emphasizing unchanging classification as a nonresident in the absence of evidence of a sufficient quantity and quality to satisfy the institution to the contrary.
- Changing wording regarding proof of financial dependence or independence from "substantiate a reasonable presumption" to "consider a claim."
- Changing evidence required for consideration of a claim of financial independence by:
 - Adding "evidence of coverage for medical, life, automobile and property insurance."
 - Requiring that a student "demonstrate by evidence satisfactory to the institution that he or she has met, through his or her income, the expenses associated with college tuition and living for the current calendar year and the calendar year immediately prior to the year in which application is made. Personal loans, PLUS loans, gifts, and cash earnings shall not be counted as income in this calculation. Financial aid grants, scholarships, and loans authorized by the financial aid office in the student's name may be considered as personal income."
 - Making "a trust or other account available to the student evidence of financial dependence.

PROPOSED

If the account was created before the student entered high school, there shall be a rebuttable presumption of dependence."

- Changing evidence required for consideration of a claim of financial dependence to be the same as that required for financial independence.
- Adding certain types of documentation and clarification as to "duration and location" of evidence required to prove establishment of domicile.
- Changing wording in certain sections where proof is required; proposing:
 - That proof of student classification be "of sufficient quantity and quality to satisfy the institution."
 - That proof of domicile be determined according to the individual's "overall" situation with factors considered "for both the individual and his or her spouse," with "weight assigned to any given factor depending on the ease with which it might be established and the degree to which it demonstrates commitment to domicile as a matter of common sense and as part of the individual's overall circumstances."
 - That proof of financial independence be "satisfactory to the institution."
- Making amendments to this chapter apply prospectively to the academic quarter which commences subsequent to the adoption of the amendments.

Proposal Changes the Following Existing Rules: This proposal clarifies and strengthens existing rules for determining residency status for tuition purposes; requiring sufficient proof and additional documentation for residency, and changing requirements for financial dependence and financial independence.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect educational institutions and students, not businesses.

RCW 34.05.328 does not apply to this rule adoption. The Higher Education Coordinating Board is not one of the listed agencies subject to this statute.

Hearing Location: Schmitz Hall, Room 228, University of Washington, Seattle, Washington, on May 27, 2003, at 1-4 p.m.; and at the Lighty Student Services Building, Room 405, Washington State University, Pullman, Washington, on May 30, 2003, at 1-4 p.m.

Assistance for Persons with Disabilities: Contact University of Washington, Disability Services Office, ten days in advance, TTY (206) 543-6452, or (206) 543-6450; or contact Susan Shaeffer, Washington State University, Disability Resource Center, TTY (509) 335-3417, or (509) 335-1566.

Submit Written Comments to: Nina Oman, Associate Director, Higher Education Coordinating Board, P.O. Box 43430, Olympia, WA 98504-3430, e-mail ninao@hecb.wa.gov, fax (360) 704-6255, by May 30, 2003.

Date of Intended Adoption: June 12, 2003.

April 22, 2003

Nina J. Oman

Associate Director, Policy

AMENDATORY SECTION (Amending Order 10-82, Resolution No. 83-1, filed 9/8/82)

WAC 250-18-015 Definitions. (1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "domicile" shall denote a person's true, fixed, and permanent home and place of habitation for other than educational purposes. It is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish a new domicile elsewhere.

(3) The term "reside" shall mean the maintenance and occupancy of a primary residence in the state of Washington.

(4) The term "financially independent" shall be determined according to WAC 250-18-035.

(5) The term "dependent" shall mean a person who is not financially independent.

(6) The term "resident" for tuition and fee purposes shall be determined according to WAC 250-18-020.

(7) The term "nonresident" for tuition and fee purposes shall be determined according to WAC 250-18-020.

(8) The term "recovery of fees" shall apply to the amounts due to the institution or the student as a result of improper classification.

(9) The term "civil service" shall mean Washington state or federal government nonmilitary employment.

AMENDATORY SECTION (Amending WSR 98-08-004, filed 3/18/98, effective 4/18/98)

WAC 250-18-020 Student classification. (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she ~~((shall))~~ must prove by evidence of a sufficient quantity and quality to satisfy the institution that he or she:

(a)(i) ~~((Have))~~ Has established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) ~~((Be))~~ Is financially independent; or

(b) ~~((Be))~~ Is a dependent student, ~~((with))~~ one or both of whose parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution~~((or~~

~~((e)))~~ provided that any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who ~~((enrolls))~~ has enrolled in a public institution of higher education within six months of leaving high school, shall be considered a resident only for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

~~((d-Be))~~ (c) Is the spouse or dependent of an active duty military person stationed in the state of Washington;

~~((e)-Be)~~ (d) Is a student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition program agreement under RCW 28B.15.725; or

~~((f)-Be)~~ (e) Is a student domiciled for one year in one or a combination of the following states: Idaho, Montana, Oregon, or Washington; and ~~((be))~~ is a member of one of the following American Indian tribes:

- (i) Colville Confederated Tribes;
- (ii) Confederated Tribes of the Chehalis Reservation;
- (iii) Hoh Indian Tribe;
- (iv) Jamestown S'Klallam Tribe;
- (v) Kalispel Tribe of Indians;
- (vi) Lower Elwha Klallam Tribe;
- (vii) Lummi Nation;
- (viii) Makah Indian Tribe;
- (ix) Muckleshoot Indian Tribe;
- (x) Nisqually Indian Tribe;
- (xi) Nooksack Indian Tribe;
- (xii) Port Gamble S'Klallam Community;
- (xiii) Puyallup Tribe of Indians;
- (xiv) Quileute Tribe;
- (xv) Quinault Indian Nation;
- (xvi) Confederated Tribes of Salish Kootenai;
- (xvii) Sauk Suiattle Indian Nation;
- (xviii) Shoalwater Bay Indian Tribe;
- (xix) Skokomish Indian Tribe;
- (xx) Snoqualmie Tribe;
- (xxi) Spokane Tribe of Indians;
- (xxii) Squaxin Island Tribe;
- (xxiii) Stillaguamish Tribe;
- (xxiv) Suquamish Tribe of the Port Madison Reservation;
- (xxv) Swinomish Indian Community;
- (xxvi) Tulalip Tribes;
- (xxvii) Upper Skagit Indian Tribe;
- (xxviii) Yakama Indian Nation;
- (xxix) Coeur d'Alene Tribe;
- (xxx) Confederated Tribes of Umatilla Indian Reservation;
- (xxxi) Confederated Tribes of Warm Springs;
- (xxxii) Kootenai Tribe; and
- (xxxiii) Nez Perce Tribe.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection (1) of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester

for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit~~((f))~~ or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other noneducational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "refugee - parolee," or "conditional entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035.

(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore~~((r))~~ been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to continued classification as a resident student so long as such student is continuously enrolled during the academic year.

AMENDATORY SECTION (Amending Order 2-83, Resolution No. 83-65, filed 6/17/83)

WAC 250-18-025 Classification procedure. (1) After a student has registered at any institution as a nonresident, such student's classification shall remain unchanged in the absence of ~~((satisfactory))~~ evidence of a sufficient quantity and quality to satisfy the institution to the contrary. The provision of such evidence to the contrary may be initiated by the student or the institution.

(2) Application for a change in classification shall be accepted up to the thirtieth calendar day following the first day of the instruction of the quarter or semester for which application is made. Applications made after that date in any quarter or semester shall be considered to have been filed as of the first day of the subsequent quarter or semester.

(3) Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution.

(4) Approval of an application for resident status shall be made only after satisfaction that the requirements of domicile and independency or dependency have been made in compliance with RCW 28B.15.012 and WAC 250-18-030 and 250-18-035. Reclassification from nonresident to resident status preliminarily approved sixty days or more prior to the satisfaction of a one-year durational domicile shall be supplemented with additional documented proof of domicile if deemed necessary by the institution prior to final approval.

PROPOSED

(5) The burden of proof that a student, parent, or legally appointed guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) For any student classified as a resident or authorized to pay resident fees or exempted from the payment of the nonresident differential on a basis other than an established domicile in the state of Washington, the fee paying status of such student shall be subject to determination each term on the basis of chapter 28B.15 RCW.

AMENDATORY SECTION (Amending Order 2-83, Resolution No. 83-65, filed 6/17/83)

WAC 250-18-030 Establishment of a domicile. The domicile of any person shall be determined according to the individual's overall situation and circumstances (~~((rather than by marital status or sex. The establishment of a domicile))~~) and is not determined on the basis of a single factor; nor is a predetermined number of factors required. Institutions shall require evidence of a Washington domicile that (~~((would reasonably))~~) is of sufficient quantity and quality to negate the existence of a domicile in a state other than Washington.

A nonresident student who is enrolled for more than six hours per semester or quarter shall be presumed to be in the state of Washington for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that he or she has, in fact, established a bona fide domicile in this state primarily for purposes other than educational.

To aid the institutions in determining whether a student, parent, legally appointed guardian, or the person having legal custody of a student has established a bona fide domicile in the state of Washington primarily for purposes other than educational, the following factors are to be considered(~~(:~~

~~(1) Registration or payment of taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required, for the one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(2) Valid Washington driver's license for the one year immediately prior to the commencement of the quarter or semester for which application is made;~~

~~(3) Permanent full time employment in the state of Washington during the one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(4) Address and other pertinent facts listed on a true and correct copy of federal and state income tax returns for the calendar year prior to the year in which application is made;~~

~~(5) Location of voter registration for the one year period immediately prior to commencement of the semester or quarter for which application is made;~~

~~(6) Purchase of primary residence, lease agreement, or monthly rental receipts for one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(7) Residence status of the student in schools attended outside the state of Washington;~~

~~(8) Location of checking account, savings account, and/or safety deposit box for one year immediately prior to commencement of the semester or quarter for which application is made.~~

~~Additional factors may be considered at the request of a student as supporting documentation of a one year durational domicile. Such factors may include, but are not limited to:~~

~~(1) Address of student listed on selective service registration;~~

~~(2) Location of membership in professional, business, civic or other organizations;) for both the individual and his or her spouse. The weight assigned to any given factor should depend on the ease with which it might be established and the degree to which it demonstrates commitment to domicile as a matter of common sense and as part of the individual's overall circumstances.~~

~~(1) Location and duration of registration or payment of taxes or fees on any motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person;~~

~~(2) State and duration of any driver's license for the previous one year;~~

~~(3) Location and duration of any continuous full-time employment for the previous one year;~~

~~(4) Address and other pertinent facts listed on a true and correct copy of federal and state income tax returns for the calendar year prior to the year in which application is made;~~

~~(5) Location and duration of any voter registration for the previous one year;~~

~~(6) Location and duration of primary residence, evidenced by title, lease agreement, or monthly rental receipts for the previous one year;~~

~~(7) Residence status in all secondary and post-secondary schools attended outside the state of Washington;~~

~~(8) Location and duration of any checking accounts, savings accounts, and/or safety deposit boxes for the previous one year.~~

~~(9) Address listed on selective service registration;~~

~~(10) Location of membership in professional, business, civic or other organizations;~~

~~(11) Receipt of benefits under a public assistance program;~~

~~(12) State claimed as residence for obtaining eligibility to hold a public office or for judicial actions;~~

~~(13) State claimed as residence for obtaining state hunting or fishing licenses;~~

~~(14) State in which a custodial parent has a child attending public schools.~~

AMENDATORY SECTION (Amending Order 10-82, Resolution No. 83-1, filed 9/8/82)

WAC 250-18-035 Evidence of financial dependence or independence. A person is financially independent if he or she has not been and will not be claimed as an exemption and has not received and will not receive significant financial assistance in (~~((cash or in kind of an amount equal to or greater than that which would qualify him or her to be claimed as an~~

~~exemption for federal income tax purposes by any person except his or her spouse~~) any form directly or indirectly from his or her parents, relatives, or legal guardians for the current calendar year and for the calendar year immediately prior to the year in which application is made.

(1) To ~~((substantiate))~~ consider a ~~((reasonable presumption))~~ claim that a person is financially independent, the institution may require such documentation as deemed necessary, including but not limited to the following:

(a) That individual's sworn statement.

(b) A true and correct copy of the state and federal income tax return of the person for the calendar year immediately prior to the year in which application is made.

Should a person not have filed a state or federal income tax return because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income may be submitted.

(c) A true and correct copy of the person's W-2 forms filed for the previous calendar year.

(d) Other documented financial resources~~((Such other resources))~~, which may include but are not ~~((be))~~ limited to~~((;))~~ the sale of personal or real property, inheritance, trust funds, state or financial assistance, gifts, loans, or statement of earnings of the spouse of a married student.

(e) A true and correct copy of the first and signature page of the state and federal tax returns of the parents, legally appointed guardians, or person or persons having legal custody of the student for the calendar year immediately prior to the year in which application is made.

The extent of the disclosure required concerning the parent's or legal guardian's state and federal tax returns shall be limited to the listing of dependents claimed and the signature of the taxpayer and shall not require disclosure of financial information contained in the returns.

(f) A student whose parents are both deceased or who has been made an official ward of the court may be required to provide documentation attesting to the fact of such circumstances.

(g) Evidence of coverage for medical, life, automobile, and property insurance.

(2) To aid institutions in determining the financial independence of a student whose parents, legally appointed guardian, or person having legal custody of the student do not provide the documentation because of total separation or other reasons from the student, documentation clearly stating the student's status and relationship with his or her parents or legal guardian from a responsible third person, e.g., family physician, lawyer, or social worker may be submitted.

(3) To be considered financially independent, a student must demonstrate by evidence satisfactory to the institution that he or she has met, through his or her income, the expenses associated with college tuition and living for the current calendar year and the calendar year immediately prior to the year in which application is made. Personal loans, PLUS loans (parent loan for undergraduate students), gifts, and cash earnings shall not be counted as income in this calculation. Financial aid grants, scholarships and loans authorized by the financial aid office in the student's name may be considered as personal income.

(4) A trust or other account available to the student shall be considered evidence of financial dependence. If the account was created before the student entered high school, there shall be a rebuttable presumption of dependence.

(5) Information submitted by the student to the institution on the Washington financial aid form may be used to affirm the authenticity of information submitted on an application.

~~((4))~~ (6) In all cases, the burden of proof that a student is financially independent lies with the student.

NEW SECTION

WAC 250-18-070 Prospective application of amendments. Amendments to this chapter apply prospectively to the academic quarter, which commences subsequent to the adoption of the amendments.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 250-18-040

Evidence of financial dependency.

WSR 03-09-146

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 23, 2003, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-123.

Title of Rule: Amending WAC 458-20-209 Farming for hire and horticultural services ~~((performed for))~~ provided to farmers and 458-20-210 Sales of tangible personal property for farming—Sales of agricultural products by farmers; and repealing WAC 458-20-122 Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use.

Purpose: To provide information about the tax-reporting responsibilities of farmers, persons doing business with farmers, persons providing horticultural services to farmers, and persons engaging in farming for hire.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 34.05.230.

Statute Being Implemented: Provisions of chapters 82.04 RCW (B&O tax), 82.08 RCW (sales tax), 82.12 RCW (use tax), and 82.19 RCW (litter tax), as they relate to farmers and persons doing business with farmers.

Summary: These rules provide tax-reporting information for farmers, persons doing business with farmers, persons providing horticultural services to farmers, and persons engaging in farming for hire.

Reasons Supporting Proposal: These rules are being revised to incorporate recent legislative changes, to incorporate information contained in several excise tax advisories,

and to consolidate information now provided in WAC 458-20-122 and 458-20-210 into a single rule (WAC 458-20-210).

Name of Agency Personnel Responsible for Drafting: Mark Mullin, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6112; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., #400, Olympia, WA, (360) 570-6125; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 458-20-122 (Rule 122), 458-20-209 (Rule 209), and 458-20-210 (Rule 210) provide tax-reporting information for farmers, persons doing business with farmers, persons providing horticultural services to farmers, and persons engaging in farming for hire. Rule 122 explains the application of business and occupation (B&O) tax, retail sales, and use taxes to the sale and/or use of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use. Rule 209 explains the application of B&O, retail sales, and use taxes to persons engaging in the business of farming for hire and persons who provide horticultural services to farmers. Rule 210 explains the B&O and retail sales tax applications to sales of agricultural products by farmers.

The Department of Revenue (department) is proposing to incorporate the information provided in Rule 122 into Rule 210 and, as a result, Rule 122 would be repealed. Consolidating these two rules will provide the information to the public and department staff in a more efficient and user-friendly manner. The department is also proposing to incorporate information contained in several excise tax advisories into Rule 210. As a result, those advisories would be cancelled. Lastly, the department is proposing to incorporate a number of recent legislative changes affecting farmers and persons making sales to farmers into Rules 209 and 210. These changes include those provided in:

- Chapter 118, Laws of 2001, modifying the definitions of "farmer" and "agricultural product" and extending the wholesaling B&O tax exemption provided by RCW 82.04.330 to farmers who grow, raise, or produce agricultural products owned by others (such as custom feed operations);
- Chapter 17, Laws of 2001 2nd sp.s., providing retail sales and use tax exemptions for certain animal pharmaceuticals;
- Chapter 25, Laws of 2001 2nd sp.s., providing a special B&O tax rate for persons engaging in the business of manufacturing dairy products and to persons who sell manufactured dairy products to purchasers who transport the goods out-of-state in the ordinary course of business, and providing sales and use tax exemptions for chicken bedding materials and propane or natural gas used exclusively to heat structures used exclusively to house chickens; and
- Chapter 18, Laws of 2001 2nd sp.s., providing a sales and use tax exemption for dairy nutrient man-

agement equipment and facilities used exclusively to maintain a dairy management plan.

Proposal Changes the Following Existing Rules: This proposal amends WAC 458-20-209 and 458-20-210 and repeals WAC 458-20-122 as explained above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose any performance requirement or duty upon any business that results in additional business costs that is not already imposed by statute.

RCW 34.05.328 does not apply to this rule adoption. These rules are interpretive rules as defined in RCW 34.05-328.

Hearing Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on Tuesday, May 27, 2003, at 9:30 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.

Submit Written Comments to: Mark Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail MarkM@dor.wa.gov, by May 27, 2003.

Date of Intended Adoption: June 7, 2003.

April 23, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-07-050, filed 3/10/94, effective 4/10/94)

WAC 458-20-209 Farming for hire and horticultural services (~~performed for~~) provided to farmers. (1) **Introduction.** (~~This section provides tax reporting information for persons performing horticultural services for farmers. Persons providing horticultural services to persons other than farmers should refer to WAC 458-20-226. Farmers and persons making sales to farmers may also want to refer to the following sections of chapter 458-20-WAC:~~

~~(a) WAC 458-20-122 (Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use);~~

~~(b) WAC 458-20-210 (Sales of agricultural products by farmers); and~~

~~(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements).~~

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

~~(a) "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. The term does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughter or packing~~

house. "Farmer" does not include any person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(b) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to a product of horticulture, grain cultivation, vermiculture, or viticulture. "Agricultural product" includes plantation Christmas trees, animals, birds, insects, or the substances obtained from such animals. RCW 82.04.213. On and after July 1, 1993, "agricultural product" includes products of "aquaculture" and animals that are "cultured aquatic products," as those terms are defined by RCW 15.85.020. Also effective July 1, 1993, "turf" was added to the definition of "agricultural product," and "animals intended to be pets" were specifically excluded. (See chapter 25, Laws of 1993 sp.s.)

(c) "Horticultural services" include services related to the cultivation of vegetables, fruits, grains, field crops, ornamental floriculture, and nursery products. The term "horticultural services" includes, but is not limited to, the following:

- (i) Soil preparation services such as plowing or weed control before planting;
- (ii) Crop cultivation services such as planting, thinning, pruning, or spraying; and
- (iii) Crop harvesting services such as threshing grain, mowing and baling hay, or picking fruit.

(3) Business and occupation tax. Persons performing horticultural services for farmers are generally subject to the service and other business activities B&O tax upon the gross proceeds. However, if the person providing horticultural services also sells tangible personal property for a separate and distinct charge, the charge made for the tangible personal property will be subject to either the wholesaling or retailing B&O tax, depending on the nature of the sale. Persons making sales of tangible personal property to farmers should refer to WAC 458-20-122 to determine whether the wholesaling or retailing tax applies, and under what circumstances retail sales tax must be collected.

(a) A farmer who occasionally assists another farmer in planting or harvesting a crop is generally not considered to be engaged in the business of performing horticultural services. These activities are generally considered to be casual and incidental to the farming activity. For example, a farmer owning baling equipment which is used primarily for baling hay produced by the farmer, but who may occasionally accommodate neighboring farmers by baling small quantities of hay produced by them, is not considered to be in business with respect thereto.

(b) The extent to which horticultural services are performed for others is determinative of whether or not they are considered taxable business activities. Persons who advertise or hold themselves out to the public as being available to perform farming for hire will be considered as being engaged in business. For example, a person who regularly engages in baling hay or threshing grain for others is engaged in business and taxable upon the gross proceeds derived therefrom, irrespective of the amount of such business or that this person also does some farming of his or her own land.

(c) In cases where doubt exists in determining whether or not a person is engaged in the business of performing horti-

cultural services, all pertinent information should be submitted to the department of revenue for a specific ruling.

(4) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(a) Purchases of machinery, machinery parts and repair, tools, and cleaning materials by persons performing horticultural services are subject to retail sales tax.

(b) Persons taxable under the service and other business activities B&O tax classification are defined as consumers of anything they use in performing their services. (Refer to RCW 82.04.190.) As such, these persons are required to pay retail sales or use tax upon the purchase of all items used in performing the service, such as fertilizers, spray materials, and baling wire, which are not sold separate and apart from the service they perform.

(5) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) John Doe is a wheat farmer owning threshing equipment which is generally used only for threshing his own wheat. Occasionally a neighbor's threshing equipment may break down and John will use his own equipment to assist the neighbor in completing the neighbor's wheat harvest. While John receives payment for providing the threshing assistance, this activity is considered to be a casual and isolated sale. John does not hold himself out as being in the business of performing farming (threshing) for hire. John Doe is not considered to be engaging in taxable business activities. The amounts John Doe receives for assisting in the harvest of his neighbors' wheat is not subject to tax.

(b) X Spraying applies fertilizer to orchards owned by Farmer A. The sales invoice provided to Farmer A by X Spraying reflects a "lump sum" amount with no segregation of charges for the fertilizer and the application. When reporting its tax liability, X Spraying would report the total charge under the service B&O tax classification. X Spraying must also remit retail sales or use tax upon the purchase of the fertilizer. The entire amount charged by X Spraying is for horticultural services, and X Spraying is considered the consumer of the fertilizer.

(c) Z Flying aerial sprays pesticides on crops owned by Farmer B. The sales invoice Z Flying provides to Farmer B segregates the charge for the pesticides and the charge for the application. When reporting its tax liability, Z Flying would report the charge for the application under the service B&O tax classification. The charge for the sale of the spray materials is subject to the wholesaling B&O tax, provided Z Flying obtains a resale certificate from Farmer B. (See WAC 458-20-122.) Z Flying's purchase of the pesticides is a purchase for resale and not subject to the retail sales tax.) This rule explains the application of business and occupation (B&O), retail sales, and use taxes to persons engaging in the business of farming for hire and persons who provide horticultural services to farmers. Persons providing horticultural services to persons other than farmers should refer to WAC 458-20-226 for tax reporting information. Farmers and persons making sales to farmers may also want to refer to the following rules:

(a) WAC 458-20-210 (Sales of tangible personal property for farming—Sales of agricultural products by farmers);

(b) WAC 458-20-222 (Veterinarians);

(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements, and related services); and

(d) WAC 458-20-262 (Retail sales and use tax exemptions for agricultural employee housing).

(2) Who is a farmer? A "farmer" is any person engaged in the business of growing, raising, or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product to be sold. A "farmer" does not include a person growing, raising, or producing agricultural products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughterhouse, or packing house; or a person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213 and chapter 118, Laws of 2001.

(3) What is an agricultural product? An "agricultural product" is any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035 (as of July 22, 2001); turf; or any animal, including, but not limited to, an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, a bird, an insect, or the substances obtained from such animals. An "agricultural product" does not include animals defined as pet animals under RCW 16.70.020. RCW 82.04.213 and chapter 118, Laws of 2001.

(4) What are horticultural services provided to farmers? "Horticultural services provided to farmers" are activities related to the cultivation of plants, including vegetables, fruits, grains, field crops, ornamental floriculture, and nursery products. These activities include, but are not limited to: Soil preparation of land currently being used to raise plant crops, such as plowing, weed control, or stump removal before planting; cultivation activities such as planting, thinning, weeding, pruning, or spraying; and harvesting activities such as threshing grain or legumes, mowing and baling hay, or picking fruit.

For example, XYZ Bulldozing Co. (XYZ) is hired to remove trees and stumps from a farmer's existing orchards in preparation for replanting. XYZ is providing a horticultural service to a farmer. However, if XYZ is hired to remove trees from a farmer's existing orchards in preparation for a housing development, XYZ is not providing a horticultural service to a farmer but is performing a land clearing activity subject to both retailing B&O and retail sales taxes. (Refer to WAC 458-20-172 for tax-reporting information regarding the clearing of land.)

(5) Tax treatment of income received from farming for hire and/or performing horticultural services for farmers. Persons engaging in the business of farming for hire or providing horticultural services to farmers are generally subject to the service and other activities B&O tax upon the gross income of the business. If a person engaging in farming for hire or providing horticultural services to farmers

also sells tangible personal property for a separate charge, the charge made for the tangible personal property is subject to either the wholesaling or retailing B&O tax depending on the nature of the sale. (See subsection (6) of this rule.) Persons selling tangible personal property to farmers should refer to WAC 458-20-210 to determine whether the wholesaling or retailing B&O tax applies, and under what circumstances retail sales tax must be collected.

(a) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) X-Spraying is hired by farmers to apply fertilizer to their crops. The sales invoices provided to the farmers by X-Spraying reflects a lump sum amount with no segregation of charges for the fertilizer and the application. When reporting its tax liability, X-Spraying should report the total charge under the service and other activities B&O tax classification. In addition, X-Spraying is subject to retail sales or use tax on the purchase or use of the fertilizer. (See subsection (6)(a) of this rule for more information about the taxability of purchases at retail by persons in the business of farming for hire or providing horticultural services to farmers.)

(ii) ABC Aviation Co. (ABC) is hired by farmers to spray pesticides on their crops. ABC segregates the charge for the pesticides and the charge for the application on its sales invoices. When reporting its tax liability, ABC should report the charge for the pesticide application under the service and other activities B&O tax classification. The charge for the sale of the spray materials is subject to the wholesaling B&O tax, provided ABC obtains a resale certificate from the farmers. (Refer to WAC 458-20-102 for information about resale certificates.) The purchases of pesticides by ABC are for resale and not subject to retail sales tax. (See subsection (6)(b) of this rule for more information about purchases for resale by persons in the business of farming for hire or providing horticultural services to farmers.)

(b) What are the tax consequences for farmers who assist other farmers on an occasional basis? A farmer may occasionally assist another farmer in planting or harvesting a crop. In such cases, the farmer is not considered to be engaging in the business of farming for hire. However, persons who advertise or otherwise hold themselves out to the public as being available to perform farming for hire are considered to be engaging in the business of farming for hire, irrespective of the amount of business conducted or whether the person does some farming on his or her own land.

(i) Example. The following example identifies a number of facts and then states a conclusion. This example should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

JD is a wheat farmer who owns a combine that he generally uses only for harvesting his own wheat crops. JD does not hold himself out as being in the business of farming for hire. Occasionally a neighbor's combine will break down, and JD uses his combine to assist the neighbor in completing the neighbor's wheat harvest. While JD does receive pay-

ment for providing occasional assistance to his neighbors, this income is not subject to B&O tax. JD is not considered to be engaging in the business of farming for hire.

(ii) What should I do if I cannot determine whether I am engaging in the business of farming for hire? In cases where doubt exists in determining whether or not a person is engaged in the business of farming for hire, all relevant information should be submitted in writing to the department for a specific ruling. Inquiries, with all pertinent facts, should be addressed to:

Taxpayer Information and Education

Department of Revenue

P.O. Box 47478

Olympia, WA 98504-7478

In addition, inquiries may be faxed to the department at 360-486-2159.

(6) Taxability of property used in the business of farming for hire or providing horticultural services to farmers. Persons taxable under the service and other activities B&O tax classification are consumers of anything they use in performing their services. RCW 82.04.190. If the seller does not collect retail sales tax on a retail sale, the buyer is required to pay the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department, unless specifically exempt by law. The "Combined Excise Tax Return" does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's Combined Excise Tax Return. If a deferred sales tax or use tax liability is incurred by a farmer who is not required to obtain a tax registration endorsement from the department (see WAC 458-20-101), the farmer must report the tax on a "Consumer Use Tax Return" and remit the appropriate tax to the department. The tax return and payment are due on or before the twenty-fifth day of the month following the end of the month in which the tax accrued. Refer to WAC 458-20-178 for detailed information regarding use tax.

The Consumer Use Tax Return can be obtained by calling the department's telephone information center at 1-800-647-7706. The return may also be obtained from the department's website at: <http://dor.wa.gov>.

(a) Purchases at retail. Purchases of machinery, machinery parts and repair, tools, and cleaning materials by persons in the business of farming for hire or providing horticultural services to farmers are subject to retail sales tax unless specifically exempt. In addition, purchases by such persons of supplies like fertilizers, spray materials, and baler twine or wire are subject to sales tax if not resold separate and apart from the services performed.

(b) Purchases for resale. If a person engaging in the business of farming for hire or providing horticultural services to farmers also sells tangible personal property for a separate and distinct charge, the purchase of such tangible personal property by that person is a purchase for resale, provided the buyer gives the seller a properly completed resale certificate and the property is not put to any intervening use. (Refer to WAC 458-20-102 for information about resale certificates.)

AMENDATORY SECTION (Amending WSR 94-07-048, filed 3/10/94, effective 4/10/94)

WAC 458-20-210 Sales of tangible personal property for farming—Sales of agricultural products by farmers.

(1) Introduction. ((This section explains the B&O and retail sales tax applications to sales of agricultural products by farmers. Farmers should refer to WAC 458-20-101 to determine whether they must obtain a tax registration endorsement or a temporary registration certificate with the department of revenue. Farmers and persons making sales to farmers may also want to refer to the following sections of chapter 458-20 WAC:

(a) ~~WAC 458-20-122 (Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use);~~

(b) ~~WAC 458-20-209 (Farming for hire and horticultural services performed for farmers); or~~

(c) ~~WAC 458-20-239 (Sales to nonresidents of farm machinery or implements).~~

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

(a) "Farmer" means any person engaged in the business of growing or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product whatsoever for sale. "Farmer" does not include a person using such products as ingredients in a manufacturing process, or a person growing or producing such products for the person's own consumption. The term does not include a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughter or packing house. "Farmer" does not include any person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213.

(b) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to a product of horticulture, grain cultivation, vermiculture, or viticulture. "Agricultural product" includes plantation Christmas trees, animals, birds, insects, or the substances obtained from such animals. RCW 82.04.213. On and after July 1, 1993, "agricultural products" includes products of "aquaculture" and animals that are "cultured aquatic products," as those terms are defined by RCW 15.85.020. Also effective July 1, 1993, "turf" was added to the definition of "agricultural product," and "animals intended to be pets" were specifically excluded. (See chapter 25, Laws of 1993 sp.s.)

(3) Business and occupation tax. Farmers selling agricultural products which they have not produced upon their own land or upon land which they have a present right of possession are subject to the provisions of the business and occupation tax, whether these products are sold at wholesale or retail. The business and occupation (B&O) tax applies to all sales of nonagricultural products. The B&O tax also applies to sales by persons operating a stockyard, slaughter or packing house who sell animal products raised by them.

(a) Wholesale sales. Farmers making wholesale sales of agricultural products produced by them upon land owned by them, or upon which they have a present right of possession, are not subject to the B&O tax. (See RCW 82.04.330.) How-

ever, this exemption does not apply to farmers who produce agricultural products for use in a manufacturing process, or who sell products at wholesale which they do not grow.

(b) Retail sales. Retail sales of agricultural products by farmers producing the same are subject to the retailing B&O tax. Thus, tax is due by any farmer engaging in the following activities:

(i) Conducting a roadside stand or a stand displaying agricultural products for sale at retail;

(ii) Posting signs on the premises, or through other forms of advertising soliciting sales at retail;

(iii) Operating a regular delivery route from which agricultural products are sold at retail from door to door; or

(iv) Maintaining an established place of business for the purpose of making retail sales of agricultural products.

(e) Specific B&O tax exemptions. There are specific B&O tax exemptions provided by statute for certain sales of agricultural products which do not otherwise qualify for exemption under RCW 82.04.330. The B&O tax does not apply to the following:

(i) Amounts received for the sale of hatching eggs or poultry by farmers producing the same, when these products are for use in the production for sale of poultry or poultry products. RCW 82.04.410.

(ii) Amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, even though the hops have been processed into extract, pellets, or powder in this state. RCW 82.04.337. However, the processor or warehouse of such products is not exempt on amounts charged for processing or warehousing such products.

(4) Retail sales tax. Farmers required to obtain a tax registration endorsement must collect and remit retail sales tax upon any retail sale for which a specific retail sales tax exemption is not provided. Retail sales tax exemptions are available for the following sales of agricultural products:

(a) Sales of food products for human consumption. This exemption also applies to sales of livestock sold for personal consumption as food. RCW 82.08.0293.

(b) Sales of pollen. RCW 82.08.0277.

(c) Sales of semen for use in the artificial insemination of livestock. RCW 82.08.0272.

(d) Sales of poultry for use in the production for sale of poultry or poultry products. RCW 82.08.0267.

(e) Sales of beef and/or dairy cattle for use by a farmer in producing an agricultural product. RCW 82.08.0259.

(f) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breeding association. RCW 82.08.0259. Sellers claiming such an exemption should refer to WAC 458-20-122 for a description of the exemption certificate which must be retained by the seller.

(5) Deferred sales or use tax. If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the deferred sales or use tax directly to the department.

(6) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) BG Orchards produces apples at its own orchards. Most apples are sold at wholesale, but BG does operate a seasonal roadside fruit stand at which it sells apples at retail. The gross proceeds derived from the wholesale sale of apples is exempt from the business and occupation tax. However, the retailing B&O tax applies to the retail sales of apples, notwithstanding these sales qualify for the food product sales tax exemption.

(b) AC, Inc. owns and operates a hatchery which produces poultry from eggs. The resulting poultry is then sold to egg producers. AC, Inc. is making retail sales of poultry. However, the gross proceeds received from these sales are exempt from both the retailing B&O and retail sales taxes under the provisions of RCW 82.04.410 and 82.08.0267, respectively.) This rule explains the application of business and occupation (B&O), retail sales, and use taxes to the sale and/or use of feed, seed, fertilizer, spray materials, and other tangible personal property for farming. This rule also explains the application of B&O, retail sales, and litter taxes to the sale of agricultural products by farmers. Farmers should refer to WAC 458-20-101 to determine whether they must obtain a tax registration endorsement or a temporary registration certificate from the department of revenue (department).

Farmers and persons making sales to farmers may also want to refer to the following rules for additional information:

(a) WAC 458-20-209 (Farming for hire and horticultural services provided to farmers);

(b) WAC 458-20-222 (Veterinarians);

(c) WAC 458-20-239 (Sales to nonresidents of farm machinery or implements, and related services); and

(d) WAC 458-20-262 (Retail sales and use tax exemptions for agricultural employee housing).

(2) Who is a farmer? A "farmer" is any person engaged in the business of growing, raising, or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product to be sold. A "farmer" does not include a person growing, raising, or producing agricultural products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard, slaughterhouse, or packing house; or a person in respect to the business of taking, cultivating, or raising timber. RCW 82.04.213 and chapter 118, Laws of 2001.

(3) What is an agricultural product? An "agricultural product" is any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035 (as of July 22, 2001); turf; or any animal, including, but not limited to, an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, a bird, an insect, or the substances obtained from such animals. An "agricultural product" does not include animals defined under RCW 16.70.020 as "pet animals." RCW 82.04.213 and chapter 118, Laws of 2001.

(4) Sales to farmers. Persons making sales of tangible personal property to farmers are generally subject to wholesaling or retailing B&O tax, as the case may be, on the gross proceeds of sales. Sales of some services performed for farmers, such as installing or repairing tangible personal property, are retail sales and subject to retailing B&O tax on the gross proceeds of such sales. Persons making retail sales must collect retail sales tax from the buyer, unless the sale is specifically exempt by law. Readers should refer to subsection (6) of this rule for information about specific sales tax exemptions available for sales to farmers.

(a) Documenting wholesale sales. A seller must obtain a resale certificate from the buyer to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 for detailed information about resale certificates.)

(b) Buyer's responsibility when the seller does not collect retail sales tax on a retail sale. If the seller does not collect retail sales tax on a retail sale, the buyer must pay the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department, unless the sale is specifically exempt by law. The "Combined Excise Tax Return" does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's Combined Excise Tax Return. If a deferred sales tax or use tax liability is incurred by a farmer who is not required to obtain a tax registration endorsement from the department (see WAC 458-20-101), the farmer must report the tax on a "Consumer Use Tax Return" and remit the appropriate tax to the department. The tax return and payment are due on or before the twenty-fifth day of the month following the end of the month in which the tax accrued. Refer to WAC 458-20-178 for detailed information regarding use tax.

The Consumer Use Tax Return can be obtained by calling the department's telephone information center at 1-800-647-7706. The return may also be obtained from the department's website at: <http://dor.wa.gov>.

(c) Feed, seed, seedlings, fertilizer, spray materials, and agents for enhanced pollination. Sales to farmers of feed, seed, seedlings, fertilizer, spray materials, and agents for enhanced pollination, including insects such as bees, to be used for the purpose of producing an agricultural product, whether for wholesale or retail sale, are wholesale sales.

However, when these items are sold to consumers for purposes other than producing agricultural products for sale, the sales are retail sales. For example, sales of feed to riding clubs, racetrack operators, boarders, or similar persons who do not resell the feed at a specific charge are retail sales. Sales of feed for feeding pets or work animals, or for raising animals for the purpose of producing agricultural products for personal consumption are also retail sales. Sales of seed, fertilizer, and spray materials for use on lawns and gardens, or for any other personal use, are likewise retail sales.

(i) What is feed? "Feed" is any substance used as food to sustain or improve animals, birds, fish, or insects, including whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, fish meal, cod liver oil, double purpose limestone grit, oyster shell, and other

similar substances. Food additives that are given for their beneficial growth or weight effects are "feed."

Hormones or similar products that do not make a direct nutritional or energy contribution to the body are not "feed," nor are products used as medicines.

(ii) What is seed? "Seed" is the propagative portions of plants commonly used for seeding or planting whether true seed, bulbs, plants, seed-like fruits, seedlings, or tubers.

(iii) What is fertilizer? "Fertilizer" is any substance containing one or more recognized plant nutrients and is used for its plant nutrient content and/or is designated for use in promoting plant growth. "Fertilizer" includes limes, gypsum, and manipulated animal and vegetable manures. There is no requirement that fertilizers be applied directly to the soil.

(iv) What are spray materials? "Spray materials" are any substance or mixture of substances in liquid, powder, granular, dry flowable, or gaseous form, which is intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life normally considered to be a pest. The term includes treated materials, such as grains, that are intended to destroy, control, or repel such pests. "Spray materials" also include substances that act as plant regulators, defoliants, desiccants, or spray adjuvants.

(v) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(A) Sue grows vegetables for retail sale at a local market. Sue purchases fertilizers and spray materials that she applies to the vegetable plants. She also purchases feed for poultry that she raises to produce eggs for her personal consumption. Because the vegetables are an agricultural product produced for sale, retail sales tax does not apply to Sue's purchases of fertilizers and spray materials, provided she gives the seller a resale certificate. Retail sales tax does apply to her purchases of poultry feed, as the poultry are raised to produce eggs for Sue's personal consumption.

(B) WG Vineyards (WG) grows grapes that it uses to manufacture wine for sale. WG purchases pesticides and fertilizers that are applied to its vineyards. WG may purchase these pesticides and fertilizers at wholesale, provided WG gives the seller a resale certificate.

(C) Seed Co. contracts with farmers to raise seed. Seed Co. provides the seed and agrees to purchase the crop if it meets specified standards. The contracts provide that ownership of the crop is retained by Seed Co., and the risk of crop loss is borne by the farmers. The farmers are obligated to pay for the seed whether or not the crop meets the specified standard. The transfer of the possession of the seed to the farmers is a wholesale sale, provided Seed Co. obtains a resale certificate from the farmers.

(d) Chemical sprays or washes. Sales of chemical sprays or washes, whether sold to farmers or other persons, for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay are wholesale sales.

(e) Farming equipment. Sales to farmers of farming equipment such as machinery, machinery parts and repair,

tools, and cleaning materials are retail sales and subject to retailing B&O and retail sales taxes, unless specifically exempt by law. Refer to subsections (4)(i) and (6) of this rule for information about sales tax exemptions available to farmers.

(f) Packing materials and containers. Sales of packing materials and containers, or tangible personal property that will become part of a container, to a farmer who will sell the property to be contained therein are wholesale sales, provided the packing materials and containers are not put to intervening use by the farmer. Thus, sales to farmers of binder twine for binding bales of hay that will be sold or wrappers for fruit and vegetables to be sold are subject to wholesaling B&O tax. However, sales of packing materials and containers to a farmer who will use the items as a consumer are retail sales and subject to retailing B&O and retail sales taxes. Thus, sales of binder twine to a farmer for binding bales of hay that will be used to feed the farmer's livestock are retail sales.

(g) Purchases for dual purposes. A buyer normally engaged in both consuming and reselling certain types of tangible personal property and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold must purchase according to the general nature of his or her business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a resale certificate for any part of the purchase. If the buyer principally resells the articles, the buyer may issue a resale certificate for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

If a buyer makes a purchase for dual purposes and does not give a resale certificate for any of the purchase and thereafter resells some of the articles purchased, the buyer may claim a "taxable amount for tax paid at source" deduction. Refer to WAC 458-20-102 for additional information regarding purchases for dual purposes and the "taxable amount for tax paid at source" deduction.

(i) Potential deferred sales tax liability. If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, the buyer is liable for deferred sales tax and must remit the tax directly to the department. Refer to subsection (4)(b) of this rule and WAC 458-20-102 for more information regarding deferred sales tax.

(ii) Example. A farmer purchases binder twine for binding bales of hay. Some of the hay will be sold and some will be used to feed the farmer's livestock. More than fifty percent of the binder twine is used for binding bales of hay that will be sold. Because the farmer principally uses the binder twine for binding bales of hay that will be sold, the farmer may issue a resale certificate to the seller for the entire purchase. The farmer is liable for deferred sales tax on the binder twine used for binding bales of hay that are used to feed the farmer's livestock and must remit the tax directly to the department.

(h) "Fruit bin rentals" by fruit packers. Fruit packers often itemize their charges to farmers for various services related to the packing and storage of fruit. An example is a charge for the bins which the packer uses in the receiving, sorting, inspecting, and storing of fruit (commonly referred to

as "bin rentals"). The packer delivers the bins to the grower, who fills them with fruit for eventual storage in the packer's warehouse. Charges by fruit packers to farmers for such bin rentals do not constitute the rental of tangible personal property to the farmer where the bins are under the control of the packer for use in the receiving, sorting, inspecting, and storing of fruit. These charges are income to the packer related to the receipt or storage of fruit. The packer, as the consumer of the bins, is subject to retail sales or use tax on the purchase or use of the bins. (Information regarding the taxability of fruit packing is contained in WAC 458-20-214.)

(i) Machinery and equipment used directly in a manufacturing operation. Machinery and equipment used directly in a manufacturing operation by a manufacturer or processor for hire is exempt from sales or use tax provided that all requirements for the exemption are met. RCW 82.08.02565 and 82.12.02565. This exemption is commonly referred to as the M&E exemption. Farmers who use agricultural products that they have grown, raised, or produced as ingredients in a manufacturing process may be entitled to the M&E exemption on the acquisition of machinery and equipment used directly in their manufacturing operation. Refer to WAC 458-20-13601 for detailed information regarding the M&E exemption.

See subsection (5)(b) of this rule for an example illustrating a farmer using agricultural products that the farmer has grown as an ingredient in a manufacturing process.

(5) Sales by farmers. Farmers are not subject to B&O tax on wholesale sales of agricultural products. RCW 82.04.330. Farmers who manufacture products using agricultural products that they have grown, raised, or produced should refer to subsection (5)(b) of this rule for tax-reporting information.

Farmers are subject to retailing B&O tax on retail sales of agricultural products and retailing or wholesaling B&O tax on sales of nonagricultural products, as the case may be, unless specifically exempt by law. Also, B&O tax applies to sales of agricultural products that the seller has not grown, raised, or produced upon the seller's own land or upon land in which the seller has a present right of possession, whether these products are sold at wholesale or retail. Likewise, B&O tax applies to sales of animals or substances derived from animals in connection with the business of operating a stockyard, slaughterhouse, or packing house. Farmers may be eligible to claim a small business B&O tax credit if the amount of B&O tax liability in a reporting period is under a certain amount. For detailed information about this credit, refer to WAC 458-20-104.

(a) Litter tax. The gross proceeds of sales of certain products, including food for human or pet consumption, are subject to litter tax. RCW 82.19.020. Litter tax does not apply to sales of agricultural products that are exempt from B&O tax under RCW 82.04.330. RCW 82.19.050 and chapter 118, Laws of 2001. Thus, farmers are not subject to litter tax on wholesale sales of agricultural products but are liable for litter tax on the gross proceeds of retail sales of agricultural products that constitute food for human or pet consumption. Also, farmers that manufacture products for use and consumption within this state (e.g., a farmer who produces

wine from grapes that the farmer has grown) may be liable for litter tax measured by the value of the products manufactured. For detailed information about the litter tax, refer to chapter 82.19 RCW and WAC 458-20-243.

For example, RD Orchards (RD) grows apples at its orchards. Most apples are sold at wholesale, but RD operates a seasonal roadside fruit stand from which it makes retail sales of apples. The wholesale sales of apples are exempt from both B&O and litter taxes. The retail sales of apples are subject to retailing B&O and litter taxes but are exempt from sales tax because the apples are sold as a food product for human consumption. (See subsection (6)(d) of this rule for information about the retail sales tax exemption applicable to sales of food products for human consumption.)

(b) Farmers using agricultural products in a manufacturing process. The B&O tax exemption provided by RCW 82.04.330 does not apply to any person selling manufactured substances or articles. Thus, farmers who manufacture products using agricultural products that they have grown, raised, or produced are subject to manufacturing B&O tax on the value of products manufactured. Farmers who sell their manufactured products at retail or wholesale in the state of Washington are also generally subject to the retailing or wholesaling B&O tax, as the case may be. In such cases, a multiple activities tax credit (MATC) may be available. For detailed information regarding the manufacturing B&O tax and the MATC, refer to WAC 458-20-136 and 458-20-19301, respectively.

For example, WG Vineyards (WG) produces wine from grapes that it grows in its vineyards located within this state. WG makes wholesale sales of its wine to customers both within and outside of this state. WG is subject to manufacturing B&O tax on the value of the wine it produces. WG is also subject to wholesaling B&O tax on wholesale sales of wine delivered to buyers within this state, and WG is entitled to a multiple activities tax credit. In addition, WG is subject to litter tax on the value of wine sold within this state. (See subsection (5)(a) of this rule for information on the litter tax.)

(i) Special B&O tax rate for manufacturing fresh fruits and vegetables. A special lower B&O tax rate is provided by RCW 82.04.260 to persons manufacturing fresh fruits or vegetables by canning, preserving, freezing, processing, or dehydrating. Thus, farmers and other persons manufacturing fresh fruits and vegetables using these processes should report their manufacturing activity under the manufacturing fresh fruits and vegetables B&O tax classification.

Wholesale sales of fresh fruits or vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport the goods out of this state in the ordinary course of business are also subject to the lower B&O tax rate provided by RCW 82.04.260.

(ii) Special B&O tax rate for manufacturing dairy products. Effective September 20, 2001, a special lower B&O tax rate is provided by RCW 82.04.260 to persons manufacturing dairy products that, as of that date, are identified in 21 CFR, chapter 1, parts 131, 133, and 135. These products include milk, buttermilk, cream, yogurt, cheese, and ice cream, and also include by-products from the manufacturing of dairy products such as whey and casein. Thus, farmers and

other persons manufacturing qualifying dairy products should report their manufacturing activity under the manufacturing dairy products B&O tax classification. This special rate does not apply, however, when dairy products are used merely as an ingredient or component of a manufactured product that is not a dairy product (e.g., milk-based soups or pizza).

The special B&O tax rate provided by RCW 82.04.260 also applies to persons selling manufactured dairy products to purchasers who transport the goods outside of this state in the ordinary course of business. Unlike the special B&O tax rate for certain wholesale sales of fresh fruits or vegetables (see subsection (5)(b)(i) of this rule), the special B&O tax rate for sales of qualifying dairy products does not require that the sales be made by the person who manufactured the dairy products nor that they be sales at wholesale.

(c) Raising cattle for wholesale sale. Persons who raise cattle for wholesale sale are exempt from B&O tax under RCW 82.04.330 provided that the cattle are held for at least sixty days prior to the sale. Persons who purchase and hold cattle for fewer than sixty days before reselling the cattle are not considered to be engaging in the normal activities of growing, raising, or producing livestock for sale.

For example, a feedlot operation purchases cattle and feeds them until they attain a good market condition. The cattle are then sold at wholesale. The feedlot operator is exempt from B&O tax on wholesale sales of cattle if the cattle are held for at least sixty days while they are prepared for market. However, the feedlot operator is subject to wholesaling B&O tax on wholesale sales of cattle held for fewer than sixty days prior to the sale.

(d) B&O tax exemptions available to farmers. In addition to the exemption for wholesale sales of agricultural products, there are several other B&O tax exemptions available to farmers which are discussed in this subsection.

(i) Growing, raising, or producing agricultural products owned by other persons. RCW 82.04.330 exempts amounts received by a farmer for growing, raising, or producing agricultural products owned by others, such as custom feed operations.

For example, a farmer is engaged in the business of raising cattle owned by others (commonly referred to as "custom feeding"). After the cattle attain a good market condition, the owner then sells them. Amounts received by the farmer for custom feeding are exempt from B&O tax under RCW 82.04.330, provided that the cattle are held by the farmer for at least sixty days. Farmers are not considered to be engaging in the activity of raising cattle for sale unless the cattle are held for at least sixty days while the cattle are prepared for market. (See subsection (5)(c) of this rule.)

(ii) Sales of hatching eggs or poultry. RCW 82.04.410 exempts amounts received for the sale of hatching eggs or poultry by farmers producing hatching eggs or poultry, when these agricultural products are for use in the production for sale of poultry or poultry products.

(iii) Processed hops shipped outside Washington for first use. RCW 82.04.337 exempts amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, if those hops have been processed

into extract, pellets, or powder in this state. However, the processor or warehouse of such products is not exempt on amounts charged for processing or warehousing such products.

(e) B&O tax credit to encourage alternatives to field burning. Persons who qualify for a sales or use tax exemption under RCW 82.08.840 or 82.12.840 (machinery, equipment, or structures that reduce emissions from field burning) also qualify for a B&O tax credit. RCW 82.04.4459. The amount of the credit is equal to fifty percent of the amount of costs expended for constructing structures or acquiring machinery and equipment for which an exemption was taken under RCW 82.08.840 or 82.12.840. (See subsection (6)(l) of this rule for information about the sales and use tax exemptions provided by RCW 82.08.840 and 82.12.840.) No application is necessary for the credit. Persons taking the credit must keep records necessary for the department to verify eligibility for the credit. This credit is subject to the following limitations:

(i) No credit may be taken in excess of the amount of B&O tax that would otherwise be due;

(ii) Credit may not be carried over to subsequent calendar years;

(iii) The credit must be claimed by the due date of the last tax return for the calendar year in which the payment is made;

(iv) Any unused credit expires;

(v) Refunds will not be given in place of credits;

(vi) The credit may not be claimed for expenditures that occurred before March 22, 2000; and

(vii) The credit expires on January 1, 2006.

(6) Retail sales and use tax exemptions. This subsection provides information about a number of retail sales tax and corresponding use tax exemptions available to farmers and persons buying tangible personal property at retail from farmers. Some exemptions require the buyer to provide the seller with an exemption certificate. Readers should refer to subsection (7) of this rule for additional information regarding exemption certificates.

This subsection contains a number of examples which illustrate these exemptions. The examples identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) Pollen. Pollen is exempt from retail sales and use taxes. RCW 82.08.0277 and 82.12.0273.

(b) Semen. Semen used in the artificial insemination of livestock is exempt from retail sales and use taxes. RCW 82.08.0272 and 82.12.0267.

(c) Feed for livestock at public livestock markets. Feed to be consumed by livestock at a public livestock market is exempt from retail sales and use taxes. RCW 82.08.0296 and 82.12.0296.

(d) Food products. Food products for human consumption are exempt from retail sales and use taxes. RCW 82.08.0293 and 82.12.0293. This exemption also applies to the sale and/or use of livestock for personal consumption as

food. For detailed information about food products that qualify for this exemption, refer to WAC 458-20-244.

(e) Auction sales of farm property. Retail sales and use taxes do not apply to tangible personal property, including household goods, which have been used in conducting a farm activity, if the property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm. RCW 82.08.0257 and 82.12.0258.

(f) Poultry. Poultry used in the production for sale of poultry or poultry products is exempt from retail sales and use taxes. RCW 82.08.0267 and 82.12.0262.

For example, a poultry hatchery produces poultry from eggs. The resulting poultry are sold to egg producers. These sales are exempt from retail sales taxes under RCW 82.08.0267. (They are also exempt from B&O tax. See subsection (5)(d)(ii) of this rule.)

(g) Leases of irrigation equipment. Retail sales and use taxes do not apply to the lease or use of irrigation equipment, but only if:

(i) The lessor purchased the irrigation equipment for the purpose of irrigating land controlled by the lessor;

(ii) The lessor has paid retail sales or use tax upon the irrigation equipment;

(iii) The irrigation equipment is attached to the land in whole or in part; and

(iv) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land and is used solely on such land. RCW 82.08.0288 and 82.12.0283.

(h) Beef and dairy cattle. Beef and dairy cattle to be used by a farmer in producing an agricultural product are exempt from retail sales and use taxes. RCW 82.08.0259 and 82.12.0261.

For example, John operates a farm where he raises beef and dairy cattle for sale. He also raises other livestock for sale including hogs, sheep, and goats. All of John's sales of dairy and beef cattle for use on a farm are exempt from retail sales tax. However, John must collect retail sales tax on all retail sales of sheep, goats, and hogs unless the sales qualify for either the food products exemption described in subsection (6)(d) of this rule, or the exemption for sales of livestock for breeding purposes which is described immediately below.

(i) Livestock for breeding purposes. The sale or use of livestock, as defined in RCW 16.36.005, for breeding purposes where the animals are registered in a nationally recognized breed association is exempt from retail sales and use taxes. RCW 82.08.0259 and 82.12.0261. This exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

For example, ABC Farms raises and sells quarter horses registered in the American Quarter Horse Association (AQHA). Quarter horses are generally recognized as a definite breed of horse, and the AQHA is a nationally recognized breed association. Therefore, ABC Farms is not required to collect sales tax on retail sales of quarter horses for breeding purposes, provided it receives a completed exemption certificate from the buyer.

(j) Bedding materials for chickens. Retail sales and use taxes do not apply to materials used by farmers to accu-

mulate and facilitate the removal of chicken manure provided that the farmer is raising chickens that are sold as agricultural products. RCW 82.08.920 and 82.12.920. The exemption became effective September 20, 2001, and is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(i) **What are bedding materials?** "Bedding materials" are wood shavings, straw, sawdust, shredded paper, and other similar materials.

(ii) **Example.** Farmer raises chickens for use in producing eggs for sale. When the chickens are no longer useful for producing eggs, Farmer sells the chickens to food processors for soup and stew meat. Farmer purchases bedding materials used to accumulate and facilitate the removal of chicken manure. The purchases of bedding materials by Farmer are exempt from retail sales tax. The law merely requires that the chickens be sold as agricultural products. It is immaterial that Farmer primarily raises the chickens to produce eggs.

(k) **Propane or natural gas used to heat structures housing chickens.** Retail sales and use taxes do not apply to propane or natural gas used by farmers to heat structures used to house chickens. The propane or natural gas must be used exclusively to heat the structures, and the structures must be used exclusively to house chickens that are sold as agricultural products. RCW 82.08.910 and 82.12.910. The exemption became effective September 20, 2001, and is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(i) **What are "structures"?** "Structures" are barns, sheds, and other similar buildings in which chickens are housed.

(ii) **Example.** Farmer purchases natural gas that is used to heat structures housing chickens. The natural gas is used exclusively to heat the structures, and the structures are used exclusively to house chickens. The chickens are used to produce eggs. When the chickens are no longer useful for producing eggs, Farmer sells the chickens to food processors for soup and stew meat. The purchase of natural gas by Farmer is exempt from retail sales tax. The law merely requires that the chickens be sold as agricultural products. It is immaterial that Farmer primarily houses these chickens to produce eggs.

(iii) **Example.** Farmer purchases natural gas that is used to heat structures used in the incubation of chicken eggs and structures used for washing, packing, and storing eggs. The natural gas used to heat these structures is not exempt from retail sales tax because the structures are not used exclusively to house chickens that are sold as agricultural products.

(l) **Machinery, equipment, and structures used to reduce emissions from field burning.** RCW 82.08.840 and 82.12.840 provide a sales and use tax exemption for certain property used to reduce field burning of cereal grains and field and turf grass grown for seed, or to reduce air emissions resulting from such field burning. The retail sales tax exemption applies to sales of machinery and equipment, and to services rendered in respect to constructing structures, installing, constructing, repairing, cleaning, decorating, altering, or improving of structures or eligible machinery and equipment, and to sales of tangible personal property that becomes an

ingredient or component of eligible structures or eligible machinery and equipment, if all of the requirements for the exemption listed below in this subsection are met. RCW 82.08.840. The use tax exemption applies to the use of machinery and equipment, and of tangible personal property that becomes an ingredient or component of eligible machinery and equipment, if all of the requirements for the exemption listed below in this subsection are met. RCW 82.12.840.

These exemptions are available beginning March 22, 2000, and expire January 1, 2006. Persons taking an exemption must keep records necessary for the department to verify eligibility for the exemption. Persons who have taken an exemption and then discover that they do not meet the requirements for the exemption are subject to a deferred sales tax or use tax liability. (For additional information about deferred sales tax and use tax, refer to subsection (4)(b) of this rule.)

(i) **Majority use requirement.** To qualify for an exemption, the machinery, equipment, or structure must be used more than half (50%) of the time:

(A) For gathering, densifying, processing, handling, storing, transporting, or incorporating straw or straw-based products that results in a reduction in field burning of cereal grains and field and turf grass grown for seed; or

(B) To decrease air emissions resulting from field burning of cereal grains and field and turf grass grown for seed.

(ii) **Exemption certificates.** For the sales tax exemption, the buyer must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(iii) **Examples.** The following examples illustrate this exemption:

(A) Farmer cultivates turf grass. Farmer purchases spray equipment. As an alternative to field burning, the fields in which the spray equipment is used must be sprayed five times instead of twice. The use of the spray equipment meets the requirement that the equipment be used more than half of the time to decrease air emissions resulting from field burning; therefore, the purchase of the spray equipment is exempt.

(B) Farmer, who performs custom baling, purchases a new baler for use in baling hay and straw. The purchase of the baler is exempt if it will be used more than half of the time to bale straw, which results in a reduction in field burning.

(C) Farmer purchases a new combine for use in harvesting wheat. In addition to cutting the stalks, separating the kernels from the chaff, and unloading the kernels, the combine also chops the residual chaff before discharging it onto the field. While the need for field burning may decrease because the smaller residue more readily decomposes, the purchase of the combine does not qualify for the exemption. The combine is not used more than half of the time to decrease air emissions from field burning.

(m) **Dairy nutrient management equipment and facilities.** Sales to, or use by, eligible persons of tangible personal property that becomes an ingredient or component of dairy nutrient management equipment and facilities is exempt from retail sales and use taxes. Also, sales to eligible persons of services rendered in respect to operating, repairing, cleaning, altering, or improving dairy nutrient management equipment and facilities are exempt from retail sales tax. RCW 82.08.-

890 and 82.12.890. These exemptions became effective July 13, 2001, and apply to sales made, or tangible personal property used, after the dairy nutrient management plan is certified under chapter 90.64 RCW.

(i) These exemptions are available only if all of the following requirements are met:

(A) The equipment and facilities must be used exclusively for activities necessary to maintain a dairy nutrient management plan as required under chapter 90.64 RCW; and

(B) The buyer provides the seller with an exemption certificate in a form and manner prescribed by the department which must be retained in the seller's files. The department will provide an exemption certificate to an eligible person upon application. A sample letter for use in applying for an exemption certificate can be obtained from the department as provided in subsection (7) of this rule.

(ii) For purposes of this exemption, the following definitions apply:

(A) "Eligible person" means a person licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan by December 31, 2003, as required by chapter 90.64 RCW.

(B) "Dairy nutrient management equipment and facilities" means machinery, equipment, and structures used exclusively in the handling and treatment of dairy manure, such as aerators, agitators, alley scrapers, augers, dams, gutter cleaners, loaders, lagoons, pipes, pumps, separators, and tanks. The term also includes tangible personal property that becomes an ingredient or component of the equipment and facilities, including repair and replacement parts.

(n) **Animal pharmaceuticals.** Certain animal pharmaceuticals are exempt from retail sales and use taxes when sold to, or used by, farmers or veterinarians. RCW 82.08.880 and 82.12.880. To qualify for the exemption, the animal pharmaceutical must be administered to an animal that is raised by a farmer for the purpose of producing an agricultural product for sale. Also, the animal pharmaceutical must be approved by the United States Department of Agriculture (USDA) or the United States Food and Drug Administration (FDA).

This exemption became effective August 1, 2001, and is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(i) **What is a "veterinarian"?** A "veterinarian" means a person who is licensed to practice veterinary medicine, surgery, or dentistry under chapter 18.92 RCW.

(ii) **How can I determine whether the FDA or USDA has approved an animal pharmaceutical?** The FDA and USDA have an established approval process set forth in federal regulations. The FDA maintains a list of all approved animal pharmaceuticals called the "*Green Book*." The USDA maintains a list of approved biotechnology products called the "*Veterinary Biologics Product Catalogue*." Pharmaceuticals that are not on either of these lists have not been approved and are not eligible for the exemption.

(iii) **Example.** Dairy Farmer purchases sterilizing agents. The sterilizing agents are applied to the equipment and facilities where Dairy Farmer's cows are milked. Dairy Farmer also purchases teat dips, antiseptic udder washes, and

salves that are not listed in either the FDA's *Green Book* of approved animal pharmaceuticals or the USDA's *Veterinary Biologics Product Catalogue* of approved biotechnology products. The purchases of sterilizing agents are not exempt as animal pharmaceuticals because the sterilizing agents are not administered to animals. The teat dips, antiseptic udder washes, and salves are likewise not exempt because they have not been approved by the FDA or USDA. This is the case even if these products are approved by the United States Environmental Protection Agency or any other governmental agency.

(iv) **What type of animal must the pharmaceutical be administered to?** As noted above, the exemption is limited to the sale and/or use of animal pharmaceuticals administered to an animal that is raised by a farmer for the purpose of producing an agricultural product for sale. The conditions under which a farmer may purchase tax-exempt animal pharmaceuticals are similar to those under which a farmer may purchase feed at wholesale. Both types of purchases require that the particular product be sold to a farmer (or a veterinarian in the case of animal pharmaceuticals), and that the product be given or administered to an animal raised by a farmer for the purpose of producing an agricultural product for sale.

(v) **Examples of animals raised for the purpose of producing agricultural products for sale.** The animal pharmaceutical exemption is available in the following non-exclusive list of examples because the animals are being raised for the purpose of producing an agricultural product for sale, presuming all other requirements for the exemption are met:

(A) Horses, cattle, or other livestock raised by a farmer for sale;

(B) Cattle raised by a farmer for the purpose of slaughtering, if the resulting products are sold;

(C) Milk cows raised and/or used by a dairy farmer for the purpose of producing milk for sale;

(D) Horses raised by a farmer for the purpose of producing foals for sale;

(E) Sheep raised by a farmer for the purpose of producing wool for sale; and

(F) "Private sector cultured aquatic products" as defined by RCW 15.85.020 (e.g., salmon, catfish, and mussels) raised by an aquatic farmer for the purpose of sale.

(vi) **Examples of animals that are not raised for the purpose of producing agricultural products for sale.** The animal pharmaceutical exemption is not available in the following nonexclusive list of examples because the animals are not being raised for the purpose of producing an agricultural product for sale:

(A) Cattle raised for the purpose of slaughtering if the resulting products are not produced for sale;

(B) Sheep and other livestock raised as pets;

(C) Dogs or cats, whether raised as pets or for sale. Dogs and cats are pet animals; therefore, they are not considered to be agricultural products. (See subsection (3) of this rule); and

(D) Horses raised for the purpose of racing, showing, riding, and jumping. However, if at some time in the future the horses are no longer raised for racing, showing, riding, or jumping and are instead being raised by a farmer for the pur-

pose of producing foals for sale, the exemption will apply if all other requirements for the exemption are met.

(vii) Do products that are used to administer animal pharmaceuticals qualify for the exemption? Sales of products that are used to administer animal pharmaceuticals (e.g., syringes) do not qualify for the exemption, even if they are later used to administer a tax-exempt animal pharmaceutical. However, sales of tax-exempt animal pharmaceuticals contained in a product used to administer the animal pharmaceutical (e.g., a dose of a tax-exempt pharmaceutical contained in a syringe or cotton applicator) do qualify for the exemption.

(7) Sales tax exemption certificates. As indicated in subsection (6) of this rule, certain sales of tangible personal property and retail services either to or by farmers are exempt from retail sales tax. Except as provided below, for those exemptions that require the buyer to provide the seller with an exemption certificate at the time of sale, farmers may use the department's "Farmers' Retail Sales Tax Exemption Certificate" or another certificate with substantially the same information as it relates to the claimed exemption. Sellers must retain a copy of the exemption certificate in their files. Without proper documentation, sellers are liable for payment of the retail sales tax on sales claimed as exempt.

The Farmers' Retail Sales Tax Exemption Certificate cannot be used for the dairy nutrient management exemption discussed in subsection (6)(m) of this rule. However, as noted above, the department will provide eligible persons, upon application, with an exemption certificate for this exemption. The Farmers' Retail Sales Tax Exemption Certificate and a sample letter for use in applying for the Dairy Nutrient Management Exemption Certificate can be obtained by calling the department's taxpayer information center at 1-800-647-7706. These documents can also be downloaded from the department's website at <http://dor.wa.gov/>.

WSR 03-09-147

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 23, 2003, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-01-109.

Title of Rule: The proposed new rule is WAC 458-17-101 Assessment and taxation of ships and vessels.

This proposal would repeal four existing rules: WAC 458-17-105 Ships and vessels—Definitions, 458-17-110 Ships and vessels—Subject to property taxation, 458-17-115 Ships and vessels—Listing, and 458-17-120 Ships and vessels—Apportionment of value.

Purpose: The proposed rule explains the application of the state property tax on commercial ships and vessels. It describes the ship or vessel owner's obligations, the methods of determining tax liability, and the requirements for exemption from or apportionment of the tax.

Statutory Authority for Adoption: RCW 84.08.005, 84.08.070, and 82.01.060(2).

Statute Being Implemented: RCW 82.49.020, 84.04-080, 84.36.015, 84.36.079, 84.36.080, 84.36.090, 84.36.100, 84.40.036, 84.40.065, and 84.56.440.

Summary: The department proposes to repeal four existing rules and replace them with a single rule comprehensively addressing application of the state property tax on commercial ships and vessels. The new rule updates the language and information provided in the current rules, incorporates additional explanation and examples, and corrects a misstatement of law regarding vessel eligibility for apportionment.

Reasons Supporting Proposal: To update the language and content of the current rules and to make the rule conform with statutory provisions.

Name of Agency Personnel Responsible for Drafting: Gilbert Brewer, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6133; Implementation and Enforcement: Ron Yamamoto, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule replaces four rules and updates the information found in these rules. The new rule will consolidate the information currently contained in the four separate rules into a single comprehensive rule describing application of the state property tax to commercial ships and vessels.

The proposed rule informs taxpayers and department personnel about the state property tax levied on commercial ships and vessels. The proposed rule explains which ships and vessels are subject to property taxation and which are exempt. It describes the obligations of a ship or vessel owner and when a ship or vessel qualifies for apportionment of its value. Finally, the proposed rule incorporates examples to clarify its application to specific fact situations.

The proposed rule updates the information provided in the present rules and changes terms to achieve consistency with standard property tax terminology. The proposed rule also corrects a misstatement of law currently found in WAC 458-17-120. That rule states that a vessel that does not meet the statutory definition of an "apportionable vessel" found in RCW 84.40.036 may, nonetheless, still have its value apportioned - this statement is incorrect. The proposed rule limits the availability of apportionment to vessels that meet the statutory standard.

Proposal Changes the Following Existing Rules: This proposal would repeal WAC 458-17-105 Ships and vessels—Definitions, 458-17-110 Ships and vessels—Subject to property taxation, 458-17-115 Ships and vessels—Listing, and 458-17-120 Ships and vessels—Apportionment of value.

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

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

Hearing Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 10, 2003, at 9:30 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.

Submit Written Comments to: Gilbert Brewer, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail gilb@dor.wa.gov, by June 10, 2003.

Date of Intended Adoption: June 20, 2003.

April 22, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

PROPOSED

NEW SECTION

WAC 458-17-101 Assessment and taxation of ships and vessels. (1) **Introduction.** This rule explains the application of the personal property tax to ships and vessels. Ships and vessels that are not subject to the excise tax imposed by chapter 82.49 RCW are either subject to the state property tax levy or are completely exempt from both the property tax and the excise tax. This rule covers only those ships and vessels subject to the property tax. See chapter 308-93 WAC for information regarding ships and vessels subject to the excise tax, which is administered by the department of licensing.

(2) **Which ships and vessels are subject to property taxation?** Under RCW 84.36.080, a ship or vessel is subject to the state portion of the property tax if the ship or vessel is:

- (a) Used exclusively for commercial fishing purposes; or
- (b) Primarily engaged in commerce and has or is required to have a valid marine document as a vessel of the United States.

Accordingly, such a ship or vessel is subject to assessment by the department of revenue for that portion of the property tax levied by the state for state purposes.

(3) **Which ships and vessels are exempt from property taxation?** The following are exempt from all property taxation, including the state levy:

- (a) A ship or vessel listed in the state or federal register of historical places (see RCW 84.36.080);
- (b) A ship or vessel with an assessed value of less than five hundred dollars (see RCW 84.36.015); and
- (c) A ship or vessel that is not within the scope of subsection (2) of this rule (see RCW 84.36.090).

(4) **What are a ship or vessel owner's obligations?** Under RCW 84.40.065, every individual, corporation, partnership, trust, and estate must list with the department of revenue any ship or vessel subject to that person's ownership, possession or control and subject to property taxation under RCW 84.36.080. This listing is subject to the same requirements, penalties, and liens provided in chapters 84.40 and 84.60 RCW for all other personal property.

The listed owner of a ship or vessel as of January 1st of the assessment year is responsible for payment of the property tax for that vessel in the following year. A ship or vessel is subject to property taxation even if it is temporarily not

within the limits of the state on January 1st of the year in which the vessel is to be assessed. If ownership of a taxable ship or vessel is transferred after January 1st, the listed owner as of January 1st remains liable for payment of the full amount of tax payable in the following year. The full year's property tax may be abated only if the ship or vessel is damaged or destroyed and qualifies for a reduction in value under RCW 84.70.010.

For example, Seller A sells a taxable charter boat to Buyer B on August 14, 2002. Because Seller A was the listed owner as of January 1, 2002, Seller A is responsible for the entire year's property tax for the 2002 assessment year. That tax is due by April 30, 2003. Buyer B will be the listed owner for 2003 and responsible for the property tax for assessment year 2003, which is due by April 30, 2004.

(5) **What happens if my ship or vessel is out of the state or being repaired during part of the year?** A qualifying ship or vessel, referred to as an "apportionable vessel," may have its assessed value reduced to reflect certain circumstances. A reduction in assessed value also reduces the amount of tax due.

(a) **What is an "apportionable vessel"?** Under RCW 84.40.036, an "apportionable vessel" is a ship or vessel that is:

- (i) Engaged in interstate commerce, meaning the transporting of persons or property from one state or territory of the United States to another;
- (ii) Engaged in foreign commerce, meaning the transporting of persons or property between a state or territory of the United States and a foreign country; or
- (iii) Engaged exclusively in fishing, tendering, harvesting and/or processing seafood products on the high seas or waters under the jurisdiction of other states.

(b) **How is value apportioned?** An apportionable vessel has its value apportioned as provided in this subsection.

(i) The value is apportioned based on the number of days or fractions of days that the vessel was within the limits of the state during the calendar year preceding the calendar year in which the vessel is assessed. No value is apportioned to this state unless the vessel is within the limits of the state for more than one hundred twenty days. Days during which a ship or vessel leaves the limits of the state only while navigating the high seas in order to travel between points in this state are considered as days within this state. A ship or vessel that does not qualify as an apportionable vessel under subsection (5)(a) of this rule may not have its value apportioned, regardless of the number of days the ship or vessel is within or outside the limits of the state.

(A) A "fraction of a day" means more than sixteen hours in a calendar day.

(B) The "limits of the state" means the boundaries of the state of Washington abutting Canada, Oregon, and Idaho and three miles to the west of Washington's coast line.

(ii) Time during which an apportionable vessel is in the state exclusively for one or more of the following purposes is not considered as time within the limits of the state, if the length of time is reasonable to:

- (A) Undergo maintenance, repair or alteration;

(B) Take on or discharge cargo, passengers or supplies; or

(C) Serve as a tug for a vessel under (A) or (B) of this subsection (5)(b)(ii).

A "reasonable length of time" includes a reasonable length of travel time to enter and leave the limits of the state exclusively for one of the purposes listed in (A) through (C) above. A ship or vessel engaging in any activity or use not described in (A) through (C) above, or merely being moored, is not considered to be within the state exclusively for the purposes described in this subsection.

(c) **Examples.** The following examples illustrate the application of the apportionment rules. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(i) Barge A loads cargo in Washington Port Z in eastern Washington. Loaded, Barge A embarks down the Columbia River to Vancouver, Washington and discharges its cargo. This activity does not qualify Barge A as an apportionable vessel because Barge A did not engage in interstate or foreign commerce. The barge would qualify as an apportionable vessel for the following assessment year if it had discharged its cargo at Portland, Oregon.

(ii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. The charter begins in Anacortes and sails into Canadian waters for one month before returning to Anacortes to complete the charter. This activity does not qualify Charter Boat as an apportionable vessel because Charter Boat did not engage in foreign or interstate commerce; no persons or property were transported from one country or state to another.

(iii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. Charter Boat is delivered to persons who board the vessel in Vancouver, British Columbia. Charter Boat cruises in Canadian waters for one month before returning to Anacortes where the passengers disembark, completing the charter. This transaction involves foreign commerce because persons were transported between another country and the United States. As a result, the vessel qualifies as an apportionable vessel and its value will be apportioned based upon the number of days the vessel is within the limits of the state during that calendar year.

(iv) Charter Boat carries passengers from Seattle to Juneau, Alaska. Charter Boat then charters out of Alaska during the summer months. Charter Boat returns to Seattle in September for mooring and off-season repairs. The vessel qualifies as an apportionable vessel and its value will be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. However, the days in Washington while the vessel is being repaired are not counted as days within the state, if reasonable in amount of time. On the other hand, the vessel's travel time within Washington waters while traveling to and from the state is counted as time within the state because the trip to this state was not exclusively for the purpose of repairs.

(v) Fishing Boat goes to Alaska each year to fish and returns to Seattle each fall for repair and maintenance. The vessel qualifies as an apportionable vessel and its value will

be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. The days in Washington for repair and maintenance are not counted, if the amount of time is reasonable. Travel time to and from Washington is also not counted as time within the state because the trip was exclusively for the purpose of obtaining repair and maintenance services. As a result, none of the vessel's value will be apportioned to Washington in this instance.

(vi) Charter Boat Owner A purchases a vessel on November 1, 2001. The boat had previously been used as a pleasure craft. The boat is first used in interstate commerce as a charter boat in January 2002 and spends half of the year outside of state waters in calendar year 2002. The boat is first listed in Owner A's name for tax purposes as of January 1, 2002. The vessel's entire value is assessed in 2002 because the vessel did not qualify as an apportionable vessel during calendar year 2001 (the calendar year preceding the assessment year). Owner A will first pay property taxes in the 2003 tax year based upon the vessel's value in the 2002 assessment year. The full amount of tax is due by April 30, 2003. The value for the 2003 assessment year will be apportioned based upon the boat's use in calendar year 2002 (50% of time within state waters). The amount of tax due for tax year 2004 will be based upon the 2003 assessed value and is due by April 30, 2004.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 458-17-105	Ships and vessels—Definitions.
WAC 458-17-110	Ships and vessels—Subject to property taxation.
WAC 458-17-115	Ships and vessels—Listing.
WAC 458-17-120	Ships and vessels—Apportionment of value.

PROPOSED



WSR 03-09-066
EXPEDITED RULES
STATE BOARD OF HEALTH

[Filed April 15, 2003, 9:14 a.m.]

Title of Rule: WAC 246-100-036 Responsibilities and duties—Local health officers.

Purpose: Clarify and correct reference in WAC 246-100-006(3) to 17th edition, 2000 of the *Control of Communicable Disease Manual*, published by the American Public Health Association (APHA). Manual provides guidance to local health officers on conducting disease investigations and instituting disease control measures.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: Corrects edition number and publication year cited so rule references currently available edition of *Control of Communicable Disease Manual*.

Reasons Supporting Proposal: Rule currently references nonexistent publication and could confuse efforts to respond to a public health emergency.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Craig McLaughlin, 1102 S.E. Quince Street, P.O. Box 47990, Olympia, WA 98504, (360) 236-4106.

Name of Proponent: Washington State Board of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Recently drafted rule revision anticipated the 2002 publication of new, 18th edition of the *Control of Communicable Disease Manual* by APHA. APHA now anticipates the 18th edition will be published in 2004 or 2005. Change would correctly cite the current 17th edition.

Proposal Changes the Following Existing Rules: Changes edition of manual cited in WAC 246-100-036(3).

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 Craig McLaughlin, State Board of Health, 1102 S.E. Quince Street, P.O. Box 47990, Olympia, WA 98504-7990, AND RECEIVED BY June 24, 2003.

March 18, 2003
 Don Sloma
 Executive Director

AMENDATORY SECTION (Amending WSR 03-05-048, filed 2/13/03, effective 2/13/03)

WAC 246-100-036 Responsibilities and duties—Local health officers. (1) The local health officer shall estab-

lish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity he or she deems necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

(2) Local health officers shall:

(a) Notify health care providers within the health district regarding requirements in this chapter;

(b) Ensure anonymous HIV testing is reasonably available;

(c) Make HIV testing, AIDS counseling, and pretest and post-test counseling, as defined in this chapter, available for voluntary, mandatory, and anonymous testing and counseling as required by RCW 70.24.400;

(d) Make information on anonymous HIV testing, AIDS counseling, and pretest and post-test counseling, as described under WAC 246-100-208 and 246-100-209, available;

(e) Use identifying information on HIV-infected individuals provided according to chapter 246-101 WAC only:

(i) For purposes of contacting the HIV-positive individual to provide test results and post-test counseling; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention; and

(f) Destroy documentation of referral information established in WAC 246-100-072 and this subsection containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first.

(3) Local health officers shall, when necessary, conduct investigations and institute disease control and contamination control measures, including medical examination, testing, counseling, treatment, vaccination, decontamination of persons or animals, isolation, quarantine, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with those indicated in the ~~((18th))~~ 17th edition, ~~((2002))~~ 2000 of the *Control of Communicable Disease Manual*, published by the American Public Health Association, or other measures he or she deems necessary based on his or her professional judgment, current standards of practice and the best available medical and scientific information.

(4) A local health department may make agreements with tribal governments, with federal authorities or with state agencies or institutions of higher education that empower the local health officer to conduct investigations and institute control measures in accordance with WAC 246-100-040 on tribal lands, federal enclaves and military bases, and the campuses of state institutions. State institutions include, but are not limited to, state-operated colleges and universities, schools, hospitals, prisons, group homes, juvenile detention centers, institutions for juvenile delinquents, and residential habilitation centers.

WSR 03-09-088

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed April 17, 2003, 4:16 p.m.]

Title of Rule: WAC 16-219-016 Restricted use pesticides—Mevinphos (Phosdrin).

Purpose: Cancel rule concerning the use of mevinphos (Phosdrin) in Washington.

Statutory Authority for Adoption: Chapters 15.58, 17.21, and 34.05 RCW.

Summary: Washington state adopted emergency rules regarding cancelling the use of the pesticide mevinphos (Phosdrin). Federal registration and use of this product has since been cancelled and, therefore, the Washington State Department of Agriculture permanent rule is no longer required and is being repealed.

Reasons Supporting Proposal: WAC 16-219-016 is no longer needed because the product is no longer federally registered for use and its use is now prohibited in Washington state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ann Wick, 1111 Washington Street, Olympia, WA 98504, (360) 902-2051.

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: Washington state adopted emergency rules halting the use of the pesticide mevinphos (Phosdrin). Federal registration of this product and use has since been cancelled and therefore the state's permanent rule is no longer required.

Proposal Changes the Following Existing Rules: The proposal repeals WAC 16-219-016. It is no longer required as the product is no longer allowed for use and is no longer federally registered for use.

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 98504-2560, AND RECEIVED BY June 23, 2003.

April 17, 2003

Ann Wick
for Bob Arrington
Assistant Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-219-016

Restricted use pesticides—
Mevinphos (Phosdrin).

EXPEDITED

WSR 03-09-002
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed April 2, 2003, 4:03 p.m.]

Date of Adoption: April 2, 2003.

Purpose: The department is adopting eight new rules for chapter 458-16A WAC to update information provided in eleven rules in chapter 458-16 WAC, which are being repealed. The rules inform taxpayers, county assessors, and county treasurers about the property tax exemption granted by RCW 84.36.381 to senior citizens and disabled persons. They provide guidance regarding statutory requirements for the exemption, documents an applicant for exemption must present, and the required timing for a claim for exemption.

The department is placing this information in chapter 458-16A WAC to consolidate rules addressing senior citizen and disabled person exemptions and deferrals in a single WAC chapter. See below for the list of the rules being adopted and those being repealed.

Citation of Existing Rules Affected by this Order: New sections WAC 458-16A-100 Senior citizen and disabled person exemption—Definitions, 458-16A-110 Senior citizen and disabled person exemption—Gross income, 458-16A-115 Senior citizen and disabled person exemption—Adjusted gross income, 458-16A-120 Senior citizen and disabled person exemption—Determining combined disposable income, 458-16A-130 Senior citizen and disabled person exemption—Qualifications for exemptions, 458-16A-135 Senior citizen and disabled person exemption—Application procedures, 458-16A-140 Senior citizen and disabled person exemption—Exemption described—Exemption granted—Freezing property values and 458-16A-150 Senior citizen and disabled person exemption—Requirements for keeping the exemption; and repealing WAC 458-16-010 Senior citizen and disabled person exemption—Definitions, 458-16-011 Senior citizen and disabled person exemption—Gross income, 458-16-012 Senior citizen and disabled person exemption—Adjusted gross income, 458-16-013 Senior citizen and disabled person exemption—Disposable income, 458-16-020 Senior citizen and disabled person exemption—Qualifications for exemption, 458-16-022 Senior citizen and disabled person exemption—Qualifications for cooperative housing, 458-16-030 Senior citizen and disabled person exemption—Claims, 458-16-040 Senior citizen and disabled person exemption—Denial—Appeal—Penalty—Perjury, 458-16-060 Senior citizen and disabled person exemption—Transfer of exemption, 458-16-070 Senior citizen and disabled person exemption—Cancellation, and 458-16-079 Senior citizen and disabled person exemption—Refunds—Late filings.

Statutory Authority for Adoption: RCW 84.36.383, 84.36.389, and 84.36.865.

Adopted under notice filed as WSR 03-03-099 on January 17, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 3, Amended 0, Repealed 3; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 0, Repealed 5.

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 8, Amended 0, Repealed 11.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 11.

Effective Date of Rule: Thirty-one days after filing.

April 2, 2003

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

Chapter 458-16A WAC

((NONPROFIT)) PROPERTY TAX—EXEMPTIONS—
HOMES FOR THE AGING, SENIOR CITIZENS AND
DISABLED PERSONS

NEW SECTION

WAC 458-16A-100 Senior citizen and disabled person exemption—Definitions. (1) **Introduction.** This rule contains definitions of the terms used for the senior citizen and disabled person exemption from property taxes. The definitions apply to the senior citizen and disabled person exemption contained in sections RCW 84.36.381 through 84.36.389 unless the context clearly requires otherwise.

(2) **Annuity.** "Annuity" means a series of payments under a contract. Annuity contracts pay a fixed sum of money at regular intervals for more than one full year. An annuity may be paid as the proceeds of a life insurance contract (other than as a lump sum payment), unemployment compensation, disability payments, or even welfare receipts. It does not include payments for the care of dependent children.

(3) **Assessment year.** "Assessment year" means the year when the assessor lists and values the principal residence for property taxes. The assessment year is the calendar year prior to the year the taxes become due and payable. It is always the year before the claimant receives a reduction in his or her property taxes because of the senior citizen and disabled person exemption.

(4) **Capital gain.** "Capital gain" means the amount the seller receives for property (other than inventory) over that seller's adjusted basis in the property. The seller's initial basis in the property is the property's cost plus taxes, freight charges, and installation fees. In determining the capital gain, the seller's costs of transferring the property to a new owner are also added onto the adjusted basis of the property. If the property is acquired in some other manner than by purchase, the seller's initial basis in the property is determined by the way the seller received the property (e.g., property exchange, payment for services, gift, or inheritance). The

seller adjusts (increases and decreases) the initial basis of the property for events occurring between the time the property is acquired and when it is sold (e.g., increased by the cost of improvements made later to the property).

(5) **Claimant.** "Claimant" means a person claiming the senior citizen and disabled person exemption by filing an application with the county assessor in the county where the property is located.

(6) **Combined disposable income.** "Combined disposable income" means the annual disposable income of the claimant, the claimant's spouse, and any cotenant reduced by amounts paid by the claimant or the claimant's spouse for their:

- (a) Legally prescribed drugs;
- (b) Home health care; and
- (c) Nursing home expenses.

Disposable income is not reduced by these amounts if payments are reimbursed by insurance or a government program (e.g., Medicare or Medicaid). When the application is made, the combined disposable income is calculated for the assessment year.

(7) **Cotenant.** "Cotenant" means a person who resides with the claimant and who has an ownership interest in the residence.

(8) **Department.** "Department" means the state department of revenue.

(9) **Depreciation.** "Depreciation" means the annual deduction allowed to recover the cost of business or investment property having a useful life of more than one year. In limited circumstances, this cost, or a part of this cost, may be taken as a section 179 expense on the federal income tax return in the year business property is purchased.

(10) **Disposable income.** "Disposable income" means the adjusted gross income as defined in the Federal Internal Revenue Code of 2001, and as amended after that date, plus all the other items described below to the extent they are not included in or have been deducted from adjusted gross income. (RCW 84.36.383)

(a) Capital gains, other than gain excluded from the sale of a principal residence that is reinvested prior to the sale or within the same calendar year in a different principal residence;

- (b) Losses. Amounts deducted for loss;
- (c) Depreciation. Amounts deducted for depreciation;
- (d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments. Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the military;

(f) Veterans benefits other than attendant-care and medical-aid payments. Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the Department of Veterans Affairs (VA);

(g) Federal Social Security Act and railroad retirement benefits;

(h) Dividend receipts;

(i) Interest received on state and municipal bonds.

(11) **Excess levies.** "Excess levies" means voter-approved levies by taxing districts, other than port or public utility districts, of additional taxes in excess of the statutory aggregate dollar rate limit, the statutory dollar rate limit, or the constitutional one percent levy limit. It does not include regular levies allowed to exceed a statutory limit with voter approval or voted regular levies.

(12) **Excluded military pay or benefits.** "Excluded military pay or benefits" means military pay or benefits excluded from a person's federal gross income, other than those amounts excluded from that person's federal gross income for attendant-care and medical-aid payments. Members of the armed forces receive many different types of pay and allowances. Some payments or allowances are included in their gross income for the federal income tax while others are excluded from their gross income. Excluded military pay or benefits include:

- (a) Compensation for active service while in a combat zone or a qualified hazardous duty area;
- (b) Death allowances for burial services, gratuity payment to a survivor, or travel of dependents to the burial site;
- (c) Moving allowances;
- (d) Travel allowances;
- (e) Uniform allowances;
- (f) Group term life insurance payments made by the military on behalf of the claimant, the claimant's spouse, or the cotenant; and
- (g) Survivor and retirement protection plan premiums paid by the military on behalf of the claimant, the claimant's spouse, or the cotenant.

(13) **Family dwelling unit.** "Family dwelling unit" means the dwelling unit occupied by a single person, any number of related persons, or a group not exceeding a total of eight related and unrelated nontransient persons living as a single noncommercial housekeeping unit. The term does not include a boarding or rooming house.

(14) **Home health care.** "Home health care" means the treatment or care of either the claimant or the claimant's spouse received in the home. It must be similar to the type of care provided in the normal course of treatment or care in a nursing home, although the person providing the home health care services need not be specially licensed. The treatment and care must meet at least one of the following criteria. It must be for:

- (a) Medical treatment or care received in the home;
- (b) Physical therapy received in the home;
- (c) Food, oxygen, lawful substances taken internally or applied externally, necessary medical supplies, or special needs furniture or equipment (such as wheel chairs, hospital beds, or therapy equipment), brought into the home as part of a necessary or appropriate in-home service that is being rendered (such as a meals on wheels type program); or
- (d) Attendant care to assist the claimant, or the claimant's spouse, with household tasks, and such personal care tasks as meal preparation, eating, dressing, personal hygiene, specialized body care, transfer, positioning, ambulation, bathing, toileting, self-medication a person provides for himself or herself, or such other tasks as may be necessary to maintain a

person in his or her own home, but shall not include improvements or repair of the home itself.

(15) **Lease for life.** "Lease for life" means a lease that terminates upon the demise of the lessee.

(16) **Legally prescribed drugs.** "Legally prescribed drugs" means drugs supplied by prescription of a medical practitioner authorized to issue prescriptions by the laws of this state or another jurisdiction.

(17) **Life estate.** "Life estate" means an estate whose duration is limited to the life of the party holding it or of some other person.

(a) Reservation of a life estate upon a principal residence placed in trust or transferred to another is a life estate.

(b) Beneficial interest in a trust is considered a life estate for the settlor of a revocable or irrevocable trust who grants to himself or herself the beneficial interest directly in his or her principal residence, or the part of the trust containing his or her personal residence, for at least the period of his or her life.

(c) Beneficial interest in an irrevocable trust is considered a life estate, or a lease for life, for the beneficiary who is granted the beneficial interest representing his or her principal residence held in an irrevocable trust, if the beneficial interest is granted under the trust instrument for a period that is not less than the beneficiary's life.

(18) **Owned.** "Owned" includes "contract purchase" as well as "in fee," a "life estate," and any "lease for life." A residence owned by a marital community or owned by cotenants is deemed to be owned by each spouse or cotenant.

(19) **Ownership by a marital community.** "Ownership by a marital community" means property owned in common by both spouses. Property held in separate ownership by one spouse is not owned by the marital community. The person claiming the exemption must own the property for which the exemption is claimed. Example: A person qualifying for the exemption by virtue of age or disability cannot claim exemption on a residence owned by the person's spouse as a separate estate outside the marital community unless the claimant has a life estate therein.

(20) **Pension.** "Pension" means an agreement to provide for payments, not wages, to a person (or to that person's family) who has fulfilled certain conditions of service or reached a certain age. A pension may allow payment of all or a part of the entire pension benefit, in lieu of regular periodic payments.

(21) **Physical disability.** "Physical disability" means the condition of being disabled, resulting in the inability to pursue an occupation because of physical or mental impairment.

(22) **Principal residence.** "Principal residence" means the claimant owns and occupies the residence as his or her principal or main residence. It does not include a residence used merely as a vacation home. For purposes of this exemption:

(a) Principal or main residence means the claimant occupies the residence for more than six months each year.

(b) Confinement of the claimant to a hospital or nursing home does not disqualify the claim for exemption if:

(i) The residence is temporarily unoccupied;

(ii) The residence is occupied by the claimant's spouse or a person financially dependent on the claimant for support;

(iii) The residence is occupied by a caretaker who is not paid for watching the house;

(iv) The residence is rented for the purpose of paying nursing home or hospital costs.

(23) **Regular gainful employment.** "Regular gainful employment" means consistent or habitual labor or service which results in an increase in wealth or earnings.

(24) **Replacement residence.** "Replacement residence" means a residence that qualifies for the senior citizen and disabled person exemption and replaces the prior residence of the senior citizen or disabled person receiving the exemption.

(25) **Residence.** "Residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands. The term also includes:

(a) A share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides.

(b) A single-family dwelling situated upon leased lands and upon lands the fee of which is vested in the United States, any instrumentality thereof including an Indian tribe, the state of Washington, or its political subdivisions.

(c) A mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections for sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property. It includes up to one acre of the parcel of land on which a mobile home is located if both the land and mobile home are owned by the same qualified claimant.

(26) **Veterans benefits.** "Veterans benefits" means benefits paid or provided under any law, regulation, or administrative practice administered by the VA. Federal law excludes from gross income any veterans' benefits payments, paid under any law, regulation, or administrative practice administered by the VA.

NEW SECTION.

WAC 458-16A-110 Senior citizen and disabled person exemption—Gross income. (1) **Introduction.** This rule explains the definition of gross income used for federal income tax. In order to meet the income requirements for the senior citizen and disabled person exemption program, the claimant must provide supporting documents verifying combined disposable income. The gross income for federal income tax purposes of the claimant, the claimant's spouse, and any cotenants represents a part of the claimant's combined disposable income.

(a) **Income tax return.** In most cases, the claimant presents copies of federal income tax returns to demonstrate both gross income and adjusted gross income amount(s) for the claimant, the claimant's spouse, and any cotenants. The assessor then determines the disposable income for each person based upon that person's income tax return and the other information supplied by the claimant.

(b) **No income tax return.** When the claimant does not present federal income tax returns, the assessor must determine what constitutes gross income for the nonfiler and obtain copies of income documents to determine that person's gross income. This rule provides the assessor with some guidance in determining the gross income for a nonfiler.

(c) **Verifying the gross income amount.** In some cases, the assessor may choose to verify income amount(s). The rule provides the assessor some guidance in verifying all or part of the gross income for the claimant, the claimant's spouse, or any of the cotenants.

(2) **Gross income determined.** Internal Revenue Code section 61 defines "gross income," generally, as all income from whatever source derived. WAC 458-16A-135 lists the documentation used to determine the income of the claimant.

(3) **Exclusions from the federal definition of gross income.** A claimant may provide documentation or information about amounts received during the year that are excluded from gross income. These amounts should not be taken into account when determining gross income. The federal definition of gross income, generally, does not include:

(a) Gifts, inheritance amounts, or life insurance proceeds;

(b) Up to two hundred fifty thousand dollars (five hundred thousand dollars for a married couple) gain from the sale of a principal residence that meets the requirements of Internal Revenue Code section 121, see also WAC 458-16A-100 (definition of disposable income);

(c) Amounts received for illness or injury when received from workmen's compensation, a legal settlement, a legal judgment, a Medicare+Choice MSA, a federal employer under the federal Employees Compensation Act, accident insurance, or health insurance. If the amount received is from an employer directly for illness or injury or from employer-provided accident or health insurance, the amount is excluded only if it is paid to reimburse medical expenses, for the loss of limb, or for permanent disfigurement to the employee, the employee's spouse, or the employee's dependents;

(d) Contributions or payments made by an employer to accident and health plans, the employer's qualified transportation plan, a cafeteria plan, a dependent care assistance program, educational assistance programs, or for certain fringe benefits for employees described by Internal Revenue Code section 132. If the claimant earns wages as an employee, he or she should receive a W-2 form from the employer reporting those wages. This W-2 form should have already excluded the described contributions or payments provided for the employee's benefit in the above list. If a question arises about whether or not an employer adjusted the employee's gross income for these exclusions, the claimant should contact their employer and have the employer provide the county with a correct or corrected copy of the W-2 form to verify the correct wages paid to the employee;

(e) Income from discharge of indebtedness under certain limited circumstances, such as insolvency. These circumstances are outlined in Internal Revenue Code section 108;

(f) Improvements by a lessee left upon the lessor's property at the termination of a lease;

(g) Recovery of an amount deducted in a prior tax year that did not reduce federal income taxes paid in that prior year. For example, a person that itemized deductions may get a refund of property taxes or a stolen uninsured item will be returned. This refund or recovery is included in income unless the deduction did not result in a reduction of tax. It may not result in a reduction of tax because the person had to pay alternative minimum tax or taking away that deduction drops that person below the standard deduction amount. When the deduction did not reduce taxes, the recovery amount that did not reduce taxes is excluded. The assessor may request the claimant excluding such a recovery to present prior returns and worksheets such as the worksheets provided in Publication 525, *Taxable and Nontaxable Income*, to demonstrate how the exclusion was calculated;

(h) Qualified scholarships and fellowship grants provided for certain educational expenses (e.g., tuition and books). Internal Revenue Code section 117 provides a complete description of qualified scholarship and fellowship grant amounts excluded from gross income;

(i) Meals or lodging furnished to an employee for the convenience of the employer;

(j) Excluded military pay and benefits. These exclusions are defined in WAC 458-16A-100. A discussion of how to determine and calculate these benefits is found in WAC 458-16A-120;

(k) Amounts received under insurance contracts for certain living expenses: As a general rule, when an individual's principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by governmental authorities because of the occurrence or the threat of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence;

(l) Certain cost-sharing payments made for conservation purposes on land owned by the claimant: Payments received from federal or state funds primarily to conserve soil, protect or restore the environment, improve forests, or provide a habitat for wildlife are excluded from gross income. In addition, the claimant may exclude energy conservation subsidies provided by public utilities from gross income. If the claimant indicates that he or she has received payments from the government or had improvements made to his or her residence or land by the government for conservation purposes, the assessor may ask for verification of the amount excluded (if any) from gross income and the information received by the claimant supporting this exclusion. See Internal Revenue Code sections 126 and 136;

(m) Child support payments;

(n) Qualified foster care payments made from the government or a qualified nonprofit to a foster parent or guardian. See Internal Revenue Code section 131;

(o) Income from United States savings bonds used to pay higher education tuition and fees. See Internal Revenue Code section 135;

(p) Distributions from a qualified state tuition program or a Coverdell Education Savings Account used to pay for higher education expenses. Distributions from a Coverdell Education Savings Account used to pay for elementary or secondary education expenses. See Internal Revenue Code sections 529 and 530.

NEW SECTION

WAC 458-16A-115 Senior citizen and disabled person exemption—Adjusted gross income. (1) **Introduction.** This rule explains how an assessor determines the adjusted gross income for the claimant, the claimant's spouse, and any cotenants. In order to meet the income requirements for the senior citizen and disabled person exemption program, the claimant must provide supporting documents verifying combined disposable income. The adjusted gross income for federal income tax purposes of the claimant, the claimant's spouse, and any cotenants represents a part of the claimant's combined disposable income.

(a) **Income tax return.** In most cases, the claimant presents copies of federal income tax returns to demonstrate adjusted gross income amount(s) for the claimant, the claimant's spouse, and any cotenants. The assessor then determines the disposable income for each person based upon that person's income tax return and other information supplied by the claimant.

(b) **No income tax return.** When the claimant does not present federal income tax return(s), the assessor must determine what constitutes the gross income and the adjusted gross income of the nonfiler and obtain copies of income documents to determine that person's income amounts. This rule provides the assessor with some guidance in determining the adjusted gross income for a nonfiler.

(c) **Verifying the adjusted gross income amount.** In some cases, the assessor may choose to verify income amount(s). The rule provides the assessor some guidance in verifying all or part of the adjusted gross income for the claimant, the claimant's spouse, or any of the cotenants.

(2) **Adjusted gross income.** Internal Revenue Code section 62 defines "adjusted gross income" as gross income minus the following deductions:

(a) **Trade and business deductions.** Business owners may deduct from gross income trade or business expenses. If the claimant submits a copy of a Form 1040 federal income tax return, these deductions will be taken on the Schedule C, the Schedule C-EZ, or, for a farm, the Schedule F. If the business owned is a partnership, limited partnership, S Corporation, or Limited Liability Company (LLC), the deduction is taken on the return submitted by the partnership, limited partnership, S Corporation, or LLC (Tax Return Forms 1065 and 1120S) and passed through to the individual on a Schedule K-1. A claimant or cotenant that does not file a federal income tax return, but claims to have trade or business deductions should provide documentation of income and expenses from the business to allow the assessor to determine the amount of trade or business expenses to be deducted.

(b) **Unreimbursed expenses paid or incurred by an elementary or secondary school teacher for educational**

materials and equipment, an employee who is a qualified performing artist, or a state or local government official paid on a fee basis. From 2002 until 2010, an elementary or secondary school teacher may deduct from gross income up to two hundred fifty dollars of unreimbursed amounts that the teacher pays for educational materials and equipment used in the teacher's classroom. A teacher may take this deduction on a Form 1040 or a 1040A. A qualified performing artist, defined by Internal Revenue Code section 62(b), or a state or local government official paid on a fee basis may deduct from gross income any unreimbursed trade or business expenses incurred for that employer as an employee. If the claimant submits a copy of a Form 1040 federal income tax return, the deduction will be taken on the dotted line before the final line for determining adjusted gross income with a designation of "QPA" or "FBO." A claimant or cotenant that does not file a tax return, but claims to have unreimbursed expenses for this deduction, should provide documentation to demonstrate his or her status as an elementary or secondary school teacher, a qualified performing artist, or a government employee paid on a fee basis and documentation of the unreimbursed educational materials and equipment or trade or business amounts spent as an employee for his or her employer.

(c) **Losses from sale or exchange of property.** A property owner may deduct from gross income losses from the sale or exchange of property for federal income tax purposes. If the claimant submits a copy of a Form 1040 federal income tax return, the deduction is generally determined on a Schedule D. For purposes of this program, losses cannot be deducted from income. Any losses taken must be added onto adjusted gross income. An assessor may refuse documentation of losses from a claimant or cotenant that does not file a tax return as these losses do not result in any change to the claimant's final combined disposable income.

(d) **Deductions attributable to rents and royalties.** A property owner may deduct from gross income expenses attributable to property held for the production of rents and royalties. If the claimant submits a copy of a Form 1040 federal income tax return, the deductions are determined on a Schedule E. A claimant or cotenant that does not file a tax return, but claims to have expenses from rental property or licensed property, should provide documentation of these expenses.

(e) **Certain deductions of life tenants and income beneficiaries of property.** A life tenant or income beneficiary of a trust or estate may deduct from gross income for federal income tax purposes depreciation or depletion expenses related to the business or rental property in which he or she has a life estate or when the property is owned by a trust or estate, if he or she has a beneficial interest in the property. If the claimant submits a copy of a Form 1040 federal income tax return, these deductions are shown on Schedule E. A claimant or cotenant with a beneficial interest in business property owned by a trust or estate would show the depreciation or depletion deduction on the Schedule K-1 from that trust or estate. An assessor may refuse documentation of depreciation or depletion on property from a claimant or cotenant that does not file a tax return as these expenses do

not result in any change to the claimant's final combined disposable income.

(f) **Pension, profit-sharing, annuity, and annuity plans of self-employed individuals.** A self-employed person may deduct from gross income contributions to a SEP, SIMPLE, or other qualified plan. These deductions are claimed on the Form 1040 federal income tax return. A self-employed claimant or cotenant that does not file a tax return, but claims this deduction, should provide documentation of the contributions made to a qualified plan by his or her business.

(g) **Self-employed health insurance deduction.** As part of his or her trade and business expenses, a self-employed person may deduct from gross income part (and after 2002, all) of the business's payments for his or her health insurance. This deduction is claimed on the Form 1040 federal income tax return. A self-employed claimant or cotenant that does not file a tax return, but claims this deduction, should provide documentation of the payments made for his or her health insurance by his or her business. The assessor may request the claimant to submit a copy of the deduction worksheet provided in the instructions for Form 1040 to calculate this deduction whether or not the self-employed person filed a tax return.

(h) **One-half of self-employment tax.** As part of his or her trade or business expenses, a self-employed person may deduct from gross income one-half of the self-employment tax paid to the federal government determined on a Schedule SE. This deduction is claimed on the Form 1040 federal income tax return. A self-employed person that has not filed a return, may not claim this deduction as the self-employment tax is reported and paid with that return.

(i) **Retirement savings.** A person may deduct from gross income qualifying contributions (up to three thousand five hundred dollars) made to an individual retirement account (IRA). This deduction may be claimed on either the Form 1040 or Form 1040A federal income tax return. A claimant or cotenant that does not file a tax return, but claims to have made qualifying contributions to an IRA, should provide documentation of these contributions. The assessor may request the claimant to submit a copy of the IRA deduction worksheet provided in the instructions for Form 1040 and Form 1040A to calculate this deduction whether or not the person filed a tax return.

(j) **Penalties on early withdrawal of savings.** A person may deduct from gross income for purposes of federal income tax penalties paid because of an early withdrawal of savings. This deduction is claimed on the Form 1040 federal income tax return. The IRS classifies these penalties as losses. For purposes of this program, losses may not be deducted from income. Any deduction taken on this line must be added to adjusted gross income. An assessor may refuse documentation about these penalties from a claimant or cotenant that does not file a tax return as these losses do not result in any change to the claimant's final combined disposable income.

(k) **Alimony.** A person may deduct from gross income alimony paid in cash to a previous spouse. This deduction is claimed on the Form 1040 federal income tax return. A per-

son that does not file a tax return, but made alimony payments, should provide copies of documentation showing alimony payments were made in cash to a prior spouse. The documents should include a copy of the divorce or separation instrument providing for the alimony payments and the amount of the alimony payments made during the year.

(l) **Reforestation costs.** A landowner may deduct from gross income for purposes of federal income tax the amortized reforestation costs for qualified timber property over a period of eighty-four months. If the property is held as business property, the deduction will appear with the trade and business expenses. If the property is not held as business property and the claimant submits a copy of a Form 1040 federal income tax return, this deduction is claimed on the dotted line before the final line for determining adjusted gross income on the Form 1040 federal income tax return and identified as "RFST." An assessor may refuse documentation of the amortization of reforestation costs from a claimant or cotenant that does not file a tax return as these amortized costs are depreciation expenses. These expenses would be added onto adjusted gross income for purposes of this program and do not result in any change to the claimant's final combined disposable income.

(m) **Required repayment of supplemental unemployment compensation.** A person may deduct from gross income required repayments of supplemental unemployment compensation benefits. If the claimant submits a Form 1040 federal income tax return, the deduction may show on the return in one of two ways. If the repayment is made in the same year the benefits are received, the taxpayer reduces the total unemployment compensation reported on the return by the amount of repayment. If the repayment is made in a later year, the taxpayer deducts the repayment on the dotted line before the final line for determining adjusted gross income on the return and identifies it as "Sub-Pay TRA." A person that does not file a tax return, but claims to have repaid supplemental unemployment compensation, should provide documentation of these repayments.

(n) **Jury duty pay given to employer.** An employee may deduct from gross income jury duty pay given to his or her employer. An employee deducts the jury pay given to the employer on the dotted line before the final line for determining adjusted gross income on the Form 1040 federal income tax return and identifies it as "Jury Pay." A person that does not file a tax return, but claims to have given jury pay received during the year to their employer, should provide documentation of the amount of jury pay given over to the employer.

(o) **Clean-fuel vehicles and certain refueling property.** A person may deduct from gross income a portion of the cost for a qualified clean-fuel vehicle and certain refueling property until the end of calendar year 2004. This deduction may show on the Form 1040 federal income tax return in one of two ways. If the property is held as business property, the deduction will appear with the trade and business expenses. If a clean-fuel vehicle is not held as business property, or is claimed by an employee who used it in whole or part for business, this deduction is claimed on the dotted line before the final line for determining adjusted gross income on

the return and identified as "Clean Fuel." A purchaser that does not file a tax return, but purchased clean-fuel property, should provide documentation about the qualifying clean-fuel vehicle or the refueling property, the amount paid for the clean-fuel property, and a calculation of the deduction amount allowed.

(p) **Unreimbursed moving expenses.** If the claimant or cotenant had to move a significant distance for a job or business, he or she may deduct from gross income the unreimbursed moving costs. This deduction is claimed on the Form 1040 federal income tax return. If the claimant or cotenant does not file a tax return, the claimant should provide documentation of the distance moved, the reason for the move, and the moving expenses. The assessor may ask the claimant to submit a copy of Form 3903, Moving Expenses, and the distance test worksheet on that form to prove the amount of his or her adjusted gross income whether or not the claimant or cotenant filed a federal income tax return.

(q) **Archer MSAs (medical savings accounts).** A person may deduct from gross income a qualifying contribution to an Archer MSA. An MSA is an account set up exclusively for paying the qualified medical expenses of the account holder or the account holder's spouse or dependent(s) in conjunction with a high deductible health plan (HDHP). To be eligible for an MSA, the person must work as an employee for a small employer or be self-employed. The person must also have an HDHP, and have no other health insurance coverage except permitted coverage. The calculation of the deduction is performed on a Form 8853. This deduction is claimed on the Form 1040 federal income tax return. If the person does not file a tax return, but claims to have made a qualifying contribution to an Archer MSA, the claimant should provide copies of documentation as to that person's qualifications for the deduction and how the deduction was calculated. If this deduction is claimed, the assessor may ask the claimant to submit a copy of Form 8853, Archer MSAs and Long Term Care Insurance Contracts, whether or not the claimant or cotenant filed a federal income tax return.

(r) **Interest on student loans.** A person may deduct from gross income some or all student loan interest paid on his or her student loan(s) during the first sixty months of the loan repayment period. The deduction may not be claimed by a taxpayer claimed as a dependent, a taxpayer filing as married filing separately, or when the taxpayer has an adjusted gross income amount over fifty-five thousand dollars (seventy-five thousand dollars if married filing jointly). This deduction is claimed on either the Form 1040 or Form 1040A federal income tax return. A person that does not file a tax return, but claims to have paid student loan interest, should provide copies of documentation of that person's qualification for the deduction and how the deduction was calculated. For 2002 and after, a person may deduct some or all of this student loan interest (not over two thousand five hundred dollars) repaid for any repayment period (the sixty-month limit is gone), provided the taxpayer does not have adjusted gross income above sixty-five thousand dollars (one hundred thirty thousand dollars if married filing jointly). The two thousand five hundred dollar limit on the interest gets reduced for taxpayers with adjusted gross income over fifty

thousand dollars (one hundred thousand dollars if married filing jointly). See Internal Revenue Code section 221.

(s) **Higher education expenses.** From 2002 to 2005, an individual with adjusted gross income below a set amount (generally sixty-five thousand dollars) may take a deduction for qualified tuition and related expenses paid by that person for that person, that person's spouse, or a dependent of that person. Depending on the individual's gross income, the deduction cannot exceed three thousand dollars (four thousand dollars in 2004 and 2005). The deduction is claimed on either the Form 1040 or Form 1040A federal income tax return. A person that does not file a tax return, but claims to have paid higher education expenses, should provide copies of documentation of that person's qualification for the deduction and how the deduction was calculated. This deduction may only be taken if the income was not excluded from gross income. See WAC 458-16A-110 (savings bonds, qualified state tuition programs, and Coverdell Education Savings Accounts).

NEW SECTION

WAC 458-16A-120 Senior citizen and disabled person exemption—Determining combined disposable income. (1) **Introduction.** This rule describes how an assessor determines a claimant's combined disposable income.

(2) **Begin by calculating disposable income.** The assessor must determine the disposable income of the claimant, the claimant's spouse, and all cotenants. The assessor begins by obtaining a copy of the claimant's, the claimant's spouse's, and any cotenant's federal income tax return. If the claimant, the claimant's spouse, or a cotenant does not provide a federal income tax return, the assessor must calculate disposable income from copies of other income documents (e.g., W-2, 1099-R, 1099-INT, etc.). The assessor may want to review the definitions of gross income, WAC 458-16A-110, and adjusted gross income, WAC 458-16A-115, to help calculate the combined disposable income for a claimant. These rules provide some guidance on how to determine adjusted gross income without copies of a federal income tax return. On the federal income tax return, the adjusted gross income is found on the front pages of Form 1040, Form 1040A, and Form 1040EZ. Even when a return is provided, an assessor may request copies of supporting documents to verify the amount of the claimant's combined disposable income.

(a) **Absent spouse.** When a spouse has been absent for over a year and the claimant has no knowledge of his/her spouse's whereabouts or whether the spouse has any income or not, and the claimant has not received anything of value from the spouse or anyone acting upon the spouse's behalf, the spouse's disposable income is deemed to be zero for purposes of this exemption. The claimant must submit with the application a dated statement signed by the applicant under the penalty of perjury. This statement must state that more than one year prior to filing this application:

- (i) The claimant's spouse has been absent;
- (ii) The claimant has not and does not know the whereabouts of the claimant's spouse;

(iii) The claimant has not had any communication with the claimant's spouse;

(iv) The claimant has not received anything of value from the claimant's spouse or anyone acting upon the claimant's spouse's behalf.

The statement must also agree to provide this income information if the claimant is able to obtain it anytime in the next four years.

(b) **Form 1040EZ.** Generally, the adjusted gross income on Form 1040EZ represents the disposable income for the person or couple filing the return. However, that person's or couple's adjusted gross income as shown on the Form 1040EZ must be increased by the following amounts that are excluded from their adjusted gross income.

(i) **Gain from a sold residence.** Under certain circumstances, gain from a sold residence is added onto the seller's adjusted gross income. Since there is no federal form used for reporting the exclusion of capital gains from the sale of a principal residence, the exemption application asks if a home has been sold, whether the sale proceeds were reinvested in new principal residence, and the amount of capital gain from the sale.

(A) If the proceeds were reinvested in a new principal residence, the excluded capital gain reinvested in the new residence is ignored. The adjusted gross income on Form 1040EZ is not adjusted for any part of the excluded capital gain reinvested in the new residence.

(B) If the proceeds were not reinvested in a new principal residence or only a part of the proceeds were reinvested in a new principal residence, the amount of excluded capital gain that is not reinvested in a new principal residence is added onto the seller's adjusted gross income to determine the seller's disposable income. The assessor may accept the excluded capital gain amount claimed upon the application or request a copy of documents demonstrating the seller's basis in the property and the capital gain earned upon the sale.

(ii) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is generally not subject to federal income tax. This tax exempt interest is marked "TEI" and reported on the Form 1040EZ. The tax-exempt interest is added onto the bond owner's federal adjusted gross income to determine the bond owner's disposable income.

(A) The assessor may ask a claimant whether the claimant, the claimant's spouse, or any cotenant's own state or local government bonds. If the return does not show the tax exempt amount from the bond, the assessor may ask to see a copy of the Form 1099-INT (Interest Income).

(B) If the claimant does not have this form, the bond issuer should be able to tell the owner whether the interest is taxable. The issuer should also give the owner a periodic (or year-end) statement showing the tax treatment of the bond. If the income recipient invested in the bond through a trust, a fund, or other organization, that organization should give the recipient this information.

(iii) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than attendant-care and medical-aid payments, are added onto the adjusted gross income of the military person-

nel receiving the excluded military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are discussed in more detail below in paragraph (c)(vii).

(iv) **Veterans benefits.** Veterans benefits, other than attendant-care and medical-aid payments, are added onto the veteran's adjusted gross income to determine the veteran's disposable income. Veterans benefits are discussed in more detail below in paragraph (c)(viii).

(c) **Form 1040A.** If a claimant provides a copy of a Form 1040A, the assessor calculates the disposable income for the person or couple filing the return by adding onto the adjusted gross income reported the items described below to the extent these items were excluded or deducted from gross income:

(i) **Gain from a sold residence.** The excluded capital gain from selling a principal residence to the extent that excluded gain was not reinvested in a new principal residence is added onto the seller's adjusted gross income to determine the seller's disposable income. The amount is reported on the exemption application. Refer to paragraph (a)(i) above for a more complete discussion of excluded capital gain upon a sold residence.

(ii) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is generally not subject to federal income tax. The tax-exempt interest reported on Form 1040A is added back onto the bond owner's adjusted gross income to determine the bond owner's disposable income. Refer to paragraph (a)(ii) above for a more complete discussion of tax-exempt interest on state and municipal bonds.

(iii) **Pension and annuity receipts.** Any nontaxable pension and annuity amounts are added onto the recipient's adjusted gross income amount to determine the recipient's disposable income. The nontaxable pension and annuity amounts are the difference in the total pension and annuity amounts reported from the taxable amounts reported. If the total amount of the pension and annuity amounts are not reported on the return, the assessor may use a copy of the claimant's, the claimant's spouse's, or the cotenant's Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) to determine the total amount of pension and annuity amounts received. Pension and annuity amounts do not include distributions made from a traditional individual retirement account; and

(iv) **Federal Social Security Act and railroad retirement benefits.** Any nontaxable Social Security benefit or equivalent railroad retirement amount reported on Form 1040A is added onto the adjusted gross income of the person receiving these benefits to determine that person's disposable income. The nontaxable Social Security benefit or equivalent railroad retirement amount is the difference in the total Social Security benefits or equivalent railroad retirement amounts reported from the taxable amount reported. If the total amount of the Social Security benefit or equivalent railroad retirement amount is not reported on the return, the assessor may use a copy of the claimant's, the claimant's spouse's, or the cotenant's Form SSA-1099 to determine the Social Secu-

urity benefits or Form RRB-1099 to determine the railroad retirement benefits received.

(v) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than attendant-care and medical-aid payments, are added onto adjusted gross income of the military personnel receiving the excluded military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are discussed below in paragraph (c)(vii).

(vi) **Veterans benefits.** Veterans benefits, other than attendant-care and medical-aid payments, are added back onto the veteran's adjusted gross income to determine the veteran's disposable income. Veterans benefits are discussed below in paragraph (c)(viii).

(d) **Form 1040.** If a claimant provides a copy of a Form 1040, the assessor calculates the disposable income for the person or couple filing the return by adding onto the reported adjusted gross income all the items described below to the extent these items were excluded or deducted from gross income:

(i) **Gain from a sold residence.** The excluded capital gain from selling a principal residence to the extent that excluded gain was not reinvested in a new principal residence is added onto the seller's adjusted gross income to determine the seller's disposable income. The excluded capital gain amount is reported on the exemption application.

(ii) **Capital gains.** If the return shows capital gains or losses, the assessor examines a copy of the following schedule or forms, if any, that were filed with the return. The assessor should examine the capital gains reported on Schedule D (Capital Gains and Losses) and on Forms 4684 (Casualty and Thefts), 4797 (Sales of Business Property), and 8829 (Business Use of Home).

The assessor adds onto the adjusted gross income any amount of capital gains reduced by losses or deductions on the schedules or forms listed above to determine the total capital gains. The amount of capital gains that were excluded or deducted from adjusted gross income must be added onto that adjusted gross income to determine disposable income.

(iii) **Losses.** Amounts deducted for loss are added onto the adjusted gross income to determine the disposable income. Most losses are reported on the return in parentheses to reflect that these loss amounts are to be deducted. The net losses are reported on Form 1040 as business losses, as capital losses, as other losses, as rental or partnership-type losses, and as farm losses. Add these amounts in parentheses onto the adjusted gross income. In addition, the assessor adds to adjusted gross income the amount reported as a penalty on early withdrawal of savings because the amount represents a loss under section 62 of the Internal Revenue Code.

(A) The taxpayer only reports the net amount of losses on the front page of the Form 1040 federal income tax return. A loss may be used on other schedules or forms to reduce income before being transferred to the front page of the return to calculate adjusted gross income. The assessor adds onto the adjusted gross income the amount of losses used to reduce income on these other schedules and forms. If the assessor has already added capital gains reduced by losses, the assessor does not add this amount onto adjusted gross income as it

has already been accounted for. The amount of losses that were used to reduce adjusted gross income must be added onto that adjusted gross income to determine disposable income. For example, the claimant reports on the front page of the 1040 a capital loss of (five thousand dollars). The assessor examines the Schedule D. On the Schedule D, the claimant reports two thousand dollars in long-term capital gains from the sale of Company X stock and seven thousand dollars in long-term capital losses from the sale of an interest in the Y limited partnership. The assessor has already reduced the claimant's adjusted gross income by five thousand dollars from the capital loss reported on the front page of the return. The assessor would add onto adjusted gross income only the additional two thousand dollars in losses from this Schedule D that was used to offset the capital gain the claimant earned from the sale of Company X stock.

(B) The assessor should examine losses reported on Schedules C (Profit or Loss from Business), D (Capital Gains and Losses), E (Supplemental Income and Loss), F (Profit or Loss from Farming), and K-1 (Shareholder's Share of Income, Credits, Deductions, etc.), and on Forms 4684 (Casualty and Thefts), 4797 (Sales of Business Property), 8582 (Passive Activity Loss Limitations), and 8829 (Business Use of Home) to determine the total amount of losses claimed.

(iv) **Depreciation.** Amounts deducted for the depreciation, depletion, or amortization of an asset's costs are added onto the adjusted gross income to determine the disposable income. This includes section 179 expenses, as an expense in lieu of depreciation. Amounts deducted for depreciation, depletion, amortization, and 179 expenses may be found on Schedules C, C-EZ, E, F, K and K-1, and on Form 4835 (Farm Rental Income and Expenses). If the schedule or form results in a loss transferred to the front of the Form 1040 federal income tax return, the depreciation deduction to the extent it is represented in that loss amount should not be added onto the adjusted gross income (as this would result in it being added back twice);

(v) **Pension and annuity receipts.** Any nontaxable pension and annuity amounts are added onto the recipient's adjusted gross income amount to determine the recipient's disposable income. The nontaxable pension and annuity amounts are the difference in the total pension and annuity amounts reported from the taxable amount reported. If the total amount of the pension and annuity amounts are not reported on the return, the assessor may use a copy of the claimant's, the claimant's spouse's, or the cotenant's Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) to determine the total amount of pension and annuity amounts received. Pension and annuity amounts do not include distributions made from a traditional individual retirement account.

(vi) **Federal Social Security Act and railroad retirement benefits.** Any nontaxable Social Security benefit or equivalent railroad retirement amount reported on the Form 1040 federal income tax return is added onto the adjusted gross income of the person receiving these benefits to determine that person's disposable income. The nontaxable Social

Security benefit or equivalent railroad retirement amount is the difference in the total Social Security benefits or equivalent railroad retirement amounts reported from the taxable amount reported. If the total amount of the Social Security benefit or equivalent railroad retirement amount is not reported on the return, the assessor may use a copy of the claimant's, the claimant's spouse's, or the cotenant's Form SSA-1099 to determine the Social Security benefits or Form RRB-1099 to determine the railroad retirement benefits received.

(vii) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than pay or benefits for attendant care or medical aid, are added onto the adjusted gross income of the military personnel receiving the military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are not reported on the Form 1040. Excluded military pay and benefits such as pay earned in a combat zone, basic allowance for subsistence (BAS), basic allowance for housing (BAH), and certain in-kind allowances, are reported in box 12 of the Form W-2. The claimant should disclose when excluded military pay and benefits were received and provide copies of the Form W-2 or other documents that verify the amounts received.

(viii) **Veterans benefits.** Veterans benefits, other than attendant-care and medical-aid payments, are added onto the veteran's adjusted gross income to determine the veteran's disposable income. Federal law excludes from gross income any veterans benefits payments, paid under any law, regulation, or administrative practice administered by the Department of Veterans Affairs (VA). Except for payments by the VA made for attendant care or medical aid, allowances or payments made from the VA must be added onto the veteran's adjusted gross income. VA benefits are not reported on the Form 1040. The claimant should disclose when excluded veterans benefits were received and provide copies of documents that verify the amount received. Attendant-care and medical-aid payments are any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the VA. Disability compensation or pensions paid by the VA are not attendant-care or medical-aid payments;

(ix) **Dividend receipts.** Exempt-interest dividends received from a regulated investment company (mutual fund) are reported on the tax-exempt interest line of the Form 1040 and added onto the recipient's adjusted gross income to determine that recipient's disposable income.

(A) The assessor may ask a claimant whether the claimant, the claimant's spouse, or any cotenants have received exempt-interest dividends.

(B) Generally, the mutual fund owner will receive a notice from the mutual fund telling him or her the amount of the exempt-interest dividends received. These exempt-interest dividends are not shown on Form 1099-DIV or Form 1099-INT. Although exempt-interest dividends are not taxable, the owner must report them on the Form 1040 tax return if he or she has to file; and

(x) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is gener-

ally not subject to federal income tax. This tax-exempt interest is reported on the Form 1040 and added onto the bond owner's adjusted gross income to determine the bond owner's disposable income.

(3) **Calculate the combined disposable income.** When the assessor has calculated the disposable income for the claimant, the claimant's spouse, and any cotenants, the assessor combines the disposable income of these people together. The assessor reduces this combined income by the amount paid by the claimant or the claimant's spouse during that calendar year for their legally prescribed drugs, home health care, and nursing home care to calculate the claimant's combined disposable income.

NEW SECTION

WAC 458-16A-130 Senior citizen and disabled person exemption—Qualifications for exemption. (1) **Introduction.** This rule describes the qualifications a claimant must meet for the senior citizen or disabled person property tax exemption. In order to qualify for the exemption, the claimant:

- (a) Must meet age or disability requirements;
- (b) Must have a combined disposable income of thirty thousand dollars or less; and
- (c) Must own the property and occupy it as his or her principal residence.

(2) **Age, retirement, and disability requirements.** In order to qualify for the exemption:

(a) The senior citizen claiming the exemption must be age sixty-one or older on December 31st of the year in which the claim is filed. No proof is required concerning a senior citizen's employment status to claim the exemption.

(b) The disabled person claiming the exemption must be at the time of filing retired from regular gainful employment because of his or her physical disability (i.e., unable to work because of a physical or mental impairment). A disabled person is considered retired, although he or she was not working at a job, if he or she is unable to enter into regular gainful employment because of his or her physical disability and does not have a guardian or other person legally required to financially support and care for him or her; or

(c) The surviving spouse of a claimant, who applies to continue their spouse's exemption, must be age fifty-seven or older in the calendar year the claimant dies.

(3) **Income requirements.** In order to qualify for the exemption, the claimant's combined disposable income, as defined in RCW 84.36.383 and WAC 458-16A-120, must be below the statutory limit amount provided in RCW 84.36.381.

(4) **Principal residence requirements.** In order to qualify for the exemption, the claimant must own the property and occupy it as his or her principal residence. The claimant must occupy the principal residence at the time of filing for each year the exemption is claimed. See WAC 458-16A-100 (definitions of principal residence and residence), and WAC 458-16A-135 (supporting documents required to demonstrate the property is owned and occupied as a claimant's principal residence).

NEW SECTION

WAC 458-16A-135 Senior citizen and disabled person exemption—Application procedures. (1) **Introduction.** This rule explains when and how a senior citizen or disabled person may apply for a property tax exemption on that person's principal residence. RCW 84.36.381 through 84.36.389.

(2) **When to apply for the exemption.** A claimant may first apply for the exemption in the calendar year that he or she meets the age or disability requirements for exemption of taxes due in the following year. If the claimant does not apply when he or she meets the age or disability requirements, then he or she may apply for the exemption in any subsequent year. The exemption may be claimed on his or her principal residence for previous years by applying with separate applications for each year. However, refunds based upon an exemption made in previous years may be refunded only for up to three years after the taxes were paid as provided in chapter 84.69 RCW.

(3) **Application required.** A claimant must submit to the county assessor's office an application for exemption with supporting documents. If the claimant applies for more than one year when the application is first made, an application must be made for each year the claimant seeks the exemption.

(4) **Where to obtain the application form.** A claimant may obtain the application form and the list of required supporting documents from the county assessor's office where his or her principal residence is located.

(5) **How to apply for the exemption.** Applications and supporting documents are filed in person or by mail at the county assessor's office where the principal residence is located.

(a) **The application form.** The county assessor designs the application form or adapts a master form obtained from the department. The county must obtain approval of the final form from the department before it may be distributed and used. The claimant must use an application form from the county where the principal residence is located and provide true and accurate information in the application.

(b) **Signatures.** The signature must certify that under penalty of perjury under the laws of Washington the application is true and correct. The application must be signed, dated, and state the place (city, county, or address) where it was signed. The application must be signed by:

- (i) The claimant;
- (ii) The claimant's designated agent;
- (iii) The legal guardian for the claimant (if applicable);

or

(iv) If the property is subject to a deed of trust, mortgage, or purchase contract requiring an accumulation of reserves to pay property taxes, the lien holder; and

(v) If the claimant resides in a cooperative housing unit or portion of a cooperative structure representing the claimant's ownership share in that cooperative, the authorized agent of the cooperative must also sign the application.

(c) **Perjury statement.** The perjury statement certifying under the penalty of perjury that the application is true and correct must be placed upon the application immediately

above a line for the signature. Any person signing a false claim with the intent to defraud or evade the payment of any tax commits perjury. If a person receives an exemption based on erroneous information, the assessor assesses any unpaid taxes with interest for up to three years. If a person receives an exemption based on erroneous information, and the person either provided that information with the intent to defraud or intentionally failed to correct that information, the assessor assesses any unpaid taxes with interest, for up to three years, with the one hundred percent penalty provided in RCW 84.40.130. RCW 84.36.385(5).

(d) **Cooperative agreement to reduce rent.** A cooperative must also agree, in a statement attached to the application, to reduce amounts owed by the claimant to the cooperative by the amount of the tax exemption. The agreement must also state that when the exemption exceeds the amount owed to the cooperative, the cooperative must pay to the claimant any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(5).

(e) **Supporting documents.** Unless the assessor determines that all or some of the supporting documents are not necessary, a claimant must present the documents listed below with his or her application. Except for affidavits, the assessor's office should not accept original documents from the claimant. If the assessor's office is presented with original documents (other than affidavits), they must make copies or note the information provided in the documents on a separate sheet and return these original documents to the claimant. The claimant submits the following documents with the application:

(i) If the county records do not reflect the claimant as the property owner, copies of any legal instruments demonstrating the claimant's interest held in the property;

(ii) Documents demonstrating that the property is the claimant's principal residence (i.e., copy of a driver's license and voter's registration card);

(iii) Copies of legal identification showing the claimant's age (i.e., copy of a driver's license or birth certificate);

(iv) If the claim is based upon a physical disability, either:

(A) An affidavit from a licensed physician (medical or osteopath doctor), a licensed or certified psychologist for disabling mental impairments, or a licensed podiatrist for disabling impairments of the foot, that states the claimant is unable to enter into regular gainful employment because of his or her physical disability and the expected term of the disability; or

(B) Copies of a written acknowledgment or decision by the Social Security Administration or Veterans Administration that the claimant is permanently physically disabled;

(v) Copies of documents showing income earned or reported by the claimant, the claimant's spouse and any cotenants, even when the income is estimated (income information should be provided to the degree possible and then confirmed with supporting documents in the follow-up period), such proof shall include to the extent it is relevant:

(A) If the claimant, the claimant's spouse, or any cotenants receive Social Security payments, a federal statement showing Social Security paid (generally, Form SSA-1099);

(B) If the claimant, the claimant's spouse, or any cotenants receive railroad retirement benefits, a federal statement showing railroad retirement benefits paid (generally, Forms RRC-1099 and RRC 1099-R);

(C) If the claimant, the claimant's spouse, or any cotenants file federal income tax returns, those returns with supporting forms, schedules, and, if specifically requested, worksheets for the deductions taken from gross income (generally, Form 1040 with its supporting forms and schedules);

(D) If the claimant or the claimant's spouse has been in a nursing home or receiving in-home care, copies of invoices (or an equivalent billing statement or payment statement) for nonreimbursed nursing home and in-home care;

(E) If the claimant indicates that the claimant's and the claimant's spouse's nonreimbursed prescription drugs for the period under review exceeds five hundred dollars, copies of checks or other payment statements (i.e., pharmacy printout of payments for purchases) showing amounts paid for nonreimbursed prescription drug expenses;

(F) If no federal returns were filed or received, the claimant must still provide copies of documents to demonstrate his or her income and the income of his or her spouse and any cotenants (i.e., federal income statements such as Form W-2 (wages), Form 1099-INT (interest), Form 1099-DIV (dividends), Form 1099-R (pension amounts), Form 1099-G (unemployment), or Form 1099-Misc. (contract income)). Even claimants who claim they have no federal income (or an inordinately small amount of federal income) must have income to maintain themselves and their residences. In these situations, the claimant must produce copies of documents demonstrating the source of the funds they are living on (i.e., checking account registers and bank statements) and the bills for maintaining the claimant and the residence (i.e., public assistance check stubs, utility invoices, cable TV invoices, check registers, bank statements, etc.); and

(vi) Any other copies of documents the assessor requires in his or her discretion for the claimant to produce in order to demonstrate the claimant qualifies for the exemption.

(f) Public disclosure of the application. The application form may not be disclosed. A copy of the application may be disclosed only if all income information on the form is obliterated so that it cannot be read. Except as required by law, no public disclosure may be made of the checklist of supporting documents or any supporting documents retained that concern the claimant's, the claimant's spouse's, or any cotenant's income.

NEW SECTION

WAC 458-16A-140 Senior citizen and disabled person exemption—Exemption described—Exemption granted—Exemption denied—Freezing property values.

(1) **Introduction.** This rule explains how county assessors process a claimant's application form for the senior citizen or disabled person property tax exemption. The rule describes the exemption and what happens when the exemption is granted or denied by the assessor.

(2) **The exemption described.** This property tax exemption reduces or eliminates property taxes on a senior

citizen's or disabled person's principal residence. Except for benefit charges made by a fire protection district, this exemption does not reduce or exempt an owner's payments for special assessments against the property. Local governments impose special assessments on real property because the real property is specially benefitted by improvements made in that area (e.g., local improvement district assessments for roads or curbs, surface water management fees, diking/drainage fees, weed control fees, etc.). All the property owners in that area share in paying for these improvements. The only exception related to this program is for benefit charges made by a fire protection district. Fire protection district benefit charges are reduced twenty-five, fifty, or seventy-five percent depending upon the combined disposable income of the claimant. RCW 52.18.090.

(a) **Excess levies.** A qualifying claimant receives an exemption from excess levies on his or her principal residence.

(b) **Regular levies.** Depending upon the claimant's combined disposable income, the exemption may also apply to all or a portion of the regular levies on the claimant's principal residence. Both the level of the claimant's combined disposable income and the assessed value of the home determine the amount of the regular levy exempted from property taxes. The exemption applies to all the regular and excess levies when the assessed value of the claimant's principal residence falls below the amount of exempt assessed value identified in RCW 84.36.381 (5)(b) and the claimant's combined disposable income is also below the levels set in that section.

(c) **Property taxes due.** Generally the owner pays the property taxes on the principal residence and obtains directly the benefit of this exemption. If the claimant is not the property's owner, or is not otherwise obligated to pay the property taxes on the principal residence, but "owned" the principal residence for purposes of this exemption, the property owner that owes the tax must reduce any amounts owed to them by the claimant up to the amount of the tax exemption. If the amounts owed by the claimant to this property owner are less than the tax exemption, the owner must pay to the claimant in cash any amount of the tax exemption remaining after this offsetting reduction. RCW 84.36.387(6).

(3) **Processing exemption applications.** County assessors process applications for the senior citizen or disabled person exemption. The assessors grant or deny the exemption based upon these completed applications.

(a) **Application review.** The county assessor reviews a completed application and its supporting documents.

The assessor:

(i) Notes on a checklist for the claimant's file the supporting documents received;

(ii) Reviews the supporting documents;

(iii) Records relevant information from the supporting documents into the claimant's file. In particular, the assessor records into the file the claimant's age and a summary of the income information received; and

(iv) After reviewing the supporting documents, must either destroy or return the supporting documents used to verify the claimant's age and income.

(b) **Incomplete applications.** A county assessor may return an incomplete application or a duplicate application. An incomplete application may be missing:

- (i) Signatures;
- (ii) Information upon the form; or
- (iii) Supporting documents.

Upon returning an incomplete application, the assessor should provide the claimant with a dated denial form listing the signatures, information, or documents needed to complete the application. The denial of an incomplete application may be appealed in the same manner as a denial of the exemption.

(c) The assessor may accept any late filings for the exemption even after the taxes have been levied, paid, or become delinquent. An application filed for the exemption in previous years constitutes a claim for a refund under WAC 458-18-210.

(4) **Exemption timing if approved.** Property taxes are reduced or eliminated on the claimant's principal residence for the year following the year the claimant became eligible for the program. When a late application is filed, the exemption may only result in:

(a) A property tax refund for taxes paid within three years of the payment date; and

(b) Relief from unpaid property taxes for previous years.

(5) **Exemption procedure when claim granted.** When the exemption is granted, the county assessor:

(a) Freezes the assessed value of the principal residence upon the assessment roll;

(b) Determines the level of exemption the claimant qualifies for;

(c) Notifies the claimant that the exemption has been granted;

(d) Notifies the claimant of his or her duty to file timely renewal applications;

(e) Notifies the claimant of his or her duty to file change of status forms when necessary;

(f) Notifies the claimant of the need to reapply for the exemption if the claimant moves to a replacement residence;

(g) Notifies the claimant that has supplied estimated income information whether or not follow-up income information is needed;

(h) Places the claimant on a notification list for renewal of the exemption;

(i) Places the claimant on a notification list if supporting documents are needed to confirm estimated income information prior to May 31st of the following year;

(j) Exempts the residence from all or part of its property taxes; and

(k) Provides the department with a recomputation of the assessed values for the immediately preceding year as a part of the annual recomputation process.

(6) **Exemption procedure when claim denied.** The assessor denies the exemption when the claimant does not qualify. The assessor provides a dated denial form listing his or her reasons for this denial. A claimant may appeal the exemption's denial to the county board of equalization as provided for in WAC 458-14-056.

(7) **Freezing the property value.** The assessor freezes the assessed value of the principal residence either on the lat-

ter of January 1, 1995, or January 1st of the year when a claimant first qualifies for the exemption. The assessor then tracks both the market value of the principal residence and its frozen value. The assessor provides both the principal residence's market value and its frozen value in the valuation notices sent to the owner.

(a) **Frozen values in counties using a cyclical revaluation plan.** In counties using a cyclical revaluation plan, the assessor:

(i) Revalues the principal residence, for property revalued in that assessment year, before the assessed value is frozen; or

(ii) Freezes the principal residence's value at the most recent assessed value for property that is not revalued in that assessment year.

The assessor continues to revalue the principal residence during the regular revaluation cycles to track the market value for the property.

(b) **Adding on improvement costs.** The assessor adds onto the frozen assessed value the cost of any improvements made to the principal residence.

(c) **One-year gaps in qualification.** If a claimant receiving the exemption fails to qualify for only one year because of high income, the previous frozen property value must be reinstated on January 1st of the following year when the claimant again qualifies for the program.

(d) **Moving to a new residence.** If an eligible claimant moves, the county assessor freezes the assessed value of the new principal residence on January 1st of the assessment year in which the claimant transfers the exemption to the replacement residence.

NEW SECTION

WAC 458-16A-150 Senior citizen and disabled person exemption—Requirements for keeping the exemption. (1) **Introduction.** This rule explains how and when a senior citizen or disabled person must file additional reports with the county assessor to keep the senior citizen or disabled person property tax exemption. The rule also explains what happens when the claimant or the property no longer qualifies for the full exemption.

(2) **Continuing the exemption.** The claimant must keep the assessor up to date on the claimant's continued qualification for the senior citizen or disabled person property tax exemption. The claimant keeps the assessor up to date in three ways. First, the claimant submits a change in status form when any change affects his or her exemption. In some circumstances, the change in status form may be submitted by an executor, a surviving spouse, or a purchaser to notify the county of a change in status affecting the exemption. Second, the claimant submits a renewal application for the exemption either upon the assessor's request following an amendment of the income requirement, or every four years. Third, the claimant applies to transfer the exemption when moving to a new principal residence.

(3) **Change in status.** When a claimant's circumstances change in a way that affects his or her qualification for the senior citizen or disabled person property tax exemption, the

claimant must submit a completed change in status form to notify the county of this change.

(a) **When to submit form.** The claimant must submit a change in status form to the county assessor for any change affecting that person's qualification for the exemption within thirty days of such change in status. If the claimant is unable or fails to submit a change in status form, any subsequent property owner, including a claimant's estate or surviving spouse, should submit a change in status form to avoid interest and in some cases the penalty for willfully claiming the exemption based upon erroneous information.

(b) **Changes in status described.** Changes in status include:

(i) Changes that affect the property (i.e., new construction, boundary line changes, rentals, ownership changes, etc.);

(ii) Changes to the property owner's annual income that increase or decrease property taxes due under the program; or

(iii) Changes that affect the property owner's eligibility for the exemption (i.e., death, moving to a replacement residence, moving to another residence the claimant does not own, moving into a hospice, a nursing home, or any other long-term care facility, marriage, improvement of a physical disability for a disabled person's claim, or a disabled person entering into gainful employment).

(c) **Change in status form.** The county assessor designs the change in status form or adapts a master form obtained from the department. The county must obtain approval of the final form from the department before it may be distributed. The claimant, the claimant's agent, or a subsequent owner of the residence must use a change in status form from the county where the principal residence is located. The person filing the form must provide true and accurate information on the change in status form.

(d) **Obtaining the form.** The claimant or subsequent property owner may obtain the form from the county assessor where his or her principal residence is located.

(e) **Failure to submit the form after a change in status occurs.** If the claimant fails to submit the change in status form, the application information relied upon becomes erroneous for the period following the change in status. Upon discovery of the erroneous information, the assessor determines the status of the exemption, and notifies the county treasurer to collect any unpaid property taxes and interest from the claimant, the claimant's estate, or if the property has been transferred, from the subsequent property owner. The treasurer may collect any unpaid property taxes, interest, and penalties for a period not to exceed three years as provided for under RCW 84.40.380. In addition, if a person willfully fails to submit the form or provides erroneous information, that person is liable for an additional penalty equal to one hundred percent of the unpaid taxes. RCW 84.36.385. If the change in status results in a refund of property taxes, the treasurer may refund property taxes and interest for up to the most recent three years after the taxes were paid as provided in chapter 84.69 RCW.

(f) **Loss of the exemption.** If the change in status disqualifies the applicant for the exemption, property taxes must be recalculated based upon the current full assessed value of

the property and paid from the date the change in status occurred. RCW 84.40.360. For example, the exemption is lost when the claimant dies (unless the spouse is also qualified). The property taxes are recalculated to the full assessed amount of the principal residence on a pro rata basis beginning the day following the date of the claimant's death for the remainder of the year.

(g) **Loss of exemption on part of the property.** If the change in status removes a portion of the property from the exemption, property taxes in their full amount on that portion of the property that is no longer exempt must be recalculated based upon the current full assessed value of that portion of the property and paid from the date the change in status occurred. For example, a property owner subdivides his or her one-acre lot into two parcels. The parcel that does not have the principal residence built upon it no longer qualifies for the exemption. The property taxes are recalculated to the full assessed amount of that parcel on a pro rata basis for the remainder of the year beginning the day following the date the subdivision was given final approval.

(h) **Exemption reduced.** If the change in status reduces the exemption amount, the increased property taxes are due in the year following the change in income. For example, a claimant's income rises so that only excess levies on her principal residence are exempt. The claimant's income is based upon the assessment year. The following year when the taxes are collected, the property taxes due are calculated with only an exemption for excess levies.

(4) **Renewal application.** The county assessor must notify claimants when to file a renewal application with updated supporting documentation.

(a) **Notice to renew.** Written notice must be sent by the assessor in the year the renewal application is requested. Notice must be sent no later than December 10th, three weeks before the December 31st filing requirement.

(b) **When to renew.** The assessor must request a renewal application at least once every four years. The assessor may request a renewal application for any year the income requirements are amended in the statute after the exemption is granted. Once notified, the claimant must file the renewal application by December 31st of that year.

(c) **Processing renewal applications.** Renewal applications are processed in the same manner as the initial application.

(d) **The renewal application form.** The county assessor may design the renewal application form or adapt either its own application form or the application master form obtained from the department. The county must obtain approval of the final renewal application form from the department before it may be distributed. The property owner must use a renewal form from the county where the principal residence is located. The claimant must provide true and accurate information on the renewal application form.

(e) **Obtaining the form.** The assessor provides this form to senior citizens or disabled persons claiming the exemption when requesting renewal.

(f) **Failure to submit the renewal application.** If the property owner fails to submit the renewal application form, the exemption is discontinued until the claimant reapplies for

the program. The assessor may postpone collection activities and continue to work with an eligible claimant to complete an application for a missed period.

(5) **Transfer of the exemption.** When a claimant moves to a replacement residence, the claimant must file a change in status form with the county where his or her former principal residence was located. No claimant may receive an exemption on more than the equivalent of one residence in any year.

(a) **Exemption on the former residence.** The exemption on the former residence applies to the closing date on the sale of the former residence, provided the claimant lived in the residence for most of the portion of that year prior to the date of closing. Property taxes in their full amount must be recalculated based upon the current full assessed value of the property and paid from the day following the date the sale closed. The taxes are paid for the remaining portion of the year. RCW 84.34.360.

(b) **Exemption upon the replacement residence.** Upon moving, the claimant must reapply for the exemption in the county where the replacement residence is located if the claimant wants to continue in the exemption program. The same application, supporting documents, and application process is used for the exemption on the replacement residence as when a claimant first applies. See WAC 458-16A-135. The exemption on the replacement residence applies on a pro rata basis in the year he or she moves, but only from the latter of the date the claimant moves into the new principal residence or the day following the date the sale closes on his or her previous residence.

WSR 03-09-009
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 4, 2003, 8:16 a.m., effective August 1, 2003]

Date of Adoption: April 4, 2003.

Purpose: Chapter 296-807 WAC, Portable power tools. The portable power tools rule has been rewritten and reorganized for clarity and ease of use for the employers and employees. Hand and portable powered tools and other hand-held equipment rules, in chapter 296-24 WAC, Part H-1. Part H-1 will be repealed concurrent with the adoption of chapter 296-807 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-24-650 Hand and portable powered tools and equipment—General, 296-24-65003 Compressed air used for cleaning, 296-24-65005 Compressed air tools, 296-24-65007 Air hammer, 296-24-655 Guarding of portable powered tools, 296-24-65501 Portable powered tools, 296-24-657 Pneumatic powered tools and hose, 296-24-65701 Portable tools, 296-24-65703 Airhose, 296-24-660 Portable abrasive wheels, 296-24-66001 Abrasive wheel terms, 296-24-66003 General requirements, 296-24-66005 Cup wheels, 296-24-66007 Vertical portable grinders, 296-24-66009 Other portable grinders, 296-24-66011 Mounting and inspection of abrasive wheels, 296-24-663 Safety requirements for powder actuated fastening systems, 296-24-66301 Scope,

296-24-66303 Purpose, 296-24-66305 Definitions applicable to this section, 296-24-66307 Requirements, 296-24-66309 Power load, 296-24-66311 Fasteners, 296-24-66313 Operation, 296-24-66315 Limitation of use, 296-24-66317 Maintenance and storage, 296-24-66319 Authorized instructor, 296-24-66321 Qualified operator, 296-24-665 Power lawnmowers, 296-24-66501 Terms, 296-24-66503 General requirements, 296-24-66505 Walk-behind and riding rotary mowers, 296-24-66507 Walk-behind rotary mowers, 296-24-66509 Riding rotary mowers, 296-24-670 Jacks, 296-24-67001 Jack terms, 296-24-67003 Loading and marking, and 296-24-67005 Operation and maintenance.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050, and [49.17].060.

Adopted under notice filed as WSR 02-24-056 on December 3, 2003.

Changes Other than Editing from Proposed to Adopted Version: AMENDED SECTION: WAC 296-807-16005 Make sure equipment meets minimum design and construction requirements.

Comment: The provisions of the new rules should apply to power lawnmowers manufactured on or after the effective date of the rule (August 1, 2003), not just the effective date.

Department response: Agree. The wording was revised to show that the rules apply to power lawnmowers manufactured on or after the effective date of the rule (August 1, 2003). Additionally, the date August 1, 2003, was inserted to assist users in determining if this rule applies.

AMENDED SECTION: WAC 296-807-16035 Use ride-on mowers safely.

Comment: The limitations specified in WAC 296-807-16035(3) (Mow up or down a slope if the slope is greater than fifteen degrees) should be deleted. Some manufacturer's operating instructions allow operation on slopes greater than fifteen degrees and there are some conditions where longitudinal mowing of a slope may be unsafe and/or impractical. WAC 296-807-16015 requires the employer to make sure the operator understands and follows instructions before starting the mower and WAC 296-807-16020 requires that the manufacturer's instructions for safe use of the equipment be followed. These requirements cause WAC 296-807-16035(3) to not be needed.

Department response: Agree. WAC 296-807-16035 (3) has been deleted.

AMENDED SECTION: WAC 296-807-18055, Make sure flanges are in good working condition.

Comment: It is not clear in reading the second bulleted item (Replace or remachine any flange with a mounting surface that is:...) if any or all of the conditions stated would require the flange to be replaced or remachined.

Department response: The second bulleted item of WAC 296-807-18055 has been revised to eliminate confusion. The item now reads: "Replace or remachine any flange with a mounting surface that has any of the following problems:"

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 59, Amended 0, Repealed 38.

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 59, Amended 0, Repealed 38.

Effective Date of Rule: August 1, 2003.

April 4, 2003

Paul Trause

Director

Chapter 296-807 WAC

PORTABLE POWER TOOLS

NEW SECTION

WAC 296-807-100 Scope. This chapter applies to the tools and equipment shown in Table 1, Scope of this chapter.

**Table 1
Scope of this Chapter**

Section:	Applies to:
110 Switches (controls)	Hand-held portable power tools.
120 Portable circular saws	Hand-held portable circular saws.
130 Portable belt sanding machines	Hand-held portable belt sanding machines.
140 Compressed air tools, hose, and pipe	Hand-held portable compressed air powered tools. It also applies to airhose and plastic pipe used to supply compressed air to these tools.
150 Powder actuating fastening systems	Powder actuated fastening systems designed to use the expanding gases from a powder load to propel a stud, pin, fastener, or other object into hard structural material.
160 Power lawnmowers	Consumer and commercial power lawnmowers.
170 Jacks	Portable hand- or power-operated: <ul style="list-style-type: none"> • Hydraulic jacks • Mechanical ratchet jacks • Mechanical screw jacks.
180 Portable tools using abrasive wheels	Portable tools using abrasive wheels.

NEW SECTION

WAC 296-807-110 Switches (controls). Summary.

Your responsibility:

Make sure hand-held portable power tools have safe switches (controls).

Exemption:

WAC 296-807-110 does not apply to:

- Concrete vibrators
- Concrete breakers
- Powered tampers
- Jack hammers
- Rock drills
- Garden appliances
- Household and kitchen appliances
- Personal care appliances
- Medical or dental equipment
- Fixed machinery.

NEW SECTION

WAC 296-807-11005 Make sure switches are safe.

You must:

(1) Make sure the operating switch is located in a position that makes it difficult to accidentally operate the tool.

(2) Use the correct operating switch.

• Make sure hand-held gasoline-powered chain saws have a constant pressure throttle control that will shut off power to the chain when the pressure is released.

• Use a constant pressure switch that will shut off the power when the switch is released to turn on or operate any hand-held power tool.

Exemptions:

• Some tools can use a lock-on feature with the constant pressure switch if the lock-on feature can be turned off with a single motion of the same finger(s) that turned it on. You can use a lock-on feature with these hand-held tools:

- Drills
- Tappers
- Fastener drivers
- Grinders using a wheel greater than two inches in diameter
- Disc sanders
- Belt sanders
- Reciprocating saws
- Saber, scroll and jig saws using a blade with a shank width greater than one-quarter inch
- Other similarly operating powered tools.
- You can use a positive "on-off" switch with these hand-held tools:
 - Platen sanders
 - Grinders using a wheel two inches or less in diameter
 - Routers
 - Planers
 - Laminate trimmers
 - Nibblers
 - Shears
 - Saber, scroll and jig saws using a blade with a shank width of one-quarter inch (± .05 inch) or less.

Note: The shank width of saber, scroll and jig saw blades is measured at the narrowest point on the blade shank.

NEW SECTION

WAC 296-807-120 Portable circular saws.

Your responsibility:

Make sure portable circular saws are safe.

PERMANENT

NEW SECTION

WAC 296-807-12005 Make sure portable circular saws are safe to use.

You must:

- (1) Use a constant pressure switch to turn on or operate any circular saw using a blade that has a diameter greater than two inches.
- (2) Remove cracked saws and saw blades from service.
- (3) Make sure power driven circular saws that have a blade diameter larger than two inches have guards above and below the base plate (shoe) as listed in Table 2, Portable circular saw guarding requirements.

**Table 2
Portable Circular Saw Guarding Requirements**

Upper Guard	Lower Guard
Covers the blade to the depth of the teeth, except for the minimum arc necessary to allow the base to tilt for bevel cuts.	Covers the blade to the depth of the teeth, except for the minimum arc necessary to allow proper: <ul style="list-style-type: none"> • Retraction of the guard • Contact with the work. Automatically and instantly returns to the position covering the blade when the saw is withdrawn from contact with the work.

Exemption: Guarding requirements in subsection (3) of this section do not apply to saws used in the meat cutting industry to cut meat.

NEW SECTION

WAC 296-807-130 Portable belt sanding machines.

Your responsibility:

Make sure portable belt sanding machines are safe.

NEW SECTION

WAC 296-807-13005 Guard portable belt sanding machines. You must:

- Guard:
 - Nip points where the sanding belt runs onto a pulley
 - The unused run of the sanding belt.

NEW SECTION

WAC 296-807-140 Compressed air tools. Summary.

This section applies to portable, hand-held compressed air powered tools. It also applies to air hose and plastic pipe used to supply compressed air to these tools.

Your responsibility:

Make sure compressed air and compressed air tools are used safely.

You must:

GENERAL TOOL REQUIREMENTS

Follow the manufacturer's instructions

WAC 296-807-14005

Prevent air tools from ejecting attachments

WAC 296-807-14010

CONTACT WITH COMPRESSED AIR

Protect employees from contact with compressed air

WAC 296-807-14015

CLEANING

Make sure safeguards are used when cleaning with compressed air

WAC 296-807-14020

AIRHOSE AND PLASTIC PIPE

Make sure air hose and plastic pipe supplying compressed air to portable air tools are safe

WAC 296-807-14025

TOOL DESIGN AND CONSTRUCTION

Make sure air tools are adequately designed and constructed

WAC 296-807-14030

TOOL USE

Use air tools safely

WAC 296-807-14035

FASTENER DRIVING TOOLS

Make sure fastener driving air tools (nailers and staplers) are safe

WAC 296-807-14040.

NEW SECTION

WAC 296-807-14005 Follow the manufacturer's instructions. You must:

- Follow the manufacturer's instructions for safe use of the tool.

NEW SECTION

WAC 296-807-14010 Prevent air tools from ejecting attachments.

You must:

- Make sure the tool cannot accidentally eject an attachment.

Note: A retainer is needed if the tool does not have a positive method of keeping the attachment in the tool.

NEW SECTION

WAC 296-807-14015 Protect employees from contact with compressed air.

You must:

- Make sure a tool nozzle or an air hose opening is not:
 - Pointed at anyone
 - Allowed to contact a person's body.

NEW SECTION

WAC 296-807-14020 Make sure safeguards are used when cleaning with compressed air.

You must:

- Use the following when cleaning with compressed air:
 - Air pressure that has been reduced to less than 30 p.s.i. static pressure at the nozzle
 - Effective chip guarding.

PERMANENT

- Note:**
- You may use air pressure greater than 30 p.s.i. if you use a nozzle with vents, holes, flaps or slots that will direct the air flow away from the tip of the nozzle and will reduce the air flow to less than 30 p.s.i. if the nozzle becomes blocked.
 - Effective chip guarding means any method or equipment that protects the eyes and skin of the cleaner and other workers from flying chips or particles. Examples include:
 - A protective cone around the nozzle to protect the cleaner
 - Barriers, baffles or screens to protect other workers.

Reference: Appropriate personal protective equipment (PPE) needs to be worn when cleaning with compressed air. See WAC 296-800-160 in the safety and health core rules.

NEW SECTION

WAC 296-807-14025 Make sure airhose and plastic pipe supplying compressed air to portable air tools are safe.

You must:

- (1) Make sure the airhose and hose connections are suitable for the:
 - Air pressure
 - Use.
- (2) Make sure any plastic pipe used to supply compressed air for portable air tools has been specifically identified by the manufacturer as being suitable for compressed air use.

Note: Existing unapproved pipe that is buried underground or enclosed in shatter-resistant material is acceptable only if it completely eliminates the hazards created by the brittle nature of the pipe.

NEW SECTION

WAC 296-807-14030 Make sure air tools are adequately designed and constructed.

Exemption:

This section does not apply to:

- Tools specifically for medical or dental use
- Tools specifically for use in the food processing industry
- Tools mounted in stationary installations
- Air hoists
- Construction and mining tools such as paving breakers, diggers, tampers, and rock drills.

You must:

- Make sure portable, hand-held air tools meet the requirements of:
 - ANSI B186.1-1984, Safety Code for Portable Air Tools.

OR

- ANSI/ISANTA SNT-101-1993, Portable, Compressed-Air-Actuated, Fastener Driving Tools-Safety Requirements for.

Note: There may be a statement on the tool or in the instruction manual indicating the tool meets the requirements of the appropriate ANSI standard. If in doubt, check with the manufacturer.

NEW SECTION

WAC 296-807-14035 Use air tools safely.

Exemption:

This section does not apply to:

- Tools specifically for medical or dental use
- Tools specifically for use in the food processing industry
- Tools mounted in stationary installations
- Air hoists
- Construction and mining tools such as paving breakers, diggers, tampers, and rock drills.

You must:

- (1) Relieve the pressure in the air line before disconnecting a compressed air tool from the line or disconnecting a hose joint unless there is automatic valve closing protection at the joint being separated.
- (2) Disconnect the tool from the compressed air supply before repairs are done.
- (3) Make sure that eye protection is worn at all times by:
 - The person operating the tool
 - Other persons in the area where tools are being used.

References:

- Use the PPE hazard assessment to determine which employees other than the tool operator need to wear eye protection and the type of eye protection they need to wear. See WAC 296-800-160 in the safety and health core rules.
- Chapter 296-62 WAC, Part K, Hearing conservation, may require the use of hearing protection.

NEW SECTION

WAC 296-807-14040 Make sure fastener driving air tools (nailers and staplers) are safe.

You must:

- (1) Make sure any fastener driving air tool discharges all air in the tool when disconnected from the compressed air supply.
- (2) Make sure that all pneumatically driven nailers, staplers, and other similar equipment provided with automatic fastener feed have a safety device on the muzzle to prevent the tool from ejecting fasteners, unless the muzzle is in contact with the work surface.

Note: Pneumatic nailers or staplers do not need this safety device if:

- The overall weight of the fastening device does not exceed the weight of one and one-half inches of standard 18-gauge wire. The normal maximum diameter tolerance for manufacturing standard 18-gauge wire is .045 inches.
- The operator and any other person within twelve feet of the point of operation wear approved eye protection.

NEW SECTION

WAC 296-807-150 Powder actuated fastening systems. Summary.

IMPORTANT:

This section applies to any powder actuated fastening system designed to use the expanding gases from a powder load to propel a stud, pin, fastener, or other object into hard structural material.

Exemption:

This section does not apply to:

- Devices designed to attach objects to soft construction material such as wood, plaster, tar, and dry wallboard
- Stud welding equipment.

Your responsibility:

Make sure powder actuated fastening systems are used safely.

You must:

TOOL OPERATORS

Make sure tool operators are qualified

WAC 296-807-15005

PERSONAL PROTECTIVE EQUIPMENT

Make sure employees are aware tools are in use and wear appropriate personal protective equipment (PPE)

WAC 296-807-15010

TOOL DESIGN AND CONSTRUCTION

Make sure tools are adequately designed and constructed

WAC 296-807-15015

LABELING

Make sure tools and containers are properly labeled

WAC 296-807-15020

POWDER LOADS

Make sure powder loads and power levels are properly identified

WAC 296-807-15025

Use proper powder loads

WAC 296-807-15030

TOOL USE

Make sure the tool is appropriate to the job

WAC 296-807-15035

Make sure the operator uses the tool safely

WAC 296-807-15040

FASTENERS

Use fasteners safely

WAC 296-807-15045

INSPECTION AND MAINTENANCE

Inspect and maintain tools properly

WAC 296-807-15050

STORAGE

Make sure tools are stored properly

WAC 296-807-15055

NEW SECTION

WAC 296-807-15005 Make sure tool operators are qualified. You must:

- Make sure tools are used only by qualified operators
- Make sure operators have been trained by an authorized instructor.

Note: Authorized instructors have to meet the instructor qualifications of ANSI A10.3-1995, Safety Requirements for Powder-Actuated Fastening Systems.

You must:

- Make sure all tool operators can:
 - Understand the manufacturer's instructions
 - Clean the tool properly
 - Recognize any visibly worn or damaged parts
 - Identify power load levels
 - Operate the tool correctly.
- Make sure tool operators have a valid qualified operator's card in their possession when they are using the tool.

NEW SECTION

WAC 296-807-15010 Make sure employees are aware tools are in use and wear appropriate personal protective equipment (PPE). You must:

- (1) Make sure eye or face protection is worn by:
 - Tool operators
 - Assistants
 - Persons close to where the tool is being used.

Reference: ■ Use the PPE hazard assessment to determine which employees other than the tool operator need to wear eye protection and the type of eye protection they need to wear. See WAC 296-800-160 in the safety and health core rules.
 ■ Chapter 296-62 WAC, Part K, Hearing conservation may require the use of hearing protection.

You must:

(2) Post signs where tools are being used and in adjacent areas where tool use could pose a hazard. Signs must:

- Be easily seen
- Be at least 8 x 10 inches (20 x 25 cm)
- Use letters in boldface type at least one inch (2.5 cm) high
- Read "POWDER ACTUATED TOOL IN USE" or similar wording.

Note: Tool use could create a hazard in adjacent areas by allowing a fastener to penetrate one or more of the following:

- Wall
- Floor
- Other working surface.

NEW SECTION

WAC 296-807-15015 Make sure tools are adequately designed and constructed.

You must:

(1) Make sure the tool meets the design and construction requirements of the American National Standards Institute (ANSI) standard ANSI A10.3-1995, Safety Requirements for Powder-Actuated Fastening Systems.

Note: There may be a statement on the tool or in the instruction manual indicating the tool meets the requirements of the appropriate ANSI standard. If in doubt, check with the manufacturer.

You must:

- (2) Make sure each tool has:
 - Operator instructions and a tool service manual
 - Powder load and fastener chart
 - Service tools and accessories.

NEW SECTION

WAC 296-807-15020 Make sure tools and containers are properly labeled.

You must:

- (1) Make sure tools are properly labeled.
 - Make sure each tool has a readable, permanent label that shows the manufacturer's:
 - Model number
 - Unique serial number.
 - Make sure there is a durable warning label on each tool that:

– Reads "WARNING - FOR USE ONLY BY QUALIFIED OPERATORS ACCORDING TO MANUFACTURER'S INSTRUCTION MANUAL"

OR

- Uses words with the same meaning.
- (2) Make sure the tool storage container has these labels:
 - "POWDER ACTUATED TOOL" on the outside of the container in an easily seen position
 - "WARNING - POWDER ACTUATED TOOL. TO BE USED ONLY BY A QUALIFIED OPERATOR AND KEPT UNDER LOCK AND KEY WHEN NOT IN USE" on the inside cover.

NEW SECTION

WAC 296-807-15025 Make sure powder loads and power levels are properly identified.

You must:

- Make sure powder loads and power levels are identified as specified in Table 3, Powder-Load Identification

**Table 3
Powder-Load Identification**

	Power Level	Color Identification	
		Case Color	Load Color
Lowest Level	1	Brass	Gray
	2	Brass	Brown
	3	Brass	Green
	4	Brass	Yellow
	5	Brass	Red
	6	Brass	Purple
	7	Nickel	Gray
	8	Nickel	Brown
	9	Nickel	Green
	10	Nickel	Yellow
	11	Nickel	Red
Highest power level	12	Nickel	Purple

NEW SECTION

WAC 296-807-15030 Use proper powder loads.

You must:

- Use only a powder load that is:
 - Recommended by the tool manufacturer for the particular tool

OR

- One that provides the same level of safety and performance.

NEW SECTION

WAC 296-807-15035 Make sure the tool is appropriate to the job.

You must:

- (1) Use the lowest velocity class of tool and load that will properly set the fastener.
- (2) Use the proper shield, fixture, adaptor, or accessory that is:
 - Suitable for the job
 - Recommended and supplied by the manufacturer.

NEW SECTION

WAC 296-807-15040 Make sure the operator uses the tool safely.

You must:

- (1) Make sure the operator:
 - Inspects the tool before using it, as recommended by the tool manufacturer
 - Uses the tool according to the manufacturer's instructions
 - Keeps the tool unloaded until just before using it
 - Unloads the tool at once if work is interrupted after the tool has been loaded
 - Does not leave a tool or powder load unattended where it would be available to an unauthorized person
 - Never points a tool (loaded or unloaded) at any part of a person's body.

Note: A magazine or clip fed tool is not considered loaded until a powder load is actually in the ram (firing chamber).

You must:

- (2) Make sure tools are not used in an explosive or flammable atmosphere.
- (3) Do this if the tool misfires:
 - Hold it firmly against the work surface for thirty seconds

Then

- Follow the instructions in the tool manufacturer's instruction manual.
- (4) Hold the tool perpendicular to the work surface when fastening to any material.

Exemption:

This does not apply if the tool manufacturer recommends a different technique for a specific job.

NEW SECTION

WAC 296-807-15045 Use fasteners safely.

You must:

- (1) Use fasteners:
 - Recommended by the tool manufacturer for the particular tool

OR

- Fasteners that provide the same level of safety and performance.

- (2) Keep the fastener from passing completely through the structural material by using a backing material when driving a fastener into any material that is any of the following:

- Easily penetrated
- Thin
- Of questionable resistance.

- (3) Make sure the material is suitable for fastening. Do not drive fasteners into very hard or brittle material such as:

- Cast iron
- Glazed tile
- Hardened steel
- Glass block
- Natural rock
- Hollow tile
- Most brick.

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(4) Make sure positive alignment with an existing hole is maintained by using a guide or other means supplied or recommended by the tool manufacturer before driving a fastener into the hole.

(5) Make sure fasteners are not driven into any spalled (chipped or crumbled) area.

(6) Drive fasteners into concrete only if the fastener shank will penetrate no more than one-third the thickness of the concrete.

(7) Make sure fasteners are driven at least:

- One-half inch (13 mm) from the edge of steel
- Three inches (75 mm) from the unsupported edge of masonry material.

Exemption:

This does not apply if an application is specifically required or recommended by the tool manufacturer.

NEW SECTION

WAC 296-807-15050 Inspect and maintain tools properly.

You must:

• Make sure any tool that is not in proper working condition is:

- Immediately removed from service
- Tagged
- Properly repaired as specified in the manufacturer's instructions before being used again.

• Regularly service the tool and inspect it for worn or damaged parts at intervals recommended by the tool manufacturer.

• Replace worn or damaged parts before the tool is used.

This must be done:

- By a qualified person
- Using only parts supplied by the tool manufacturer.
- Keep a written record of inspection dates.

NEW SECTION

WAC 296-807-15055 Make sure tools are stored properly.

You must:

(1) Make sure there is a container that can be locked for each tool.

(2) Make sure tools and powder loads that are not being used are:

- Locked in a container
- Stored in a safe place
- Only available to authorized persons.

(3) Store all manuals, maintenance tools, and accessories in the tool container when they are not being used.

NEW SECTION

WAC 296-807-160 Power lawnmowers. Summary.

Exemption:

This section does not apply to commercial equipment that is:

- Designed primarily for agricultural purposes

OR

• Designed primarily to be operated with tractors having at least twenty horsepower for cutting grass or other growth on highways.

Your responsibility:

Make sure power lawnmowers are used safely.

You must:

DESIGN AND CONSTRUCTION

Make sure equipment meets minimum design and construction requirements

WAC 296-807-16005

LABELS

Make sure the equipment has the appropriate labels and decals

WAC 296-807-16010

BEFORE STARTING

Make sure the operator understands and follows instructions before starting the mower

WAC 296-807-16015

USE

Use the equipment safely

WAC 296-807-16020

NONELECTRIC MOWERS

Protect employees from fuel and exhaust

WAC 296-807-16025

WALK-BEHIND MOWERS

Use walk-behind mowers safely

WAC 296-807-16030

RIDE-ON MOWERS

Use ride-on mowers safely

WAC 296-807-16035.

NEW SECTION

WAC 296-807-16005 Make sure equipment meets minimum design and construction requirements.

You must:

(1) Make sure equipment meets ANSI design and construction requirements.

• Make sure power lawnmowers manufactured on or after August 1, 2003, meet the requirements of the appropriate ANSI standard:

– ANSI B71.1-1998, American National Standard for Consumer Turf Care Equipment - Walk-Behind Mowers and Ride-On Machines with Mowers - Safety Specifications

OR

– ANSI B71.4-1999, American National Standard for Commercial Turf Care Equipment - Safety Specifications.

• Make sure noncommercial power lawnmowers manufactured before the effective date of this chapter meet the requirements of ANSI B71.1-1968, American National Standard Safety Specifications for Power Lawnmowers.

Note:

There may be a statement on the tool or in the instruction manual indicating the tool meets the requirements of the appropriate ANSI standard. If in doubt, check with the manufacturer.

You must:

(2) Position, guard or shield all power-driven shafts, chains, belts, gears, friction drive components, nip and pinch points, and any exposed components hot enough to cause burns while:

- Starting
- Mounting
- Operating the machine.

(3) Have a shutoff device that:

- Will stop the motor or engine

AND

• Has to be intentionally and manually activated before the motor or engine can be restarted.

NEW SECTION

WAC 296-807-16010 Make sure the equipment has the appropriate labels and decals.

You must:

(1) Make sure all positions of the operating controls are clearly identified.

(2) Make sure warning and caution labels or decals on the mower are readable and replace them if necessary.

NEW SECTION

WAC 296-807-16015 Make sure the operator understands and follows instructions before starting the mower.

You must:

(1) Make sure the operator understands all instructions for operating the mower that are in the manufacturer's instructions and on the machine.

- Make sure the operator is thoroughly familiar with the controls and proper use of the mower before starting it.

(2) Make sure the proper guards, plates, grass catcher or other safety devices are in place before starting the mower.

NEW SECTION

WAC 296-807-16020 Use the equipment safely.

You must:

(1) Follow the manufacturer's instructions for safe use of the equipment.

(2) Keep people clear of discharge opening(s).

(3) Keep people's hands and feet clear of rotating parts.

(4) Clear the area of objects such as rocks, toys, wire, bones, sticks, etc., which could be picked up and thrown by the blade and create a hazard for the operator or other persons.

(5) Make sure the operator stops the engine before:

- Leaving the equipment
- Unclogging the grass discharge chute
- Cleaning the mower.

(6) Make sure the operator wears safety goggles or safety glasses with side shields when operating the mower.

Note: Use the personal protective equipment (PPE) hazard assessment to determine the type of footwear and other PPE the employees need to wear. See WAC 296-800-160, PPE, in the safety and health core rules.

NEW SECTION

WAC 296-807-16025 Protect employees from fuel and exhaust. Exemption:

This section does not apply to electric engines.

You must:

(1) Make sure to:

- Keep the gas cap on whenever the engine is running.
- Shut off the engine before and during refueling.

(2) Make sure not to refuel the machine indoors.

(3) Make sure not to run the engine in a closed area.

Exemption:

You can refuel the machine indoors or run the engine in a closed area if the area was specifically designed for such use.

NEW SECTION

WAC 296-807-16030 Use walk-behind mowers safely.

You must:

(1) Make sure the operator wears substantial footwear when operating a walk-behind mower.

Note: Use the personal protective equipment (PPE) hazard assessment to determine the type of footwear and other PPE the employees need to wear. See WAC 296-800-160, PPE, in the safety and health core rules.

You must:

(2) Mow across the face of a slope.

NEW SECTION

WAC 296-807-16035 Use ride-on mowers safely.

You must:

(1) Make sure not to carry passengers.

(2) Make sure the operator looks down and behind before and while moving backwards.

NEW SECTION

WAC 296-807-170 Jacks. Summary.

IMPORTANT:

This section applies to portable hand- or power-operated:

- Hydraulic jacks
- Mechanical ratchet jacks
- Mechanical screw jacks.

Your responsibility:

Make sure jacks are safe to use.

You must:**LABELING**

Make sure jacks are labeled with their rated load(s)

WAC 296-807-17005

BEFORE USE

Make sure the jack is safe to lift the load

WAC 296-807-17010

LIFTING THE LOAD

Lift the load safely

WAC 296-807-17015

INSPECTION AND MAINTENANCE

Visually inspect jacks and keep them in good working order
 WAC 296-807-17020.

NEW SECTION

WAC 296-807-17005 Make sure jacks are labeled with their rated load(s).

You must:

- Make sure the rated load(s) of the jack is:
 - Readable
 - Durably marked in an easily seen location on the jack.

NEW SECTION

WAC 296-807-17010 Make sure the jack is safe to lift the load.

You must:

(1) Visually examine the general condition of the jack before each use.

Note: If a jack is to be used more than once on a shift, the visual examination is only required before the jack is used for the first time that shift.

You must:

- (2) Make sure the weight to be lifted or supported is within the rated load of the jack.
- (3) Make sure the base of the jack is on a firm foundation or blocked before lifting the load.
- (4) Make sure hydraulic jacks exposed to freezing temperatures function properly at the temperature they will be used.

NEW SECTION

WAC 296-807-17015 Lift the load safely.

You must:

- (1) Place a block between the load cap and the load if the load could slip off the jack.
- (2) Secure the load from falling or slipping immediately after it is raised by one or more of the following:
 - Cribbing
 - Blocking
 - Some other equally effective method.
- (3) Make sure you do not exceed the limit of travel of the jack.

Note: The limit of travel can be determined by one or more of the following:

- A positive stop
- A stop indicator
- Some other equally effective method.

NEW SECTION

WAC 296-807-17020 Visually inspect jacks and keep them in good working order.

Note: There are two types of inspection, frequent or periodic, depending on how often they are done.

You must:

(1) Inspect jacks at appropriate intervals:

- Make sure frequent inspections are done by the operator or other designated person as follows:
 - Before a jack is first placed in service.
 - Monthly for a jack used in normal service.
 - Daily or before each use for a jack used for other than normal service.
 - Before using a jack that has been altered, modified, or repaired.
 - Before using a jack that has not been used in one year or more.
- Make sure a periodic inspection of the jack is done once a year.

• Inspect the jack using Table 4, Jack Inspection Requirements, during any frequent or periodic inspection.

(2) Make sure a jack that is out of order is:

- Tagged
- Not used until repaired.

(3) Make sure a jack is properly lubricated at regular intervals.

Note: The jack should be lubricated following the manufacturer's instructions.

Table 4

Jack Inspection Requirements

Inspection Item	Frequent Inspection	Periodic Inspection
Check all of the following items that apply to the jack:		
Improper pawl engagement	X	X
Excessive pawl wear	X	X
Chipped, cracked, or worn rack teeth	X	X
Damaged, bent, or worn threads	X	X
Leaking hydraulic fluid	X	X
Scored or damaged plunger	X	X
Improper functioning	X	X
Free movement of swivel, heads, and caps	X	X
Loose bolts or rivets	X	X
Damaged or improperly assembled accessory equipment	X	X
Rack wear or bending	X	X
Other items as specified in the manufacturer's instructions	X	X
Watch the jack during operation	X	X
More detailed inspection required if a designated person determines any condition discovered is a hazard	X	

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Table 4
Jack Inspection Requirements

Inspection Item	Frequent Inspection	Periodic Inspection
Check all of the following items that apply to the jack:		
Clean and check internal parts for wear or damage if inspection indicates an internal problem		X

NEW SECTION

WAC 296-807-180 Portable tools using abrasive wheels. Summary.

IMPORTANT:

This section applies to portable tools using abrasive wheels.

Definition:

Abrasive wheel. A grinding tool consisting of bonded abrasive grains. This includes diamond and reinforced wheels.

Exemption: This section does not apply to machines using:

- Natural sandstone wheels
- Pulpstone wheels
- Coated abrasive products
- Loose abrasives.

Your responsibility:

Make sure abrasive wheel tools and wheels are safe to use.

You must:

DESIGN AND CONSTRUCTION

Make sure abrasive wheels and tools are properly designed and constructed

WAC 296-807-18005

GUARDS

Make sure machines have safety guards

WAC 296-807-18010

Keep safety guards in good functional condition

WAC 296-807-18015

GUARDS - SPECIFIC WHEELS

Use specific safety guards for machines using Type 1 grinding wheels, cutting-off wheels, and tuck pointing wheels

WAC 296-807-18020

Use specific safety guards for vertical and angle grinders using Type 6 or Type 11 wheels

WAC 296-807-18025

Use specific safety guards for vertical and angle grinders using Type 27, 28 and 29 wheels

WAC 296-807-18030

SIDE HANDLES

Use side handles on vertical and angle grinders

WAC 296-807-18035

ABRASIVE WHEELS

Make sure abrasive wheels are safe to use

WAC 296-807-18040

MOUNTING

Mount wheels properly

WAC 296-807-18045

FLANGES

Use proper flanges

WAC 296-807-18050

Make sure flanges are in good condition

WAC 296-807-18055

FLANGES - SPECIFIC WHEELS

Use specific flanges for Type 1 cutting-off wheels

WAC 296-807-18060

Use specific flanges for Type 27A cutting-off wheels

WAC 296-807-18065

Use specific flanges for threaded hole wheels

WAC 296-807-18070

Use specific flanges for cup, cone or plug wheels with threaded inserts or projecting studs

WAC 296-807-18075

BLOTTERS

Use blotters when required

WAC 296-807-18080

BLOTTERS - TYPE 6 AND 11 WHEELS

Meet specific blotter requirements when using modified Types 6 and 11 wheels (terrazzo)

WAC 296-807-18085.

NEW SECTION

WAC 296-807-18005 Make sure abrasive wheels and tools are properly designed and constructed.

You must:

• Make sure abrasive wheels and tools meet the design and construction requirements of:

– American National Standards Institute (ANSI) B7.1-2000, Safety Requirements for the Use, Care and Protection of Abrasive Wheels

OR

– ANSI B186.1-1984, Safety Code for Portable Air Tools.

Note: Tools may have a statement on the tool or in the instruction manual that the tool meets the appropriate ANSI standard. If in doubt, check with the manufacturer.

NEW SECTION

WAC 296-807-18010 Make sure machines have safety guards. You must:

• Use abrasive wheels only on machines that have safety guards.

• Make sure the safety guard:

– Is mounted so it maintains proper alignment with the wheel

– Is mounted with fasteners strong enough to keep the guard in position if a wheel breaks

– Is positioned to deflect pieces of an accidentally broken wheel away from the operator

– Covers the spindle end, nut, and flange projections.

Exemption:

Safety guards are not required on machines that use:

- Wheels for internal grinding while advancing, retracting or within the work
- Mounted wheels two inches or less in diameter
- Types 16, 17, 18, 18R, and 19 cones and plugs and threaded hole pot balls where:

- The work offers protection

OR

- The size does not exceed three inches in diameter by five inches long.

- Notched, segmented, or continuous rim metal centered diamond lapidary wheels that are:

- Used with a coolant deflector

AND

- Operated at 3,500 SFPM or less.

- Type 1 wheels that are:

- Two inches or less in diameter

- One-half inch or less thick

- Operating at peripheral speeds less than 1,800 SFPM

- Mounted on mandrels and used in portable drills.

- Type 1 reinforced wheels that are:

- Three inches or less in diameter one-quarter inch or less thick

- Operating at peripheral speeds of 9,500 SFPM or less

- Used by operators wearing safety glasses and face shields.

- Valve seating grinding wheels.

NEW SECTION

WAC 296-807-18015 Keep safety guards in good functional condition.

You must:

- Make sure safety guards are in good functional condition.

- Replace any safety guard that:

- Is damaged, bent or severely worn

OR

- Has been hit by parts from a breaking wheel.

NEW SECTION

WAC 296-807-18020 Use specific safety guards for machines using Type 1 grinding wheels, cutting-off wheels, and tuck pointing wheels.

You must:

- Make sure the safety guard covers the top and sides of the wheel for at least one hundred eighty degrees.

Note: It is not required to cover the spindle end, nut and outer flange.

NEW SECTION

WAC 296-807-18025 Use specific safety guards for vertical and angle grinders using Type 6 or Type 11 wheels.

You must:

- Make sure the safety guard:

- Covers the wheel's plane of rotation toward the operator for at least one hundred eighty degrees

- Covers the side of the wheel toward the driving flange for at least one hundred eighty degrees

- Has a skirt which is adjustable to within one-eighth inch of the plane of the surface of the wheel.

- Make sure not to use a "revolving cup guard."

Note: "Cup back bushings" do not substitute for safety guards.

NEW SECTION

WAC 296-807-18030 Use specific safety guards for vertical and angle grinders using Type 27, 28 and 29 wheels.

You must:

- Make sure safety guards:

- Cover the wheel's plane of rotation toward the operator for at least one hundred eighty degrees

- Cover the side of the wheel toward the driving flange for at least one hundred eighty degrees

- Have a lip on the outer edge that:

- Extends beyond the surface of the wheel throughout the one hundred eighty degree coverage

AND

- Curls inward to deflect wheel fragments.

NEW SECTION

WAC 296-807-18035 Use side handles on vertical and angle grinders.

You must:

- Use a side handle on all four-inch and larger vertical and angle grinders.

NEW SECTION

WAC 296-807-18040 Make sure abrasive wheels are safe to use.

You must:

- Do the following before mounting a wheel:

- Visually inspect the wheel for cracks or damage

- Perform a ring test for cracks (size and shape of the wheel permitting)

- Make sure the spindle speed of the machine is not greater than the operating speed of the wheel.

- Make sure a damaged or cracked wheel is not mounted or used.

NEW SECTION

WAC 296-807-18045 Mount wheels properly.

You must:

- (1) Make sure wheels fit freely on the spindle, wheel sleeves, or adaptors, and remain free under all grinding conditions.

- (2) Make sure wheel, blotter and flange surfaces that contact each other are flat and free of foreign particles.

(3) Make sure any reducing bushing used in the wheel hole:

- Fits freely on the spindle and maintains proper clearance
- Does not exceed the width of the wheel or contact the flanges.

(4) Make sure that multiple wheels mounted between a single set of flanges are either:

- Cemented together
- OR**
- Separated by spacers that have a diameter and bearing surface that is the same as the mounting flanges.

NEW SECTION

WAC 296-807-18050 Use proper flanges.

You must:

- Mount all abrasive wheels between flanges that have a diameter at least one-third the diameter of the wheel.

Exemption:

- Mounted wheels
- Cup, cone or plug wheels with threaded inserts or projecting studs
- Abrasive disc wheels (inserted nut, inserted washer and projecting stud type)

- Plate mounted wheels

- Cylinder, cup, or segmental wheels mounted in chucks

- Types 27, 28 and 29 wheels

- Internal wheels less than two inches in diameter

- Modified Type 6 and 11 wheels (terrazzo)

- Types 1 and 27A cutting-off wheels.

You must:

- Make sure flanges are:

- Dimensionally accurate

- Properly balanced

- Flat

- Free of rough surfaces or sharp edges.

- Make sure, if a wheel is mounted between two flanges,

that both flanges:

- Are the same diameter

- Have equal bearing surfaces.

Exemption:

The following wheels do not require same diameter, equal bearing surface flanges:

- Types 27, 28, and 29 wheels with adaptors

- Modified Types 6 and 11 wheels with tapered K dimension

sion

- Internal wheels less than two inches in diameter.

You must:

- Make sure the driving flange is:

- Part of the spindle

OR

- Securely fastened to the spindle.

NEW SECTION

WAC 296-807-18055 Make sure flanges are in good condition. You must:

- Make sure flange bearing surfaces are in good condition.

- Replace or remachine any flange with a mounting surface that has any of the following problems:

- Warped

- Burred on the bearing surface

- Excessively worn (thickness or diameter)

- Out of true.

Note: Flanges that are refaced or trued need to satisfy minimum dimension requirements specified in ANSI B7.1-2000, Safety Requirements for the Use, Care and Protection of Abrasive Wheels.

NEW SECTION

WAC 296-807-18060 Use specific flanges for Type 1 cutting-off wheels.

You must:

- Mount Type 1 cutting-off wheels between flanges that are:
 - Properly relieved with matching bearing surfaces
 - At least one-quarter the wheel diameter.

Note: American National Standards Institute (ANSI) B7.1-2000, Safety Requirements for the Use, Care and Protection of Abrasive Wheels, has specific exemptions for some reinforced, bonded abrasive cutting-off wheels and steel centered, diamond cutting-off wheels. These wheels are primarily used for masonry cutting and concrete sawing.

NEW SECTION

WAC 296-807-18065 Use specific flanges for Type 27A cutting-off wheels.

You must:

- Mount Type 27A cutting-off wheels between flanges that are:
 - Flat (unrelieved) with matching bearing surfaces
 - At least one-quarter the wheel diameter.

NEW SECTION

WAC 296-807-18070 Use specific flanges for threaded hole wheels.

You must:

- Use a back flange to mount threaded hole wheels that is:
 - Flat (unrelieved)
 - Securely fastened and square to the spindle axis
 - Able to properly support the wheel.

NEW SECTION

WAC 296-807-18075 Use specific flanges for cup, cone or plug wheels with threaded inserts or projecting studs.

You must:

- Mount cup, cone or plug wheels with threaded inserts or projecting studs against a straight, unrelieved flange.

NEW SECTION

WAC 296-807-18080 Use blotters when required.

You must:

- Use a blotter between each flange and the abrasive wheel surface to uniformly distribute flange pressure.
- Make sure the blotter covers the entire flange contact area.

- Use a new blotter each time a wheel is mounted unless the wheel has a blotter already attached to it by the manufacturer.

- Make sure scuffed or damaged blotters are not used.

Exemption:

You do not need to use a blotter with:

- Mounted wheels
- Abrasive disc and Type 2 wheels which are mounted by inserted nuts, inserted washers, or projecting studs
- Plate mounted wheels
- Wheels mounted in chucks (such as cylinders and segmental wheels)
- Types 27, 28 and 29 wheels
- Type 1 and Type 27A cutting-off wheels
- Internal wheels less than two inches in diameter
- Diamond and cubic boron nitride wheels with metal or carbon fiber cores.

NEW SECTION

WAC 296-807-18085 Meet specific blotter requirements when using modified Types 6 and 11 wheels (terrazzo).

You must:

- Mount modified Types 6 and 11 wheels (terrazzo) with a blotter applied to the flat side of the wheel only.

NEW SECTION**WAC 296-807-190 Definitions.**

Abrasive wheel. A grinding tool consisting of bonded abrasive grains. This includes diamond and reinforced wheels.

Blind hole. A hole drilled in an object, such as an abrasive wheel, that does not go all the way through.

Blotter. A compressible disc or washer, usually of blotting paper, plastic, cardboard, or gasket material, that is used between the wheel and the flanges to evenly distribute flange pressure on the wheel.

Cone and plug wheels (Types 16, 17, 18, 18R, and 19). Abrasive wheels manufactured with blind hole threaded bushings. They may be used on all surfaces except the flat mounting surface (D). Specific characteristics of the different cone and plug wheels are:

- Type 16 cones have a curved side with a nose radius
- Type 17 cones have straight sides with or without a nose radius
- Type 18 and 18R plug wheels are cylindrical in shape with either a square or curved grinding end
- Type 19 cone wheels are a combination of cone and plug shapes

Cutting-off wheels. Abrasive wheels used to cut material such as masonry, pipe, etc.

Designated person. A person selected or assigned by the employer or the employer's representative as competent to perform specific duties.

Discharge opening. An opening in a mower housing for discharging grass.

Flanges. Collars, discs or plates between or against which wheels are mounted. There are four types of flanges:

- Adaptor
- Sleeve
- Straight relieved
- Straight unrelieved.

Grass catcher. Parts or a combination of parts to collect grass clippings or debris.

Guard (abrasive wheels). An enclosure designed to restrain the pieces of an abrasive wheel and furnish protection to the operator if the wheel is broken during operation.

Guard. A part or assembly to prevent accidental contact with hazardous machine parts or to protect persons from other hazards created by the machinery.

Inorganic bonded wheel. Abrasive wheels that are bonded by means of inorganic material such as clay, glass, porcelain, sodium silicate, magnesium oxychloride, or metal.

Jack. A portable hand- or power-operated mechanism for lifting, lowering or moving horizontally a load by applying a pushing force.

Modified Types 6 and 11 wheels (terrazzo). Similar to Type 6 "straight cup" wheels and Type 11 "flaring cup" wheels except for the bottom of the cup. The bottom of the cup is flat in Type 6 and 11 wheels. The modified wheels have bottoms that are sloped downwards towards the mounting hole. These modified wheels need to be mounted using a special tapered flange furnished by the tool manufacturer. These wheels are used in the terrazzo trade.

Mounted wheels. Bonded abrasive wheels of various shapes, usually two inches diameter or smaller, that are secured to plain or threaded steel mandrels.

Normal service (jacks). Raising or lowering axial loads that are eighty-five percent or less of the rated load under controlled conditions.

Organic bonded wheels. Abrasive wheels that are bonded by means of organic material such as resin, rubber, shellac, or other similar bonding agent.

Rated load. The maximum load that the jack is designed to lift or support.

Reinforced wheels. Organic bonded abrasive wheels which have webbing, fabric or filament to provide resistance to complete breaking of the wheel should it become cracked or damaged.

Terrazzo. A material of stone chips, such as marble, set in mortar and polished.

Threaded hole wheels. Abrasive wheels that have one central threaded bushing, securely anchored in place. They are mounted by being screwed onto a threaded machine spindle so that the wheel back seats firmly against an unrelieved flat back flange.

Tuck pointing wheels. Tuck pointing abrasive wheels are Type 1 reinforced, organic bonded wheels and have diameter, thickness and hole size dimensions. They are used to

remove cement, mortar, or other nonmetallic jointing material.

Type 1 wheel. An abrasive wheel shaped like a disc with a mounting hole in the middle. Sometimes called a "straight wheel." It has diameter (D), thickness (T), and hole size (H) dimensions. Grinding is normally done on the periphery (outside curve) of the wheel (T dimension). Can be used for grinding, cutting-off, and tuck pointing.

Type 2 wheel. An abrasive wheel shaped like an open-ended, hollow cylinder. Sometimes called a cylinder wheel. It has diameter (measured from the outer wall of the cylinder), wheel thickness (height of the cylinder), and rim thickness (thickness of the cylinder wall). Grinding is done on the end of the cylinder (rim thickness dimension).

Type 6 wheel. An abrasive wheel shaped like a straight-sided cup or bowl with a mounting hole in the bottom of the cup. Sometimes called a "cup wheel." It has diameter (D), thickness (T), hole size (H), rim thickness (W), and back thickness (E) dimensions. Grinding is normally done on the cup rim (W dimension).

Type 11 wheel. An abrasive wheel shaped like a cup or bowl with a mounting hole in the bottom of the cup. The sides of the cup are not straight-sided but are angled outward. Sometimes called a "flaring cup wheel" since the sides are "flared" out. It has double diameter dimensions (top D and bottom J). It also has thickness (T), hole size (H), rim thickness (W) and back thickness (E) dimensions. Grinding is normally done on the cup rim (W dimension).

Type 16, 17, 18, 18R, and 19 wheels. See cone and plug wheels.

Type 27 wheel. An abrasive wheel similar to a Type 1 wheel, but the center of the wheel around the mounting hole is pushed back (depressed). Sometimes called a "depressed center" wheel. It has diameter (D), thickness (U) and hole size (H) dimensions. The depressed center allows grinding on the flat surface of the wheel without interference from the flange or mounting hardware.

Type 27A cutting-off wheel. Similar to a Type 27 wheel. Specifically designed for use on cutting-off machines.

Type 28 wheel. An abrasive wheel similar to a Type 27 wheel, but the face of the wheel is angled upward and away from the mounting hole. The face of a Type 27 wheel is flat and perpendicular to the mounting hole. A Type 28 wheel is also called a "depressed center" wheel. It has diameter (D), thickness (U) and hole size (H) dimensions. The depressed center allows grinding without interference from the mounting. A Type 28 wheel has a saucer-shaped grinding rim and is designed for corner grinding and side grinding.

Type 29 wheel. An abrasive wheel that has reversed, saucer-shaped grinding rims (similar to a partially opened umbrella).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-650	Hand and portable powered tools and equipment—General.
WAC 296-24-65003	Compressed air used for cleaning.
WAC 296-24-65005	Compressed air tools.
WAC 296-24-65007	Air hammer.
WAC 296-24-655	Guarding of portable powered tools.
WAC 296-24-65501	Portable powered tools.
WAC 296-24-657	Pneumatic powered tools and hose.
WAC 296-24-65701	Portable tools.
WAC 296-24-65703	Airhose.
WAC 296-24-660	Portable abrasive wheels.
WAC 296-24-66001	Abrasive wheel terms.
WAC 296-24-66003	General requirements.
WAC 296-24-66005	Cup wheels.
WAC 296-24-66007	Vertical portable grinders.
WAC 296-24-66009	Other portable grinders.
WAC 296-24-66011	Mounting and inspection of abrasive wheels.
WAC 296-24-663	Safety requirements for powder actuated fastening systems.
WAC 296-24-66301	Scope.
WAC 296-24-66303	Purpose.
WAC 296-24-66305	Definitions applicable to this section.
WAC 296-24-66307	Requirements.
WAC 296-24-66309	Power loads.
WAC 296-24-66311	Fasteners.
WAC 296-24-66313	Operation.
WAC 296-24-66315	Limitations of use.
WAC 296-24-66317	Maintenance and storage.
WAC 296-24-66319	Authorized instructor.
WAC 296-24-66321	Qualified operator.
WAC 296-24-665	Power lawnmowers.
WAC 296-24-66501	Terms.
WAC 296-24-66503	General requirements.

PERMANENT

WAC 296-24-66505	Walk-behind and riding rotary mowers.
WAC 296-24-66507	Walk-behind rotary mowers.
WAC 296-24-66509	Riding rotary mowers.
WAC 296-24-670	Jacks.
WAC 296-24-67001	Jack terms.
WAC 296-24-67003	Loading and marking.
WAC 296-24-67005	Operation and maintenance.

WSR 03-09-015
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed April 4, 2003, 2:46 p.m.]

Date of Adoption: March 26, 2003.

Purpose: The purpose of this new chapter of rules, chapter 314-29 WAC, is to replace current rules that outline the penalty guideline schedule for violations of Liquor Control Board laws and rules by liquor licensees.

Citation of Existing Rules Affected by this Order: Repealing WAC 314-12-170, 314-12-300, 314-12-310, 314-12-320, 314-12-330, and 314-12-340.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010, 66.24.120.

Adopted under notice filed as WSR 03-02-097 on January 2, 2003.

Changes Other than Editing from Proposed to Adopted Version: As a result of input received during the rule-making process, the agency has made the following technical changes to the rules shown below:

- Deleted previously proposed language in WAC 314-29-020 that would have made Group 1 violations cumulative. This proposal would have been a change in current practice, which is outside the published scope of this rule making. Including this proposed language was an inadvertent error by staff.
- Technical changes to proposed WAC 314-29-025 for clarity. Language was added to clarify that Group 2 violations can apply to retail and nonretail licensees.
- Technical changes to proposed WAC 314-29-035 for clarity:
 - > Language was added to clarify that the standard penalty for "retailer/nonretailer" violations are for violations other than those outlined in WAC 314-29-035, the Group 4 violations.
 - > Language was added to clarify the meaning of the violations for providing or accepting money or money's worth and for providing or accepting exclusive or contingency agreement.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 7, Amended 0, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 0, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 7, Amended 0, Repealed 6.

Effective Date of Rule: Thirty-one days after filing.

April 4, 2003

Merritt D. Long

Chair

NEW SECTION

WAC 314-29-003 Purpose. The purpose of chapter 314-29 WAC is to outline what a liquor licensee can expect if a licensee or employee violates a liquor control board law or rule.

NEW SECTION

WAC 314-29-015 What are the penalties if a liquor license holder violates a liquor law or rule? (1) The purpose of WAC 314-29-015 through WAC 314-29-040 is to outline what penalty a liquor licensee can expect if a licensee or employee violates a liquor control board law or rule (the penalty guidelines for mandatory alcohol server training permit holders are in WAC 314-17-100 through WAC 314-17-110).

(2) Penalties for violations by liquor licensees or employees are broken down into four categories:

(a) Group One - Public Safety Violations, WAC 314-29-020.

(b) Group Two - Conduct Violations, WAC 314-29-025.

(c) Group Three - Regulatory Violations, WAC 314-29-030.

(d) Group Four - Violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-29-035.

(3) For the purposes of chapter 314-29 WAC, a two year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules.

(a) Mitigating circumstances	(b) Aggravating circumstances
<p>Examples of mitigating circumstances that may result in a fewer number of days of suspension or a lower monetary option include, but are not limited to, having in place business policies and practices such as:</p> <ul style="list-style-type: none"> • Using licensee certification cards that are correctly filled out and filed; • Having direct on-site supervision of employees; • Having a signed acknowledgment of the business' alcohol policy on file for each employee; • Having an employee training plan that includes annual training on liquor laws; • Showing cooperation with local law enforcement; etc. 	<p>Examples of aggravating circumstances that may result in a higher number of days of suspension, a higher monetary option, or cancellation of a liquor license include, but are not limited to:</p> <ul style="list-style-type: none"> • Failing to cooperate with local law enforcement or liquor control board employees; • Not calling for local law enforcement when requested by a customer or liquor control board agent; • Not checking to ensure employees are of legal age or have appropriate work permits; • Committing the violation willfully; etc.

NEW SECTION

WAC 314-29-020 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Sale or service to minor: Sale or service of alcohol to a person under 21 years of age.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
Minor frequenting a tavern, lounge, or other age restricted area.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
Disorderly conduct by licensee or employee, or permitting on premises.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
Criminal conduct: Permitting or engaging in criminal conduct.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license

NEW SECTION

WAC 314-29-025 Group 2 conduct violations. Group 2 violations are violations involving conduct of retail or nonretail licensee, employees, or patrons.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Misuse or unauthorized use of liquor license.	5 day suspension or \$1,500 monetary option	Cancellation of license	Cancellation of license	Cancellation of license
Sale of alcohol in violation of a board-approved alcohol impact area restriction.	5 day suspension or \$500 monetary option	7 day suspension or \$1,500 monetary option	10 day suspension with no monetary option	Cancellation of license

PERMANENT

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Employee under legal age or without required mandatory alcohol server training permit.	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Hours of service: Sales, service, removal, or consumption of alcohol between 2:00 a.m. and 6:00 a.m.	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Food service: Required food service not available.	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Substituting, tampering, unlawful removal, possession, or unauthorized sale of liquor.	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Inspections: Refusing to allow inspection(s) by law enforcement.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Retailer/nonretailer violation: Violation on the part of a retail licensee that involves a nonretail licensee, other than group four violations.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option

PERMANENT

NEW SECTION

WAC 314-29-030 Group 3 regulatory violations. Group 3 violations are violations involving administrative requirements.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Keg registration: Failure to properly register kegs.	5 day suspension or \$500 monetary option	5 day suspension or \$1,000 monetary option	10 day suspension or \$1,500 monetary option	20 day suspension with no monetary option
Signs: Failure to post required signs.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Records: Improper record keeping.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Advertising: Advertising violations other than those involving prohibited practices between a nonretail and a retail licensee.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Inventory: Inventory below required amount.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Unauthorized alterations, change of trade name, or added activity.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Lighting: Inadequate lighting.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Liquor purchased from unauthorized source or sale below cost in violation of liquor law or rule.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option

NEW SECTION

WAC 314-29-035 Group 4 violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between a nonretail licensee and a retail licensee.

PERMANENT

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Providing credit to a retail licensee.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Quantity discount.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Giving away liquor in violation of liquor law or rule.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Consignment sales/return of product in violation of liquor law or rule.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Advertising violations involving prohibited practices between a nonretail and a retail licensee.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Price posting/labeling/packaging violations.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Agents violations: Nonretail licensee employing an unlicensed agent.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Unauthorized product/unapproved storage or delivery.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Sampling/tasting violations.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option

Entertainment/instruction/meeting/trade show violations.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Providing money or money's worth less than \$100.	3 day suspension or \$250 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension or \$2,000 monetary option
Providing/accepting money or money's worth: Goods or services worth \$100 to \$1,000.	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Providing/accepting money or money's worth: Goods or services worth over \$1,000.	Cost of item or service provided plus: 3 day suspension or \$1,000 monetary option	Cost of item or service provided plus: 5 day suspension or \$2,500 monetary option	Cost of item or service provided plus: 10 day suspension or \$5,000 monetary option	Cost of item or service provided plus: 20 day suspension or \$10,000 monetary option
Providing/accepting exclusive or contingency agreements.	3 day suspension or \$1,000 monetary option	10 day suspension or \$6,000 monetary option	20 day suspension or \$12,000 monetary option	30 day suspension or \$20,000 monetary option
Unauthorized interest or ownership in retail license.	3 day suspension or \$1,000 monetary option	30 day suspension or \$20,000 monetary option	Cancellation of license	
Failure to obtain surety bond/savings account, if required by the board.	Immediate suspension of license until surety bond has been obtained and all missing reports are filed and late taxes are paid.			
Failure to file tax/shipment report.	3 day suspension or \$250 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension or \$2,000 monetary option

PERMANENT

NEW SECTION

WAC 314-29-040 Information about liquor license suspensions. (1) On the date a liquor license suspension goes into effect, a liquor control agent will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of liquor license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable liquor laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice (see WAC 314-01-005 for the definition of "licensed premises").

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of liquor license suspension:

(a) A retail liquor licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor. No banquet permit or special occasion function may be held on the premises during a period of liquor license suspension.

(b) A nonretail licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor.

(c) A manufacturer of alcohol may do whatever is necessary as a part of the manufacturing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsaleable during a suspension, provided it does not include bottling the product. The manufacturer may not receive any agricultural products used in the production of alcohol, crush fruit, or bottle alcohol during the period of suspension.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-12-170	What are the penalties if a retail liquor licensee violates the liquor laws or rules?
WAC 314-12-180	Suspension notices, posting or advertising of—Other—Closing notices prohibited.
WAC 314-12-300	Group one (1) violations against public safety.
WAC 314-12-310	Group two (2) offenses—Conduct violations.
WAC 314-12-320	Group three (3) offenses—Regulatory violations.
WAC 314-12-330	Can the board impose sanctions or penalties other than those indicated in WAC 314-12-170?
WAC 314-12-340	What are some examples of mitigating and aggravating circumstances?

WSR 03-09-034**PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed April 8, 2003, 8:30 a.m.]

Date of Adoption: April 8, 2003.

Purpose: The current 2,500 gallon tank size restriction results in a substantial increase in the number of times the product (soil fumigant) is transferred, increasing the risk of accidental spills. Changing the rule to allow larger temporary field storage tanks (10,000 gallons) will reduce the number of required deliveries and, consequently, the number of road miles in which accidental spills of the soil fumigants may occur. Fewer deliveries will also reduce the number of times the product is transferred which will substantially reduce the potential for accidental spills.

Citation of Existing Rules Affected by this Order: Amending WAC 16-229-010.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, chapter 34.05 RCW.

Adopted under notice filed as WSR 03-05-075 on February 18, 2003.

Changes Other than Editing from Proposed to Adopted Version: Maximum storage tank capacity was changed from 10,500 (a typographical error) to 10,000 gallons. The requirement for an attached log of inspections was eliminated.

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.

April 7, 2003

Valoria Loveland

Director

AMENDATORY SECTION (Amending WSR 00-23-074, filed 11/17/00, effective 12/18/00)

WAC 16-229-010 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

(1) "**Approved air gap**" means a physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); or

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

(2) "**Approved reduced pressure principle backflow prevention assembly (RPBA)**" means an RPBA of a make, model and size that is approved by the Washington State Department of Health.

(3) "**Appurtenances**" means all valves, pumps, fittings, pipes, hoses, metering devices, and mechanical devices which are connected to a storage container, or which are used to transfer a material into or out of such container.

(4) "**Bulk pesticide**" means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.

(5) "**Certified engineer**" means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

(6) "**Department**" means the Washington state department of agriculture.

(7) "**Discharge**" means a spill, leak, or release, accidental or otherwise, from a storage container, container or appur-

tenance. It does not include a fully contained transfer of pesticide which is made pursuant to sale, storage, distribution or use.

(8) **"Dry pesticide"** means pesticide which is in solid form prior to any application or mixing for application, and includes formulations such as dusts, wettable powders, dry flowable powders, granules, and water dispersible granules.

(9) **"Liquid pesticide"** means pesticide in liquid form, and includes solutions, emulsions, suspensions, slurries, and pesticide rinsates.

(10) **"Mini-bulk pesticide"** means an amount of liquid pesticide greater than fifty-five gallons but not exceeding five hundred gallons which is held in a single container designed for ready handling and transport, which has been filled by the original pesticide manufacturer or repackager, and to which no substance has been added by any person.

(11) **"Not technically feasible"** means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone shall not be sufficient for the department to determine that compliance is not technically feasible.

(12) **"Operational area"** means an area or areas where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled or where pesticides are cleaned, or rinsed from containers or application, handling, storage or transportation equipment.

(13) **"Operational area containment"** means any structure or system designed and constructed to intercept and contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s).

(14) **"Permanent mixing/loading site"** means a site (location) at which more than three hundred gallons of liquid pesticide (formulated product) or three thousand pounds of dry pesticide or at which a total of fifteen hundred pounds of pesticides as active ingredients are being mixed, repackaged or transferred from one container to another within a calendar year: Provided, That wood preservative application systems already regulated by 40 CFR, Parts 264.570-575 and Parts 265.440-445 shall be exempt.

(15) **"Permanent storage facility"** means a location at which liquid bulk pesticide in a single container or aggregate quantities in excess of five hundred U.S. gallons or dry bulk pesticide in undivided quantities in excess of two thousand pounds is held in storage: Provided, That mini-bulk pesticide containers are exempt from this chapter.

(16) **"Pesticide"** means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(d) For the purpose of establishing permanent mixing/loading site threshold values petroleum oils are exempt from this chapter.

(17) **"Primary containment"** means the storage of liquid or dry bulk pesticide in storage containers at a permanent storage facility.

(18) **"Rinsate"** means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any pesticide, including: recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

(19) **"Secondary containment"** means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid pesticide from a permanent storage facility.

(20) **"Storage container"** means a container, including a rail car, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry pesticide. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk pesticide storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(21) **"Substantially similar protection"** means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(22) **"Temporary field storage"** means a storage container with the capacity to store two thousand five hundred gallons or less of bulk liquid pesticide that remains in the same location for no more than fourteen consecutive days in any six-month period. Provided, That temporary field storage containers used to store soil fumigants shall be allowed a maximum capacity of ten thousand gallons or less. Containers must be chemically compatible with the material, which is being stored. Such containers can remain in the same location for no more than fourteen consecutive days in any six-month period. Liquid bulk pesticide application tanks directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.

(23) **"Washwater"** means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any pesticide.

WSR 03-09-053

PERMANENT RULES

OLYMPIC REGION

CLEAN AIR AGENCY

[Filed April 11, 2003, 10:15 a.m.]

Date of Adoption: April 9, 2003.

Purpose: This change will identify Olympic Region Clean Air Agency as the permitting authority for agricultural

PERMANENT

burn permits and increase the fee for those permits to be equivalent to WAC 173-430-040.

Citation of Existing Rules Affected by this Order: Amending ORCAA Regulation 1 Article 9.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 03-06-029 on February 25, 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 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.

April 9, 2003

Richard Stedman
Executive Director

ARTICLE 9 EMISSION PROHIBITED

AMENDED SECTION

SECTION 9.01 OPEN FIRES

It is the policy of the (~~Olympic Air Pollution Control Authority (OAPCA))~~ Olympic Region Clean Air Agency (ORCAA) to achieve and maintain high levels of air quality, and, to this end, minimize to the greatest extent reasonably possible the burning of open fires. Consistent with this policy, the Board does hereby declare that such fires should be allowed only on a limited basis under strict regulation and close control, such program to be implemented by a one permit system. It is the further policy of the Board to encourage the fostering and development of an alternate technology or method of disposing of wastes which is reasonably economical and less harmful to the environment.

(a) It shall be unlawful for any person to cause or allow any open fire:

(1) Containing prohibited materials which include, but are not limited to, garbage, dead animals, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, processed wood, construction debris, metal or any substance which when burned releases toxic emissions, dense smoke or obnoxious odors.

(2) During an air pollution episode or period of Impaired Air Quality as defined in RCW 70.94.

(3) In a no burn/nonattainment area or in any area which has been designated by the Board or Control Officer as an

area exceeding or threatening to exceed State or Federal ambient air quality standards.

(i) It shall be unlawful for any person to cause or allow any open fire described in Section 9.01 (b)(2) and (6) in any area where the Board has prohibited burning.

(ii) Fires described in Section 9.01 are prohibited in the following areas:

All areas within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston county lying within or between the municipal boundaries.

(4) In any area in which the applicable fire district, fire protection agency, city, town, county, or conservation district has determined not to issue burning permits or has determined that selected types of open burning fires are prohibited under a valid burning permit program established pursuant to RCW 70.94.745, RCW 70.94.750, RCW 70.94.775, and/or RCW 70.94.780.

(5) Within fifty (50) feet of a structure or within five hundred (500) feet of forest slash debris.

(6) In any area within the jurisdiction of this authority all burning requires a permit as covered in WAC 173-425-070.

(7) Urban growth areas and cities with a population of ten thousand or more will ban open burning when alternatives are available, no later than the end of the year 2000.

(8) If open burning creates a nuisance the fire must be extinguished immediately.

(b) Other than the following types:

(1) Recreational fires no larger than four feet in diameter and three feet in height for campfires at designated federal, state, county or city parks and recreation areas, provided a written permit has been issued by a fire protection agency, county, or conservation district.

(2) Residential fires set for the disposal of yard and garden refuse (except cut grass) originating on lands immediately adjacent and in close proximity to a human dwelling subject however, to the following restrictions:

(i) There shall be one (1) fire only and it shall not exceed four (4) feet in diameter and three (3) feet in height.

(ii) The material may be burned only if it is of a location, nature and condition to burn without emitting dense smoke or offensive odors or creating a nuisance.

(iii) The fire is to consist only of dry leaves and prunings (except grass cuttings which produce dense smoke), and be burned on such lands by the property owner or their designee under strict conditions such as hours, dates, smoke management, etc., provided a written permit has been issued by a fire protection agency, county, or conservation district (thirty (30) days are the maximum allowed).

(iv) There shall be compliance with all laws and regulations of other governmental agencies regarding such fires.

(v) The fire is not contrary to Section 9.01(a).

(3) Where open burning is allowed a minimum permit (general rule burn) is allowed provided that all restrictions (i through viii) are met.

(i) The fire must be attended at all times by someone with the means and capability of extinguishing the fire.

(ii) Maximum pile size is four (4) feet by four (4) feet by three (3) feet in height.

(iii) Only one pile shall be burned at a time, and each pile must be extinguished before igniting another.

(iv) No material containing garbage, asphalt, dead animals, petroleum products, paints, rubber products, plastic, paper (other than what is necessary to start a fire), cardboard, treated wood, processed wood, construction debris, metal or any substance which when burned releases toxic emissions, dense smoke or obnoxious odors.

(v) The designated permitting authority must be called to confirm burning conditions for each day or current information on burning conditions must be obtained from another designated source.

(vi) If the fire creates a nuisance, it must be extinguished.

(vii) Permission from a landowner, or owner's designated representative, must be obtained before starting an open fire.

(viii) General rule burn permits under this section may be used for the following number of days per year:

1992-1994	21 days
1995-1998	14 days
1998-1999	7 days
after 2000	7 days

The exact dates to be implemented will be determined by the Control Officer.

(4) Burning related to ((Fire-associated with)) agricultural operations as approved by the agency. ((for controlling diseases, insects, weed abatement or development of physiological conditions conducive to increased crop yield, provided written confirmation has been furnished by a designated county extension agent or agricultural specialist designated by the Cooperative Extension Service that burning is the best management practice, a one time application fee of twenty dollars is collected, and prior written approval has been issued by the Control Officer.)) A permit fee shall accompany the application. For 10 acres (or equivalent) or less the fee is twenty-five dollars (\$25.00). For greater than 10 acres (or equivalent) the fee will be two dollars and fifty cents (\$2.50) per acre.

(5) Fires for abating a forest fire hazard, to prevent a hazard, for instruction of public officials in methods of forest fire fighting, any silvicultural operation to improve forest lands, and silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation area, parks, and other wildlife areas, provided prior written approval has been issued by the Washington Department of Natural Resources.

(6) Land clearing fires consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects, (natural vegetation can not be transported from this site to be burned at another location) under strict conditions, such as hours, dates, smoke management, etc., and provided a written permit has been issued by an approved permitting agency (thirty (30) days are the maximum allowed for permit). Land clearing burning permits issued by ((OAPCA)) ORCAA will be charged a fee in the amount of one hundred dollars (\$100.00).

(7) Cooking fires consisting solely of charcoal, propane, natural gas or wood (provided that wood is not used in a no

burn/nonattainment area) and used solely for the preparation of food.

(8) Fires for Native American ceremonies or for the sending of smoke signals if part of a religious ritual, (provided that proof of tribal affiliation is certified and a permit has been issued by the Control Officer in a no burn area).

(c) Any permit issued may be limited by the imposition of conditions to prevent air pollution as defined in Article 1 of this Regulation. If it becomes apparent at any time to the authorized permitting agent that limitations need to be imposed, the authorized permitting agent shall notify the permittee; and any limitations so imposed shall be treated as conditions under which the permit is issued.

(d) Fires started in violation of this Regulation shall be extinguished by the persons responsible for the same upon notice of the authorized permitting agent.

(e) It shall be prima facie evidence that the person who owns or controls property on which an open fire occurs, has caused or allowed said open fire.

(f) Firemen Training: The Control Officer, or a duly authorized agent may allow, by permit, an open fire necessary for firemen training (other than forest fire training) by a legally authorized fire control agency and may authorize the burning of petroleum products by such permit. Conditions of this permit will agree with guidelines established by the Washington Department of Ecology.

(g) Nothing contained in Article 9 shall be construed to allow open fires in those areas in which open burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.

(h) Nothing contained in Article 9 shall relieve the applicant from obtaining permits required by any state or local fire protection agency or from compliance with Section 11.101 of the Uniform Fire Code.

WSR 03-09-062

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed April 14, 2003, 4:06 p.m.]

Date of Adoption: April 14, 2003.

Purpose: WAC 458-20-231 explains the application of B&O tax on internal transfers of tangible personal property imposed by RCW 82.04.270. This tax, commonly referred to as the "internal distributions tax," applied to persons distributing of tangible personal property owned by them from a warehouse or other central location in this state to two or more of their own retail stores or outlets in this state.

This rule explains that this tax was repealed effective July 1, 1998, by chapter 329, Laws of 1998. Thus, the information contained in this rule is no longer necessary because the tax does not apply to any period within the statutory claim period for refunds and/or assessments.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-20-231 Tax on internal distributions.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 03-04-030 on January 27, 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 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: Thirty-one days after filing.

April 14, 2003

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

WSR 03-09-064

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed April 15, 2003, 9:07 a.m.]

Date of Adoption: March 31, 2003.

Purpose: The rule places the prescription product, Xyrem®, in Schedule III of the Uniform Controlled Substances Act. Xyrem® will now be available in the state of Washington for the treatment of cataplexy associated with narcolepsy.

Citation of Existing Rules Affected by this Order: New section WAC 246-887-165.

Statutory Authority for Adoption: Chapter 69.50 RCW.

Other Authority: RCW 18.64.005.

Adopted under notice filed as WSR 03-03-096 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 1, 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 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 31, 2003

Susan Teil Boyer

Board Chair

NEW SECTION

WAC 246-887-165 Adding Xyrem to Schedule III.

The Washington state board of pharmacy finds that Xyrem, sodium oxybate, Gamma-hydroxybutyric (GHB), is approved for medical use by the Food and Drug Administration and hereby places that substance in Schedule III.

WSR 03-09-065

PERMANENT RULES

DEPARTMENT OF HEALTH

(Recreational Therapy)

[Filed April 15, 2003, 9:10 a.m., effective July 1, 2003]

Date of Adoption: March 26, 2003.

Purpose: To adopt registration and renewal fees for 2002 legislation requiring registration for recreational therapists.

Statutory Authority for Adoption: Chapter 18.230 RCW and RCW 43.70.250.

Adopted under notice filed as WSR 03-05-022 on February 10, 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2003.

M. C. Selecky

Secretary

Chapter 246-927 WAC

RECREATION THERAPY

FEES

NEW SECTION

WAC 246-927-990 How often do I need to renew and what are the costs for registration? (1) Registrations 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 for registered recreational therapists:

Title of Fee	Fee
Application	\$110.00
Renewal	85.00
Late renewal penalty	50.00
Expired registration reissuance	50.00
Duplicate registration	15.00
Certification of certificate	25.00

WSR 03-09-074
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed April 15, 2003, 4:40 p.m.]

Date of Adoption: April 14, 2003.

Purpose: WAC 388-155-070 and 388-155-090 are being revised to require family home providers to submit to the department picture identification issued by a government entity and a valid Social Security card or verification of an employer identification number in order to be licensed to provide child care.

Citation of Existing Rules Affected by this Order: Amending WAC 388-155-070 and 388-155-090.

Statutory Authority for Adoption: RCW 74.12.340 and 74.15.030.

Other Authority: 26 U.S.C. 6109.

Adopted under notice filed as WSR 03-06-092 on March 4, 2003.

Changes Other than Editing from Proposed to Adopted Version: In late 2002, WAC 388-155-090 When can my license application be denied and when can be license be suspended or revoked?, was revised in order to make technical changes. In that process, two very important pieces that had been in this WAC section for some time were inadvertently omitted during that revision process. The two areas were: (1) To hold the provider responsible if they allowed someone onto the child care premises who (a) has disqualifying crimes in their history, or (b) if they've been found to have abused, neglected, exploited, or abandoned children; and (2) that a person must not attempt to "keep" a license by deceitful means.

In order to correct that error, the following changes to the proposed rule were made (added language underlined):

(1) WAC 388-155-090 (3)(a) has been changed to state: "Have been found to have abused, neglected, sexually exploited, or abandoned a child as defined in chapter 26.44 RCW and chapter 388-15 WAC or allow a person who has committed any of these acts onto the premises."

WAC 388-155-090 (3)(b) has been changed to state: "Have a disqualifying criminal history as listed in chapter

388-06 WAC or allow a person with such a disqualifying criminal history on the premises;"

(2) WAC 388-155-090 (4)(a) has been changed to state: "Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on your application."

Other changes were editorial only.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, 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 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 14, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

PERMANENT

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

WAC 388-155-070 ((Application and reapplication for licensure — Orientation, training and investigation.))

How do I apply for a license and what is required? (1) ((The person, organization, or legal entity applying for a license or relicensure under this chapter and responsible for operating the home must:

(a) ~~Attend orientation and training programs provided, arranged, or approved by the department;~~

(b) ~~Comply with application procedures the department prescribes; and~~

(e) ~~Submit to the department:~~

(i) ~~A completed department supplied application for family child care home license, including required attachments, ninety or more days before the:~~

(A) ~~Beginning of licensed care;~~

(B) ~~Expiration of a current license;~~

(C) ~~Relocation of a home; or~~

(D) ~~Change of licensed capacity category.~~

(ii) ~~A completed criminal history and background inquiry form for each applicant, assistant, volunteer, or member of the household sixteen years of age or older having unsupervised or regular access to the child in care;~~

(iii) ~~Fingerprint cards if residing in Washington state for less than three years; and~~

(iv) ~~The annual licensing fee.~~

(2) ~~In addition to the required application materials specified under subsection (1) of this section, the applicant for initial licensure must submit to the department:~~

~~(a) A department supplied employment and education resume of the applicant and assistant including a transcript or its equivalent documenting early childhood education class completion, where appropriate; and~~

~~(b) Three references for the applicant.~~

~~(3) The applicant for a license under this chapter shall be eighteen years of age or older.~~

~~(4) The department may, at any time, require additional information from the applicant, licensee, assistant, volunteer, member of their household and other person having access to the child in care as the department deems necessary, including, but not limited to:~~

~~(a) Sexual deviancy evaluations;~~

~~(b) Substance and alcohol abuse evaluations;~~

~~(c) Psychiatric evaluations;~~

~~(d) Psychological evaluations; and~~

~~(e) Medical evaluations.~~

~~(5) The department may perform investigations of the applicant, licensee, assistant, volunteer, member of their household, and other person having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files)) To apply for a license to provide family home child care you must:~~

~~(a) Be eighteen years of age or older;~~

~~(b) Attend an orientation provided by the department;~~

~~(c) Submit to the department a completed and signed family child care home license application form, including the following attachments:~~

~~(i) The twenty-four dollars per year license fee. The license fee may be paid for one, two or three years;~~

~~(ii) A completed criminal history and background inquiry form for each person sixteen years of age or older who will have unsupervised or regular access to the children in care. This includes you, any other applicants, assistants, volunteers and members of your household;~~

~~(iii) A copy of your picture identification issued by a government entity (could include but is not limited to: driver's license, passport, state identification); and~~

~~(iv) A copy of your social security card or verification of your employer identification number (EIN).~~

~~(d) Submit to the department these additional documents either with your application or within the ninety-day licensing period:~~

~~(i) An employment and education resume for you and any assistants along with your school transcript, if you request:~~

~~(A) A waiver of the STARS training requirement; or~~

~~(B) A capacity higher than six children.~~

~~(ii) Three references for you;~~

~~(iii) Documentation of current TB exam by the Mantoux method for you, any assistants, volunteers and adult members of the household;~~

~~(iv) Documentation of current, standard first aid and infant/child CPR training for you and any assistant who will be left alone to care for the children;~~

~~(v) Documentation of your HIV/AIDS training;~~

~~(vi) Documentation of the local health jurisdiction approval of your private water supply and independent sewage system, if applicable;~~

~~(vii) A copy of your policies and procedures that you give to parents.~~

~~(e) Provide to the department any additional reports or information regarding you, any assistants, volunteers, members of your household or any other person having access to the child in care if any of those individuals may be unable to meet the requirements in chapter 388-155 WAC. This could include:~~

~~(i) Sexual deviancy evaluations;~~

~~(ii) Substance abuse evaluations;~~

~~(iii) Psychiatric evaluations; and~~

~~(iv) Medical evaluations.~~

~~(2) If we decide it is necessary, we will investigate you, other applicants, assistants, volunteers, members of your household, and other persons having access to the children in care. This investigation could include, but is not limited to, accessing criminal histories and law enforcement files and records.~~

AMENDATORY SECTION (Amending WSR 02-24-022, filed 11/26/02, effective 12/27/02)

WAC 388-155-090 When can my license application be denied and when can my license be suspended or revoked? (1) We must deny your license application, or suspend or revoke your license if you do not meet the requirements ((outlined)) in this chapter.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility, we ((will)) consider qualifications separately and together. We may deny your license application, or suspend or revoke your license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, ((or)) sexually exploited, or abandoned a child as defined in chapter 26.44 RCW and chapter 388-15 WAC ((388-15-130)) or allow a person who has committed any of these acts onto the premises;

(b) Have a disqualifying criminal history as listed in chapter 388-06 WAC or allow a person with such a disqualifying criminal history on the premises;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. The exception: If you can demonstrate by clear and convincing evidence that you have taken enough correction action or rehabilitation to justify the public trust and to operate the home according to the rules of this chapter, we may issue you a license;

(d) Commit or allow an illegal act on the licensed premises;

(e) Allow a child in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs, or use alcohol excessively;

(g) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office to inspect the premises; ((or))

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office access to records related to the home's operation or to interview staff or a child in care; or

(i) Refuse to provide to us a copy of your:

(A) Picture identification issued by a government entity; and

(B) Social Security card or verification of your employer identification number (EIN).

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Fail to provide adequate supervision to a child in care;

(e) Are not able to exercise fiscal responsibility and accountability while operating the home;

(f) Knowingly allow an employee or volunteer on the premises who has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information reasonably requested by the department; or

(h) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW.

WSR 03-09-076

PERMANENT RULES

GAMBLING COMMISSION

[Order 418—Filed April 16, 2003, 5:00 p.m., effective July 1, 2003]

Date of Adoption: April 11, 2003.

Purpose: This rule package authorizes digital surveillance in house-banked card rooms. Safeguards were established to ensure the authenticity, integrity and readability of recordings and to ensure our current regulatory program is not compromised by the use of digital surveillance. Furthermore, the retention period for recording jackpot payouts of \$500 or more was increased from seven days to thirty days for Class F card rooms. This amendment updates the rule to maintain consistency with the commission's current retention requirement for the recordings of jackpot payouts.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-550, 230-40-625, 230-40-815, 230-40-825, 230-40-860, 230-40-875, and 230-40-895.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 03-05-087 on February 19, 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 7, 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 7, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2003.

April 16, 2003

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

WAC 230-40-550 Incompatible functions defined. Incompatible functions for accounting and internal control purposes are functions, duties, or responsibilities that place any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities. For example, an employee that writes checks should not reconcile the bank account; or an employee that transports funds should not have access to keys for locks securing such funds or to surveillance ((tapes)) recordings of the transaction.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

WAC 230-40-625 Closed circuit television system ((requirements and procedures))—Class F card rooms. Critical activities related to the operation of a player-supported jackpot (PSJ) and assessment of fees based on amounts wagered (rake method) shall be closely monitored by the use of a closed circuit television (CCTV) system((; including video recording)) and recorded using analog and/or digital recording equipment. If a licensee is conducting both Class F and house-banked activities, the licensee shall be required to meet the surveillance requirements set forth in WAC 230-40-825. Each Class F card room licensee shall install and maintain a CCTV system that meets the following requirements:

Camera coverage.

(1) The following areas are required to be ((covered)) viewed by the CCTV system:

(a) All gaming at each table including, but not limited to, the:

- (i) Cards;
- (ii) Wagers;
- (iii) Chip tray;
- (iv) Drop box openings; and
- (v) Players and dealers.

(b) All activity in the count room or count area including, but not limited to, the:

- (i) Count table;
- (ii) Floor;
- (iii) Drop boxes; and
- (iv) Drop box storage shelves/cabinets.

Camera requirements.

(2) The CCTV system shall consist of light sensitive cameras that have the ability to determine card and chip values at each gaming table. Each video camera shall be capable of having its ~~((picture))~~ images displayed on a video monitor and recorded. Cameras shall be installed in a manner that will prevent them from being readily obstructed, tampered with, or disabled by patrons or employees. Installed cameras shall cover the areas required by this rule and shall include, at a minimum, the following:

(a) At least one fixed camera focused over each gaming table covering the entire layout;

(b) At least one fixed camera focused over the dealer area covering the chip rack, all drop box openings, and the community card area;

(c) At least one fixed or pan, tilt, and zoom (PTZ) camera permanently programmed for the purposes of monitoring players and dealers at each gaming table. This camera must be capable of viewing each patron and dealer at each gaming position at least once every five minutes;

(d) A sufficient number of fixed and/or PTZ cameras in the cage only if the count process is conducted there;

(e) A sufficient number of fixed and/or PTZ cameras in the count area; and

(f) Any other location as deemed necessary by commission staff.

Video recording equipment requirements.

(3) Video recording equipment shall meet the following requirements:

(a) ~~((Record))~~ Analog recording, including audio recording where required, using a video cassette recorder, shall comply with the following requirements:

(i) Images shall be recorded at a rate of not less than twenty ~~((pictures))~~ frames per second on standard VHS format; and

~~((b) Insert))~~ (ii) Recorded images shall accurately reflect the time and date ~~((on))~~ of the video recording. If multiple time and date generators are used, they shall be synchronized to the same time and date; ~~((and))~~ or

~~((c))~~ (b) Digital recording, including audio recording where required, using a hard drive storage system, shall comply with the following requirements:

(i) All images shall be recorded on a hard drive;

(ii) Recording systems shall be locked by the manufacturer to disable the erase and reformat functions to prevent access to system data files;

(iii) The system must provide uninterrupted recording of surveillance, this shall include during playback or copying;

(iv) Recording systems shall be capable of copying original images maintaining the original native format;

(v) Images shall be stored at a rate of not less than twenty-five images per second;

(vi) Resolution shall be 640 x 480 or higher;

(vii) Images shall be stored in a format that is readable by commission computer equipment;

(viii) Images shall be stored in a format that contains a method to verify the authenticity of the original recording and copies;

(ix) Recorded images shall include the accurate time and date the video was originally recorded;

(x) Previously recorded material may be overwritten after seven continuous days of gaming; and

(xi) Recording systems shall be equipped with an uninterruptible power source to allow a proper system shutdown.

Use of multiplexing and quad recording devices.

(4) Multiplexing/quad recording devices may only be used for external surveillance, movement of drop boxes between tables and the count room, and on entrances and exits: Provided, That split screen devices may be utilized for areas not required to have surveillance coverage.

Recording of illegal or suspicious activities.

(5) Illegal or suspicious activities within the monitored portion of the licensed premises shall be reported to commission staff, pursuant to WAC 230-40-815 (3)(a)(v) through (vi). Additionally, licensees shall ensure two copies of the entire recorded image sequence are made reflecting the questioned activity. One copy shall be provided to commission staff or other law enforcement representatives upon demand and the other copy maintained by the licensee for a period of thirty days.

Activities to be ~~((videotaped))~~ recorded.

~~((4))~~ (6) Video signals from all cameras shall be recorded when:

- (a) Gaming tables are in operation;
- (b) Drop boxes or chip trays are stored on the gaming tables;
- (c) Drop boxes are being transported; or
- (d) Drop box contents are being counted.

Surveillance activity log.

~~((5))~~ (7) The licensee shall maintain a record of all surveillance activities in the surveillance room. A surveillance log shall be maintained by surveillance personnel and shall include, at a minimum, the following:

- (a) Date and time of surveillance;
- (b) Person initiating surveillance;
- (c) Time of termination of surveillance;
- (d) Summary of the results of the surveillance; and
- (e) A record of any equipment or camera malfunctions.

Employee sign-in log.

~~((6))~~ (8) A surveillance room sign-in log shall be maintained to document the time each surveillance employee monitors the card room. The surveillance sign-in log shall be available for inspection at any time by commission staff or law enforcement personnel.

~~((Tape labeling and retention.~~~~((7)) Labeling and storing video and audio recordings.~~

~~(9) Video and audio ((tapes)) recordings shall be marked to denote the activity recorded and retained for a period necessary to afford commission staff or law enforcement personnel reasonable access. The following minimum retention periods apply to ((tapes)) recordings:~~

~~(a) ((All tapes)) Recordings shall be retained for a minimum of seven complete gaming days.~~

~~(b) ((Tapes)) Recordings of evidentiary value shall be maintained as requested by commission staff; and~~

~~(c) Tapes documenting jackpot payouts of five hundred dollars or more shall be retained for at least ((seven)) thirty days; and~~

~~(d) Commission staff may increase any of the retention requirements noted in this section by notifying the licensee.~~

Dispute resolution.

~~((8)) (10) In the event there is not sufficient clarity due to violations of the above requirements, the burden will be on the licensee to prove any action taken was warranted. Otherwise, all disputes ((with)) shall be resolved in favor of the player: Provided, That a review by commission staff may be requested if the licensee feels circumstances warrant, for example, cheating has occurred.~~

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking. Each licensee operating a house-banked card game shall ensure that all games are closely controlled, operated fairly and in accordance with all rules of the commission. The following control procedures and conditions shall be met:

Internal controls.

(1) The licensee shall have a system of internal controls that include at least the following:

(a) Administrative controls, which include, but are not limited to, the organization's plan, procedures, and records concerned with decision processes leading to management's authorization of transactions; and

(b) Accounting controls which include the licensee's plan, procedures, and records concerned with the safeguarding of assets and the reliability of financial records. These controls must be designed to provide reasonable assurance that:

(i) Transactions are executed in accordance with management's general and specific authorization;

(ii) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;

(iii) Access to assets is permitted only in accordance with management's authorization; and

(iv) The recorded accountability for assets is compared with existing assets at least annually and appropriate action is taken within five working days with respect to any differences.

Administrative controls.

(2) The licensee's system of administrative controls shall provide for the following:

(a) Competent personnel with an understanding of prescribed procedures;

(b) The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his or her duties; and

(c) Each employee of a house-banked card room shall be licensed by the commission and shall be knowledgeable in all accounting and internal control practices and procedures relevant to each employee's individual function.

Separate departments and functions.

(3) The licensee shall, at a minimum, establish the following departments or functions that shall be independent from all other departments or functions:

Surveillance.

(a) A surveillance department which shall not include security functions or personnel. The head of surveillance shall be responsible for, but not limited to, the following:

(i) The clandestine surveillance of the operation and conduct of the table games;

(ii) The clandestine surveillance of the operation of the cashier's cage;

(iii) The video and audio ((taping)) recording of activities in the count rooms;

(iv) The detection of cheating, theft, embezzlement, and other illegal activities in the gaming facility, count rooms, and cashier's cage;

(v) The video ((taping)) recording of unusual or suspected illegal activities;

(vi) The notification of appropriate supervisors and commission staff, within three working days, upon the detection of cheating, theft, embezzlement, or other illegal activities;

(vii) Ensuring that each dealer is evaluated to determine if all required dealer procedures and techniques set forth in the licensee's approved internal controls are followed; and

(viii) Ensuring all surveillance employees have a demonstrated knowledge of the following:

(A) Operating surveillance systems;

(B) Rules of play and procedures for the games being played; and

(C) The overall procedures relating to the duties of all employees of the house-banked card room being monitored (dealers, shift managers, floor supervisors, cage cashier's and count team members).

Security.

(b) A security department, supervised by a security department manager, is responsible for at least the following:

(i) Control of cards and dealing shoes, including storage of new and used cards and shoes, and control of the disposi-

tion and/or destruction of same when removed from service; and

(ii) Transfer of cash and chips to and from the gaming tables, cage and count room.

Gaming operations.

(c) A gaming operation department supervised by a gaming operation department manager who shall be responsible for the operation of all house-banked card games conducted by ensuring the following:

(i) Card games are operated by licensed dealers who are assigned to each gaming table;

(ii) A floor supervisor is assigned the responsibility for the overall supervision of the conduct of gaming within a pit and can supervise no more than five tables: Provided, That a single supervisor may supervise up to seven tables, if only seven tables are in operation and the layout was preapproved by commission staff;

(iii) A licensee which utilizes two separate areas of a gaming establishment shall require at least one supervisor in each area; and

(iv) A shift manager, who reports to the gaming operation department manager, is assigned to supervise floor supervisors and all gaming related activities that occur during each shift. In the absence of the gaming operation department manager, the shift manager shall have the authority of a gaming operation department manager: Provided, That in addition to the floor supervisors required in this subsection, licensees operating more than ten tables shall be required to have a shift manager on the premises.

Accounting.

(d) An accounting department supervised by an individual who shall report directly to the chief executive officer or chief operations officer. The responsibilities of the accounting department shall include, but not be limited to, the following:

(i) Implementing and monitoring of accounting controls;

(ii) The preparation, control, and storage of records and data required;

(iii) The control of unused forms inventory along with reconciliation of forms used; and

(iv) The control and supervision of the cashier's cage.

Modifications.

(4) Any changes to the licensee's system of internal controls must be submitted to commission staff and be approved prior to implementation.

Employees shall be informed of internal controls.

(5) All licensed operators shall inform their card room employees of the internal controls related to their respective area of responsibility. Furthermore, both the operator and all card room employees shall follow these internal controls at all times.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

WAC 230-40-825 Closed circuit television system—House-banking. Critical activities related to the operation of house-banked card games shall be closely monitored by the use of a closed circuit television (CCTV) system(~~(, including video recording)~~) and recorded using analog and/or digital recording equipment. Each house-banked card room licensee shall install and maintain a CCTV system that meets the following requirements.

Camera coverage.

(1) The following areas are required to be ~~((covered))~~ viewed by the CCTV system:

(a) All gaming at each table including, but not limited to, the following:

- (i) Cards;
- (ii) Wagers;
- (iii) Chip tray;
- (iv) Drop box openings;
- (v) Card shoe;
- (vi) Shuffling devices; and
- (vii) Players and dealers.

(b) All activity in the pits.

(c) All activity in the cashier's cage including, but not limited to, the:

- (i) Outside entrance;
- (ii) Fill/credit dispenser;
- (iii) Customer transactions;
- (iv) Cash and chip drawers;
- (v) Vault/safe;
- (vi) Storage cabinets;
- (vii) Fill or credit transactions; and
- (viii) Floor.

(d) All activity in the count room including, but not limited to, the:

- (i) Count table;
- (ii) Floor;
- (iii) Counting devices;
- (iv) Trolley;
- (v) Drop boxes;
- (vi) Storage shelves/cabinets; and
- (vii) Entrance and exits.

(e) The movement of cash, gaming chips, and drop boxes.

(f) Entrances and exits to the card room.

Camera requirements.

(2) The CCTV system shall consist of light sensitive cameras including those with pan, tilt, and zoom (PTZ) capabilities ~~((that have the capability))~~ having the ability to determine card and chip values and the configuration of wagers at each gaming table. Each video camera shall be capable of having its ~~((picture))~~ images displayed on a video monitor and recorded. Cameras shall be installed in a manner that will prevent them from being readily obstructed, tampered with, or disabled by patrons or employees. PTZ cameras shall be placed behind a smoked dome, one-way mirror or similar materials that conceal the camera from view. Installed cam-

eras shall cover the areas required by this rule and shall include at a minimum:

(a) At least one fixed camera focused over each gaming table covering the entire layout;

(b) A sufficient number of fixed and/or PTZ cameras permanently programmed for the purposes of monitoring players and dealers at each gaming table. The PTZ cameras must be capable of viewing each patron and dealer at each gaming position at least once every five minutes;

(c) A sufficient number of PTZ cameras for the purpose of determining the configuration of wagers and card values at each gaming table. Any time a winning wager, including jackpot or bonus payouts in excess of five hundred dollars are won, surveillance shall utilize this camera to verify the winning hand, the amount of the wager, and the player who won the prize. Each licensee shall have documented procedures in their internal controls stipulating the manner in which this will be carried out;

(d) A sufficient number of fixed and/or PTZ cameras in the cage(s);

(e) A sufficient number of fixed and/or PTZ cameras in the count room; and

(f) Any other location as deemed necessary by commission staff.

Video recording equipment requirements.

(3) Video recording equipment shall meet the following requirements:

(a) ~~((Record))~~ **Analog recording, including audio recording where required, using a video cassette recorder, shall comply with the following requirements:**

~~(i)~~ **Images shall be recorded at a rate of not less than twenty ~~((pictures))~~ frames per second**

~~(b)~~ **on standard VHS format; and**

~~(ii)~~ **Recorded images shall accurately reflect the time and date ~~((on))~~ of the video recording. If multiple time and date generators are used, they shall be synchronized to the same time and date; ~~((and~~**

~~(e))~~ **or**

~~(b)~~ **Digital recording, including audio recording where required, using a hard drive storage system, shall comply with the following requirements:**

~~(i)~~ **All images shall be recorded on a hard drive;**

~~(ii)~~ **Recording systems shall be locked by the manufacturer to disable the erase and reformat functions to prevent access to system data files;**

~~(iii)~~ **The system must provide uninterrupted recording of surveillance, this shall include during playback or copying;**

~~(iv)~~ **Recording systems shall be capable of copying original images maintaining the original native format;**

~~(v)~~ **Images shall be stored at a rate of not less than twenty-five images per second;**

~~(vi)~~ **Resolution shall be 640 x 480 or higher;**

~~(vii)~~ **Images shall be stored in a format that is readable by commission computer equipment;**

~~(viii)~~ **Images shall be stored in a format that contains a method to verify the authenticity of the original recording and copies;**

~~(ix)~~ **Recorded images shall include the accurate time and date the video was originally recorded;**

~~(x)~~ **Previously recorded material may be overwritten after seven continuous days of gaming; and**

~~(xi)~~ **Recording systems shall be equipped with an uninterruptible power source to allow a proper system shutdown.**

Use of multiplexing and quad recording devices.

(4) Multiplexing/quad recording devices may only be used for external surveillance, movement of drop boxes between tables and the count room, and on entrances and exits: Provided, That split screen devices may be utilized for areas not required to have surveillance coverage.

Recording of illegal or suspicious activities.

(5) **Illegal or suspicious activities within the monitored portion of the licensed premises shall be reported to commission staff, pursuant to WAC 230-40-815 (3)(a)(v) through (vi). Additionally, licensees shall ensure two copies of the entire recorded image sequence are made reflecting the questioned activity. One copy shall be provided to commission staff or other law enforcement representatives upon demand and the other copy maintained by the licensee for a period of thirty days.**

Activities to be ~~((videotaped))~~ recorded.

~~((4))~~ (6) Video signals from all cameras shall be recorded when:

(a) Gaming tables are in operation;

(b) Drop boxes or chip trays are stored on the gaming tables;

(c) Drop boxes are being transported; or

(d) Drop box contents are being counted.

Video monitors.

~~((5))~~ (7) The CCTV system shall include a sufficient number of video monitors to simultaneously view multiple gaming tables, the cashier's cage, and count room activities.

Surveillance room.

~~((6))~~ (8) The licensee shall maintain one or more surveillance rooms with the following minimum requirements:

(a) The surveillance room shall have controlled access and be used solely by the employees of the surveillance department assigned to monitor activities: Provided, That this restriction does not apply to owners or approved supervisory or management personnel.

(b) Commission agents and law enforcement personnel shall be provided immediate access to the surveillance room upon request.

(c) Entrances to surveillance rooms shall not be readily observable from the gaming operation area.

(d) The licensee shall ensure a surveillance employee is present in the surveillance room and monitoring the activities of the operation, via the surveillance room equipment, any time the card room is open to conduct gaming and during the count process: Provided, That the licensee may allow the surveillance room to operate without staff for a period not to

exceed thirty minutes per shift for the purpose of routine breaks.

Surveillance staff not required.

~~((7))~~ (9) Licensees that are licensed for five or fewer tables and not operating under Phase II limits, shall not be required to maintain a staffed surveillance room.

Surveillance activity log.

~~((8))~~ (10) The licensee shall maintain a record of all surveillance activities in the surveillance room. A surveillance log shall be maintained by surveillance personnel and shall include, at a minimum, the following:

- (a) Date and time of surveillance;
- (b) Person initiating surveillance;
- (c) Time of termination of surveillance;
- (d) Summary of the results of the surveillance; and
- (e) A record of any equipment or camera malfunctions.

Employee sign-in log.

~~((9))~~ (11) A surveillance room sign-in log shall be maintained to document the time each surveillance employee monitors the card room. The surveillance sign-in log shall be available for inspection at any time by commission staff or law enforcement personnel.

Labeling and storing ~~((tapes))~~ video and audio recordings.

~~((10))~~ (12) Video and audio ~~((tapes))~~ recordings shall be marked to denote the activity recorded and retained for a period necessary to afford commission staff or law enforcement personnel reasonable access. The following minimum retention periods apply to ~~((tapes))~~ recordings:

- (a) ~~((All tapes))~~ Recordings shall be retained for a minimum of seven complete gaming days;
- (b) ~~((Tapes))~~ Recordings of evidentiary value shall be maintained as requested by commission staff; and
- (c) Tapes documenting jackpot payouts over three thousand dollars shall be retained for at least thirty days; and
- (d) Commission staff may increase any of the retention requirements noted in this section by notifying the licensee.

Dispute resolution.

~~((11))~~ (13) In the event there is not sufficient clarity due to violations of the above requirements, the burden will be on the licensee to prove any action taken was warranted. Otherwise, all disputes ~~((with))~~ shall be resolved in favor of the player: Provided, That a review by commission staff may be requested if the licensee feels circumstances warrant, for example, cheating has occurred.

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

WAC 230-40-860 Table inventories and procedures for opening tables for house-banked card games. Procedures shall be established to ensure proper accountability of gaming chips and coins stored at gaming tables and for begin-

ning play at such tables. The following restrictions and procedures apply:

Removing and adding table inventory.

(1) Whenever a gaming table is opened for gaming, operations shall commence with an amount of gaming chips and coins to be known as the "table inventory" and the licensee shall not cause or permit gaming chips or coins to be added to or removed from such table inventory during the gaming day except:

- (a) In exchange for cash from patrons;
- (b) In payment of winning wagers and collection of losing wagers made at such gaming table;
- (c) In exchange for gaming chips received from a patron having an equal aggregate face value; and
- (d) In conformity with procedures set forth in WAC 230-40-865 and 230-40-870.

Storing containers and inventory slips.

(2) Each table inventory and the table inventory slip prepared in conformity with the procedures set forth in WAC 230-40-875 shall be stored during nongaming hours in a separate locked, clear container which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. The information on the table inventory slip shall be visible from the outside of the container. All containers shall be stored in the cashier's cage during nongaming hours: Provided, That containers may be secured at the gaming table if under ~~((taped))~~ recorded surveillance.

Keys to locked containers.

(3) The keys to table inventory containers shall be maintained and controlled by the gaming operation department in a secure place and shall at no time be made accessible to any cashier's cage personnel or to any person responsible for transporting such table inventories to or from the gaming tables.

Opening tables for play.

(4) Licensees shall abide by the following procedures when opening gaming tables for play:

(a) The locked container securing the table inventory and the table inventory slip shall be unlocked by the gaming operation supervisor assigned to such table;

(b) A dealer assigned to the gaming table shall prove the contents of the container in the presence of the gaming operation supervisor assigned to such table and shall compare the count to the "opener," as defined in WAC 230-40-875, removed from the container. The procedures used to prove the chip and coin inventory shall be set forth in the licensee's internal controls;

(c) Signatures attesting to the accuracy of the information on the opener shall be placed on such "opener" by the dealer assigned to the table and the gaming operation supervisor that observed the dealer count the contents of the container;

(d) Any discrepancy between the amount of gaming chips and coins counted and the amount of the gaming chips and coins recorded on the "opener," shall be immediately

reported to the gaming operation manager, assistant gaming operation manager, or gaming operation shift manager in charge at such time. The manager in charge shall complete the notification of error slip, which will be verified by security and transported to accounting or the cashier's cage. Accounting will maintain a copy in the log containing the notification of error slips. The licensee shall notify commission staff within twenty-four hours of errors of two hundred dollars or more or if there is a pattern relating to regular shortages;

(e) After the count of the contents of the container and the signing of the "opener," such slip shall be immediately deposited in the drop box attached to the gaming table by the dealer.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

WAC 230-40-875 Closing gaming tables—House-banking. Procedures shall be followed for closing gaming tables that ensure proper accountability of gaming chips and coins. The following restrictions and procedures apply:

Counting chips and coins.

(1) Whenever the gaming activity at each gaming table is concluded for the day, the gaming chips and coins shall be counted by the dealer assigned to the gaming table and observed by a gaming operation supervisor. The entire count and closure process shall be monitored and ~~((taped))~~ recorded by the surveillance department.

Recording the count.

(2) The gaming chips and coins counted shall be recorded on a table inventory slip by the gaming operation supervisor assigned to the gaming table.

Table inventory slips.

(3) Table inventory slips shall be three-part serially pre-numbered forms and on the original of the slip (closer), the duplicate of the slip (opener), and on the triplicate, which is maintained and controlled by security, the gaming operation supervisor shall record the following:

- (a) The date and identification of the shift ended;
- (b) The game and table number;
- (c) The total value of each denomination of gaming chips and coins remaining at the tables; and
- (d) The total value of all denominations of gaming chips and coins remaining at the gaming tables.

Verification signatures.

(4) Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of closing the gaming tables shall be of the dealer and the gaming operation supervisor assigned to the gaming table who observed the dealer count the contents of the table inventory.

Distributing table inventory slips.

(5) Upon meeting the signature requirements:

(a) The closer shall be deposited in a drop box attached to the gaming table immediately prior to the closing of the table;

(b) The opener and the gaming chips and coins remaining at the table shall be placed in a clear container provided for that purpose after which the container shall be locked; and

(c) The triplicate copy of the table inventory slip shall be forwarded to the accounting department by a security department employee.

VOID procedures.

(6) In the event the closer is voided, the preparer shall void this form by writing the word "VOID" on all copies of the form. All copies of the form shall then be forwarded to the accounting department.

(7) At the end of each gaming day, if the locked containers are transported to the cashier's cage, a cage cashier shall determine that all locked containers have been returned to the cage and adequately secured or, if the locked containers are secured to the gaming table, a gaming operation supervisor shall account for all the locked containers.

Removing drop boxes from tables.

(8) In the event drop boxes are removed from gaming tables at other than the close of the gaming day, they shall be removed at a shift change. A table inventory slip shall be prepared as required above with the incoming and outgoing supervisor verifying the inventory and signing.

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

WAC 230-40-895 Key control—House-banking. All activities related to the operation of house-banked card games shall be closely monitored and controlled. The following restrictions and operating procedures shall apply for control of card room keys to restrict access to areas by unauthorized card room employees.

Specifications.

(1) Each licensee shall install and maintain key control boxes that meet at least the specifications set forth below:

(a) Constructed of metal with a minimum of one keylock mechanism: Provided, That coded key boxes or combination key boxes are permitted;

(b) Be attached to a permanent structure without visibility of hardware used to attach the key box;

(c) Be tamper proof;

(d) Have keys stored therein to be easily identifiable, labeled, and displayed individually in numeric or alphabetic order; and

(e) The physical location of key control boxes may be determined by each licensee. The location shall not permit an individual to gain access to a restricted area that he/she would otherwise not be allowed to enter. If key boxes are located in areas where unauthorized individuals have access, that person may only have custody of the key and open the key box in the presence of the key custodian; or while under camera coverage.

Access.

(2) Individual key control boxes shall be maintained by at least four departments including gaming operations, accounting, security, and surveillance. Access to key control boxes shall be limited to the licensed card room employee(s) responsible for overall supervision or management of the operation for which the box is maintained. Keys shall be controlled in the following manner:

Gaming operations department.

(a) Keys included in the key control box maintained by the gaming operations department shall include:

- (i) Key to each pit podium;
- (ii) Key(s) to drawers and other locking cabinets located in each pit podium;
- (iii) Key to remove the clear plastic cover from the container used to store gaming chips and secured to the gaming tables;
- (iv) Key to the second lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gaming tables;
- (v) Key to all upper tier and lower tier jackpot payout boxes included with authorized card games;
- (vi) Key to all electrical control boxes used to maintain authorized card games; and
- (vii) Other keys included in the licensee's internal controls and approved by commission staff.

Security department.

(b) Keys included in the key control box maintained by security shall include:

- (i) Key to the lock used to secure the count room door;
- (ii) Key utilized to unlock and reset the drop boxes from the gaming tables;
- (iii) Key to the first lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gaming tables to the count room;
- (iv) Key to the storage cabinet(s) or other secure facility used to store the card inventory including decks which have not been placed into play and decks removed from play and waiting to be destroyed;
- (v) Key to main entry or access door of the card room; and
- (vi) Other keys included in the licensee's internal controls and approved by commission staff.

Accounting department.

(c) Keys included in the key control box maintained by the accounting department shall include:

- (i) Key to the lock securing the contents of the drop boxes;
- (ii) Key to the rear of the locked dispenser used to store the triplicate of the fill/credit slips in a continuous, unbroken form;
- (iii) Key to the door to the cashier's cage;
- (iv) Key to reset the lock to the drop boxes;
- (v) Keys included in the licensee's internal controls and approved by commission staff;

- (vi) Keys maintained by the cashier's cage including:
 - (A) Key(s) to each cashier's window drawer;
 - (B) Key to the chip drawer or fill bank;
 - (C) Key to the vault or safe;
 - (D) Key to the door to the cashier's cage;
 - (E) Key to the front of the locked dispenser used to store the triplicate of the fill/credit slips in continuous, unbroken form;
 - (F) Other keys included in the licensee's internal controls and approved by commission staff; and
 - (G) Key(s) to the dealer tip boxes.

Surveillance department.

(d) Keys included in the key control box maintained by surveillance shall include:

- (i) Key to the room used for clandestine surveillance; and
- (ii) Key to the storage cabinet(s) or locker(s) used to maintain ~~((tapes))~~ surveillance recordings of evidentiary value or ~~((tapes))~~ recordings documenting details of jackpot payouts.

Owner/CEO master key box.

(e) A master key control box may be maintained with access strictly limited to the owner(s) or chief operating officer responsible for exercising the overall management or authority over all the operations of the card room and may include:

- (i) All spare or extra keys for the areas noted above.
- (ii) Other keys included in the licensee's internal controls and approved by commission staff.

Control log.

(3) Each licensee shall maintain for each key control box, a key control log used to record the issuance of and return of all keys used to control the restricted access areas by card room employees identified. The key control log shall be maintained in the format prescribed by the commission.

Keys to key control box.

(4) Keys to secure the contents of each key control box required above shall be strictly controlled as follows.

- (a) There shall be one key for each key control box which shall be controlled by the manager of the department for which the key control box is designated. This key shall be distributed to the manager or supervisor in charge and maintained in their possession when gaming is being conducted.
- (b) Keys to each key control box will be maintained in a secure manner as approved by commission staff and documented in the licensee's written internal controls.
- (c) All spare or duplicate keys to the key control boxes identified above will be maintained in the master key control box and be controlled by the owner(s).

Electronic key control systems.

(5) Licensees may utilize electronic key control systems, if reviewed and approved in writing by the director or the director's designee.

Extra key control box - emergencies only.

(6) For emergency situations, licensees may maintain an additional key control box which can be accessed on a limited basis to protect the safety of employees. The key control boxes which meet this requirement shall be preapproved by commission staff.

WSR 03-09-092

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 18, 2003, 4:32 p.m.]

Date of Adoption: April 14, 2003.

Purpose: Repeal of WAC 388-71-0475 will clarify that home and community residential care rates are codified at chapter 388-105 WAC or published in accordance with WAC 388-71-0460.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-0475.

Statutory Authority for Adoption: Chapter 74.39 RCW.

Adopted under notice filed as WSR 03-06-093 on March 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

April 14, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-71-0475	What is the maximum amount that the department pays per month for your COPES care?
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WSR 03-09-096
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed April 21, 2003, 10:04 a.m.]

Date of Adoption: April 9, 2003.

Purpose: To establish circumstances and responsibilities involving the relieving of a pilot from duty.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 03-06-060 on March 3, 2003.

Changes Other than Editing from Proposed to Adopted Version: WAC 363-116-405, the sentence which reads "Any pilot relieved of his piloting duties by the master pursuant to this section shall no longer be considered a servant of the vessel, its owner or operator as described in RCW 88.16.118." was deleted because it is inconsistent with the preceding sentence that provide for pilots relieved of duty to advise and assist the master.

The adopted rule was revised to reflect the fact that the United States Coast Guard vessel traffic system notification requirement will apply only in the Puget Sound pilotage district.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 17, 2003

Peggy Larson
Administrator

NEW SECTION

WAC 363-116-405 Relieving pilots for cause. A pilot serving on a vessel required by chapter 88.16 RCW to employ a state licensed pilot may be relieved from his or her piloting duties by the ship's master only for cause as provided herein. The master may relieve a pilot only if the pilot is manifestly incompetent or incapacitated or if the vessel is endangered or *in extremis* due to the pilot's error. If a pilot is relieved for cause under this section another pilot shall be requested and dispatched. In such event, the master shall immediately put the ship to anchor, to the extent it can be done safely, and await the substitute pilot. If anchoring is not possible or prudent, the master shall slow the vessel to the slowest prudent speed until another pilot can be put on board.

PERMANENT

To the extent possible and practical, after being relieved of his or her duties, the pilot shall remain available to advise and assist the master. In the event a pilot is relieved as provided in this section in the Puget Sound pilotage district, the U.S. Coast Guard vessel traffic system shall be notified immediately. In the event a pilot is relieved as provided in this section in any pilotage district, the vessel and the pilot promptly shall provide notice to the board of the event and relevant circumstances.

WSR 03-09-097

PERMANENT RULES

BOARD OF PILOTAGE COMMISSIONERS

[Filed April 21, 2003, 10:05 a.m.]

Date of Adoption: April 9, 2003.

Purpose: To establish a clear master/pilot relationship during certain maneuvers aboard certain passenger vessels.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 03-06-061 on March 3, 2003.

Changes Other than Editing from Proposed to Adopted Version: WAC 363-116-365, the adopted rule provides that the exchange of maneuvering responsibilities between the pilot and the master shall occur in close proximity to the berth but not to exceed twice the vessel's length. The proposed rule provided for only one vessel length. A five-vessel length was also considered. The discussion between the pilot and master regarding where the exchange is to occur should, in the normal course, occur sufficiently in advance of the docking of the vessel that there should be no uncertainty regarding docking responsibilities as of the time that the vessel approaches its berth.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 17, 2003
Peggy Larson
Administrator

NEW SECTION

WAC 363-116-365 Docking and undocking of certain vessels by the vessels' masters. On a passenger vessel not requiring a tug for docking or undocking, the master of the vessel may maneuver the vessel into or out of its berth under the following procedures and conditions:

(1) The master may not commence maneuvering the vessel until the express consent of the pilot has been given;

(2) Any such consent shall be on a case-by-case basis and be valid only for that specific berthing or departure;

(3) The master may not delegate maneuvering responsibility for the vessel to an officer other than the vessel's staff captain;

(4) The exact location for the exchange of maneuvering responsibilities between the pilot and the master must be part of the consent and the exchange must always occur in close proximity (approximately the vessel's length, but not to exceed twice the vessel's length) to the vessel's berth; and

(5) While the master is maneuvering the vessel pursuant to this section, the pilot shall remain available to advise and assist the master and the master shall be responsible for keeping the pilot informed as to all material aspects of the master's maneuvering of the vessel.

WSR 03-09-103

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed April 22, 2003, 11:22 a.m.]

Date of Adoption: April 8, 2003.

Purpose: To update the agency's central and field organization of the Washington State Department of Transportation.

Citation of Existing Rules Affected by this Order: Amending WAC 468-06-040.

Statutory Authority for Adoption: RCW 47.01.031.

Adopted under notice filed as WSR 03-04-062 on January 30, 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.

PERMANENT

Effective Date of Rule: Thirty-one days after filing.

April 8, 2003

P. J. Hammond

Chief of Staff

AMENDATORY SECTION (Amending WSR 02-10-021, filed 4/23/02, effective 5/24/02)

WAC 468-06-040 Description of central and field organization of the Washington state department of transportation. (1) The department of transportation is a statutorily created agency of the state of Washington. The central office of the department of transportation is located in the Transportation Building, Olympia, WA 98504.

(2) The department of transportation is headed by a secretary who is the executive head of the department and is appointed by the Washington state transportation commission.

(a) Serving directly under the secretary are the chief of staff, audit office, equal opportunity office, engineering and regional operations division, ~~((northwest Washington division,))~~ Washington state ferries division and the finance and administration ((and support)) division. There are also assistant attorney generals assigned to the department who provide legal services in department matters.

(b) Reporting directly to the chief of staff are the following offices: Communications, governmental liaison office, ombudsman, freight strategy and policy, highways and local programs, public transportation and rail, aviation and transportation economic partnerships.

(c) The following programs report to the assistant secretary for engineering and regional operations, depending upon their needs. Environmental and engineering programs, urban corridors and northwest coordination, maintenance and operations programs and planning and capital program management.

(d) The department field functions are carried out by six regions which are each headed by a region administrator. The central regional office locations are: Seattle, Wenatchee, Tumwater, Vancouver, Yakima, and Spokane. The regions have various project and maintenance area offices which are headed by a supervisor. ~~((The))~~ Region administrators ((for Seattle and Tumwater report directly to the assistant secretary for the northwest Washington division. The region administrators for Wenatchee, Vancouver, Yakima and Spokane)) report directly to the assistant secretary for the engineering and regional operations division.

WSR 03-09-110
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 22, 2003, 12:01 p.m., effective August 1, 2003]

Date of Adoption: April 22, 2003.

Purpose: The purpose of this rule making is to make this rule easy to read, understand and more usable for employers. This adoption will move all bloodborne pathogen require-

ments relating to nonagricultural industries from WAC 296-62-08001 to chapter 296-823 WAC, Occupational exposure to bloodborne pathogens. The requirements in WAC 296-62-08001 will remain and apply only to agriculture. There is no increase in requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-08001, 296-27-01109, 296-305-01515, 296-800-15005, 296-824-50030, and 296-305-02501.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 03-01-097 on December 17, 2002.

Changes Other than Editing from Proposed to Adopted Version: The entire chapter was reorganized for clarity. WAC 296-823-120 Controls and 296-823-160 Work practices and procedures were combined into one WAC section, WAC 296-823-140 Control employee exposure. The new WAC organization is below:

WAC 296-823-100 Scope.

WAC 296-823-110 Planning.

WAC 296-823-120 Training.

WAC 296-823-130 Hepatitis B virus (HBV) vaccinations.

WAC 296-823-140 Control employee exposure.

WAC 296-823-150 Personal protective equipment.

WAC 296-823-160 Post-exposure requirements.

WAC 296-823-170 Records.

WAC 296-823-180 Additional requirements for HIV and HBV research laboratories and production facilities.

WAC 296-823-200 Definitions.

WAC 296-823-100 Scope.

- Clarified the definition of occupational exposure and parenteral contact.
- Added the definition of regulated waste.

WAC 296-823-110 Planning.

- Clarified the your responsibility statement to read, "To plan ways to protect your employees from the risk of exposure to blood or other potentially infectious materials."

WAC 296-823-11005 Determine if you have employees with occupational exposure.

- Combined the last two subbullets for clarity.

WAC 296-823-11010 Develop and implement a written exposure control plan.

- First bullet, added the language "in your workplace."
- Reworded the third bullet to read: "Document the infection control system used in your workplace to protect employees from exposure to blood or OPIM.
 - Use universal precautions or other at least as effective infection control systems."
- Fourth bullet changed "controls" to "safer medical devices."

WAC 296-823-12005 Provide training to your employees.

- The entire WAC was reorganized for clarity.

- Sixth bullet, "appropriate controls" was changed to "equipment and safer medical devices."
- The last subbullet, added the language "when exposure to blood or OPIM occurs outside of the normal scope of work."

WAC 296-823-12010 Provide additional training.

- Added a note for clarity that reads, "This training may be limited to the changes in tasks and procedures."

WAC 296-823-130 Hepatitis B virus (HBV) vaccinations.

- Changed in the your responsibility statement "vaccinate" to "make vaccinations available to."

WAC 296-823-13005 Make hepatitis B vaccination available to employees.

- Proposed as WAC 296-823-15005.
- Reorganized for clarity.
- Changed the numbers to bullets.
- Throughout the WAC, changed the word "collateral" to "secondary."

WAC 296-823-13010 Obtain a copy of the healthcare professional's written opinion for hepatitis B vaccination and provide it to the employee.

- Proposed as WAC 296-823-15010.
- First bullet, clarified the language.
- The note now reads, "If the healthcare professional provides the written opinion, directly to the employee, you do not need to do so. If the employee's personal healthcare professional completes the evaluation, the employer need only make a good faith effort to obtain a copy of the evaluation, you are not required to obtain the healthcare professional's written opinion."
- Added the following reference, "Requirements for the healthcare professional's written opinion on post-exposure evaluation can be found in WAC 296-823-16030 of this chapter."

WAC 296-823-140 Control employee exposure.

- Proposed as WAC 296-823-120 and 296-823-160.
- The your responsibility statement now reads, "To use feasible controls to eliminate or minimize occupational exposure to blood or other potentially infectious materials (OPIM)."
- Added an important statement referencing the personal protective equipment section in this chapter.

WAC 296-823-14005 Use appropriate equipment and safer medical devices to eliminate or minimize occupational exposure.

- Proposed as WAC 296-823-12005.
- Clarified the language.

WAC 296-823-14010 Handle contaminated sharps properly and safely.

- Proposed as WAC 296-823-16040.
- Added a note for clarification.

WAC 296-823-14015 Handle reusable sharps properly and safely.

- Proposed as WAC 296-823-16040.
- Reorganized the language for clarity.

WAC 296-823-14020 Minimize splashing, spraying, splattering and generation of droplets.

- Proposed as WAC 296-823-12005.

WAC 296-823-14025 Make sure items are appropriately labeled.

- Proposed as WAC 296-823-16005.
- Added a fourth bullet to the exemptions list "Extracted teeth, gallstones, kidney stones, or other tissues and body substances that are given to patients."

WAC 296-823-14030 Make sure employees clean their hands.

- Proposed as WAC 296-823-16010.
- In the title the word "wash" was changed to "clean."
- Reorganized for clarity.

WAC 296-823-14035 Prohibit food, drink and other personal activities in the work area.

- Proposed as WAC 296-823-16015.

WAC 296-823-14040 Prohibit pipetting or suctioning by mouth.

- Proposed as WAC 296-823-16020.

WAC 296-823-14045 Place specimens in an appropriate container.

- Proposed as WAC 296-823-16025.

WAC 296-823-14050 Examine and label contaminated equipment.

- Proposed as WAC 296-823-16030.

WAC 296-823-14055 Make sure your worksite is maintained in a clean and sanitary condition.

- Proposed as WAC 296-823-16035.
- Under subsection (2), the fourth bullet, the word "decontaminate" was changed to "clean."
- The language in the note was clarified.

WAC 296-823-14060 Handle regulated waste properly and safely.

- Proposed as WAC 296-823-16040.
- Added an exemption that reads, "Work areas such as correctional facilities, psychiatric units, pediatric units, or residential homes may have difficulty placing sharps containers in the immediate use area. In such situations, alternatives such as using lockable containers or bringing containers in and out of the work area may be used."

WAC 296-823-14065 Handle contaminated laundry properly and safely.

- Proposed as WAC 296-823-16045.

WAC 296-823-150 Personal protective equipment.

- Proposed as WAC 296-823-130.
- The your responsibility statement now reads "To provide and make sure personal protective equipment is used when work practice and control will not fully protect your employees from the risk of exposure to blood or other potentially infectious materials."

WAC 296-823-15015 Make sure appropriate masks, eye protection, and face shields are worn.

- Proposed as WAC 296-823-13015.
- Clarified the language to read, "Make sure either chin-length face shields or a combination of masks and eye protection are used, whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials (OPIM) may be generated and could contaminate the eyes, nose, or mouth contamination can be reasonably anticipated."

WAC 296-823-160 Post-exposure requirements.

- Proposed as WAC 296-823-170.
- The your responsibility statement now reads, "To make sure employees who have been exposed to blood or other potentially infectious materials (OPIM) have appropriate post-exposure evaluation and follow-up available."

WAC 296-823-16005 Make a confidential medical evaluation and follow-up available to employees who experience an exposure incident.

- Proposed as WAC 296-823-17005.
- The title changed to accurately reflect the rule language.
- Removed the language "to provide medical services" from the note.
- Added a note regarding third party healthcare providers.
- Clarified the language in the third bullet.

WAC 296-823-16020 Collect and test the blood of the exposed employee.

- Proposed as WAC 296-823-17020.
- Clarified the language in the first bullet.

WAC 296-823-16025 Provide information to the healthcare professional evaluating the employee.

- Proposed as WAC 296-823-17025.
- Added a reference regarding requirements for healthcare professional's written opinion.

WAC 296-823-16030 Obtain a copy of the healthcare professional's written opinion on post-exposure evaluation and provide it to the employee.

- Proposed as WAC 296-823-17030.
- Clarified the language in the note.

WAC 296-823-17005 Establish and maintain medical records.

- Proposed as WAC 296-823-18005.
- Added language to the note regarding medical professionals.
- Clarified the language in the third bullet.

WAC 296-823-18030 Use and handle hypodermic needles and syringes properly.

- Proposed as WAC 296-823-19030.
- Changed "appropriately" to "properly" in the title.

WAC 296-823-18050 Furnish a sink for washing hands and a readily available eye wash facility.

- Proposed as WAC 296-823-19050.
- Added a reference for emergency eyewash stations.

WAC 296-823-200 Definitions.

- Proposed as WAC 296-823-180.
- Removed the definition of collateral duty.
- Clarified the definition of occupational exposure and parenteral contact.
- Added the definitions for secondary duty and standard microbiological practices.

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 55, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 55, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 55, Amended 6, Repealed 0.

Effective Date of Rule: August 1, 2003.

April 22, 2003

Paul Trause

Director

Chapter 296-823 WAC**OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS****NEW SECTION**

WAC 296-823-100 Scope. This chapter provides requirements to protect employees from exposure to blood or other potentially infectious materials (OPIM) that may contain bloodborne pathogens. Examples of bloodborne pathogens are the human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

This chapter applies to you if you have employees with occupational exposure to blood or OPIM, even if no actual exposure incidents have occurred.

Definitions:

Occupational exposure. Reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM that may result from the performance of an employee's duties.

Parenteral contact. When mucous membranes or skin is pierced by needlesticks, human bites, cuts, or abrasions.

Regulated waste. Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)
- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed
- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling
- Contaminated sharps
- Pathological and microbiological wastes containing blood or OPIM.

Occupations that are typically covered by this chapter. The following list illustrates a number of jobs typically associated with tasks that involve occupational exposure to blood or OPIM. The absence of a particular job from the list does not suggest that it falls outside the scope of this chapter. At the same time, employees in jobs found on the list are covered only if they have occupational exposure.

- **Health care.**
 - Primary care providers
 - Assistants, nurses, nurse practitioners, dental hygienists, and other health care employees in clinics and offices
 - Employees of clinical, dental, and diagnostic laboratories
 - Housekeepers in health care facilities
 - Staff in laundries that provide service to health care facilities
 - Tissue bank personnel
 - Employees in blood banks and plasma centers who collect, transport, and test blood
 - Freestanding clinic employees (for example, hemodialysis clinics, urgent care clinics, health maintenance organization (HMO) clinics, and family planning clinics)
 - Employees in clinics in industrial, educational, and correctional facilities
 - Staff of institutions for the developmentally disabled
 - Hospice employees
 - Home health care workers
 - Staff of nursing homes and long-term care facilities
 - HIV and HBV research laboratory and production facility workers
 - Medical equipment service and repair personnel
 - Emergency medical technicians, paramedics, and other emergency medical service providers
 - Nuclear medical technologists.
- **Occupations outside health care.**
 - Fire fighters, law enforcement personnel, and correctional officers

- Workers in laundries that service public safety institutions
- Employees assigned to provide emergency first aid by their employer (as either a primary or secondary duty)
- Employees who handle or pick up regulated waste (contaminated items with blood or OPIM)
- Hotel/motel employees that clean up blood or OPIM
- Employees of funeral homes and mortuaries.

Regulated waste.

Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)
- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed
- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling
- Contaminated sharps
- Pathological and microbiological wastes containing blood or OPIM.

NEW SECTION

WAC 296-823-110 Planning. Summary.

Your responsibility:

To plan ways to protect your employees from the risk of exposure to blood or other potentially infectious materials.

You must:

Determine if you have employees with occupational exposure

WAC 296-823-11005

Develop and implement a written exposure control plan

WAC 296-823-11010.

NEW SECTION

WAC 296-823-11005 Determine if you have employees with occupational exposure.

You must:

- Prepare a written exposure determination if your employees have occupational exposure to blood or other potentially infectious materials (OPIM).
 - This determination must be made without considering the use of personal protective equipment (PPE).
 - Make sure the exposure determination contains:
 - A list of job classifications where all employees have occupational exposure;
 - A list of job classifications where some employees have occupational exposure and a description of all tasks and procedures or groups of related tasks and procedures with occupational exposure for these employees.

NEW SECTION

WAC 296-823-11010 Develop and implement a written exposure control plan.

You must:

- Establish a written exposure control plan designed to eliminate or minimize employee exposure in your workplace.

Note: The elements of your exposure control plan may be located in other documents such as policies and procedures. Make sure to reference their location in your plan.

You must:

- Make sure the plan contains at least the following elements:
 - The exposure determination, WAC 296-823-11005
 - A procedure for evaluating the circumstances surrounding exposure incidents, including documentation of the routes of exposure, and the circumstances under which the exposure incident happened
 - How and when you will implement applicable requirements of this rule.

Note: The implementation dates need to be included only until your exposure control plan is fully implemented or when you are adding new requirements to your plan.

You must:

- Document the infection control system used in your workplace to protect employees from exposure to blood or OPIM.
 - Use universal precautions or other at least as effective infection control systems.

Note: Universal precautions is an infection control system that considers the blood and OPIM from all persons as containing a bloodborne disease, whether or not the person has been identified as having a bloodborne disease. Other effective infection control systems include standard precautions, universal blood-body fluid precautions, and body substance isolation. These methods define all body fluids and substances as infectious. They incorporate not only the fluids and materials covered by universal precautions and this chapter, but expand coverage to include all body fluids and substances.

- Solicit input in the identification, evaluation, and selection of effective safer medical devices. This input must be solicited from nonmanagerial employees responsible for direct patient care with potential exposure to contaminated sharps.
 - Document the process you used to solicit input and include the identity of the employees or positions that were involved.

Note:

- You are not required to request input from every exposed employee; however, the employees selected must represent the range of exposure situations encountered in the workplace. Your safety committee may assist in identifying employees.
- Although you are required to include nonmanagerial employees, you are not prohibited from soliciting input from managerial and other employees.

You must:

- Make sure the exposure control plan is reviewed and updated:
 - At least annually
 - AND
 - Whenever necessary to:
 - Reflect new or modified tasks and procedures which affect occupational exposure
 - Reflect new or revised job classifications with occupational exposure.
 - Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens
 - Document consideration and implementation of appropriate commercially available and effective safer medical

devices designed to eliminate or minimize occupational exposure.

- Make sure a copy of the exposure control plan is accessible at the workplace, when exposed employees are present. For example, if the plan is stored only on a computer, all exposed employees must be trained to operate the computer.

- Make sure a copy of the plan is provided to the employee or their representative within fifteen days of their request for a copy.

NEW SECTION

WAC 296-823-120 Training. Summary.

Your responsibility:

To train your employees about their risk of exposure to bloodborne pathogens and ways to protect themselves.

You must:

- Provide training to your employees
WAC 296-823-12005
- Provide additional training
WAC 296-823-12010
- Maintain training records
WAC 296-823-12015.

NEW SECTION

WAC 296-823-12005 Provide training to your employees.

You must:

- Make sure all employees with occupational exposure participate in a training program that is:
 - Provided at no cost to them
 - Conducted during compensated working hours.
 - Provide training when any of the following occur:
 - Before assigning tasks where occupational exposure might occur
 - At least annually and within one year of the previous training.
 - Make sure the content and vocabulary of your training materials are appropriate to the educational level, literacy, and language of your employees
 - Make sure the person conducting the required training is knowledgeable about the subject matter as it relates to your workplace
 - Make sure the training program contains at least the following elements:
 - An accessible copy of this chapter and an explanation of the contents
 - A general explanation of the epidemiology and symptoms of bloodborne diseases
 - An explanation of how bloodborne pathogens are transmitted
 - An explanation of your exposure control plan and how the employee can obtain a copy of the written plan
 - An explanation of how to recognize tasks and other activities that could involve exposure to blood and other potentially infectious materials (OPIM)
 - An explanation of the use and limitations of methods that will prevent or reduce exposure including:

- Equipment and safer medical devices
 - Work practices
 - Personal protective equipment
 - Information about personal protective equipment (PPE) including:
 - The types
 - Proper use and limitations
 - Selection
 - Location
 - Putting it on and taking it off
 - Handling
 - Decontamination
 - Disposal
 - Information about the hepatitis B vaccine, including:
 - Information about its effectiveness
 - Safety
 - Method of administration
 - The benefits of being vaccinated
 - Offered at no cost to the employee for the vaccine and vaccination
 - Information about what actions to take and persons to contact when exposure to blood or OPIM occurs outside of the normal scope of work
 - An explanation of the procedure to follow if an exposure incident occurs, including:
 - The method of reporting the incident
 - The medical evaluation and follow-up that will be available
 - Information about the post-exposure evaluation and follow-up procedure following an exposure incident
 - An explanation of the signs and labeling or color-coding required by this chapter
 - An opportunity for interactive questions and answers with the trainer at the time of the training session.
- Note:** This may be person-to-person, by telephone, or by e-mail, as long as the employee can both ask and receive answers during the training session.

NEW SECTION**WAC 296-823-12010 Provide additional training.**

- Provide additional training when you add or change tasks or procedures that affect the employee's occupational exposure.

Note: This training may be limited to the changes in tasks and procedures.

NEW SECTION**WAC 296-823-12015 Maintain training records.**

- Maintain training records for three years from the date of the training
 - Include the following information in your training records:
 - Dates of the training sessions
 - Contents or a summary of the training sessions
 - Names and qualifications of persons conducting the training
 - Names and job titles of all persons attending the training sessions.

- Provide these employee-training records upon request for examination and copying to any of the following:
 - Employees
 - Employee representatives.

Helpful tool:**Training documentation**

A training documentation form is provided for your use in the resource section of this chapter.

NEW SECTION**WAC 296-823-130 Hepatitis B virus (HBV) vaccinations. Summary.****Your responsibility:**

To make the vaccination available to your employees so they are protected from the hepatitis B virus (HBV).

You must:

Make hepatitis B vaccination available to employees
WAC 296-823-13005

Obtain a copy of the healthcare professional's written opinion for hepatitis B vaccination and provide it to the employee

WAC 296-823-13010.

NEW SECTION**WAC 296-823-13005 Make hepatitis B vaccination available to employees.****You must:****Exemption:**

- You are not required to provide the hepatitis B vaccination series to employees who meet any of the following:
 - The employee has previously received the complete hepatitis B vaccination series
 - An antibody test has revealed that the employee is immune to hepatitis B
 - There are medical reasons not to give the vaccine.
 - You are not required to provide the hepatitis B vaccination series to employees assigned to provide first aid only as a secondary duty, when you do all of the following:
 - Make hepatitis B vaccination available to all unvaccinated first-aid providers who render assistance in any situation involving the presence of blood or OPIM.
 - Vaccination must be made available as soon as possible, but no later than twenty-four hours after the incident.
 - Provide a reporting procedure that ensures all first-aid incidents that involve the presence of blood or OPIM are reported before the end of the work shift
 - Document first-aid incidents that involve blood or OPIM, include at least:
 - The names of all first-aid providers who rendered assistance
 - The time and date of the first-aid incident
 - A description of the first-aid incident.
 - Make sure that the hepatitis B vaccination series is available to all employees who have occupational exposure and that it is:
 - Available at no cost to the employee

- Available to the employee at a reasonable time and location
- Administered by or under the supervision of a licensed physician or by another licensed healthcare professional
- Provided according to recommendations of the United States Public Health Service that are current at the time these evaluations and procedures take place
- Available to any employee who initially declines the vaccination but later decides to accept it while they are still covered by this chapter
- Made available after the employee has received training required by this chapter and within ten working days of initial assignment.

Link:

You can find more information about the United States Public Health Service recommendations for hepatitis B vaccination at <http://www.cdc.gov/ncidod/diseases/hepatitis/blindex.htm>.

You must:

- Make sure participation in a prevaccination screening program for antibody status is not a condition for receiving hepatitis B vaccination.
- Make sure that all laboratory tests are conducted by a laboratory licensed by the state or Clinical Laboratory Improvement Amendments (Act) (CLIA).
- Make sure employees who decline the hepatitis B vaccination, offered by you, sign a form with this statement:

"I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me."

Helpful tool:**Sample declination form:**

The declination form can help you document employees who have declined the hepatitis B vaccine. You can find a copy of this form in the resource section of this chapter.

NEW SECTION

WAC 296-823-13010 Obtain a copy of the healthcare professional's written opinion for hepatitis B vaccination and provide it to the employee.

You must:

- Obtain and provide the employee a copy of the evaluating healthcare professional's written opinion for hepatitis B vaccination within fifteen days of the employee's evaluation.

Note:

- If the health care professional provides the written opinion directly to the employee, you do not need to do so.
- If the employee's personal healthcare professional completes the evaluation, you are not required to obtain the healthcare professional's written opinion.

You must:

- Make sure the healthcare professional's written opinion is limited to whether a hepatitis B vaccination is indicated and if the employee has received this vaccination
- Make sure that all other findings or diagnoses remain confidential and are **not** included in the written report.

Reference: Requirements for the healthcare professional's written opinion on post-exposure evaluation can be found in WAC 296-823-16030.

Helpful tool:

Healthcare professional's written opinion for post-exposure evaluation and health care provider's written opinion for hepatitis B vaccination.

These forms are available for your use in the resource section of this chapter.

NEW SECTION

WAC 296-823-140 Control employee exposure. Summary.

Your responsibility:

To use feasible controls to eliminate or minimize occupational exposure to blood or other potentially infectious materials (OPIM).

IMPORTANT:

If occupational exposure remains after implementing these controls, personal protective equipment must be used. See WAC 296-823-150, Personal protective equipment.

You must:

Use appropriate equipment and safer medical devices to eliminate or minimize occupational exposure

WAC 296-823-14005

Handle contaminated sharps properly and safely

WAC 296-823-14010

Handle reusable sharps properly and safely

WAC 296-823-14015

Minimize splashing, spraying, splattering and generation of droplets

WAC 296-823-14020

Make sure items are appropriately labeled

WAC 296-823-14025

Make sure employees clean their hands

WAC 296-823-14030

Prohibit food, drink, and other personal activities in the work area

WAC 296-823-14035

Prohibit pipetting or suctioning by mouth

WAC 296-823-14040

Place specimens in an appropriate container

WAC 296-823-14045

Examine and label contaminated equipment

WAC 296-823-14050

Make sure your worksite is maintained in a clean and sanitary condition

WAC 296-823-14055

Handle regulated waste properly and safely

WAC 296-823-14060

Handle contaminated laundry properly and safely

WAC 296-823-14065.

NEW SECTION**WAC 296-823-14005 Use appropriate equipment and safer medical devices to eliminate or minimize occupational exposure.****You must:**

• Examine and maintain or replace equipment and safer medical devices on a regular schedule to make sure they remain effective.

Note: • Examples of appropriate equipment that can be used to eliminate or minimize occupational exposure include:

- Sharps containers
- Biosafety cabinets
- Splash guards
- Centrifuge cups
- Specimen storage and transport containers.
- Examples of safer medical devices include:
 - Sharps with engineered sharps injury protections (SESIP)
 - Needleless systems
 - Blunt suture needles
 - Plastic capillary tubes.

Definition: **Sharps with engineered sharps injury protections (SESIP)**

A nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

NEW SECTION**WAC 296-823-14010 Handle contaminated sharps properly and safely.****You must:**

• Make sure that you don't bend, recap, or remove contaminated needles or other contaminated sharps **unless** you can demonstrate that there is no feasible alternative or that it's required by a specific medical or dental procedure.

– Bending, recapping or needle removal must be done by using a mechanical device or a one-handed technique.

Note: Demonstrating that no alternative to bending, recapping, or removing contaminated sharps is feasible, may be accomplished through written justification, supported by reliable evidence, in your exposure control plan.

You must:

– Make sure you don't shear or break contaminated needles.

NEW SECTION**WAC 296-823-14015 Handle reusable sharps properly and safely.****You must:**

– Place contaminated reusable sharps immediately, or as soon as possible after use, in appropriate containers until properly decontaminated. Containers must be all of the following:

- Puncture resistant
- Labeled or color-coded as described in this chapter
- Leakproof on the sides and bottom
- Meet the same requirements as the container for disposable sharps, except they do not need to be closable.

• Store or process contaminated reusable sharps so employees aren't required to reach into the container or sink by hand

• Make sure reusable sharps containers aren't opened, emptied, or cleaned manually or in any other manner that would expose employees to contaminated sharps.

Reference: Requirements for appropriate labels and color-coding are found in WAC 296-823-14020.

NEW SECTION**WAC 296-823-14020 Minimize splashing, spraying, splattering, and generation of droplets.****You must:**

• Make sure all procedures involving blood or OPIM are performed so splashing, spraying, splattering, and generation of droplets are minimized.

– Examples include:

■ Appropriate operation and use of recommended controls for surgical power tools, lasers and electrocautery devices

■ Use of personal protective equipment when contact with blood or OPIM is reasonably anticipated

■ Making sure cleaning procedures do not generate unnecessary splashes, spraying, splattering, or generation of droplets.

NEW SECTION**WAC 296-823-14025 Make sure items are appropriately labeled.**

Exemptions: The following are exempt from the labeling requirements of this chapter:

- Individual containers placed in an appropriately labeled secondary container.
- Regulated waste that has been decontaminated.
- Containers of blood, blood components, or blood products that are labeled with their contents and have been released for transfusion or other clinical use.
- Extracted teeth, gallstones, kidney stones, or other tissues and body substances that are given to patients.

You must:

• Attach appropriate labels to:

– Containers used to store, transport, or ship blood or other potentially infectious materials (OPIM) including:

- Refrigerators
- Freezers.
- Sharps containers
- Contaminated equipment
- Laundry bags and containers
- Specimen containers
- Regulated waste containers.

• Make sure that labels:

■ Include the following symbol:



■ Are all or mostly fluorescent orange or orange-red with lettering and symbol in a contrasting color

■ Are attached to the container by string, wire, adhesive, or other method so they can't become lost or accidentally removed.

Note: Red bags or red containers may be substituted for labels as long as they're:

- Covered in the exposure control plan
- Communicated to all affected employees (including employees of laundry services, disposal services, and transport companies) whether they're your employees or not.

The label does not always need to be attached to each individual container. For example, a cart carrying specimen containers could be labeled, rather than each individual container.

NEW SECTION

WAC 296-823-14030 Make sure employees clean their hands.

You must:

(1) Provide handwashing facilities that are readily accessible to employees, wherever feasible. If handwashing facilities are not feasible, provide either one of the following:

- Antiseptic towelettes
- Antiseptic hand rub product along with clean cloth/paper towels.

(2) Make sure employees clean their hands as soon as feasible after removing gloves and whenever there is the potential for contact with blood or other potentially infectious materials (OPIM). Do one of the following:

- Wash with soap and water
- Use an appropriate waterless antiseptic hand rub product or towelettes, provided there are no signs of visible contamination
- Use an appropriate waterless antiseptic hand rub product or towelettes followed by washing with soap and water as soon as possible, when hands are visibly contaminated and handwashing facilities are not immediately available.

Note: An appropriate waterless antiseptic hand rub product is one that contains a 60-95% alcohol solution (isopropanol or ethanol).

You must:

(3) Make sure employees wash any skin with soap and water, or flush mucous membranes with water as soon as feasible following contact with blood or OPIM.

NEW SECTION

WAC 296-823-14035 Prohibit food, drink, and other personal activities in the work area.

You must:

- Make sure eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is occupational exposure
- Make sure food and drink are not kept in refrigerators, freezers, shelves, cabinets, or on countertops or benchtops where there is a potential for exposure to blood or other potentially infectious materials (OPIM).

NEW SECTION

WAC 296-823-14040 Prohibit pipetting or suctioning by mouth.

You must:

- Prohibit mouth pipetting or suctioning of blood or other potentially infectious materials (OPIM).

NEW SECTION

WAC 296-823-14045 Place specimens in an appropriate container.

You must:

- Place specimens of blood or other potentially infectious materials (OPIM) in an appropriate container that prevents leakage during collection, handling, processing, storage, transport, or shipping
- Make sure the container is properly labeled or color-coded and closed before being stored, transported, or shipped.
 - If outside contamination of the container occurs, the container must be placed inside a second container that prevents leakage and is properly labeled or color-coded
 - If the specimen could puncture the container, the container must be placed inside a second container that:
 - Is puncture-resistant
 - Prevents leakage during handling, processing, storage, transport, or shipping
 - Is properly labeled or color-coded.

Exemption: When your facility handles all specimens using universal precautions or other equivalent infection control systems, you don't have to label/color-code specimens as long as the containers can be recognized as containing specimens.

This exemption only applies while these specimens/containers remain within the facility. Proper labeling or color-coding is required when specimens/containers leave the facility.

Reference: Requirements for appropriate labels and color-coding are found in WAC 296-823-14025.

Helpful tool:

Guidance on the handling and storage of criminal evidence

This tool contains information about the handling and storage of criminal evidence. Criminal evidence contaminated with blood or OPIM is considered a specimen under the scope of this chapter. You can find a copy of this tool in the resource section of this chapter.

NEW SECTION

WAC 296-823-14050 Examine and label contaminated equipment.

You must:

- Examine equipment which could become contaminated with blood or other potentially infectious materials (OPIM) before servicing or shipping.

- Decontaminate this equipment and its parts as necessary unless you can demonstrate that decontamination isn't feasible

- Attach an easily seen biohazard label to the equipment stating which portions remain contaminated.

Reference: Requirements for appropriate labels and color-coding are found in WAC 296-823-14020.

You must:

- Make sure that information on contaminated equipment is communicated to all affected employees, the servicing representative, and the manufacturer as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

NEW SECTION

WAC 296-823-14055 Make sure your worksite is maintained in a clean and sanitary condition.

You must:

(1) Develop an appropriate written schedule for cleaning and decontamination based upon the following:

- The location within the facility
- Type of surface to be cleaned
- Type of contamination present
- Tasks or procedures being performed in the area.

(2) Clean and decontaminate environmental and working surfaces and all equipment after contact with blood or other potentially infectious materials (OPIM).

- Decontaminate work surfaces with an appropriate disinfectant at these times:

- After completion of a procedure
- Immediately or as soon as possible when surfaces are clearly contaminated or after any spill of blood or OPIM
- At the end of the workshift if the surface could have become contaminated since the last cleaning.

- Remove and replace protective coverings, such as plastic wrap, aluminum foil, or imperviously backed absorbent paper used to cover equipment and environmental surfaces, as soon as possible when they:

- Clearly become contaminated
- At the end of the workshift if they could have become contaminated during the shift.

- Inspect and clean (on a regularly scheduled basis) all bins, pails, cans, and similar receptacles intended for reuse

that have a reasonable likelihood for becoming contaminated with blood or OPIM.

- Clean and decontaminate these types of receptacles immediately or as soon as possible when they are visibly contaminated.

- Use a brush and dustpan, tongs, forceps, or other mechanical means to clean up broken glassware that may be contaminated.

Note: An appropriate disinfectant is one that is effective against tuberculosis or HBV and HIV such as:

- Diluted bleach solution (1:10 or 1:100).

- Use the 1:10 bleach solution for spills and the 1:100 bleach solution for routine cleaning

- You can make your own bleach solution. Using household bleach (5.25% sodium hypochlorite) follow these directions:

- For a 1:100 solution add 2 teaspoons (10 ml) to a container, then add water to make a quart (946 ml). For a 1:10 solution, add 1/3 cup (79 ml) and 1 tablespoon (15 ml) in a container, then add water to make a quart (946 ml)

- EPA registered tuberculocidals (List B)

- Sterilants (List A)

- Products registered against HIV/HBV (List D).

Any of the above products are considered effective when used according to the manufacturers' instructions. Higher level disinfection may be required depending on the agent or level of decontamination.

Link:

These lists are available from the EPA Office of Pesticides, antimicrobial pesticides website at <http://www.epa.gov/oppad001/chemregindex.htm>.

NEW SECTION

WAC 296-823-14060 Handle regulated waste properly and safely.

Definition:

Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)

- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed

- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling

- Contaminated sharps

- Pathological and microbiological wastes containing blood or OPIM.

You must:

- Discard contaminated sharps immediately, or as soon as possible, in containers that are all of the following:

- Closable

- Puncture resistant

- Leakproof on sides and bottom

- Appropriately labeled or color-coded

- Easily accessible to personnel

- Located as close as feasible to the immediate area where sharps are used or areas sharps can be reasonably anticipated to be found (for example, laundries)

- Maintained upright throughout use

- Replaced routinely and not allowed to overfill.

Exemption: Work areas such as correctional facilities, psychiatric units, pediatric units, or residential homes may have difficulty placing sharps containers in the immediate

use area. In such situations, alternatives such as using lockable containers or bringing containers in and out of the work area may be used.

Note: For additional information on placement and use of sharps containers see *Selecting, Evaluating, and Using Sharps Disposal Containers*, NIOSH Publication 97-111, January 1998. You can obtain a copy of this publication by calling 1-800-35-NIOSH or get an electronic version in pdf at <http://www.cdc.gov/niosh/publistd.html>.

You must:

- Make sure when you move containers of contaminated sharps, the containers are:
 - Closed prior to removal or replacement to prevent spilling or protrusion of contents during handling, storage, transport, or shipping; and
 - Placed in a secondary container, if leaking is possible.

The second container must be:

- Closable
- Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping
- Appropriately labeled or color-coded.
- Make sure regulated waste other than sharps is placed in containers that are all of the following:
 - Closable
 - Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping
 - Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping
 - Placed in a second container if outside contamination of the primary regulated waste container occurs.
 - The second container must meet these requirements.
 - Appropriately labeled or color-coded.
 - Dispose of all regulated waste according to applicable state and county regulations.

NEW SECTION

WAC 296-823-14065 Handle contaminated laundry properly and safely.

You must:

- Handle laundry contaminated with blood or other potentially infectious material (OPIM) as little as possible and with a minimum of agitation
- Bag contaminated laundry or put it into a container at the location where it was used
 - Do not sort or rinse at the location of use
 - Place and transport contaminated laundry in bags or containers that are properly labeled or color-coded
 - If your facility ships contaminated laundry off-site to a second facility that doesn't use an infection control or isolation system when handling all of their soiled laundry, your facility must place the laundry in red bags or containers that are appropriately labeled.

Note: If your facility uses an infection control or isolation system in the handling of all soiled laundry, you can use alternative labeling or color-coding so employees recognize that the containers need to be handled using these precautions.

Reference: Requirements for appropriate labels and color-coding are found in WAC 296-823-14020 of this chapter.

You must:

- Place and transport wet contaminated laundry that is likely to soak through or leak to the outside, in bags or containers that will prevent such leakage.

Reference: You need to follow additional requirements to make sure that employees who have contact with contaminated laundry wear protective gloves and other personal protective equipment (PPE) as appropriate, see WAC 296-823-150, Personal protective equipment.

NEW SECTION

WAC 296-823-150 Personal protective equipment (PPE). Summary.

Your responsibility:

To provide and make sure personal protective equipment is used when work practices and controls will not fully protect your employees from the risk of exposure to blood or other potentially infectious materials.

You must:

- Provide and make sure that personal protective equipment is used when there is occupational exposure
 - WAC 296-823-15005
 - Make sure gloves are worn
 - WAC 296-823-15010
 - Make sure masks, eye protection, and face shields are worn
 - WAC 296-823-15015
 - Wear appropriate protective clothing
 - WAC 296-823-15020
 - Make resuscitator devices available
 - WAC 296-823-15025
 - Maintain personal protective equipment
 - WAC 296-823-15030.

NEW SECTION

WAC 296-823-15005 Provide and make sure personal protective equipment is used when there is occupational exposure.

You must:

- Provide at no cost to employees, appropriate personal protective equipment such as:
 - Gloves
 - Gowns
 - Laboratory coats
 - Face shields or a combination of masks and eye protection
 - Mouthpieces
 - Resuscitation bags
 - Pocket masks
 - Other ventilation devices.

Note: • PPE is considered "appropriate" only if it does NOT permit blood or other potentially infectious materials (OPIM) to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

You must:

- Make sure that employees use appropriate PPE.

– In rare and extraordinary circumstances, employees can briefly and temporarily choose not to use PPE. If in their professional judgment, they believe that using PPE would prevent the delivery of health care or public safety services OR pose an increased hazard to themselves or coworkers.

• If the employee makes this judgment, you must investigate and document to determine if changes can be made to prevent future occurrences of the same situation

• Make sure that appropriate PPE, in sizes to fit your employees, is readily accessible at the worksite or issued to employees

• Make sure employees remove all PPE before leaving the work area.

NEW SECTION

WAC 296-823-15010 Make sure gloves are worn.

You must:

Make sure gloves appropriate to the situation are worn when:

• It can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials (OPIM), mucous membranes, or skin that is not intact

• Handling or touching contaminated items or surfaces

• Performing vascular access procedures, for example, drawing blood or inserting an IV.

You must:

Do the following when you are an employer in a volunteer blood donation center and you make the judgment that employees do not require routine use of gloves when performing phlebotomies:

• Periodically reevaluate your decision not to require gloves

• Make gloves available to all employees who wish to use them for phlebotomy (blood drawing)

• Do not discourage the use of gloves for phlebotomy

• Require that gloves be used for phlebotomy in ANY of the following circumstances:

– When the employee has a cut, scratch, or other break in the skin of his or her hand or wrist

– When the employee judges that hand contamination with blood may occur; for example, when performing phlebotomy on an uncooperative individual

– When the employee is receiving training in phlebotomy.

You must:

• Make sure employees who are allergic to the gloves that are normally provided have ready access to at least one of the following:

– Nonlatex gloves

– Glove liners

– Powderless gloves

– Other similar alternatives.

• Replace disposable (single use) gloves such as surgical or examination gloves:

– As soon as practical when contaminated

– As soon as practical if they are torn or punctured

– When their ability to function as a barrier is compromised.

• Make sure disposable (single use) gloves are used only once.

• Discard utility gloves if they are cracked, peeling, torn, punctured, or show other signs of deterioration or when their ability to function as a barrier is compromised.

– You may decontaminate utility gloves for reuse if they can continue to function as a barrier.

NEW SECTION

WAC 296-823-15015 Make sure appropriate masks, eye protection, and face shields are worn.

You must:

• Make sure either chin-length face shields or a combination of masks and eye protection are used, whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials (OPIM) may be generated and eyes, nose, or mouth contamination can be reasonably anticipated.

Note: Examples of eye protection devices include:

– Goggles

– Glasses with solid side shields.

NEW SECTION

WAC 296-823-15020 Wear appropriate protective clothing.

You must:

• Make sure appropriate protective clothing is worn when splashes to skin or clothes are reasonably anticipated. The type and characteristics will depend upon the sort of work being done and how much exposure is anticipated.

Note: Examples of protective clothing include:

– Gowns

– Aprons

– Lab coats

– Clinic jackets

– Similar outer garments

– Surgical caps or hoods

– Shoe covers or boots.

You must:

• Remove, as soon as feasible, a garment if blood or other potentially infectious materials (OPIM) penetrate it.

NEW SECTION

WAC 296-823-15025 Make resuscitator devices available.

You must:

• Make resuscitator (emergency ventilation) devices readily available and accessible to employees who can reasonably be expected to perform resuscitation procedures.

Note: Examples of resuscitator devices include:

– Masks

– Mouthpieces

– Resuscitation bags

– Shields/overlay barriers.

NEW SECTION**WAC 296-823-15030 Maintain personal protective equipment.****You must:**

- Clean, repair, replace, launder, and dispose of personal protective equipment required by this chapter, at no cost to the employee
- Make sure when PPE is removed, it is placed in an appropriately designated area or container for storage, washing, decontamination, or disposal.

Note: Contaminated personal clothing is considered PPE for the purposes of this section.

NEW SECTION**WAC 296-823-160 Post-exposure requirements.****Summary.****Your responsibility:**

To make sure employees who have been exposed to blood or other potentially infectious materials (OPIM) have appropriate post-exposure evaluation and follow-up available.

You must:

Make a confidential medical evaluation and follow-up available to employees who experience an exposure incident
WAC 296-823-16005

Test the blood of the source person

WAC 296-823-16010

Provide the results of the source person's blood test to the exposed employee

WAC 296-823-16015

Collect and test the blood of the exposed employee

WAC 296-823-16020

Provide information to the healthcare professional evaluating the employee

WAC 296-823-16025

Obtain a copy of the healthcare professional's written opinion on post-exposure evaluation and provide it to the employee

WAC 296-823-16030.

NEW SECTION**WAC 296-823-16005 Make a confidential medical evaluation and follow-up available to employees who experience an exposure incident.****You must:**

- Make immediately available a confidential post-exposure evaluation and follow-up to all employees with occupational exposure to blood or OPIM who report an exposure incident.

Note: The employer or a third-party healthcare provider identified by the employer may do the evaluation.

Definition:

Exposure incident. A specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials (OPIM) that results from the performance of an employee's duties. Exam-

ples of nonintact skin include skin with dermatitis, hangnails, cuts, abrasions, chafing, or acne.

You must:

• Make sure that the post-exposure medical evaluation and follow-up are all of the following:

- Immediately available following an exposure incident
- Confidential
- At no cost to the employee
- At a reasonable time and place
- Administered by or under the supervision of a licensed physician or by another licensed healthcare professional
- Provided according to recommendations of the United States Public Health Service current at the time these evaluations and procedures take place.

• Make sure that the evaluation and follow-up includes AT LEAST these elements:

- Documentation of the routes of exposure, and the circumstances under which the exposure incident happened
- Identification and documentation of the source individual, unless you can establish that identification is infeasible or prohibited by state or local law
- Collection and testing of blood to detect the presence of HBV and HIV
- Post-exposure preventive treatment, when medically indicated, as recommended by the United States Public Health Service
- Counseling
- Evaluation of reported illnesses.

• Make sure that all laboratory tests are conducted by a laboratory licensed by the state or Clinical Laboratory Improvement Amendments (Act) (CLIA).

NEW SECTION**WAC 296-823-16010 Test the blood of the source person.**

Exemption: When the source individual is already known to be infected with HBV or HIV, you do not need to test their status.

You must:

- Arrange to test the source individual's blood for HBV and HIV as soon as feasible after getting their consent.
 - If you do not get consent, you must establish that legally required consent can not be obtained
 - When the law does not require the source individual's consent, their blood, if available, must be tested and the results documented.

Note: • Your local health authority enforces rules regarding HIV testing and consent which are found in WAC 246-100-206, Special diseases—Sexually transmitted diseases, and WAC 246-100-207, Human immunodeficiency virus (HIV) testing.

These rules can be found at: <http://www.leg.wa.gov/wac/index.cfm?fuseaction=chapterdigest&chapter=246-100>.

• Source testing: According to the Centers for Disease Control and Prevention (CDC), hepatitis C virus (HCV) infection is the most common chronic bloodborne infection in the United States. The CDC recommends testing of the source person for the presence of anti-HCV antibody. (Updated *U.S. Public Health Service Guidelines for the Man-*

agement of Occupational Exposures to HBV, HCV, and HIV and Recommendations for Postexposure Prophylaxis, MMWR, June 29, 2000/50(RR11); 1-42.)

NEW SECTION

WAC 296-823-16015 Provide the results of the source person's blood test to the exposed employee.

You must:

- Make sure the results of the source person's blood test are provided to the exposed employee, if possible
- Make sure the exposed employee is informed of applicable laws and regulations regarding disclosure of the identity and infection status of the source person.

Note: Law and regulations that currently apply are:

- Chapter 70.02 RCW, Medical records—Healthcare information access and disclosure.
- Chapter 70.24 RCW, Control and treatment of sexually transmitted diseases.
- Both rules can be found at <http://www.leg.wa.gov/rcw/index.cfm?fuseaction=title&title=70>.

NEW SECTION

WAC 296-823-16020 Collect and test the blood of the exposed employee.

You must:

- Arrange to have the exposed employee's blood collected and tested as soon as feasible after consent is obtained.
 - If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample must be preserved for at least ninety days. If, within ninety days of the exposure incident, the employee chooses to have the baseline sample tested, it must be done as soon as possible.

NEW SECTION

WAC 296-823-16025 Provide information to the healthcare professional evaluating the employee.

You must:

- Provide ALL of the following information to the healthcare professional evaluating an employee after an exposure incident:
 - A copy of WAC 296-823-170
 - A description of the job duties the exposed employee was performing when exposed
 - Documentation of the routes of exposure and circumstances under which exposure occurred
 - Results of the source person's blood testing, if available
 - All medical records that you are responsible to maintain, including vaccination status, relevant to the appropriate treatment of the employee.

Reference: Requirements for the healthcare professional's written opinion for hepatitis B vaccinations can be found in WAC 296-823-15010.

Note: You may meet the requirement to provide a copy of WAC 296-823-170 to the healthcare professional by giving them the <http://www.lni.wa.gov/rules/>, as long as their office has a computer and access to the labor and industries' website.

NEW SECTION

WAC 296-823-16030 Provide a copy of the healthcare professional's written opinion to the employee.

You must:

- Obtain and provide to the employee a copy of the evaluating healthcare professional's written opinion within fifteen days of the completion of their evaluation.

Note:

- If the healthcare professional provides the written opinion directly to the employee, you do not need to do so
- If the employee's personal healthcare professional completes the evaluation, you are not required to obtain the healthcare professional's written opinion.

- Make sure the healthcare professional's written opinion is limited to the following information:

- That the employee has been informed of the results of the evaluation

- That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials (OPIM) which need further evaluation or treatment.

- Make sure that all other findings or diagnoses remain confidential and are NOT included in the written report.

NEW SECTION

WAC 296-823-170 Records. Summary.

Your responsibility:

To obtain and maintain required records.

You must:

- Establish and maintain medical records
- WAC 296-823-17005
- Maintain a sharps injury log
- WAC 296-823-17010.

NEW SECTION

WAC 296-823-17005 Establish and maintain medical records.

You must:

- Establish and maintain an accurate medical record for each employee with occupational exposure
- Make sure this record includes ALL of the following that apply:

- Name and Social Security number of the employee
- A copy of the employee's hepatitis B vaccination status, including the dates of all the hepatitis B vaccinations
- Any medical records related to the employee's ability to receive vaccinations

- The HBV declination statement

- A copy of all results of examinations, medical testing, and follow-up procedures related to post-exposure evaluations

- Your copy of the healthcare professional's written opinion – A copy of the information provided to the healthcare professional as required.

- Make sure that employee medical records are:
 - Kept confidential

– Not disclosed or reported to any person, without the employee's written consent, except as required by this section or as may be required by law.

Note: • In some industries, a medical record is also known as the employee health file.

• You may contract with the medical professional responsible for hepatitis B vaccination and post-exposure evaluation to maintain employee records.

Reference: You need to follow additional requirements for medical records found in WAC 296-62-052, Access to records.

NEW SECTION

WAC 296-823-17010 Maintain a sharps injury log.

Exemption: You are exempt from the requirements to record contaminated sharps injuries if you have ten or less employees.

You must:

• Record contaminated sharps injuries on your OSHA 300 or equivalent log.

Reference: Requirements for the OSHA 300 log are found in chapter 296-27 WAC, Recordkeeping and recording. <http://www.lni.wa.gov/wisha/regs/WACs/27/27.htm>.

You must:

• Record and maintain contaminated sharps injury information in a way that protects the confidentiality of the injured employee

• Also record the following additional information for contaminated sharps injuries:

- The type and brand of device involved in the incident
- The department or work area where the exposure incident occurred
- An explanation of how the incident occurred.

Note: You may record the additional information in any format you choose, such as on the OSHA 300 and 301 forms. It must be retrievable and identifiable to each specific injury.

• Maintain your contaminated sharps injury records for five years.

NEW SECTION

WAC 296-823-180 Additional requirements for HIV and HBV research laboratories and production facilities.

Summary.

Your responsibility:

To implement and enforce these additional rules in research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV.

Exemption: This section does NOT apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs.

Note: Production and research facilities: Hepatitis C (HCV) is the virus involved in most cases of parenterally transmitted (bloodborne) non-A, non-B hepatitis in the United States. Most individuals who contract HCV become chronically infected (85%) and develop chronic hepatitis (70%). It is recommended that you also follow these requirements for HCV production and research facilities.

You must:

Prepare, review and update a biosafety manual
WAC 296-823-18005

Follow these special practices for the work area

WAC 296-823-18010

Make sure these practices for contaminated material and waste are followed

WAC 296-823-18015

Make sure these special practices for personal protective equipment (PPE) and other safe guards are followed

WAC 296-823-18020

Protect vacuum lines

WAC 296-823-18025

Use and handle hypodermic needles and syringes properly and safely

WAC 296-823-18030

Handle all spills and accidents properly

WAC 296-823-18035

Post signs

WAC 296-823-18040

Provide additional training for facility employees

WAC 296-823-18045

Furnish a sink for washing hands and a readily available eye wash facility

WAC 296-823-18050

Make sure these additional criteria are followed

WAC 296-823-18055.

NEW SECTION

WAC 296-823-18005 Prepare, review, and update a biosafety manual.

You must:

• Prepare or adopt a biosafety manual. This manual must be:

- Periodically reviewed
- Updated at least annually or more often, if necessary.
- Make sure employees are:
 - Advised of potential hazards
 - Required to read and follow instructions about practices and procedures.

• Establish written policies and procedures where only authorized persons can enter work areas and animal rooms.

NEW SECTION

WAC 296-823-18010 Follow these special practices for the work area.

You must:

• Make sure only authorized persons are allowed to enter the work areas and animal rooms. Authorized persons must:

- Have been advised of the potential biohazard
- Meet any specific entry requirements
- Comply with all entry and exit procedures.

• Keep laboratory doors closed when work involving HIV or HBV is in progress.

NEW SECTION

WAC 296-823-18015 Make sure these practices for contaminated material and waste are followed.

You must:

- Incinerate or decontaminate all regulated waste by a method known to effectively destroy bloodborne pathogens, such as autoclaving
 - Make sure to place materials to be decontaminated away from the work area in a container that is:
 - Durable
 - Leakproof
 - Appropriately labeled, or color-coded
 - Closed before being removed from the work area.

Reference: Find additional requirements for appropriate labels and color-coding in WAC 296-823-16005.

You must:

- Incinerate or decontaminate ALL waste from work areas and from animal rooms before it is disposed of
- Make sure an autoclave is available for decontamination of regulated waste. The autoclave must be available within or as near as possible to the work area.

NEW SECTION

WAC 296-823-18020 Make sure these special practices for personal protective equipment (PPE) and other safe guards are followed.

You must:

- Make sure appropriate personal protective clothing is used in work areas and animal rooms. Examples of appropriate personal protective clothing include:
 - Laboratory coats
 - Gowns
 - Smocks
 - Uniforms.
- Decontaminate protective clothing before it is laundered
 - Make sure employees remove protective clothing before leaving their work area
 - Take special care to avoid skin contact with other potentially infectious materials (OPIM)
 - Wear gloves when handling infected animals and when you can not avoid making hand contact with OPIM
 - Conduct all activities involving OPIM in biological safety cabinets or other physical-containment devices within the containment module. No work with OPIM must be conducted on the open bench.
 - Appropriate certified biological safety cabinets (Class I, II, or III) or personal protection or physical containment devices must be used for all activities with OPIM that pose a threat of exposure to droplets, splashes, spills, or aerosols. Appropriate personal protection and physical containment devices include:
 - Special protective clothing
 - Respirators
 - Centrifuge safety cups
 - Sealed centrifuge rotors
 - Containment caging for animals.

– Biological safety cabinets must be certified when installed or moved, and at least annually.

NEW SECTION

WAC 296-823-18025 Protect vacuum lines.

You must:

- Protect vacuum lines with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of same or greater efficiency. Make sure filters are checked routinely and maintained or replaced as necessary.

NEW SECTION

WAC 296-823-18030 Use and handle hypodermic needles and syringes appropriately and safely.

You must:

- Use hypodermic needles and syringes only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles.
 - Use only needle-locking syringes or disposable syringe-needle units (when the needle is integral to the syringe) for the injection or aspiration of other potentially infectious materials (OPIM)
 - Use extreme caution when handling needles and syringes
 - The needle must not be bent, sheared, replaced in the sheath or guard, or removed from the syringe after use
 - Place the needle and syringe promptly in a puncture-resistant container and autoclave or decontaminate before reuse or disposal.

NEW SECTION

WAC 296-823-18035 Handle all spills and accidents properly.

You must:

- Make sure appropriate professional staff or others, properly trained and equipped to work with concentrated potentially infectious materials, immediately contain and clean up all spills
- Make sure that employees report a spill or accident that results in an exposure incident immediately to the laboratory director or other responsible person.

NEW SECTION

WAC 296-823-18040 Post signs.

You must:

- Post signs at the entrance to work areas and all access doors when other potentially infectious materials (OPIM) or infected animals are present in the work area or containment module.
 - Make sure signs:
 - Contain the following symbol and information:



(Name of the infectious agent)
 (Special requirements for entering the area)
 (Name, telephone number of the laboratory
 director or other responsible person.)

– Are all or mostly fluorescent orange-red with lettering and symbol in a contrasting color.

NEW SECTION

WAC 296-823-18045 Provide additional training for facility employees.

You must:

- Provide initial training to employees in HIV or HBV research laboratories or production facilities in addition to the training required in WAC 296-823-140
- Make sure that employees demonstrate proficiency in the following:
 - Standard microbiological practices and techniques
 - The practices and operations specific to the facility BEFORE being allowed to work with HIV or HBV.
- Provide a training program to employees working with HIV or HBV who have no prior experience in handling human pathogens.
 - Initial work activities must not include the handling of infectious agents
 - A progression of work activities must be assigned as techniques are learned and proficiency is developed.
- Make sure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

NEW SECTION

WAC 296-823-18050 Furnish a sink for washing hands and a readily available eye wash facility.

You must:

- Make sure each work area contains a sink for hand-washing and an eyewash facility is readily available.
 - For HIV and HBV production facilities, the sink must be operated automatically by foot or elbow and must be located near the exit door of the work area.

Reference: Requirements for emergency eyewash stations can be found in WAC 296-800-15030.

NEW SECTION

WAC 296-823-18055 Make sure these additional criteria are followed.

You must:

- Separate the HIV and HBV work areas from areas that are open to unrestricted traffic flow within the building
- Use two sets of doors to separate HIV and HBV work areas from access corridors or other contiguous areas.

Note: You may provide a physical separation of the high-containment work area from access corridors or other areas or activities by providing:

- A double-doored clothes-change room (showers may be included)
- Airlock

OR

- Other access facilities that requires passing through two sets of doors before entering the work area.

- Make sure the surfaces of doors, walls, floors, and ceilings in the work area are water resistant so they can be easily cleaned. These surfaces must be sealed or capable of being sealed to facilitate decontamination

- Make sure access doors to the work area or containment module are self-closing

- Provide a ducted exhaust-air ventilation system. This system must create directional airflow that draws air into the work area through the entry area and you must verify this airflow. The exhaust air must:

- NOT be recirculated to any other area of the building
- Be discharged to the outside
- Be dispersed away from occupied areas and air intakes.

NEW SECTION

WAC 296-823-200 Definitions.

Blood

Human blood, human blood components and products made from human blood. Also included are medications derived from blood, such as immune globulins, albumin, and factors 8 and 9.

Bloodborne pathogens

Pathogenic microorganisms that are present in human blood and can cause disease in humans. Examples of these pathogens include:

- Human immunodeficiency virus (HIV)
- Hepatitis B virus (HBV)
- Hepatitis C virus, malaria
- Syphilis
- Babesiosis
- Brucellosis
- Leptospirosis
- Arboviral infections
- Relapsing fever
- Creutzfeldt-Jakob Disease
- Human T-lymphotrophic virus Type I
- Viral Hemorrhagic Fever.

Clinical laboratory

A workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials (OPIM).

Contaminated

The presence or the reasonably anticipated presence of blood or other potentially infectious materials (OPIM) on an item or surface.

Contaminated laundry

Laundry that has been soiled with blood or other potentially infectious materials (OPIM) or may contain contaminated sharps.

Contaminated sharps

Any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

Decontamination

The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Exposure incident

A specific eye, mouth, other mucous membrane, nonintact skin or parenteral contact with blood or other potentially infectious materials (OPIM) that results from the performance of an employee's duties. Examples of nonintact skin include skin with dermatitis, hangnails, cuts, abrasions, chafing, or acne.

Handwashing facilities

A facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

Licensed healthcare professional

A person whose legally permitted scope of practice allows him or her to independently perform the activities required by this rule.

HBV

Hepatitis B virus.

HIV

Human immunodeficiency virus.

Needleless systems

A device that does not use needles for any of the following:

- The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established
- The administration of medication or fluids
- Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

Occupational exposure

Reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM that may result from the performance of an employee's duties.

Other potentially infectious materials (OPIM)

Includes all of the following:

- Human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

- Any unfixed tissue or organ (other than intact skin) from a human (living or dead);

- HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV

- Blood and tissues of experimental animals infected with bloodborne pathogens.

Parenteral contact

When mucous membranes or skin is pierced by needlesticks, human bites, cuts, or abrasions.

Personal protective equipment (PPE)

Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (for example, uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be PPE.

Production facility

A facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

Regulated waste

Regulated waste is any of the following:

- Liquid or semiliquid blood or other potentially infectious materials (OPIM)
- Contaminated items that would release blood or OPIM in a liquid or semiliquid state, if compressed
- Items that are caked with dried blood or OPIM and are capable of releasing these materials during handling
- Contaminated sharps
- Pathological and microbiological wastes containing blood or OPIM.

Research laboratory

A laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

Safer medical devices

Medical devices that have been engineered to reduce the risk of needlesticks and other contaminated sharps injuries. These include not only sharps with engineered sharps injury protections and needleless systems but also other medical devices designed to reduce the risk of sharps injury exposures to bloodborne pathogens. Examples include blunt suture needles and plastic or mylar-wrapped glass capillary tubes.

Secondary duty

Any job expectation outside the primary job duties assigned to that position.

Sharps with engineered sharps injury protections (SESIP)

A nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

Source person

A person, living or dead, whose blood or other potentially infectious materials may be a source (OPIM) of occupational exposure to the employee. Examples include:

- Hospital and clinic patients

- Clients in institutions for the developmentally disabled
- Trauma victims
- Clients of drug and alcohol treatment facilities
- Residents of hospices and nursing homes
- Human remains
- Individuals who donate or sell blood or blood components.

Standard microbiological practices

Standard microbiological practices refer to procedures comparable to those outlined in the current edition of the Center for Disease Control "*Biosafety in Microbiological and Biomedical Laboratories*."

Sterilize

The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Universal precautions

An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

Note: Universal Blood-Body Fluid Precautions, Body Substance Isolation, and Standard Precautions expand on the concept of universal precautions to include all body fluids and substances as infectious. These concepts are acceptable alternatives to universal precautions.

AMENDATORY SECTION (Amending WSR 02-01-064, filed 12/14/01, effective 1/1/02)

WAC 296-27-01109 Recording criteria for needlestick and sharps injuries. (1) Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by ((WAC 296-62-08001)) chapter 296-823 WAC, Occupational exposure to bloodborne pathogens). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in WAC 296-27-01119).

(2) Implementation.

(a) **What does "other potentially infectious materials" mean?** The term "other potentially infectious materials" is defined in the bloodborne pathogens portion of Part J (Biological Agents) of chapter 296-62 WAC, General occupational health standards. These materials include:

- The following human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
- Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and
- HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

(b) **Does this mean that I must record all cuts, lacerations, punctures, and scratches?** No, you need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in WAC 296-27-01107.

(c) **If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 Log?** Yes, you must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(d) **What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident?** You need to record such an incident on the OSHA 300 Log as an illness if:

- It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or
- It meets one or more of the recording criteria in WAC 296-27-01107.

AMENDATORY SECTION (Amending WSR 01-13-078, filed 6/19/01, effective 8/6/01)

WAC 296-62-08001 Bloodborne pathogens.

Note: The requirements in this section apply only to agriculture. The general industry requirements relating to bloodborne pathogen requirements have been moved to chapter 296-823 WAC.

(1) Scope and application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by subsection (2) of this section.

(2) Definitions. For purposes of this section, the following shall apply:

"Blood" means human blood, human blood components, and products made from human blood.

"Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

"Clinical laboratory" means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

"Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

"Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

"Contaminated sharps" means any contaminated object that can penetrate the skin including, but not limited to, nee-

dles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

"Director" means the director of the Washington state department of labor and industries; the state designee for the Washington state plan.

"Engineering controls" means controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems) that isolate or remove the bloodborne pathogens hazard from the workplace.

"Exposure incident" means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

"Handwashing facilities" means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines.

"Licensed healthcare professional" is a person whose legally permitted scope of practice allows him or her to independently perform the activities required by subsection (6) of this section, entitled Hepatitis B vaccination and post-exposure evaluation and follow-up.

"HBV" means hepatitis B virus.

"HIV" means human immunodeficiency virus.

"Needleless systems" means a device that does not use needles for:

- The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established;
- The administration of medication or fluids; or
- Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

"Occupational exposure" means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

"Other potentially infectious materials" means:

(a) The following human body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(b) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

"Parenteral" means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

"Personal protective equipment" is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or

blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

"Production facility" means a facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

"Regulated waste" means liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

"Research laboratory" means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

"Sharps with engineered sharps injury protections" means a nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

"Source individual" means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

"Sterilize" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

"Universal precautions" are an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

"Work practice controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

(3) Exposure control.

(a) Exposure control plan.

(i) Each employer having an employee(s) with occupational exposure as defined by subsection (2) of this section shall establish a written exposure control plan designed to eliminate or minimize employee exposure.

(ii) The exposure control plan shall contain at least the following elements:

(A) The exposure determination required by (b) of this subsection;

(B) The schedule and method of implementation for subsection (4) of this section, Methods of compliance; subsection (5) of this section, HIV and HBV research laboratories and production facilities; subsection (6) of this section, Hep-

atitis B vaccination and post-exposure evaluation and follow-up; subsection (7) of this section, Communication of hazards to employees; and subsection (8) of this section, Recordkeeping; and

(C) The procedure for the evaluation of circumstances surrounding exposure incidents as required by subsection (6)(c)(i) of this section.

(iii) Each employer shall ensure that a copy of the exposure control plan is accessible to employees in accordance with WAC 296-62-05209.

(iv) The exposure control plan shall be reviewed and updated at least annually, and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure, and to reflect new or revised employee positions with occupational exposure. The review and update of such plans shall also:

(A) Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and

(B) Document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

(v) An employer, who is required to establish an exposure control plan shall solicit input from nonmanagerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and shall document the solicitation in the exposure control plan.

(b) Exposure determination.

(i) Each employer who has an employee(s) with occupational exposure as defined by subsection (2) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

(A) A list of all job classifications in which all employees in those job classifications have occupational exposure;

(B) A list of job classifications in which some employees have occupational exposure; and

(C) A list of all tasks and procedures or groups of closely related tasks and procedures in which occupational exposure occurs, and that are performed by employees in job classifications listed in accordance with the provisions of (b)(i)(B) of this subsection.

(ii) This exposure determination shall be made without regard to the use of personal protective equipment.

(4) Methods of compliance.

(a) General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

(b) Engineering and work practice controls.

(i) Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

(ii) Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

(iii) Employers shall provide handwashing facilities which are readily accessible to employees.

(iv) When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate anti-septic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

(v) Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

(vi) Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

(vii) Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in (b)(vii)(A) and (B) of this subsection. Shearing or breaking of contaminated needles is prohibited.

(A) Contaminated needles and other contaminated sharps shall not be bent, recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure.

(B) Such bending, recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

(viii) Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

(A) Puncture resistant;

(B) Labeled or color-coded in accordance with this standard;

(C) Leakproof on the sides and bottom; and

(D) In accordance with the requirements set forth in (d)(ii)(E) of this subsection for reusable sharps.

(ix) Eating, drinking, smoking, applying cosmetics, or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

(x) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present.

(xi) All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

(xii) Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

(xiii) Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

(A) The container for storage, transport, or shipping shall be labeled or color-coded according to subsection (7)(a)(i) of this section and closed prior to being stored, transported, or shipped. When a facility utilizes universal precautions in the handling of all specimens, the labeling/color-coding of spec-

imens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with subsection (7)(a)(i) of this section is required when such specimens/containers leave the facility.

(B) If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

(C) If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is punctured-resistant in addition to the above characteristics.

(xiv) Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

(A) A readily observable label in accordance with subsection (7)(a)(i)(H) of this section shall be attached to the equipment stating which portions remain contaminated.

(B) The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

(c) Personal protective equipment.

(i) Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

(ii) Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or the co-worker. When the employee makes this judgment, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

(iii) Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or

other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

(iv) Cleaning, laundering, and disposal. The employer shall clean, launder, and dispose of personal protective equipment required by subsections (4) and (5) of this section, at no cost to the employee.

(v) Repair and replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

(vi) If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

(vii) All personal protective equipment shall be removed prior to leaving the work area.

(viii) When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination, or disposal.

(ix) Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin; when performing vascular access procedures except as specified in (c)(ix)(D) of this subsection; and when handling or touching contaminated items or surfaces.

(A) Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

(B) Disposable (single use) gloves shall not be washed or decontaminated for re-use.

(C) Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

(D) If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

(I) Periodically reevaluate this policy;

(II) Make gloves available to all employees who wish to use them for phlebotomy;

(III) Not discourage the use of gloves for phlebotomy; and

(IV) Require that gloves be used for phlebotomy in the following circumstances:

—When the employee has cuts, scratches, or other breaks in his or her skin;

—When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and

—When the employee is receiving training in phlebotomy.

(x) Masks, eye protection, and face shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(xi) Gowns, aprons, and other protective body clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

(xii) Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

(d) Housekeeping.

(i) General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

(ii) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(A) Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the workshift if the surface may have become contaminated since the last cleaning.

(B) Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

(C) All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

(D) Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

(E) Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

(iii) Regulated waste.

(A) Contaminated sharps discarding and containment.

(I) Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

- Closable;
- Puncture resistant;
- Leakproof on sides and bottom; and
- Labeled or color-coded in accordance with subsection (7)(a)(i) of this section.

(II) During use, containers for contaminated sharps shall be:

—Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

—Maintained upright throughout use; and

—Replaced routinely and not be allowed to overfill.

(III) When moving containers of contaminated sharps from the area of use, the containers shall be:

—Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;

—Placed in a secondary container if leakage is possible.

The second container shall be:

- Closable;
- Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and
- Labeled or color-coded according to subsection (7)(a)(i) of this section.

(IV) Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

(B) Other regulated waste containment.

(I) Regulated waste shall be placed in containers which are:

- Closable;
- Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping;
- Labeled or color-coded in accordance with subsection (7)(a)(i) of this section; and

—Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(II) If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

- Closable;
- Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping;
- Labeled or color-coded in accordance with subsection (7)(a)(i) of this section; and

—Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(C) Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states and territories, and political subdivisions of states and territories.

(iv) Laundry.

(A) Contaminated laundry shall be handled as little as possible with a minimum of agitation.

(I) Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

(II) Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with subsection (7)(a)(i) of this section. When a facility utilizes universal precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions.

(III) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through of or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

(B) The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

(C) When a facility ships contaminated laundry off-site to a second facility which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with subsection (7)(a)(i) of this section.

(5) HIV and HBV research laboratories and production facilities.

(a) This subsection applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of the standard.

(b) Research laboratories and production facilities shall meet the following criteria:

(i) Standard microbiological practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(ii) Special practices.

(A) Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

(B) Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled, or color-coded container that is closed before being removed from the work area.

(C) Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

(D) When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with subsection (7)(a)(ii) of this section.

(E) All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

(F) Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

(G) Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn

when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

(H) Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

(I) Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

(J) Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

(K) All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

(L) A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

(M) A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

(iii) Containment equipment.

(A) Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

(B) Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

(c) HIV and HBV research laboratories shall meet the following criteria:

(i) Each laboratory shall contain a facility for hand washing and an eyewash facility which is readily available within the work area.

(ii) An autoclave for decontamination of regulated waste shall be available.

(d) HIV and HBV production facilities shall meet the following criteria:

(i) The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment

work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

(ii) The surfaces of doors, walls, floors, and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

(iii) Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

(iv) Access doors to the work area or containment module shall be self-closing.

(v) An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

(vi) A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

(e) Training requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in subsection (7)(b)(ix) of this section.

(6) Hepatitis B vaccination and post-exposure evaluation and follow-up.

(a) General.

(i) The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.

(ii) The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

(A) Made available at no cost to the employee;

(B) Made available to the employee at a reasonable time and place;

(C) Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and

(D) Provided according to recommendations of the United States Public Health Service current at the time these evaluations and procedures take place, except as specified by this subsection (6).

(iii) The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(b) Hepatitis B vaccination.

(i) Hepatitis B vaccination shall be made available after the employee has received the training required in subsection (7)(b)(vii)(I) of this section and within ten working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has

revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

(ii) The employer shall not make participation in a pre-screening program a prerequisite for receiving hepatitis B vaccination.

(iii) If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

(iv) The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in WAC 296-62-08050, appendix A.

(v) If a routine booster dose(s) of hepatitis B vaccine is recommended by the United States Public Health Service at a future date, such booster dose(s) shall be made available in accordance with (a)(ii) of this subsection.

(c) Post-exposure evaluation and follow-up. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

(i) Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

(ii) Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

(A) The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

(B) When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

(C) Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

(iii) Collection and testing of blood for HBV and HIV serological status;

(A) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

(B) If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety days. If, within ninety days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

(iv) Post-exposure prophylaxis, when medically indicated, as recommended by the United States Public Health Service;

(v) Counseling; and

(vi) Evaluation of reported illnesses.

(d) Information provided to the healthcare professional.

PERMANENT

(i) The employer shall ensure that the healthcare professional responsible for the employee's hepatitis B vaccination is provided a copy of this regulation.

(ii) The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

(A) A copy of this regulation;

(B) A description of the exposed employee's duties as they relate to the exposure incident;

(C) Documentation of the route(s) of exposure and circumstances under which exposure occurred;

(D) Results of the source individual's blood testing, if available; and

(E) All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

(e) Healthcare professional's written opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within fifteen days of the completion of the evaluation.

(i) The healthcare professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

(ii) The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

(A) That the employee has been informed of the results of the evaluation; and

(B) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

(iii) All other findings or diagnoses shall remain confidential and shall not be included in the written report.

(f) Medical recordkeeping. Medical records required by this standard shall be maintained in accordance with subsection (8)(a) of this section.

(7) Communication of hazards to employees.

(a) Labels and signs.

(i) Labels.

(A) Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in (a)(i)(E), (F), and (G) of this subsection.

(B) Labels required by this section shall include the following legend:



(C) These labels shall be fluorescent orange or orange-red or predominantly so, with lettering and symbols in a contrasting color.

(D) Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

(E) Red bags or red containers may be substituted for labels.

(F) Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of subsection (7) of this section.

(G) Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

(H) Labels required for contaminated equipment shall be in accordance with this subitem and shall also state which portions of the equipment remain contaminated.

(I) Regulated waste that has been decontaminated need not be labeled or color-coded.

(ii) Signs.

(A) The employer shall post signs at the entrance to work areas specified in subsection (5) of this section, entitled HIV and HBV research laboratory and production facilities, which shall bear the following legend:



BIOHAZARD

(Name of the Infectious Agent)

(Special requirements for entering the area)

(Name, telephone number of the laboratory director or other responsible person.)

(B) These signs shall be fluorescent orange-red or predominantly so, with lettering and symbols in a contrasting color.

(b) Information and training.

(i) Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.

(ii) Training shall be provided as follows:

(A) At the time of initial assignment to tasks where occupational exposure may take place;

(B) Within ninety days after the effective date of the standard; and

(C) At least annually thereafter.

(iii) For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

(iv) Annual training for all employees shall be provided within one year of their previous training.

(v) Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

(vi) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

(vii) The training program shall contain at a minimum the following elements:

(A) An accessible copy of the regulatory text of this standard and an explanation of its contents;

(B) A general explanation of the epidemiology and symptoms of bloodborne diseases;

(C) An explanation of the modes of transmission of bloodborne pathogens;

(D) An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

(E) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

(F) An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

(G) Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

(H) An explanation of the basis for selection of personal protective equipment;

(I) Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

(J) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

(K) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;

(L) Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

(M) An explanation of the signs and labels and/or color coding required by (a) of this subsection; and

(N) An opportunity for interactive questions and answers with the person conducting the training session.

(viii) The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

(ix) Additional initial training for employees in HIV and HBV laboratories and production facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements:

(A) The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

(B) The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

(C) The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

(8) Recordkeeping.

(a) Medical records.

(i) The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with WAC 296-62-052.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by subsection (6)(b) of this section;

(C) A copy of all results of examinations, medical testing, and follow-up procedures as required by subsection (6)(c) of this section;

(D) The employer's copy of the healthcare professional's written opinion as required by subsection (6)(e) of this section; and

(E) A copy of the information provided to the healthcare professional as required by subsection (6)(d)(ii)(B), (C), and (D) of this section.

(iii) Confidentiality. The employer shall ensure that employee medical records required by (a) of this subsection are:

(A) Kept confidential; and

(B) Not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

(iv) The employer shall maintain the records required by subsection (8) of this section for at least the duration of employment plus thirty years in accordance with WAC 296-62-052.

(b) Training records.

(i) Training records shall include the following information:

- (A) The dates of the training sessions;
- (B) The contents or a summary of the training sessions;
- (C) The names and qualifications of persons conducting the training; and
- (D) The names and job titles of all persons attending the training sessions.

(ii) Training records shall be maintained for three years from the date on which the training occurred.

(c) Availability.

(i) The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the director for examination and copying.

(ii) Employee training records required by this section shall be provided upon request for examination and copying to employees, to employee representatives, and to the director.

(iii) Employee medical records required by this section shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the director in accordance with WAC 296-62-052.

(d) Transfer of records.

(i) The employer shall comply with the requirements involving transfer of records set forth in WAC 296-62-052.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director, at least three months prior to their disposal and transmit them to the director, if required by the director to do so, within that three-month period.

(e) Sharps injury log.

(i) The employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in such manner as to protect the confidentiality of the injured employee. The sharps injury log shall contain, at a minimum:

(A) The type and brand of device involved in the incident;

(B) The department or work area where the exposure incident occurred; and

(C) An explanation of how the incident occurred.

(ii) The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under chapter 296-27 WAC, Recordkeeping and recording.

(iii) The sharps injury log shall be maintained for the period required by WAC 296-27-070, Retention of records.

(9) Dates.

(a) Effective date. The standard shall become effective on May 26, 1992.

(b) The exposure control plan required by subsection (3) of this section shall be completed on or before June 26, 1992.

(c) Subsection (7)(b) of this section, entitled Information and training; and subsection (7)(h) of this section, entitled Recordkeeping; shall take effect on or before July 27, 1992.

(d) Subsection (4)(b) of this section, entitled Engineering and work practice controls; subsection (4)(c) of this section,

entitled Personal protective equipment; subsection (4)(d) of this section, entitled Housekeeping; subsection (5) of this section, entitled HIV and HBV research laboratories and production facilities; subsection (6) of this section, entitled Hepatitis B vaccination and post-exposure evaluation and follow-up; and subsection (7)(a) of this section, entitled Labels and signs; shall take effect August 27, 1992.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01515 First-aid training and certification. (1) All fire fighters except directors of fire departments and the directors' designated personnel, shall have as a minimum first-aid training as evidenced by a current, valid first-aid card, EMT or First Responder certification.

(2) New fire fighters shall have such first-aid training within 90 days of the date of their employment or enroll for training in the next available class for which they are eligible.

(3) First-aid training and certification for other employees and directors of fire departments shall conform to the requirements of WAC 296-800-150.

(4) Fire service duties include exposure to bloodborne pathogens. The requirements of this section and chapter ((296-62)) 296-823 WAC, ((Part J, Biological Agents)) Occupational exposure to bloodborne pathogens, shall apply.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

WAC 296-305-02501 Emergency medical protection. (1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NAPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1992 edition.

Note: Prior to purchase, fire departments should request the technical data package required in NAPA 1999, 1992 edition, in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(3) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with ((WAC 296-62-08001, Part J, Blood borne)) chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an ade-

quate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of WAC 296-62-05209.

(8) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; HB. vaccination requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Fire fighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with ~~((WAC 296-62-08001, Part J, Blood-borne))~~ chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done in accordance with chapter 296-62 WAC, Part E.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that dem-

onstrates infection with *Mycobacterium tuberculosis* (*M. tuberculosis*) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

Additional References:

Chapter ~~((296-62))~~ 296-823 WAC, ((Part J, Biological Agents-)) Occupational exposure to bloodborne pathogens.
WAC 296-62-08001(3), Exposure Control.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-15005 Make sure that first-aid trained personnel are available to provide quick and effective first aid. You must:

- Choose one of the following two options to make sure that your employees have access to personnel who are trained in first aid.

Option 1:

Make sure first-aid trained employees are in your workplace to help your employees if they become hurt or ill on the job by doing the following:

- Make sure that:

- ◆ Each person in charge of employees has first-aid training; or

- ◆ Another person with first-aid training is present or available to your employees, whenever you have 2 or more employees present.

- Adequately post emergency telephone numbers in your workplace.

OR

Option 2:

Develop and maintain a written first-aid response plan for your workplace. If you choose this option, you must do all of the following:

- Determine how many, if any, employees should be trained in first-aid, based on the following factors:

- ◆ What type(s) of occupational hazards are present in your workplace?

- ◆ How likely is it that a workplace injury or illness will occur?

- ◆ How serious are the occupational hazards in your workplace?

- ◆ How remote is your workplace?

- ◆ How complex is your worksite in terms of size, design, etc.?

- ◆ What medical emergencies have occurred at your workplace in the past?

- ◆ How far away and how long does it take to get to emergency medical services?

Note: Employers who require their employees to provide first-aid must comply with ~~((the bloodborne pathogen rule, WAC 296-62-080))~~ chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

You must:

- Make sure your first-aid response plan:

- Fits your work location, type of work, and environmental conditions.

- Identifies the available emergency medical services and access numbers and where they are posted.
- Describes the type of first-aid training employees receive, if applicable.
- Identifies the location(s) of first-aid supplies and/or first-aid stations.
- Identifies the contents of first-aid kits.
- Describes how first-aid supplies or kits will be inspected and maintained.
- Describes how injured or ill employees will have access to first-aid trained employees.

AMENDATORY SECTION (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

WAC 296-824-50030 Provide rescue and medical assistance.

You must:

- (1) Provide stand-by employees equipped with the same level of personal protective equipment (PPE) as the entrants, for assistance or rescue.

- Note:**
- The buddy system applies to stand-by employees (see WAC 296-824-50025).
 - One of the two stand-by employees can be assigned to another task provided it does not interfere with the performance of the stand-by role.
 - Rescue equipment should be selected and provided based on the types of rescue situations that could occur.

You must:

- (2) Make sure employees trained in first aid are readily available with necessary medical equipment and have a way to transport the injured.

- Note:**
- Employee training is covered by WAC 296-800-150, first aid. This rule requires training on the eighteen subjects listed in addition to any subjects that are specific to your workplace emergency hazards (for example: If exposure to corrosive substances could occur, training would need to include first-aid procedures for treating chemical burns).
 - Employers who designate and train their employees to provide first aid are covered by (~~WAC 296-62-08004 through 296-62-08005~~) chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

WSR 03-09-111
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 22, 2003, 12:05 p.m.]

Date of Adoption: April 22, 2003.

Purpose: New chapter 296-46B WAC, Electrical safety standards, administration, and installation.

The purpose of this rule making is to:

- Make changes to the electrical rules in response to the passage of chapter 249, Laws of 2002 (ESB 6630) from the 2002 legislative session.
- Incorporate four chapters of rule (chapters 296-46A, 296-401B, 296-13, and 296-402A WAC) into a new chapter 296-46B WAC.

- Adopt the latest edition of the National Electrical Code (with some exceptions) and other applicable consensus standards and necessary provisions associated with these standards.
- Make necessary changes to reflect current department practices.
- Incorporate policy into rule.
- Make necessary housekeeping changes.
- Make substantive and clarifying changes based on recommendations from stakeholder groups and the Electrical Board.

This rule making will repeal chapters 296-46A, 296-401B, 296-13, and 296-402A WAC and replace them with a new chapter 296-46B WAC.

Summary of Changes of the Proposed New Rules: Clear rule-writing principles and other clarification changes were applied to the entire rewrite of the proposed new chapter 296-46B WAC for purposes of clarity and to make them easier to understand and use.

WAC 296-46B-005 Chapter 19.28 RCW rule references.

This section was created to clarify differences in WAC section numbers established by these proposed new rules and referenced in chapter 19.28 RCW as a result of the 2002 legislative changes.

WAC 296-46B-010 General.

This section was created to:

- Move applicable requirements from WAC 296-46A-090, 296-46A-095, 46A-100, 296-46A-130, 296-46A-140, 296-46A-155, and 296-46A-21052.
- Adopt the latest edition of several national consensus codes applicable to electrical installations (e.g. 2002 edition of the National Electrical Code - NEC).
- Make clarification changes to the variance procedures.
- Incorporate Electrical Board Policy 02-01.
- Make clarification changes based on changes to the NEC, including eliminating duplication of requirements found in the NEC.
- Add a requirement that sheeting and siding must be completed prior to the wiring installation and inspection.
- Make clarification changes relating to unaccepted electrical equipment based on current department policy and practice.
- Clarify that the tamper resistant receptacles or listed tamper resistant receptacle cover plates requirements now apply to areas accessible to children or psychiatric patients.
- Make several other necessary changes.

WAC 296-46B-020 General definitions.

Moved several of the definitions found in chapters 296-46A, 296-401B, 296-13, and 296-402A WAC, chapter 19.28 RCW and added/clarified several definitions necessary for use with this chapter.

WAC 296-46B-030 Industrial control panel and industrial utilization equipment inspection.

This section was created to:

- Move applicable requirements from WAC 296-46A-102.
- Incorporate changes based on current department policy.
- Correct references to chapter 19.28 RCW.
- Allow an exemption from listing/field evaluation for industrial process utilization equipment as allowed in RCW 19.28.010 using either national or international standards accepted by the department.

WAC 296-46B-040 Traffic management systems.

This section was created to:

- Move applicable requirements from WAC 296-46A-104.
- Clarify the requirements associated with the use and design traffic management system, incorporating department policy specifically regarding light rail installations.

WAC 296-46B-110 General—Requirements for electrical installations.

This section was created to:

- Clarify that unused openings must be closed.
- Clarify labeling requirements based on changes to the 2002 NEC.
- Clarify requirements associated with identifying a disconnecting means.
- Move the requirements found in WAC 296-46A-110.

WAC 296-46B-210 Wiring and protection—Branch circuits.

- Align ground fault requirements with all occupancy types.
- Defines kitchens in other than dwelling units.

WAC 296-46B-215 Wiring and protection—Feeders.

This section was created to move applicable requirements from WAC 296-46A-215.

WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.

This section was created to move applicable requirements from WAC 296-46A-220.

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

This section was created to move applicable requirements from WAC 296-46A-22530.

WAC 296-46B-230 Wiring and protection—Services.

This section was created to:

- Move the applicable requirements from WAC 296-46A-23001 (with the exception of the Uniform Building Code requirements associated with fire-wall separation), 296-46A-23028, 296-46A-23040 (clarifying the eighteen inch extension requirements for conductors from mastheads), and 296-46A-23062.
- Clarify that it is the installer's responsibility to consult with the applicable utility for equipment location.
- Adopt requirements found in the 2002 NEC relating to number of services and clarified that service discon-

nects for a transient voltage surge suppressor is not required to be counted as one of the six services allowed.

- Clarify the requirements associated with multiple service installations for two family (duplex) buildings.
- Clarify the requirements associated with the maximum number of building service disconnects (6) allowed per the NEC and allowing separation of the service disconnects.
- Allow the use of either schedule 40 or 80 conduit for service conductors inside a building.
- Adopt department policy regarding installations prior to 1984.
- Clarify labeling requirements for service disconnects.
- Clarify that service conductors exceeding 600 volts requires the use of galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 rigid nonmetallic conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.

WAC 296-46B-250 Wiring and protection—Grounding.

This section was created to:

- Move applicable requirements from WAC 296-46A-250.
- Eliminate the ability of the grounded conductor (neutral) to be used as an equipment grounding conductor. In many installations, it is impossible to verify the existence or nonexistence of continuous metallic paths between buildings. This proposal treats all feeders the same, whether inside or outside the building. The delayed implementation date allows for a transition for the electrical industry.
- Incorporate systems of 1KV and over policy (01-06) into rule.

WAC 296-46B-300 Wiring methods and materials—Wiring methods.

This section was created to:

- Move applicable requirements from WAC 296-46A-300 and 296-46A-30011.
- Add provisions to allow cable to be installed in all raceway systems if the wire fill requirements are met.

WAC 296-46B-314 Wiring methods and materials—Outlet, device, pull and junction boxes.

This section was created to move applicable requirements from WAC 296-46A-370 and added provisions to prevent the junction boxes from being concealed and buried by insulation.

WAC 296-46B-334 Wiring methods and materials—Non-metallic-sheathed cable.

This section was created to retain similar provisions that existed in the 1999 NEC for the use of nonmetallic-sheathed cable.

WAC 296-46B-358 Wiring methods and materials—Electrical metallic tubing.

This section was created to move applicable requirements from WAC 296-46A-348.

WAC 296-46B-394 Wiring methods and materials—Concealed knob and tube wiring.

This section was created to move applicable requirements from WAC 296-46A-324.

WAC 296-46B-410 Equipment for general use—Luminaires.

This section was created to move applicable requirements from WAC 296-46A-41004 and 296-46A-41030 and added new terminology for "fixture."

WAC 296-46B-422 Equipment for general use—Appliances.

This section was created to move applicable requirements from WAC 296-46A-422 and clarify voltage levels when performing calculations and installations.

WAC 296-46B-430 Motors, motor circuits, and controllers.

This section was created to clarify the requirements associated with motors, motor circuits, and controllers.

WAC 296-46B-450 Equipment for general use—Transformers and transformer vaults.

This section was created to move applicable requirements from WAC 296-46A-450 (with the exception of subsection (1) of that section).

WAC 296-46B-501 Special occupancies—Class 1 locations.

This section was created to move the applicable requirements from WAC 296-46A-500 and clarify the requirements associated with residential wastewater loading characteristics.

WAC 296-46B-514 Special occupancies—Motor fuel dispensing facilities.

This section was created to move the applicable requirements from WAC 296-46A-514 and clarify the requirements associated with emergency disconnecting pushbuttons.

WAC 296-46B-517 Special occupancies—Health care facilities.

This section was created to move the applicable requirements from WAC 296-46A-517.

WAC 296-46B-520 Special occupancies—Theaters, motion picture and television studios, performance areas and similar areas.

This section was created to move the applicable requirements from WAC 296-46A-365.

WAC 296-46B-527 Special occupancies—Temporary installations.

This section was created to:

- Add provisions to clarify that a circuit used for construction purposes is considered to be temporary and to prevent open splices of cord and other temporary wiring methods.
- Move the applicable notes from WAC 296-46A-910.

WAC 296-46B-550 Special occupancies—Mobile homes, manufactured homes and mobile home parks.

This section was created to:

- Move the applicable requirements from WAC 296-46A-550.
- Eliminate the need for an insulated equipment ground conductor for a mobile home when a permanent underground wiring method is used.

WAC 296-46B-553 Special occupancies—Floating buildings.

This section was created to:

- Move the applicable requirements from WAC 296-46A-553.
- Clarify that the use of cord to supply floating buildings adjacent to docks is allowed.

WAC 296-46B-555 Special occupancies—Marinas and boatyards.

This section was created to:

- Add provisions to allow existing docks to be modified without requiring a complete rewiring, which would be required under the 2002 NEC.
- Clarify the requirements associated with classified boundaries on docks for gas pumps consistent with an electrical board determination.

WAC 296-46B-600 Special equipment—Electric signs and outline lighting.

This section was created to:

- Move the applicable requirements from WAC 296-46A-600.
- Allow for the use of neon tubing, which is not allowed in the 2002 NEC.

WAC 296-46B-680 Special equipment—Swimming pools, fountains and similar installations.

This section was created to:

- Move the applicable requirements from WAC 296-46A-680.
- Clarify that the five-foot requirement associated with disconnects/listed equipment also applies to swim spas.
- Clarify the equipment location requirements.

WAC 296-46B-700 Special conditions—Emergency systems.

This section was created to:

- Move the applicable requirements from WAC 296-46A-700 and eliminate unnecessary provisions.
- Clarify that the State Building Code Council standards for emergency lights must be followed.
- Clarify that the identification plates (larger than 6" x 6") and all other boxes associated with this section must be substantially orange in color.

WAC 296-46B-800 Communications systems—Communications circuits.

This section was created to clarify the boundaries associated with a telecommunication installation on an end-user's

property and complying with the requirements of chapter 19.28 RCW and this chapter.

WAC 296-46B-900 Electrical work permits and fees.

This section was created to:

- Move the applicable requirements from WAC 296-46A-900.
- Clarify that the amount of the fee due is calculated based on the fee effective at the date payment is made.
- Reference the owner's "full-time telecommunications maintenance staff" for consistency with RCW 19.28.-470 (1)(d)(i).
- Clarify the requirements associated with annual permits consistent with current department practice. These permits are intended to primarily be used for maintenance activities and small circuit revisions, not new/alterd services or new structure(s).

WAC 296-46B-905 Inspection fees.

This section was created to:

- Move the applicable requirements from WAC 296-46A-910.
- Eliminate the water heater load control fee that expired on December 31, 2001.
- Clarify that the fees associated with thermostats [are] consistent with department practice. Thermostat(s) controlling multiple equipment or multiple thermostats controlling a single or multiple equipment are calculated using the square foot method.
- Clarify that an altered generator may be charged the reduced fees for altered service/feeder.
- Create a new fee specific to ditch cover inspections. Previously, this type of inspection had been charged the same fee under WAC 296-46A-910 (11)(a).
- Create a new fee for cover inspections for elevator/conveyance installations. Currently, the elevator program performs and requires these types of inspections. This fee allows the electrical program to perform this inspection as well.
- Clarify that existing inspections associated with trip fees is limited to one hour. Additional time required for the inspection will be charged accordingly.
- Create a new fee associated with the department's ability to perform industrial utilization equipment marking.

WAC 296-46B-910 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, temporary, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees.

This section was created to:

- Move the applicable requirements from WAC 296-46A-910.
- Clarify that the department may prorate licenses and certificates for shorter renewal periods in one year increments.
- Add a fee for department-administered examinations.
- Combine certain fees under the original certificate fee.
- Make a clarification change to the fees charged by testing contractors.

- Add fees associated with the 2002 legislative changes.
- Add a fee to allow out-of-state applicants for a reciprocal license to pay a reduced fee.
- Add a new fee for the replacement of certificates.

WAC 296-46B-911 Electrical testing laboratory fees.

This section was created to move the applicable requirements from WAC 296-402A-110.

WAC 296-46B-915 Civil penalty schedule.

This section was created to:

- Move the applicable requirements from WAC 296-46A-920.
- Increase penalties associated with repeat violations and provide for a potential waiver of the first penalty in some instances.

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.

This section was created to:

- Move the requirements found in WAC 296-46A-930.
- Make changes and add additional scopes of work based on the 2002 legislative changes.
- Expand the scope of the domestic well specialty to include residential septic systems.
- Change the reference of "lighting fixture" with luminaries to maintain consistency with the 2002 NEC.
- Expand the scope of the HVAC/refrigeration specialty.
- Add a new specialty for equipment repair.
- Clarify that video with low-voltage wire requires an applicable license in the telecommunication scope of work.
- Make substantive changes to the requirements for those performing HVAC/R work, including the creation of a new HVAC/R - restricted (06B) license.

WAC 296-46B-925 Electrical/telecommunications contractor license.

This section was created to:

- Move applicable requirements from WAC 296-46A-930, 296-46A-931, 296-46A-932, 296-46A-933, 296-46A-934, 296-46A-935, and 296-46A-940.
- Clarify information that is printed on the license.
- Eliminate the requirement for "continuing until canceled" relating to how the telecommunications insurance must be issued.
- Add provisions to clarify the requirements associated with installations covered by article 680 NEC relating to swimming pools.
- Make changes based on 2002 legislative changes.
- Add a provision to exclude unregulated telecommunications utility type providers from the licensing requirements.
- Incorporate changes to address board policy 99-15 relating to leaseholders and assisting householders, and assisting other property owners when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work.

- Incorporate changes to address board policy 01-05 relating to street lighting exemptions.
- Incorporate changes to address department policy and practice relating to exemptions for independent electrical power production equipment.
- Make clarification changes for telephone/telegraph exemption for unregulated telecommunication carriers.
- Require notification for modifications to equipment if reapproval/recertification is required.
- Make clarification changes relating to medical equipment installations.
- Created an exemption for electrical utility telecommunications transition equipment installations, maintenance and repair until July 1, 2004.

WAC 296-46B-930 Assignment—Administrator or master electrician.

This section was created to:

- Move applicable requirements from WAC 296-46A-930 and 296-46A-950.
- Make changes based on 2002 legislative changes.
- Add provisions relating to business status for purposes of temporary administrator status.

WAC 296-46B-935 Administrator certificate.

This section was created to:

- Move applicable requirements found in WAC 296-46A-930 and 296-46A-950.
- Make changes based on 2002 legislative changes.

WAC 296-46B-940 Electrician/training/temporary certificate of competency or permit required.

This section was created to:

- Move applicable requirements from several sections in chapter 296-401B WAC.
- Make changes based on 2002 legislative changes.
- Clarify provisions relating to temporary electrician permit to allow the holder to work under the permit.
- Clarify requirements associated with out-of-state experience.
- Added provisions associated with work experience acquired when a license is not required.

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations.

This section was created to:

- Move applicable requirements from WAC 296-401B-455.
- Make changes based on 2002 legislative changes.
- Provide an amount of time for individuals to comply with the licensing requirements of this chapter.

WAC 296-46B-950 Opportunity for gaining credit for previous experience gained in certain specialties.

This section was created to make changes based on 2002 legislative changes and establishes procedures and time lines for accepting previous experience to qualify for new and some existing specialty examinations.

WAC 296-46B-951 Domestic appliance specialty.

This section was created to make changes based on 2002 legislative changes to eliminate the domestic appliance specialty and replace the licenses with residential (02) licenses.

WAC 296-46B-955 Specialty contractor/electrician enforcement procedures.

This section was created to move applicable requirements from WAC 296-401B-920.

WAC 296-46B-960 Administrator and electrician certificate of competency examinations.

This section was created to:

- Move applicable requirements from WAC 296-401B-300, 296-401B-500, and 296-401B-510.
- Make clarification changes relating to passing scores and materials acceptable for use during the examination.
- Eliminate the requirements associated with retaking test portions provided all sections are completed in a one year period.
- Incorporate language relating to special accommodations for administering, taking, and appealing examinations.
- Establish a time period for retests based on percentage.

WAC 296-46B-965 Training certificate required.

This section was created to:

- Move applicable requirements from WAC 296-401B-300, 296-401B-310, 296-401B-330, and 296-401B-340.
- Eliminate the different training certificate levels and established a section for original training certificates.
- Defines procedures for submitting affidavits of experience for electrical trainees and individuals in electrical apprenticeship programs.
- Make changes based on 2002 legislative changes.

WAC 296-46B-970 Continuing education.

This section was created to:

- Move applicable requirements from WAC 296-401B-130, 296-401B-600, 296-401B-610, 296-401B-620, 296-401B-630, 296-401B-640, and 296-401B-350.
- Clarify that telecommunications administrators do not require continuing education.
- Make changes based on 2002 legislative changes.
- Clarify that courses must be based on the NEC based on electrical board interpretation.

WAC 296-46B-971 Training schools.

This section was created to make changes based on 2002 legislative changes.

WAC 296-46B-975 Electrical audit.

This section was created to:

- Move applicable requirements from WAC 296-401B-350.
- Clarify changes relating to time period covered for the audit, purpose of the audit, and the inspection of records consistent with current department practice.

WAC 296-46B-980 Enforcement—Installations, licensing, and certification requirements.

This section was created to:

- Move applicable requirements from WAC 296-401B-900.
- Clarify that the department inspects the electrical work site but is not responsible for the installation itself.

WAC 296-46B-985 Penalties for false statements or material misrepresentations.

This section was created to move applicable requirements from WAC 296-401B-630 and 296-401B-800.

WAC 296-46B-990 Failure to comply with the electrical contractor licensing, administrator certification, or electrician certification laws.

This section was created to:

- Move applicable requirements from WAC 296-401B-850, 296-401B-870, 296-401B-910, 296-401B-950, and 296-401B-960.
- Extend "continuous noncompliance" from one to three years.

WAC 296-46B-995 Electrical board—Appeal rights and hearings.

This section was created to:

- Incorporate applicable provisions and/or references from chapter 296-13 WAC and adopted chapter 34.05 RCW and chapter 10-08 WAC for use with appeals and hearings under chapter 19.28 RCW.
- Make changes to the appeal procedures based on recommendations from the electrical board.

WAC 296-46B-998 Standards.

This section was created to move applicable requirements from WAC 296-402A-450, 296-402A-460, and 296-402A-470.

WAC 296-46B-999 Electrical testing laboratory requirements.

This section was created to:

- Move applicable requirements from several sections in chapter 296-402A WAC.
- Establish a thirty-day requirement for submitting an evaluation report to the department.

Citation of Existing Rules Affected by this Order: Repealing chapters 296-46A, 296-401B, 296-13, and 296-402A WAC.

Statutory Authority for Adoption: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.271, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551, chapter 249, Laws of 2002 (ESB 6630), and chapter 34.05 RCW.

Other Authority: Chapter 19.28 RCW.

Adopted under notice filed as WSR 03-05-074 on February 18, 2003.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-46B-010 General. Adopted standards - inspectors - city inspection - variance.**

The reference to WAC 296-46B-030 (2)(d) in subsection (9) of this section was corrected to WAC 296-46B-030(3).

WAC 296-46B-501 Special occupancies NEC Class 1 locations.

The reference to chapter 18.201 RCW in subsection (2)(a)(i) of this section was corrected to chapter 18.210 RCW.

WAC 296-46B-910 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, temporary, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees.

The statements "application or" and "owes money as a result of an outstanding final judgment(s) to the department or" were removed in Note 1 of this section.

WAC 296-46B-915 Civil penalty schedule.

The reference to Note E was eliminated in subsection (11) of this section as it is not applicable to this civil penalty. Also, a reference was corrected in subsection (12) of this section.

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work.

The reference to WAC 296-46B-920 was corrected in subsection (2)(h)(i) of this section. Also, the scope of the Restricted nonresidential maintenance (07C) specialty was changed in subsection (2)(j) of this section consistent with expected legislative changes. Lastly, a reference to duplicate reference to "grinders" was removed in subsection (2)(l)(i)(B) of this section.

WAC 296-46B-925 Electrical/telecommunications contractor's license. General.

The statement "or application" was removed from subsection (3) of this section. Also, "For transfer equipment" was added in subsection (21)(a)(i) of this section for purposes of clarity. In addition, the medical equipment provisions in subsection (22) of this section for purposes of clarity and consistent with expected legislative changes.

Lastly, a change was made to clarify that the exemption in subsection (8) of this section does not apply to electric signs. This change was made based on public comment.

WAC 296-46B-930 Assignment—Administrator or master electrician.

The date for beginning full enforcement was changed in Table 930-1 from October 1, 2004, to August 1, 2004. This change was made based on public comment.

WAC 296-46B-935 Administrator certificate. General.

The reference to "application or" was removed from subsection (1) of this section.

PERMANENT

WAC 296-46B-940 Electrician/training/temporary certificate of competency or permit required. Electrician - general.

The reference to "application or" was removed from subsection (1) of this section.

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations. Qualifying for master, journeyman, specialty electrician examinations.

Subsection (1) of this section was removed. Also, new Notes 8 and 9 were added to Table 945-1 based on expected legislative changes.

WAC 296-46B-950 Opportunity for gaining credit for previous work experience gained in certain specialties.

The date for beginning full enforcement was changed in Table 950-1 from October 1, 2004, to August 1, 2004. This change was made based on public comment.

WAC 296-46B-955 Specialty contractor/electrician enforcement procedures.

A header identifying Figure 955-1 was added for purposes of clarity.

In addition, the date for beginning full enforcement was changed in Figure 955-1 from October 1, 2004, to August 1, 2004. This change was made based on public comment.

WAC 296-46B-965 Training certificate required. General.

The following statement, "and trainees owing money as a result of a final judgment to the department" was removed from subsection (2) of this section and consistent provisions were added to subsection (5) of this section for purposes of clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 13, Amended 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 58, Amended 0, Repealed 216.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 58, Amended 0, Repealed 216.

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 58, Amended 0, Repealed 216.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The immediate effective date for these sections is necessary to allow certain types of electrical contractors and installers to come into compliance with these rule changes. These changes are necessary for the purposes of implementing provisions included in chapter 249, Laws of 2002 (ESB 6630) that was enacted last legislative session. In addition, these rules assist in ensuring that public health, safety, and welfare are achieved through compliance with these rule changes for

purposes of consumer and worker protection through the licensure of bonded electrical contractors and certification of electrical administrators and those individuals performing electrical work.

Effective Date of Rule: **The following sections take effect on May 23, 2003 (thirty-one days after adoption):** The repeal of chapters 296-46A, 296-13; 296-401B, and 296-402A WAC and new sections WAC 296-46B-005 through 296-46B-010, 296-46B-030 through 296-46B-800, and 296-46B-970 through 296-46B-998.

The following sections take effect immediately [April 22, 2003]: New sections WAC 296-46B-020 and 296-46B-900 through 296-46B-965.

April 22, 2003

Paul Trause

Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-13-001	Foreword.
WAC 296-13-010	Definitions.
WAC 296-13-020	Officers.
WAC 296-13-030	Internal management.
WAC 296-13-035	Dates of meetings.
WAC 296-13-040	Duties of the board.
WAC 296-13-050	Hearings.
WAC 296-13-052	Hearing before administrative law judge or a board member.
WAC 296-13-053	Appeal of proposed decision to board.
WAC 296-13-055	Quorum.
WAC 296-13-057	Place and time of filing.
WAC 296-13-060	Appearance and practice before board.
WAC 296-13-080	Standards of ethical conduct.
WAC 296-13-090	Appearance by former employee.
WAC 296-13-100	Former employee as expert witness.
WAC 296-13-110	Computation of time.
WAC 296-13-130	Notice and opportunity for hearing.
WAC 296-13-140	Service of process—By whom served.
WAC 296-13-150	Service of process—Upon whom served.

WAC 296-13-160 Service of process upon parties.

WAC 296-13-170 Method of service of process.

WAC 296-13-180 When service of process is complete.

WAC 296-13-190 Subpoenas.

WAC 296-13-200 Subpoenas—Service and fees.

WAC 296-13-210 Quashing of subpoenas.

WAC 296-13-220 Enforcement of subpoenas.

WAC 296-13-230 Right to take depositions and interrogatories in contested cases.

WAC 296-13-240 Officer before whom depositions are taken.

WAC 296-13-250 Notice of depositions.

WAC 296-13-260 Depositions and interrogatories in contested cases—Protection of parties and deponents.

WAC 296-13-270 Oral examination and cross-examination in depositions.

WAC 296-13-280 Recording of depositions.

WAC 296-13-290 Depositions in contested cases—Signing attestation and return.

WAC 296-13-300 Use and effect of depositions.

WAC 296-13-310 Fees of deponents.

WAC 296-13-320 Submission of interrogatories.

WAC 296-13-330 Attestation and return of interrogatories.

WAC 296-13-340 Official notice—Matters of law.

WAC 296-13-350 Official notice—Material facts.

WAC 296-13-360 Presumptions.

WAC 296-13-370 Stipulations and admissions of record.

WAC 296-13-380 Form and content of board decisions in contested cases.

WAC 296-13-390 Definition of issues before hearing.

WAC 296-13-400 Prehearing conference.

WAC 296-13-410 Submission of documentary evidence in advance.

WAC 296-13-420

WAC 296-13-430

WAC 296-13-440

Continuances.

Rules of evidence—Admissibility criteria.

Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-46A-090

WAC 296-46A-092

WAC 296-46A-095

WAC 296-46A-100

WAC 296-46A-102

WAC 296-46A-104

WAC 296-46A-110

WAC 296-46A-130

WAC 296-46A-140

WAC 296-46A-155

WAC 296-46A-21052

WAC 296-46A-215

WAC 296-46A-220

WAC 296-46A-22530

WAC 296-46A-23001

WAC 296-46A-23028

WAC 296-46A-23040

WAC 296-46A-23062

WAC 296-46A-250

WAC 296-46A-300

WAC 296-46A-30011

WAC 296-46A-324

WAC 296-46A-348

Foreword.

General definitions.

Inspection.

Approval for conductors and equipment.

Industrial control panel inspection.

Traffic management systems.

Identification methods.

Classification or definition of occupancies.

Plan review for educational, institutional or health care facilities and other buildings.

Wiring methods for designated building occupancies.

Tamper resistant receptacles.

Feeders—Ground fault protection testing.

Branch circuit and feeder calculations.

More than one building or other structure.

Service requirements.

Service or other masts.

Service conductors.

Service equipment.

Grounding and bonding.

Wiring methods.

Support of raceways, cables, or boxes in suspended ceilings.

Knob-and-tube wiring.

Electrical metallic tubing.

PERMANENT

PERMANENT

WAC 296-46A-365	Concerts, motion picture productions, stage shows, and similar shows.	WAC 296-46A-940	Manufacturers of electrical/telecommunications products exemptions.
WAC 296-46A-370	Boxes and fittings.	WAC 296-46A-950	Administrator certificate.
WAC 296-46A-41004	Lighting fixtures.	WAC 296-46A-960	Revocation or suspension of an electrical/telecommunications contractor's license or administrator's certificate.
WAC 296-46A-41030	Flexible cord connection pendant boxes and electric discharge fixtures.		
WAC 296-46A-422	Water heater circuit.		
WAC 296-46A-450	Transformers.		
WAC 296-46A-500	Sewage disposal systems.		
WAC 296-46A-514	Dispensing and service stations.		
WAC 296-46A-517	Health care facilities.		
WAC 296-46A-550	Mobile/manufactured homes.		
WAC 296-46A-553	Boat moorages, floating buildings, and similar installations.		
WAC 296-46A-600	Electrical signs.		
WAC 296-46A-680	Electrical equipment associated with spas, hot tubs, swimming pools or hydro-massage bathtubs.		
WAC 296-46A-700	Emergency systems.		
WAC 296-46A-702	Optional standby systems.		
WAC 296-46A-900	Electrical work permits and fees.		
WAC 296-46A-910	Inspection fees.		
WAC 296-46A-915	Electrical/telecommunications contractor license, administrator certificate and examination, and copy fees.		
WAC 296-46A-920	Civil penalty.		
WAC 296-46A-930	Electrical/telecommunications contractor license and administrator certificate designation.		
WAC 296-46A-931	Electrical/telecommunications contractor license.		
WAC 296-46A-932	Electrical/telecommunications contractor cash or securities deposit.		
WAC 296-46A-933	Telecommunications contractor insurance.		
WAC 296-46A-934	Electrical contractor exemptions.		
WAC 296-46A-935	Electrical utility exemptions.		

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-401B-092	General definitions.
WAC 296-401B-100	Certificate of competency required.
WAC 296-401B-110	Original journeyman and specialty electrician certificates of competency.
WAC 296-401B-120	Linemen exemptions.
WAC 296-401B-130	Renewal of journeyman and specialty electrician certificates of competency.
WAC 296-401B-140	Late renewal of journeyman and specialty electrician certificates of competency.
WAC 296-401B-180	Inactive status.
WAC 296-401B-200	Qualifying for an electrician temporary permit to work in Washington when certified in another state.
WAC 296-401B-250	Reciprocal agreements between Washington and other states.
WAC 296-401B-260	Qualifying for a reciprocal electrician certificate.
WAC 296-401B-270	Ineligibility for reciprocal electrician certificate.
WAC 296-401B-300	Training certificate required.
WAC 296-401B-310	Ineligibility for electrical training certificates.
WAC 296-401B-320	Training certificate levels.
WAC 296-401B-330	Renewal of training certificates.
WAC 296-401B-335	Credit for electrical work experience exempt from certification requirements.
WAC 296-401B-340	Trainees working without supervision.

WAC 296-401B-350	Audit of trainee hours.	WAC 296-401B-630	Electrician documentation of Washington approved training course completion.
WAC 296-401B-410	Qualifying for the journeyman electrician competency examination.	WAC 296-401B-640	Electrician documentation of out-of-state approved training course completion.
WAC 296-401B-420	Qualifying for the journeyman electrician competency examination when work was performed in another state when certified.	WAC 296-401B-700	Fees for certificates of competency, examination and reciprocity.
WAC 296-401B-430	Qualifying for the journeyman electrician competency examination when work was performed in another jurisdiction when not certified.	WAC 296-401B-800	Penalties for false statements or material misrepresentations.
WAC 296-401B-440	Experience in another country.	WAC 296-401B-850	Revocation or suspension of a certificate of competency or training certificate.
WAC 296-401B-445	Military experience.	WAC 296-401B-860	Revocation of an electrician temporary permit.
WAC 296-401B-450	Qualifying for the specialty electrician competency examination.	WAC 296-401B-870	Confiscation of a certificate of competency, an electrician temporary permit, or training certificate.
WAC 296-401B-455	Opportunity for gaining credit for previous work experience in certain specialties.	WAC 296-401B-900	Enforcement.
WAC 296-401B-460	Qualifying for the specialty electrician competency examination when work was performed in another state when certified.	WAC 296-401B-910	Failure to comply with electrician certification law.
WAC 296-401B-470	Qualifying for the specialty electrician competency examination when work was performed in another jurisdiction when not certified.	WAC 296-401B-920	Special enforcement procedures.
WAC 296-401B-475	Experience in another country.	WAC 296-401B-950	Appeal rights.
WAC 296-401B-476	Military experience.	WAC 296-401B-960	Types of appeals.
WAC 296-401B-500	Failing a competency examination.	WAC 296-401B-970	Appeal procedures.
WAC 296-401B-510	Subjects included in the journeyman electrician competency examinations.	WAC 296-401B-980	Department conferences.
WAC 296-401B-520	Subjects included in the specialty electrician competency examinations.	WAC 296-401B-990	General.
WAC 296-401B-600	Continuing education course approval.		
WAC 296-401B-610	Offering continuing education courses.		
WAC 296-401B-620	Application for continuing education course approval.		

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-402A-010	What is the statutory authority for this chapter?
WAC 296-402A-020	What is the scope and purpose of this chapter?
WAC 296-402A-030	Definitions.
WAC 296-402A-040	When is an electrical product considered safe?
WAC 296-402A-050	Where do I obtain the forms and procedures for submitting an application for accreditation?
WAC 296-402A-060	What is the period of accreditation?

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WAC 296-402A-070	Is an on-site inspection of a laboratory requesting initial accreditation or renewal required?	WAC 296-402A-240	Is there an opportunity to confer with the department after notice of intent to suspend, revoke, or refusal to renew?
WAC 296-402A-080	When can the on-site inspection be waived?	WAC 296-402A-250	Can a laboratory appeal a decision of the department?
WAC 296-402A-090	Who pays for the on-site inspection?	WAC 296-402A-260	Who may appeal and what is the time allowed to enter an appeal?
WAC 296-402A-100	Do NRTL recognized laboratories have to apply for accreditation with the department?	WAC 296-402A-270	What is the procedure for appealing a decision of the department?
WAC 296-402A-110	What fees are involved in receiving or renewing accreditation by the state of Washington?	WAC 296-402A-290	How is a formal appeal made?
WAC 296-402A-130	When does a laboratory need to apply for renewal of accreditation?	WAC 296-402A-300	Where is other appeal information located?
WAC 296-402A-140	Who determines the adequacy of a laboratory for accreditation?	WAC 296-402A-310	What type of business organization is required of the laboratory?
WAC 296-402A-150	Is continued accreditation subject to review by the department?	WAC 296-402A-320	What professional business practices must the laboratory meet?
WAC 296-402A-160	What conditions are required to obtain and maintain accreditation?	WAC 296-402A-330	Must the laboratory notify the department of any business changes?
WAC 296-402A-170	How is notification of accreditation results made?	WAC 296-402A-340	What is a certification or evaluation program plan?
WAC 296-402A-180	What categories of electrical products can the laboratory certify or evaluate after accreditation is obtained?	WAC 296-402A-350	What quality control requirements must the laboratory meet?
WAC 296-402A-190	Is electrical product acceptance in each category all-inclusive?	WAC 296-402A-360	What personnel requirements must the laboratory meet?
WAC 296-402A-200	What happens if the laboratory fails to comply with the requirements for accreditation?	WAC 296-402A-370	What type of records must the laboratory maintain?
WAC 296-402A-210	Can the department suspend or revoke the accreditation?	WAC 296-402A-380	Is the laboratory required to make records available to the department?
WAC 296-402A-220	Must the department provide written notice of intent to suspend, revoke or refusal to renew?	WAC 296-402A-390	What must be included in certification reports?
WAC 296-402A-230	What must the laboratory do if department accreditation is suspended, revoked, or not renewed?	WAC 296-402A-400	What does the evaluation report include?
		WAC 296-402A-410	Who gets a copy of the evaluation report and what format must be used to submit the report?
		WAC 296-402A-430	How does the laboratory verify maintenance and calibration of facilities and/or equipment?

WAC 296-402A-440	Must standards documents be available for use by laboratory personnel?	WAC 296-402A-610	What is the required frequency of follow-up inspections?
WAC 296-402A-450	What standards may be used for electrical product certification or evaluation?	WAC 296-402A-620	What products can a field evaluation laboratory evaluate?
WAC 296-402A-460	What product safety standards are approved by the department?	WAC 296-402A-630	Must an evaluation laboratory apply to perform each field evaluation?
WAC 296-402A-470	Are any product safety standards automatically accepted?	WAC 296-402A-640	What must be included in the scope of a field evaluation?
WAC 296-402A-480	What is required if the product safety standard is not ANSI?	WAC 296-402A-650	When there is more than one unit of a product, does each product unit need to be evaluated?
WAC 296-402A-490	What if there is no product safety standard that meets the criteria for department approval?	WAC 296-402A-660	Can field evaluations be performed in the manufacturer's facility?
WAC 296-402A-500	What must the electrical product certification program contain?	WAC 296-402A-670	When can the field evaluation mark be applied to the product?
WAC 296-402A-510	Must all components of certified electrical products be certified for safety?	WAC 296-402A-675	Must the laboratory maintain control of field evaluation marks?
WAC 296-402A-520	Is there a directory listing authorized products?	WAC 296-402A-680	Can a product marked with a field evaluation mark be relocated or supplied from a different power source?
WAC 296-402A-530	What must be included in a laboratory certification agreement with a manufacturer?	WAC 296-402A-690	Are there other requirements regarding the field evaluation mark?
WAC 296-402A-540	Who owns the certification mark?		
WAC 296-402A-550	Do certification marks need to be registered?		
WAC 296-402A-560	Are there other requirements regarding the certification mark?		
WAC 296-402A-570	When can a certification mark be applied to the product?		
WAC 296-402A-580	Must the laboratory require assurance or follow-up with the manufacturer to verify continued product acceptability?		
WAC 296-402A-590	What must be in the follow-up inspection file?		
WAC 296-402A-600	What follow-up procedures and activities are required?		

Chapter 296-46B WAC

ELECTRICAL SAFETY STANDARDS, ADMINISTRATION, AND INSTALLATION

NEW SECTION

WAC 296-46B-005 Chapter 19.28 RCW rule references. RCW 19.28.161(5) and 19.28.191(1) refer to specific sections in chapter 296-46A WAC. Chapter 296-46A WAC has been replaced by this chapter. The following cross-reference identifies the appropriate sections in this chapter:

	Chapter 19.28 RCW reference	This chapter
Residential	WAC 296-46A-930 (2)(a)	WAC 296-46B-920 (2)(a)
Pump and irrigation	WAC 296-46A-930 (2)(b)(i)	WAC 296-46B-920 (2)(a)
Signs	WAC 296-46A-930 (2)(c)	WAC 296-46B-920 (2)(a)
Limited energy systems	WAC 296-46A-930 (2)(e)(i)	WAC 296-46B-920 (2)(a)

PERMANENT

NEW SECTION**WAC 296-46B-010 General. Adopted standards - inspectors - city inspection - variance.**

(1) The 2002 edition of the National Electrical Code (NFPA 70 - 2002) including Annex A, B, and C, but excluding Article 80; the 1999 edition of Centrifugal Fire Pumps (NFPA 20 - 1999); the 2002 edition of Emergency and Standby Power Systems (NFPA 110 - 2002); Commercial Building Telecommunications Cabling Standard (ANSI/TIA/EIA 568-B.1-May 2001 including Annex 1 through 5); Commercial Building Standard for Telecommunications Pathway and Spaces (ANSI/TIA/EIA 569-A-December 2001 including Annex 1 through 4); Commercial Building Grounding and Bonding Requirements for Telecommunications (ANSI/TIA/EIA 607 - 1994); Residential Telecommunications Cable Standard (ANSI/TIA/EIA 570-A-1999); and the National Electrical Safety Code (NESC C2-2002 excluding Appendixes A and B) are hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours.

The requirements of this chapter will be observed where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-A, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-2002.

The National Electrical Code will be followed where there is any conflict between Centrifugal Fire Pumps (NFPA 20), Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-A, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-2002 and the National Electrical Code (NFPA 70).

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) The department may enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

(4) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in WAC 296-46B-905.

Inspection.

(5) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to permit the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter.

(6) Cables or raceways, fished according to the NEC, do not require visual inspection.

(7) Wires pulled into conduit systems are not considered concealed. All required equipment grounding conductors installed in concealed raceway, cable, or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

(8) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector; or

(b) All wiring and device boxes must be a minimum of 63 mm (2 1/2") from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1.6 mm (1/16") thick and of appropriate width and height installed to cover the area of the wiring or box.

(9) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable standards recognized by the department, be listed, or field evaluated. Other than as allowed in WAC 296-46B-030(3), equipment must not be energized until such standards are met unless specific permission has been granted by the chief electrical inspector.

(10) The department will recognize the state department of transportation as the inspection authority for telecommunications systems installation within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection - move on buildings and structures.

(11) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(12) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements

of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(13) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "Suitable for Use as Service Equipment" will be considered to be approved as "Suitable for Use only as Service Equipment."

(ii) CSA listed panelboards must be limited to a maximum of 42 circuits.

(iii) CSA listed panelboards used as lighting and appliance panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the

Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Classification or definition of occupancies.

(14) Occupancies are classified and defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "Hospital" means any institution, place, building, or agency providing accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(v) "Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(vi) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations and services over a continuous period of twenty-four hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness, who are not related to the licensee.

(vii) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(viii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(ix) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC; Ambulatory Health Care Center.)

(x) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, and operated

specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(xi) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC; Ambulatory Health Care Center.)

(xii) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for twenty-four hours or more. Electrical plan review not required.

(xiii) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility designed and organized to provide twenty-four-hour residential care and long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(xiv) "Adult residential rehabilitation center" means a residence, place, or facility designed and organized primarily to provide twenty-four-hour residential care, crisis and short-term care and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24 RCW.

(xv) "Group care facility" means a facility other than a foster-family home maintained and operated for the care of a group of children on a twenty-four-hour basis.

(d) Licensed day care centers.

(i) "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours; except, a program meeting the definition of a family child care home will not be licensed as a day care center without meeting the requirements of WAC 388-150-020(5).

(ii) "School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. The facility must meet department of licensing requirements and provide adult supervised care and a variety of developmentally appropriate activities.

(iii) "Family child day care home" means the same as "family child care home" and "a child day care facility" licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review not required.

Plan review for educational, institutional or health care facilities and other buildings.

(15) Plan review is a part of the electrical inspection process; its primary purpose is to determine: That loads, conductors, and equipment are calculated and sized according to the proper NEC or WAC article or section; the classification

of hazardous locations; and proper design of emergency and standby systems.

(16) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available on the job site for use during the electrical installation or alteration and for use by the electrical inspector. Plans are not required to be on the job site for preliminary electrical underground conduit installation inspection if:

(a) Completed electrical plans have been submitted and conditionally accepted by the department for review; and

(b) The permit holder has requested the inspection in writing to the department. Preliminary underground conduit installation inspection is conditional and subject to any changes required from the plan review process. No other inspections will be allowed until the department has approved all submitted plans and the approved plans are on the job site.

(17) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting electrical engineer registered under chapter 18.43 RCW, and chapters 246B-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(18) Plans for these electrical installations within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications per chapter 19.28 RCW, must be submitted to that city for review rather than to the department, unless the agency licensing or regulating the installation specifically requires review by the department.

(19) Refer plans for department review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460.

(20) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department. Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid.

(21) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or electrical contractor.

(22) For existing structures where additions or alterations to feeders and services are proposed, Article 220.35(1) NEC may be used. If Article 220.35(1) NEC is used, the following is required:

(a) The date of the measurements.

(b) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(c) A diagram of the electrical system identifying the point(s) of measurement.

(d) Building demand measured continuously on the highest-loaded phase of the feeder or service over a thirty-day period, with demand peak clearly identified. (Demand peak is defined as the maximum average demand over a fifteen-minute interval.)

(23) Due to their minimal load requirements, plan review of the following limited energy systems will not be required: Fire alarm, nurse call, intrusion or security alarm, intercom, public address, music, energy management, programmed clock, or telecommunications.

(24) When the service or feeder load calculation is affected five percent or less by the addition or alteration of five or less branch circuits, plan review for the branch circuits may be requested from the department's local inspection office. Permission for such small project plan review may be granted at the discretion of the electrical inspection field supervisor, the plans examiner supervisor, or the chief electrical inspector.

Wiring methods for designated building occupancies.

(25) Wiring methods, equipment and devices for health or personal care, educational and institutional facilities as defined or classified in this chapter and for places of assembly for one hundred or more persons must comply with Tables 010-1 and 010-2 of this chapter and the notes thereto. The local building authority will determine the occupant load of places of assembly.

(26) Listed tamper-resistant receptacles or listed tamper-resistant receptacle cover plates are required in all licensed day care centers, all licensed children group care facilities and psychiatric patient care facilities where accessible to children five years of age and under. Listed tamper-resistant receptacles are required in psychiatric patient care facilities where accessible to psychiatric patients over five years of age.

Notes to Tables 010-1 and 010-2.

1. Wiring methods in accordance with the NEC unless otherwise noted.
2. Metallic or nonmetallic raceways, MI, MC, or AC cable, except that metallic raceway or cable is required in places of assembly.

Table 010-1 Health or Personal Care Facilities

Health or Personal Care Facility Type ⁽¹⁾	Plan Review Required
Hospital	YES
Nursing home unit or long-term care unit	YES
Boarding home or assisted living facility	YES
Private alcoholism hospital	YES
Alcoholism treatment facility	YES
Private psychiatric hospital	YES
Maternity home	YES
Birth center or childbirth center	NO
Ambulatory surgery facility	YES

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Table 010-1 Health or Personal Care Facilities

Health or Personal Care Facility Type ⁽¹⁾	Plan Review Required
Hospice care center	NO
Renal hemodialysis clinic	YES
Medical, dental, and chiropractic clinic	NO
Residential treatment facility for psychiatrically impaired children and youth	YES
Adult residential rehabilitation center	YES
Group care facility	NO

Table 010-2 Educational and Institutional Facilities, Places of Assembly or Other Facilities

Educational, Institutional or Other Facility Type	Plan Review Required
Educational ⁽²⁾	YES
Institutional ⁽²⁾	YES
Places of assembly for 100 or more persons ⁽¹⁾	NO
Child day care center ⁽¹⁾	NO
School-age child care center ⁽¹⁾	NO
Family child day care home, family child care home, or child day care facility ⁽¹⁾	NO

NEW SECTION

WAC 296-46B-020 General definitions. (1) All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter.

(2) **"Accreditation"** is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

(3) **"Administrative law judge"** means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

(4) **"ANSI"** means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

(5) **"Appeal"** is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

(6) **"Appellant"** means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

(7) **"ASTM"** means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

(8) **"AWG"** means American Wire Gauge.

(9) **"Board"** means the electrical board established and authorized under chapter 19.28 RCW.

(10) **"Chapter"** means chapter 296-46B WAC unless expressly used for separate reference.

(11) **"Category list"** is a list of nonspecific product types determined by the department.

(12) A **"certified electrical product"** is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

(13) A **"certification mark"** is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

(14) **"Certificate of competency"** includes the certificates of competency for master journeyman electrician, master specialty electrician, journeyman, and specialty electrician.

(15) A laboratory **"certification program"** is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

(16) A **"complete application"** includes the submission of all appropriate fees, documentation, and forms.

(17) **"Department"** means the department of labor and industries of the state of Washington.

(18) **"Director"** means the director of the department, or the director's designee.

(19) **"Electrical equipment"** includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006(8). Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

(20) An **"electrical products certification laboratory"** is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

(21) An **"electrical products evaluation laboratory"** is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

(22) **"Field evaluated"** means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

(23) **"Field evaluation mark"** is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with appropriate standards or that the product has been evaluated for specific end uses.

(24) A **"field evaluation program"** is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

(25) The **"filing"** is the date the document is actually received in the office of the chief electrical inspector.

(26) **"Final judgment"** means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result

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of an individual's or contractor's unsuccessful appeal of a citation.

(27) **"Fished wiring"** is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

(28) **HVAC/refrigeration specific definitions:**

(a) **"HVAC/refrigeration"** means heating, ventilation, air conditioning, and refrigeration.

(b) **"HVAC/refrigeration component"** means electrical power and limited energy components within the "HVAC/refrigeration system," including, but not limited to: Pumps, compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-"HVAC/refrigeration control systems."

(c) **"HVAC/refrigeration control panel"** means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) **"HVAC/refrigeration control system"** means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels, data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) **"HVAC/refrigeration equipment"** means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) **"HVAC/refrigeration system"** means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems) (see Figure 920-1 and Figure 920-2).

(29) An **"individual"** or **"party"** or **"person"** means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

(30) An **"installation"** includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925.

(31) An **"identification plate"** is a phenolic or metallic plate or other similar material engraved in block letters at least 1/4" (6 mm) high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting

colors. Screws, rivets, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

(32) **"License"** means a license required under chapter 19.28 RCW.

(33) **"Labeled"** means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

(34) A **"laboratory"** may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

(35) A **"laboratory operations control manual"** is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

(36) **"Like-in-kind"** means having similar characteristics such as voltage requirement, current draw, circuit over-current and short circuit characteristics, and function within the system. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

(37) **"Lineman"** is a person employed by a serving electrical utility or employed by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineman's apprenticeship course; or

(b) Are currently registered in a department-approved lineman's apprenticeship course and are working under the direct one hundred percent supervision of a journeyman electrician or a graduate of a lineman's apprenticeship course approved by the department. The training received in the lineman's apprenticeship program must include training in applicable articles of the currently adopted National Electrical Code.

(38) **"Listed"** means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

(39) **"Low voltage"** means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.41(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.41(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

(40) **"NEC"** means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

(41) **"NEMA"** means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

(42) **"NESC"** means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

(43) **"NETA"** means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

(44) **"NFPA"** means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

(45) **"NRTL"** means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 CFR 1910.7.

(46) **"Point of contact"** for utility work, means the point at which a customer's electrical system connects to the serving utility system.

(47) **"Proceeding"** means any matter regarding an appeal before the board including hearings before an administrative law judge.

(48) **"Public area or square"** is an area where the public has general, clear, and unrestricted access.

(49) A **"quality control manual"** is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

(50) **"RCW"** means the Revised Code of Washington. Copies of electrical RCWs are available from the department and the office of the code reviser.

(51) A **"stand-alone amplified sound or public address system"** is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

(52) **"Service"** or **"served"** means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

(53) A **"telecommunications local service provider"** is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

(54) **"Telecommunications network demarcation point"** is as defined in RCW 19.28.400 for both regulated carriers and unregulated local service providers.

(55) **"TIA/EIA"** means the Telecommunications Industries Association/Electronic Industries Association which publishes the *TIA/EIA Telecommunications Building Wiring Standards*. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

(56) A **"training school"** is a public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

(57) **"Under the control of a utility"** for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

(58) **"UL"** means Underwriters Laboratory.

(59) **"Utility"** means an electrical utility.

(60) **"Utility system"** means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact.

(61) **"Utilization voltage"** means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

(62) **"Variance"** is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(63) **"WAC"** means the Washington Administrative Code. Copies of this chapter of the WACs are available from the department and the office of the code reviser.

NEW SECTION

WAC 296-46B-030 Industrial control panel and industrial utilization equipment inspection. Specific definitions.

(1) Specific definitions for this section:

(a) **"Department evaluation"** means a review in accordance with subsection (2)(c) of this section.

(b) **"Food processing plants"** include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;

(iv) Restaurants;

(v) Farming, ranching, or dairy farming operations;

(vi) Residential uses; or

(vii) Other installations not used for direct manufacturing purposes.

(c) In RCW 19.28.010, **"industrial control panel"** means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

(d) **"Industrial plants"** include buildings or facilities used in a manufacturing process, but do not include:

(i) Municipal or other government facilities;

(ii) Educational facilities or portions thereof;

- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(e) **"Industrial utilization equipment"** means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(f) **"Manufacturing process"** means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(g) **"Normal department inspection"** is a part of the department electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in WAC 296-46B-905.

(h) For the purposes of this section, **"panel"** means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

Safety standards.

(2) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

- (a) Listing, or field evaluation of the entire panel or equipment;
- (b) Normal department inspection for compliance with codes and rules adopted under this chapter; or
- (c) By department evaluation showing compliance with appropriate standards. Appropriate standards are NFPA 79 or International Electrotechnical Commission 60204 or their equivalent. Industrial utilization equipment is required to conform to an international or United States national standard applicable for the particular industrial utilization equipment. Compliance must be shown as follows:

(i) For each separate piece of equipment, the equipment's manufacturer must document, by letter to the equipment owner, the equipment's conformity to appropriate standard(s). The letter must be signed and notarized. The letter must state:

- (A) The equipment manufacturer's name;
- (B) The type of equipment;
- (C) The equipment model number;
- (D) The equipment serial number;

- (E) The equipment supply voltage, amperes, phasing, fault current interrupting rating;
- (F) The standard(s) used;
- (G) That the equipment is manufactured in compliance with the standard(s) used;
- (H) The date the equipment was manufactured;
- (I) The manufacturer must demonstrate an appropriate affiliation or registration with an appropriate standards organization (e.g., NRTL, International Standards Organization, etc.); and

(J) The methodology used by the manufacturer to ensure that the equipment was constructed according to the standard(s) listed. This methodology should include hazard assessment, documentation, technical construction file, operation manual, and any other applicable information.

(ii) The equipment owner must document, by letter to the chief electrical inspector, the equipment's usage as industrial utilization equipment as described in this section and provide a copy of the equipment manufacturer's letter described in (c)(i) of this subsection. The owner's letter must be accompanied by the fee required in WAC 296-46B-905(14).

For the purposes of this section, the owner must be a food processing or industrial plant as described in this section. The owner cannot be the equipment's manufacturer, agent, or distributor.

(iii) The chief electrical inspector will evaluate the equipment manufacturer's and the equipment owner's letters and if necessary the individual equipment and make a determination of a standard's appropriateness using the supplied information.

(iv) If required by the chief electrical inspector, the owner must provide the department with a copy, in English, of the standard(s) used and any documentation required by the chief electrical inspector to support the claims made in the equipment manufacturer's or owner's letter.

If the industrial utilization equipment has been determined to be manufactured to a standard(s) appropriate for industrial utilization equipment as determined by the chief electrical inspector per RCW 19.28.010(1), the equipment will be marked with a department label.

The department will charge a marking fee as required in WAC 296-46B-905(14). Once marked by the department, the equipment is suitable for installation anywhere within the state without modification so long as the equipment is being used as industrial utilization equipment. If payment for marking is not received by the department within thirty days of marking the equipment, the department's mark(s) will be removed and the equipment ordered removed from service.

(v) If the equipment usage is changed to other than industrial utilization equipment or electrical modifications are made to the equipment, the equipment must be successfully listed or field evaluated by a laboratory approved by the department.

(vi) The equipment must be permanently installed at the owner's facility and inspected per the requirements of RCW 19.28.101.

(3) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief

electrical inspector after use is begun, before its final inspection, listing, or evaluation.

NEW SECTION

WAC 296-46B-040 Traffic management systems. (1)

The department will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems; and
- (d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

(2) The department recognizes that traffic signal conductors, pole and bracket cables, signal displays, and traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

- (a) WSDOT/APWA Standard Specifications and Plans;
- (b) WSDOT Design Manual;
- (c) International Municipal Signal Association (IMSA);
- (d) National Electrical Manufacturer's Association (NEMA);
- (e) Federal Standards 170/Controller Cabinets;
- (f) Manual for Uniform Road, Bridge, and Municipal Construction;
- (g) Institute of Transportation Engineers (ITE); or
- (h) Manual of Uniform Traffic Control Devices (MUTCD).

(3) Associated induction detection loop or similar circuits will be accepted by the department without inspection.

(4) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for other jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department prior to work being performed for this provision to apply.

(5) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.

(6) Underground installations.

(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.

(b) The department will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A writ-

ten request (e.g., letter, e-mail, fax, etc.) for inspection, made to the department office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days - 10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).

If, after proper written request, the department fails to make an electrical inspection at the time requested, underground conduit may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department when requested. Written documentation will include:

- (i) Date and time of inspection;
- (ii) Location;
- (iii) Installing firm;
- (iv) Owner;
- (v) Type of conduit;
- (vi) Size of conduit;
- (vii) Depth of conduit; and
- (viii) Project inspector/designee name and contact information.

(7) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (2) of this section.

(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.

(8) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

NEW SECTION

WAC 296-46B-110 General—Requirements for electrical installations.

012 Mechanical execution of work.

(1) Unused openings. Unused openings in boxes, raceways, auxiliary gutters, cabinets, cutout boxes, meter socket enclosures, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with nonmetallic enclosures, they shall be recessed at least 6 mm (1/4") from the outer surface of the enclosure. Unused openings do not include weep holes, unused mounting holes, or any other opening with less than .15 square inches of open area.

016 Flash protection.

(2) The flash protection marking required by NEC 110.16 must be an identification plate or label approved by

the electrical inspector and may be installed either in the field or in the factory. The plate or label may be mounted using adhesive.

022 Identification of disconnecting means.

(3) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnect.

(4) Where electrical equipment is installed to obtain a series combination rating, the identification as required by NEC 110.22, must be in the form of an identification plate that is substantially yellow in color. The words "CAUTION - SERIES COMBINATION RATED SYSTEM" must be on the label in letters at least 13 mm (1/2") high.

030 Over 600 volts - general.

(5) Each cable operating at over 600 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

NEW SECTION

WAC 296-46B-210 Wiring and protection—Branch circuits. 008B Other than dwelling units - GFCI requirements.

(1) For the purposes of NEC 210.8(B), all 125-volt, single-phase, 15- and 20-ampere receptacles must have ground-fault circuit-interrupter protection for personnel as required by NEC 210.8(A). Kitchens in other than dwelling units are considered to be any work surface where food and/or beverage preparation occurs and other countertops or islands.

011 Branch circuits.

(2) Circuits must be taken to all unfinished spaces adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

052(B)(5) Receptacle outlet locations.

(3) Receptacle outlets installed inside appliance garages will be permitted to be counted as a required countertop outlet.

NEW SECTION

WAC 296-46B-215 Wiring and protection—Feeders.

010 Feeders - ground fault protection testing.

Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all system feeders.

A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

NEW SECTION

WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.

003 Branch circuit calculations.

Occupancy lighting loads. In determining feeder and service entrance conductor sizes and equipment ratings, the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC 220.3.

NEW SECTION

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

032 Location of outside feeder disconnecting means.

The building disconnecting means required by NEC 225.32 must be provided to disconnect all ungrounded conductors that supply or pass through a building or structure per the requirements of NEC 225.32 (except for Exceptions 1, 2, 3, or 4) in accordance with subsection (1) or (2) of this section.

(1) Outside location: Where the feeder disconnecting means is installed outside a building or structure, it must be on the building or structure or within sight and within fifteen feet of the building or structure supplied. The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s) has a separate building disconnecting means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

- (a) The building/structure served; and
- (b) Its function as the building/structure main disconnect(s).

(2) Inside location: The feeder disconnecting means may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors.

NEW SECTION

WAC 296-46B-230 Wiring and protection—Services.

001 General service requirements.

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements

before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a location acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

(2) A firewall must have a minimum two-hour rating as defined by the local building official to be considered a building separation in accordance with Article 100 NEC.

(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

002 Number of services.

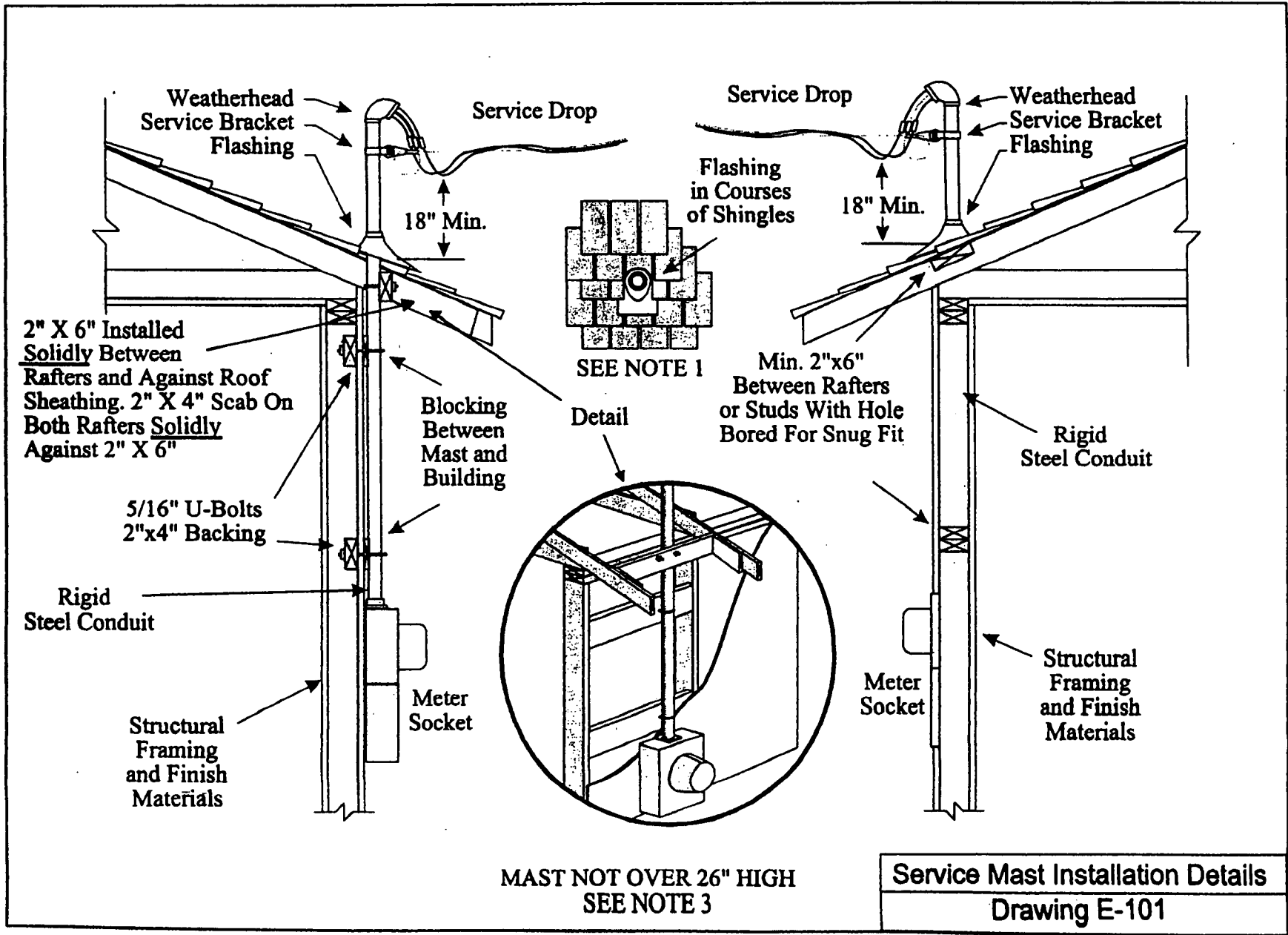
(4) In addition to the items described in NEC 230.2(A), an additional service is permitted to supply a transient voltage surge suppressor. In addition, a service disconnect for a transient voltage surge suppressor is not required to be counted as one of the six service disconnects allowed in NEC 230.71

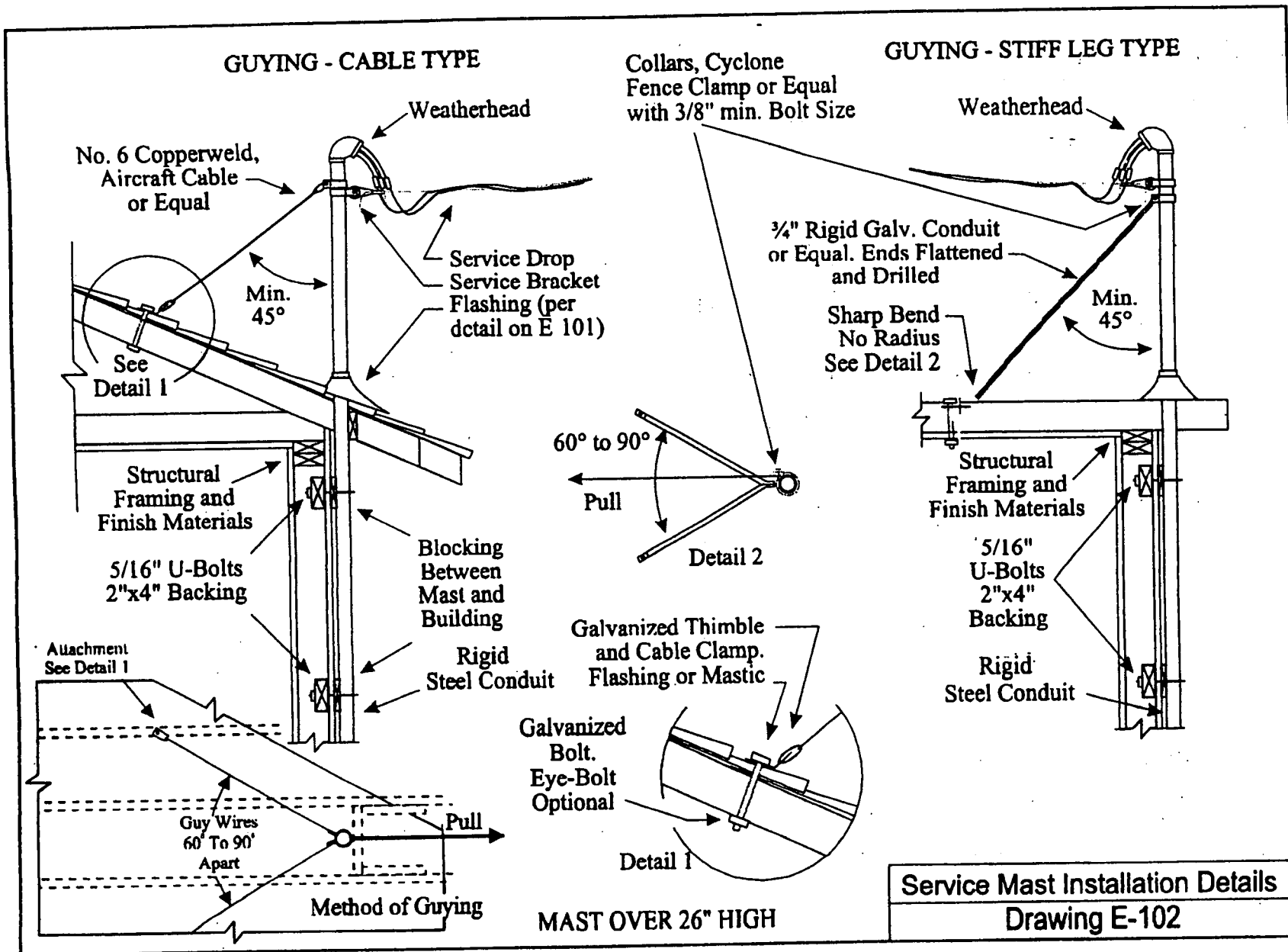
028 Service or other masts.

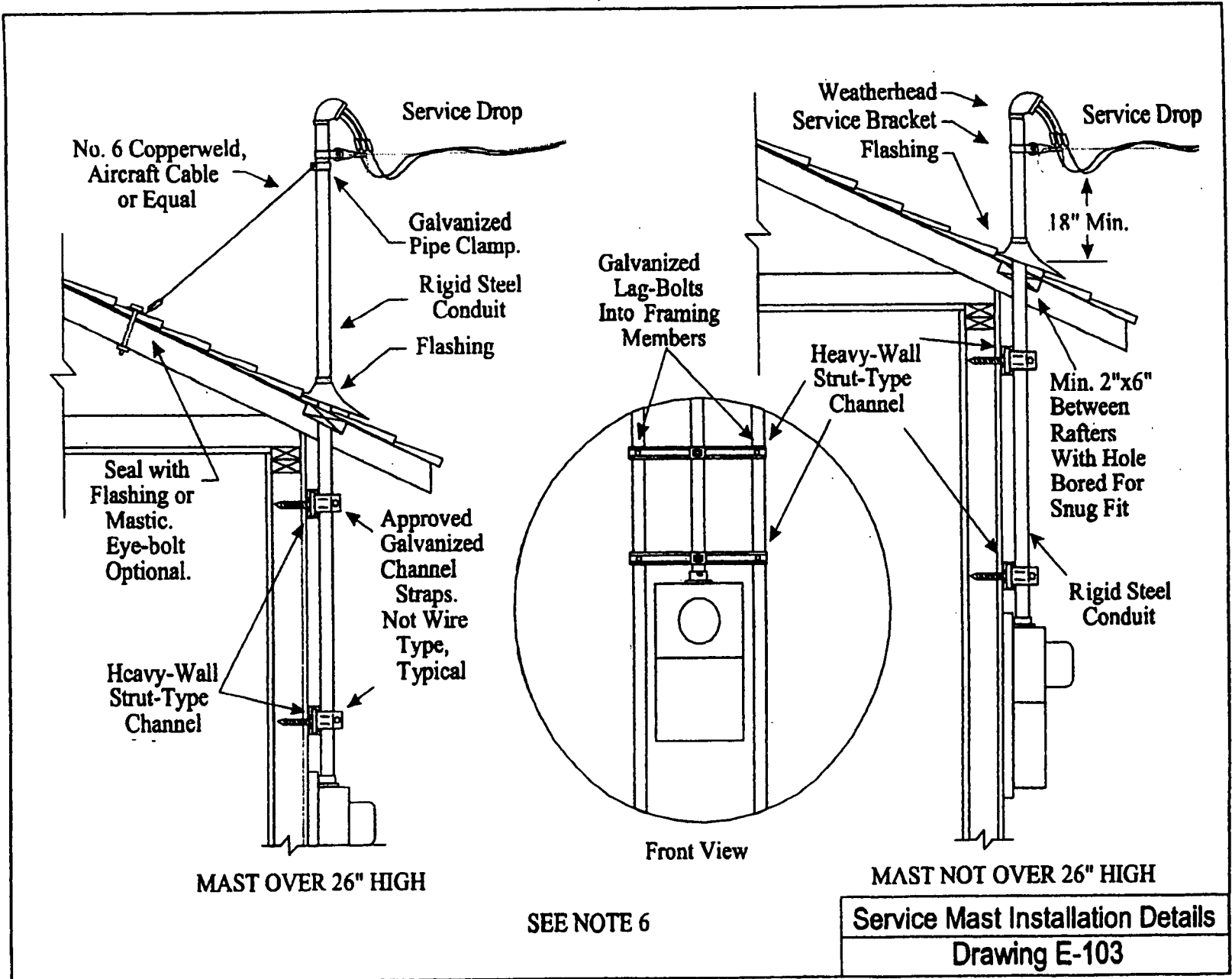
(5) Conduit extended through the roof to provide means of attaching:

(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than two inches.

(b) All overhead drops for service, feeder or branch circuits not exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than one and one-quarter inch. The installation must comply with drawings E-101 and/or E-102, or must provide equivalent strength by other approved means. Masts for altered or relocated installations will be permitted to comply with drawing E-103.







Notes to drawings E-101, E-102, and E-103

(1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.

(2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.

(3) Utilization of couplings for a mast are permitted only below the point the mast is braced, secured, or supported.

(4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than twenty-four inches above the roof line or if the service drop is greater than one hundred feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.

(5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.

(6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material that is secured to two or more wooden studs with five-sixteenths inch diameter or larger galvanized lag bolts.

(7) Conductors must extend at least eighteen inches from all mastheads to permit connection to the connecting overhead wiring.

040 Service conductors - two-family and multiple-occupancy buildings.

(6) Two-family and multiple-occupancy buildings. A second or additional service drop or lateral to a building having more than one occupancy will be permitted to be installed at a location separate from other service drops or laterals to the building provided that all the following conditions are complied with:

(a) Each service drop or lateral must be sized in accordance with the NEC for the calculated load to be served by the conductors;

(b) Each service drop or lateral must terminate in listed metering/service equipment;

(c) Each occupant must have access to the occupant's service disconnecting means;

(d) No more than six service disconnects may be supplied from a single transformer;

(e) All service drops or laterals supplying a building must originate at the same transformer or power supply;

(f) A permanent identification plate must be placed at each service disconnect location that identifies all other service disconnect locations in or on the building, the area or units served by each, the total number of service disconnecting means on the building/structure and the area or units served. If a structure consists of multiple buildings (i.e., by virtue of fire separation), all service disconnects in or on the

entire structure must be labeled to identify all service disconnects in or on the structure; and

(g) A permanent identification plate must be placed at each feeder disconnecting means identifying the area or units served if the feeder disconnecting means is remote from the area or unit served.

042 Service conductor - size and rating.

(7) If the service conductors have a lesser ampacity than the overcurrent protection or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors must be installed on the service equipment.

043 Wiring methods for 600 volts, nominal or less.

(8) The installation of service conductors not exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; rigid nonmetallic conduit; cable-bus; or mineral-insulated, metal-sheathed cable (type MI).

(9) Electrical metallic tubing must not be installed as the wiring method for service entrance conductors inside a building. Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

(10) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

062 Service equipment - general.

(11) Service equipment, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in bathrooms, clothes closets, or shower rooms. All indoor service equipment and subpanel equipment must have adequate working space and be adequately illuminated.

(12) Temporary construction service equipment may only be used for construction purposes and must be disconnected when the permanent service is connected unless the department grants an extension of time.

070 Service disconnecting means.

(13) The service disconnecting means must be installed at a readily accessible location in accordance with (a) or (b) of this subsection.

(a) Outside location: Service disconnecting means will be permitted on the building or structure or within sight and within fifteen feet of the building or structure served. The building disconnecting means may supply only one building/structure. The service disconnecting means must have an identification plate with one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main service disconnect(s).

(b) Inside location: When the service disconnecting means is installed inside the building or structure, it must be located so that the service raceway extends no more than fifteen feet inside the building/structure.

095 Ground-fault protection of equipment.

(14) Equipment ground-fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all service voltage feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

200 Wiring methods exceeding 600 volts.

(15) The installation of service conductors exceeding 600 volts, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 rigid nonmetallic conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.

(16) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

NEW SECTION**WAC 296-46B-250 Wiring and protection—Grounding.****032 Two or more buildings or structures.**

(1) Effective August 1, 2003, an equipment grounding conductor must be installed with the circuit conductors between buildings and/or structures. A grounded conductor (i.e., neutral) is not permitted to be used in place of a separate equipment grounding conductor between buildings and/or structures.

052 Grounding electrodes.

(2) If a ground resistance test is not performed to ensure a resistance to ground of twenty-five ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of six feet apart. However, a temporary construction service is not required to have more than one made electrode.

090 Bonding.

(3) Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

(4) Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

184 Solidly grounded neutral systems over 1 kV.

(5) In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than thirty-three and one-half percent of the ampacity of the phase conductor for three-phase systems or one hundred percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

- A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the 2001 NETA maintenance test specifications; and

- A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multigrounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

(6) Multiple grounding. NEC 250.184(B) is replaced with the following:

The neutral of a solidly grounded neutral system may be grounded at more than one point.

(a) Multiple grounding is permitted at the following locations:

(i) Services;

(ii) Underground circuits where the neutral is exposed; and

(iii) Overhead circuits installed outdoors.

(b) Multiple grounding is not allowed:

(i) For new systems where singlepoint and multigrounded circuits form a single system (e.g., where a single-point circuit is derived from a multigrounded circuit); or

(ii) In new single phase (i.e., single phase to ground) installations.

(7) Multigrounded neutral conductor. NEC 250.184(D) is replaced with the following:

Where a multigrounded neutral system is used, the following will apply for new balanced phase to phase circuits and extensions, additions, replacements; and repairs to all existing systems of 1 kV and over:

(a) For existing systems:

(i) The cable's concentric shield must be used as the neutral and all the requirements for neutral conductors described in subsection (6) of this section must be met; or

(ii) The cable's concentric shield must be effectively grounded to a separate bare copper neutral conductor at all locations where the shield is exposed to personnel contact.

(b) For new systems:

A separate copper neutral must be installed and the cable's concentric shield is effectively grounded to the separate neutral at all locations where the shield is exposed to personnel contact.

(c) In addition to (a) and (b) of this subsection, the following is required:

(i) A minimum of two made electrodes, separated by at least six feet, must be installed at each existing and new transformer and switching/overcurrent location and connected to the neutral conductor at that location;

(ii) At least one grounding electrode must be installed and connected to the multigrounded neutral every 400 m (1,300'). The maximum distance between adjacent electrodes must not be more than 400 m (1,300');

(iii) In a multigrounded shielded cable system, the shielding must be grounded at each cable joint that is exposed to personnel contact;

(iv) All exposed noncurrent carrying metal parts (e.g., mounting brackets, manhole covers, equipment enclosures, etc.) must be effectively grounded to the neutral conductor; and

(v) An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the design of the multiple grounding installation has been reviewed by the electrical engineer and the design is in accordance with the requirements of chapter 19.28 RCW, this chapter, and normal standards of care. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

NEW SECTION

WAC 296-46B-300 Wiring methods and materials—Wiring methods.

001 Wiring methods.

(1) Cables and raceways for telecommunications, power limited, NEC Class 2 and Class 3 conductors must be installed in compliance with Chapter 3 NEC unless other methods are specifically allowed elsewhere in the NEC, chapter 19.28 RCW, or this chapter.

011 Support of raceways, cables, or boxes in suspended ceilings.

(2) NEC power limited, Class 2, and Class 3 cables must be secured in compliance with NEC 334.30 and must be secured to boxes in compliance with NEC 314.17.

(3) Telecommunications cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Telecommunications cables may be fished into inaccessible hollow spaces of finished buildings. Clamps or fittings are not required where telecommunications cables enter boxes.

(4) Optical fiber cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Optical fiber cables may be fished into inaccessible hollow spaces of finished buildings. Supports must allow a bending radius that will not cause damage to the cables.

(5) Where not restricted by the building code official or Article 300 NEC, the wires required in NEC 300.11(a) may support raceways, cables, or boxes under the following conditions:

(a) Raceways and/or cables are not larger than three-quarter-inch trade size;

(b) No more than two raceways or cables are supported by a support wire. The two-cable limitation does not apply to telecommunications cables, Class 2 cables, or Class 3 cables on support wires installed exclusively for such cables. The support wire must be adequate to carry the cable(s) weight and all attached cables must be secured with approved fittings; or

(c) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

In addition to (a), (b), and (c) of this subsection, the following conditions must be complied with:

(d) The support wires are minimum #12 AWG and are securely fastened to the structural ceiling and to the ceiling grid system; or

(e) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system. Telecommunications cables, Class 2 cables, or Class 3 cables supported as required by this section, may pass through ceiling cavities without serving equipment mounted on or supported by the ceiling grid system.

017 Conductors in raceway.

(6) Cables will be permitted in all raceway systems if:

(a) The cable is appropriate for the environment; and

(b) The percentage fill does not exceed that allowed in NEC Chapter 9, Table 1.

NEW SECTION**WAC 296-46B-314 Wiring methods and materials—
Outlet, device, pull and junction boxes.****001 Boxes and fittings.**

(1) Single conductors, cables, taps, or splices installed in an open bottom junction box or handhole must be suitable for direct burial. However, an open bottom box manufactured specifically for electrical use will be permitted to be used as an electrical junction box to enclose single conductors, cables, taps, or splices rated for wet locations, only under the following conditions:

(a) In vehicular traffic areas the box must be rated for not less than H-20 loading and be provided with a bolted, hinged, or slide-on lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(b) In incidental vehicular traffic areas (e.g., parks, sports fields, sidewalks, grass lawns, etc.) the box must be rated for not less than H-10 loading and be provided with a bolted, hinged, or slide-on lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(c) In nonvehicular traffic areas (e.g., flower beds, patio decks, etc.) the box must be designed for the purpose and be provided with a lid embossed with the identification "ELECTRIC" or "ELECTRICAL."

(d) All conductors must be installed in approved electrical raceways that enter vertically from the open bottom of the enclosure. These raceways must be fitted with a bushing, terminal fitting, or seal incorporating the physical protection characteristics of a bushing, and project not less than 5 cm (2") above the bottom surface material. The bottom surface material must be pea gravel or sand a minimum of 5 cm (2") thick or more if required by the box manufacturer.

(2) Conduit bodies, junction, pull, and outlet boxes must be installed so that the wiring contained in them is accessible without removing any part of the building structure, including insulation material.

NEW SECTION**WAC 296-46B-334 Wiring methods and materials—
Nonmetallic-sheathed cable.****010 Nonmetallic-sheathed cable.**

This section is in addition to the uses permitted/not permitted for nonmetallic-sheathed cable (Type NM) described in NEC 334.10 and NEC 334.12.

Nonmetallic-sheathed cable (Type NM) is permitted in all one- and two-family dwellings.

Nonmetallic-sheathed cable (Type NM) not allowed, except in one- and two-family dwellings, in any multifamily or any other structure exceeding three floors above grade.

For the purpose of this section, the first floor of a structure will be the lowest floor that has fifty percent or more of the exterior wall surface level with or above finished exterior grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage, or similar use will be permitted.

NEW SECTION**WAC 296-46B-358 Wiring methods and materials—
Electrical metallic tubing.****012 Electrical metallic tubing.**

In addition to complying with the provisions of Article 358 NEC, electrical metallic tubing may not be installed in direct contact with the earth or in concrete on or below grade. Also see NEC 300.6 for resistance to corrosion.

NEW SECTION**WAC 296-46B-394 Wiring methods and materials—
Concealed knob-and-tube wiring.****001 Knob-and-tube wiring.**

Article 394 NEC does not prohibit the installation of loose or rolled thermal insulating material in spaces containing existing knob-and-tube wiring provided that all the following conditions are met:

(1) The wiring must be surveyed by an appropriately licensed electrical contractor who must certify in writing to the department that the wiring is in good condition with no evidence of improper overcurrent protection, conductor insulation failure or deterioration, and with no improper connections or splices. The electrical inspector must inspect all repairs, alterations, or extensions to the electrical system.

(2) The insulation must meet Class I specifications as identified in the Uniform Building Code, with a flame spread factor of twenty-five or less as tested using ASTM E84-81a. Foam insulation may not be used with knob-and-tube wiring.

(3) All knob-and-tube circuits must have overcurrent protection in compliance with NEC Table 310.16, 60 degree centigrade, Column C. Overcurrent protection must be either circuit breakers or Type S fuses.

NEW SECTION**WAC 296-46B-410 Equipment for general use—
Luminaires. 004 Luminaires.**

(1) All luminaires within an enclosed shower area or within five feet of the waterline of a bathtub must be enclosed; these luminaires, with exposed metal parts that are grounded, must be ground fault circuit interrupter protected.

030 Flexible cord connection pendant boxes and electric discharge luminaires.

(2) The flexible cord and cord connection must comply with NEC 410.30 and the following:

(a) Connection to a suspended pendant box must utilize an integral threaded hub;

(b) The length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device must not exceed six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(d) The flexible cord must be a minimum #14 AWG copper;

(e) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;

(f) The flexible cord must be hard or extra hard usage; and

(g) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

NEW SECTION

WAC 296-46B-422 Equipment for general use—Appliances.

010 Water heater circuit.

Water heaters with a rated circuit load in excess of 3,500 watts at 208 or 240 volts must be provided with branch circuit conductors not smaller than #10 AWG copper or equal. Overcurrent protection must comply with NEC 422.11(E).

NEW SECTION

WAC 296-46B-430 Motors, motor circuits, and controllers. 007 Marking on motors and multimotor equipment.

(1) All motors required to be listed in the NEC or elsewhere in this chapter must be listed or field evaluated by a

laboratory. Other motors are not required to be listed or field evaluated by a laboratory.

(2) All motors must be manufactured according to National Electrical Manufacturer's Association (NEMA) standards for motors. This requirement does not apply to motors that:

(a) Are a component part of equipment listed or field evaluated by a laboratory; or

(b) Are a component part of industrial utilization equipment approved by the department per WAC 296-46B-030.

NEW SECTION

WAC 296-46B-450 Equipment for general use—Transformers and transformer vaults.

027 Flammable-liquid or oil-filled transformers installed outdoors.

(1) Flammable-liquid or oil-filled transformers installed outdoors must meet the following requirements:

(a) A transformer installed adjacent to a building/structure with any combustible surface may be located only in the shaded "Approved Transformer Area" shown in Figure 450-1;

"Approved Transformer Area" shown in Figure 450-1;

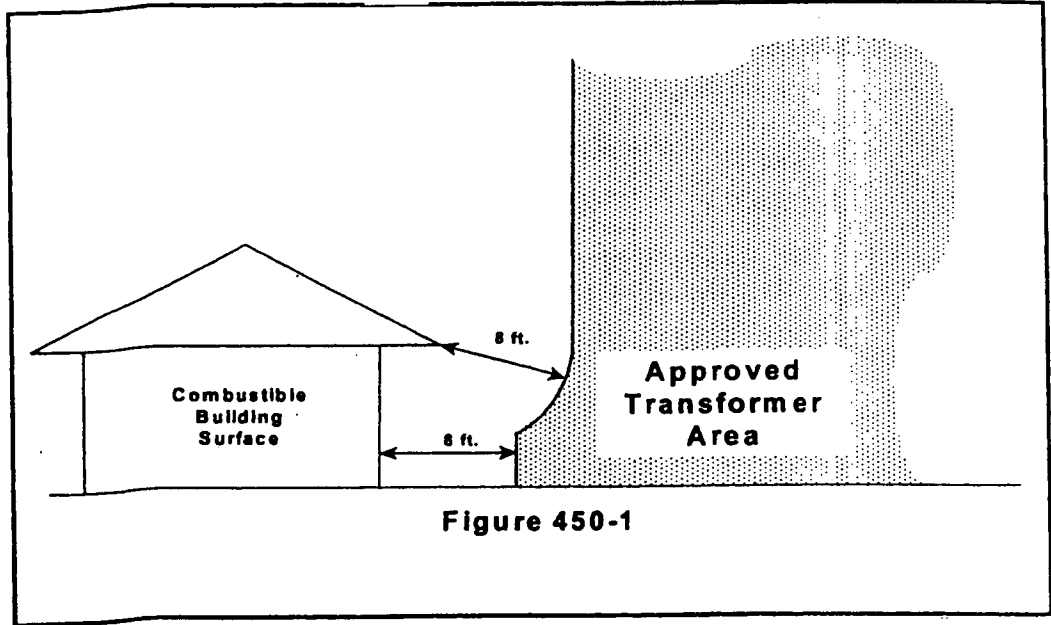
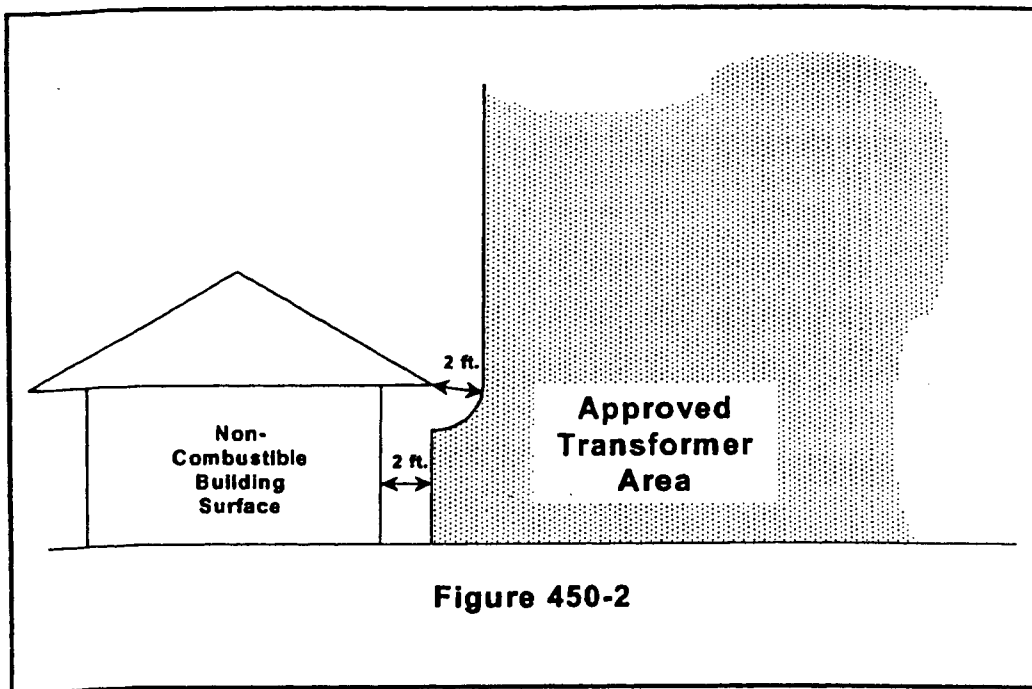


Figure 450-1

(b) A transformer installed adjacent to a building/structure with no combustible surface(s) may be located only in the shaded "Approved Transformer Area" shown in Figure 450-2;

PERMANENT



(c) In an area in which a transformer is to be installed next to a noninhabited structure, the transformer may be no closer than two feet to the building/structure and must be outside a line extended vertically from the ends of the eaves or rooflines;

(d) A building/structure may have no doors, windows, stairways, or other openings closer than eight feet to the transformer;

(e) The finished grade at the location of the transformer must be such that any oil leaking from the transformer will flow away from the building/structure and will not pool; and

(f) If transformers are installed in areas subject to traffic other than pedestrian traffic, they must be provided with adequate guarding.

(2) Enclosures for total underground flammable-liquid or oil-filled transformers must not be located within eight feet of a doorway, operable window, stairways or fire escape. Adequate space must be maintained above the enclosure so that a boom may be used to lift the transformer from the enclosure.

NEW SECTION

WAC 296-46B-501 Special occupancies NEC Class 1 locations.

001 Sewage disposal systems.

(1) Pumping chambers for sewage, effluent, or grinder pumps in on-site and septic tank effluent pump (S.T.E.P.) disposal systems will be considered unclassified when not more than five residential units are connected to the system, residential units are connected to a utility sewage system, or when nonresidential systems have residential loading characteristics and all of the following general installations requirements are complied with:

(a) The pumping chamber must be adequately vented. Venting may be accomplished through the building or structure plumbing vents where the system venting has been approved by the local jurisdiction authority or by a direct two-inch minimum vent to the atmosphere;

(b) Equipment that in normal operation may cause an arc or spark must not be installed in any pumping chamber;

(c) Float switches installed in a pumping chamber must be hermetically sealed to prevent the entrance of gases or vapors; (d) Junction boxes, conduits and fittings installed in the septic atmosphere must be of a noncorrosive type, installed to prevent the entrance of gases or vapors;

(e) Where a conduit system is installed between the pumping chamber and the control panel, motor disconnect, or power source, an approved sealing method must be installed to prevent the migration of gases or vapors from the pumping chamber, and must remain accessible; and

(f) Wire splices in junction boxes installed in pumping chambers must be suitable for wet locations.

(2) Residential wastewater loading characteristics in a nonresidential installation:

(a) For systems that process less than three thousand five hundred gallons of wastewater per day may be certified by:

(i) An on-site wastewater designer licensed under chapter 18.210 RCW; or

(ii) A professional engineer, engaged in the business of on-site wastewater system design, licensed under chapter 18.43 RCW.

(b) For systems that process three thousand five hundred gallons or more of wastewater per day may be certified by a professional engineer, engaged in the business of on-site wastewater system design, licensed under chapter 18.43 RCW.

Written documentation must be signed and stamped by the designer or engineer and provided to the electrical inspector prior to inspection.

(3) Any residential or nonresidential system that has building or structure floor drains being discharged into the system is classified as Class I Division I. Drains from any commercially made tub, shower, basin, sink, or toilet are not considered floor drains.

(4) Pumping chamber access covers can be covered by gravel, light aggregate, or noncohesive granulated soil, and must be accessible for excavation. Access covers that are buried must have their exact location identified at the electrical panel or other prominent location by an identification plate. The authority having jurisdiction for performing electrical inspections must approve the identification plate location.

(5) Indoor grinder pumps installed in chambers with less than fifty gallons capacity are not required to meet the requirements of this section, except for the venting requirements in subsection (1)(a) of this section. Indoor grinder pumps installed in chambers with less than fifty gallons capacity are not classified systems as described in Article 500 NEC.

(6) Secondary treatment effluent pumping chambers such as sand filters are unclassified, and require no special wiring methods.

(7) Inspection approval is required prior to covering or concealing any portion of the septic electrical system, including the pump. New septic and effluent tanks containing electrical wires and equipment must be inspected and approved prior to being loaded with sewage.

NEW SECTION

WAC 296-46B-514 Special occupancies—Motor fuel dispensing facilities.

001 General.

(1) In addition to the scope included in NEC 514.1, Article 514 NEC must be complied with for all liquified flammable gas storage or transfer facilities.

011 Emergency disconnecting means - dispensing and service stations.

(2) An emergency disconnecting means or operator must be provided to disconnect the pump or dispensing equipment serving gasoline, volatile flammable liquids, or liquefied flammable gases. The emergency disconnecting means or operator must disconnect all conductors of the circuit supplying all station dispensers and/or pumps (including the grounded conductor) simultaneously from the source(s) of supply.

(3) For installations with only one dispensing device, the emergency disconnecting means/operator may be used to satisfy subsection-(2) of this section.

(4) For multicircuit installations, an electrically held normally open contactor operated by a push-button may serve as the disconnecting means to satisfy subsection (2) of this section. If a disconnecting pushbutton is used, the pushbutton may not function as the resetting mechanism for the electrically held contactor. The resetting means must be:

(a) Located at least fifteen feet or out of sight from the disconnecting pushbutton;

(b) Installed behind a cover or guard; and

(c) Identified with an identification plate that is substantially black in color.

(5) The disconnecting means satisfying subsection (2) of this section must be labeled with an identification plate, with letters at least one inch high, as the emergency disconnecting means. The disconnecting means or operator must be:

(a) Substantially red in color; and

(b) For attended facilities - must be readily accessible and must be located outdoors and within sight of the pump or dispensing equipment it controls; or

(c) For unattended facilities - must be readily accessible and must be located within sight, but at least twenty feet from the pump or dispensing equipment it controls.

NEW SECTION

WAC 296-46B-517 Special occupancies—Health care facilities.

001 Health care facilities.

In health care facilities, the following methods must be used to determine adequate capacity and ratings of equipment providing electrical power for the essential electrical systems defined in Article 517 NEC:

(1) Systems in new facilities:

(a) Emergency system: The emergency branch must consist of two branches known as:

(i) Life safety system: The feeder conductors and equipment used to supply electrical power to the life safety branch must be determined by summation of the connected loads as determined by Article 220 NEC and may not be subjected to any reduction due to the diversity of the loads. Feeder and equipment will be subject to a one hundred twenty-five percent multiplier for continuous loads in accordance with Article 220 NEC.

(ii) Critical branch system: The feeder conductors and equipment must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(b) Equipment branch: The feeder conductors and equipment used to supply electrical power to the equipment branch of the essential electrical system must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential system of a health care facility must meet or exceed the summation of the loads determined in (a) and (b) of this subsection with no additional demand factors applied. Momentary X-ray loads may be ignored if the generator is rated at least three hundred percent of the largest momentary X-ray load connected.

(2) Existing essential systems in facilities to which additional load is to be added:

(a) Existing loads: The existing loads of the separate branches of the essential electrical system may be determined by WAC 296-46B-010(20).

(b) Added loads: Added loads to the separate branches of the essential electrical system must be determined by subsection (1) of this section.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential electrical system must meet or exceed the summation of the loads determined by (a) and (b) of this subsection with no additional demand factors applied.

NEW SECTION

WAC 296-46B-520 Special occupancies—Theaters, motion picture and television studios, performance areas and similar areas.

001 Concerts, motion picture productions, stage shows, and similar shows.

(1) Service equipment, separately derived systems, feeders and circuits for concerts, motion picture productions, stage shows, and similar shows, must comply with the NEC and this chapter.

(2) The ampacity of cords and cables must be determined from the appropriate Article 400 NEC cord and cable ampacity tables including all notes.

NEW SECTION

WAC 296-46B-527 Special occupancies—Temporary installations.

001 Temporary installations.

(1) For the purposes of this section, any circuit used for construction purposes is considered to be temporary.

004 Temporary installations - splices.

(2) A splice or junction box is required for all wiring splice or junction connections in a temporary installation.

NEW SECTION

WAC 296-46B-550 Special occupancies—Mobile homes, manufactured homes and mobile home parks.

001 Mobile/manufactured homes - inspection.

(1) All alterations to the mobile/manufactured home electrical system must be permitted and inspected by the factory assembled structures section of the department. Electrical wiring in structures that are attached to the mobile/manufactured home and for which the source of power is from the mobile/manufactured home is inspected by the factory assembled structures section of the department.

032 Mobile/manufactured homes - service.

(2) If an electrical service is installed on the mobile/manufactured home:

(a) It must be installed only by the manufacturer, at the manufacturing plant. The manufacturer must complete the service except for service connections, meter, and grounding electrode conductor; and

(b) The owner or an electrical contractor must complete the service at the site.

033 Mobile/manufactured homes - feeder.

(3) When the mobile or manufactured home is supplied with power using a permanent wiring method, the equipment

grounding conductor will be permitted to be bare. Bare conductors used underground must be copper. For the purposes of this section, portable cord is not considered a permanent wiring method.

NEW SECTION

WAC 296-46B-553 Special occupancies—Floating buildings. 004 Floating buildings and similar facilities - services and feeders.

(1) Where electrical power is provided, floating buildings and similar facilities in addition to complying with the appropriate sections of Article 553 NEC must have a readily accessible service rated disconnect located on the shoreline within sight of the shoreline connection of the dock, wharf or similar structure to which the floating building or similar facility is moored.

(2) Where shore power is provided, each floating building or similar facility must have a disconnecting means located within sight of each floating building or similar facility. The disconnecting means must be installed adjacent to but not in or on the floating building or similar facility.

007 Floating buildings and similar installations - wiring methods.

(3) Extra-hard usage portable power cables rated not less than 75° C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment may be used as a permanent wiring method when joining the structures indicated above and for any concealed or protected wiring on a sectionalized floating dock leading to a floating building or similar facility. The cable needs to be resistant only to environments it is normally exposed to on an ongoing basis.

(4) Conductors operating in excess of 600 volts, nominal may not be installed on floating portions of a floating building or similar facility.

NEW SECTION

WAC 296-46B-555 Special occupancies—Marinas and boatyards. (1) For the purposes of NEC 555.1, the scope of work includes private, noncommercial docking facilities.

(2) For the purposes of NEC 555.5, transformers must be located a minimum of twelve inches above the deck of a dock (datum plane requirements do not apply for this section).

(3) For the purposes of NEC 555.7, adjacent means within sight.

(4) For the purposes of NEC 555.9, all electrical connections must be installed a minimum of twelve inches above the deck of a pier unless the connections are approved for wet locations (datum plane requirements do not apply for this section).

(5) For the purposes of NEC 555.10, all enclosures must be corrosion resistant. All gasketed enclosures must be arranged with a weep hole to discharge condensation.

(6) For the purposes of NEC 555.11, gasketed enclosures are only required for wet locations.

(7) For the purposes of NEC 555.13, the following wiring methods are allowed:

(a) All wiring installed in a damp or wet location must be suitable for wet locations.

(b) Extra-hard usage portable power cables rated not less than 75° C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment are permitted. Portable power cables are permitted as a permanent wiring method under or within docks and piers or where provided with physical protection. The requirements of NEC 555.13 (B)(4)(b) do not apply.

(c) Overhead wiring must be installed at the perimeter of areas where boats are moored, stored, moved, or serviced to avoid possible contact with masts and other parts of boats.

(d) For the purposes of NEC 555.13 (B)(5), the wiring methods of Chapter 3 NEC will be permitted.

(8) For the purposes of NEC 555.19, receptacles must be mounted not less than twelve inches above the deck surface of the pier or dock (datum plane requirements do not apply for this section). Shore power receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

(9) For the purposes of NEC 555.21, electrical wiring and equipment located at or serving dispensing stations must comply with Article 514 NEC in addition to the requirements of this section.

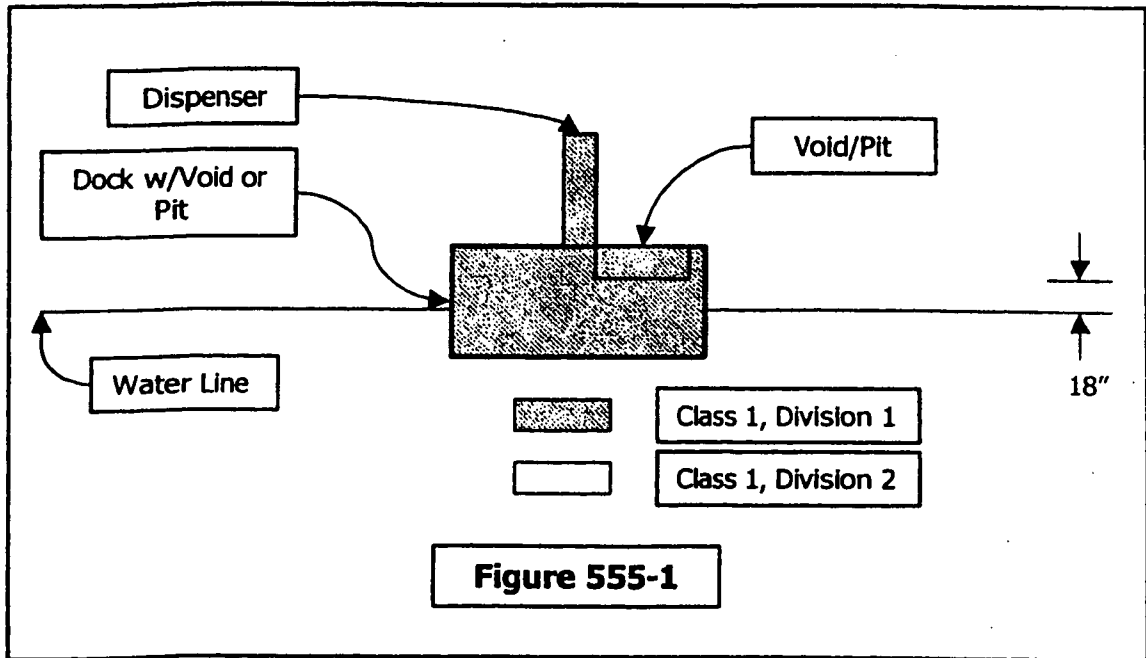
(a) Boundary classifications.

(i) Class I, Division 1. The area under the dispensing unit is a Class I, Division 1 location. If a dock has one or more voids, pits, vaults, boxes, depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within twenty feet horizontally of the dispensing unit, then the area below the top of the dock and within twenty feet horizontally of the dispensing unit is a Class I, Division 1 location. See Figure 555-1.

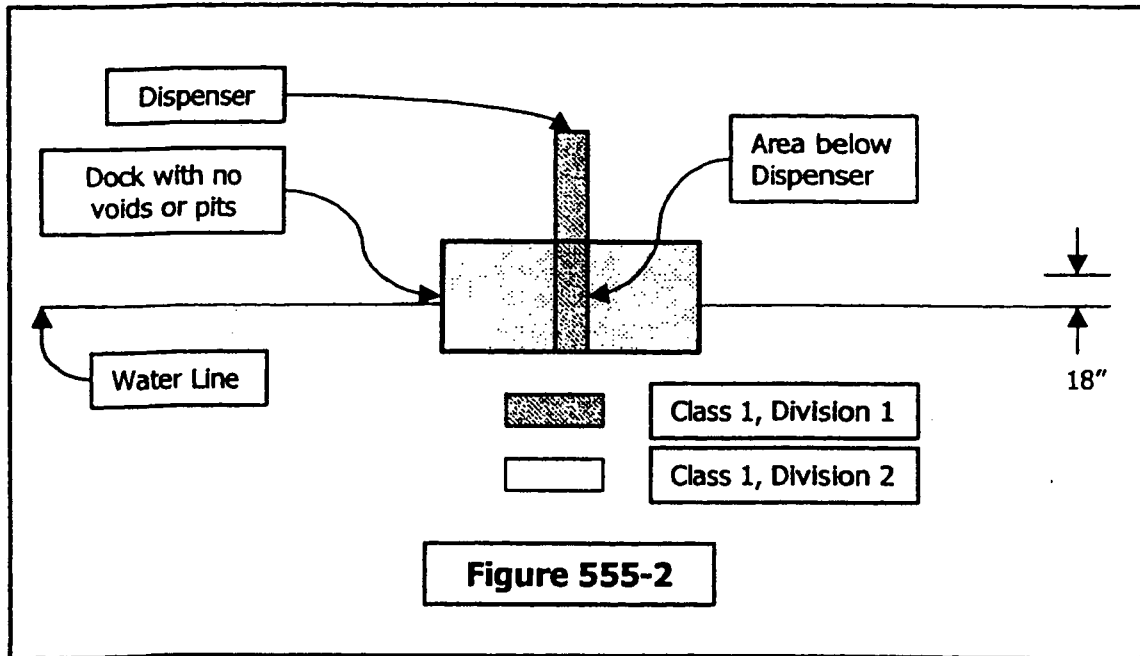
(ii) Class I, Division 2. The area eighteen inches above the water line and within twenty feet horizontally of the dispensing unit is a Class I, Division 2 location. If a dock has one or more voids, pits, vaults, boxes, depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within twenty feet horizontally of the dispensing unit, then the area to eighteen inches above the top and adjacent to the sides of the dock and within twenty feet horizontally of the dispensing unit is a Class I, Division 2 location. See Figure 555-2.

(b) Portable power cable will be allowed as a permanent wiring method in Class I, Division 2 locations when protected from physical damage.

(10) For the purposes of NEC 555.23, the datum plane requirements do not apply.



PERMANENT

**NEW SECTION****WAC 296-46B-600 Special equipment—Electric signs and outline lighting.****001 Electrical signs - general.**

(1) All electrical signs within the scope of UL Standard 48, the electrical sign standard, must be listed. All electrical signs outside the scope of UL Standard 48 will be inspected for compliance with the NEC.

009 Awning electrical signs.

(2) Luminaires in outdoor awnings must be suitable for wet locations and be connected by a wiring method suitable for wet locations.

(3) Fluorescent luminaires must be located at least six inches from the awning fabric. Incandescent lamps or luminaires must be located at least eighteen inches from the awning fabric. A disconnecting means must be installed per Article 600 NEC.

(4) Listed awning signs must be installed in compliance with the manufacturer's instructions and the NEC.

010 Portable or mobile outdoor electrical signs.

(5) A weatherproof receptacle outlet that is weatherproof with the supply cord connected must be installed within six feet of each electrical sign.

(6) Extension cords are not permitted to supply portable outdoor signs.

(7) All portable outdoor electrical signs must be listed or field evaluated by a laboratory accredited by the department.

030 Neon tubing.

(8) NEC 600, Part II, Field-Installed Skeleton Tubing, will apply to all neon tubing and neon circuit conductors.

NEW SECTION**WAC 296-46B-680 Special equipment—Swimming pools, fountains and similar installations.****001 General.**

(1) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within five feet of a spa or hot tub must be listed or field evaluated as a package with the spa or hot tub.

(2) A factory assembled skid pack of electrical heating, pumping, filtering, and/or control equipment (skid pack) must be installed more than five feet from a spa or hot tub and shall be listed as a package unit.

(3) The maintenance disconnect and field installed, listed electrical equipment for a hot tub, spa, or swim spa must be located at least five feet from the hot tub, spa or swim spa. Field installed listed equipment must meet the following additional requirements:

(a) The heater is listed as a "spa heater or swimming pool heater";

(b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and

(c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(4) Field installed, listed electrical equipment for a swimming pool must be located at least five feet from the swimming pool. Field installed listed equipment must meet the following additional requirements:

(a) The heater must be listed as a "swimming pool heater or a spa heater";

(b) The pump must be listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and

(c) Other equipment such as panelboards, conduit, and wire must be suitable for the environment and comply with the applicable codes.

The five-foot separation may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The five-foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.

(5) The field assembly or installation of "recognized components" will not be permitted.

(6) Hydromassage bathtubs must be listed as a unit and bear a listing mark which reads "hydromassage bathtub."

(7) Manufacturers' instructions must be followed as part of the listing requirements.

(8) Electrical components which have failed and require replacement must be replaced with identical products unless the replacement part is no longer available; in which case, a like-in-kind product may be substituted provided the mechanical and grounding integrity of the equipment is maintained.

(9) Cut-away-type display models may not be sold for other than display purposes and are not expected to bear a listing mark.

040 Spas and hot tubs.

(10) NEC 680.42(C) will apply for interior and exterior wiring to outdoor installations of spas and hot tubs.

NEW SECTION

WAC 296-46B-700 Special conditions—Emergency systems.

001 Emergency systems - general.

(1) In all health or personal care facilities defined in this chapter, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons, all exit and emergency lights must be installed in accordance with Article 700 NEC and located as required in standards adopted by the state building code council under chapter 19.27 RCW.

009 Emergency systems - equipment identification.

(2) All exit and emergency lights, whether or not required by the NEC, must be installed in accordance with Article 700 NEC.

(3) Device and junction boxes for fire alarm systems other than the surface raceway type, must be substantially red in color, both inside and outside. Power-limited fire protective signaling circuit conductors must be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signaling circuit.

(4) All boxes and enclosures, for Article 700 NEC systems, larger than six inches by six inches, including transfer switches, generators, and power panels for emergency systems and circuits must be permanently identified with an identification plate that is substantially orange in color. All other device and junction boxes for emergency systems and circuits must be substantially orange in color, both inside and outside.

NEW SECTION

WAC 296-46B-800 Communications systems—Communications circuits.

001 Installation.

All telecommunications installations on an end-user's property, beyond the end-user's telecommunications network demarcation point, made by a telecommunications service provider, both inside and outside of a building or structure, must conform to all licensing, certification, installation, permitting, and inspection requirements described in chapter 19.28 RCW and this chapter.

NEW SECTION

WAC 296-46B-900 Electrical work permits and fees. General.

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is completely and legibly filled out and readily available;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions and/or a legible map is provided for the inspectors' use.

(2) An electrical work permit is valid for only one specific site address.

(3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.

Permit - responsibility for.

(4) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed by that entity. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department.

(5) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

(6) Except for emergency repairs to existing electrical systems, electrical work permits must be obtained and posted at the job site prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing

electrical systems must be obtained and posted at the job site no later than the next business day after the work is begun.

(7) Fees must be paid in accordance with the inspection fee schedule, WAC 296-46B-905. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review.

Permit - requirements for.

(8) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems except for: Travel trailers, or **like-in-kind replacement** of a: Circuit breaker, fuse, residential luminaire, lamp, snap switch, dimmer, receptacle outlet, thermostat, heating element, luminaire ballast with an exact same ballast, contactor, relay, timer, starter, circuit board, or similar control component, or 10 horsepower or smaller motor.

(9) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunica-

tions equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Permit - inspection and approval.

(10) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any part of the installation has been energized, whichever occurs first. Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(11) Final inspection approval will not be made until all inspection fees are paid in full.

Permit - duration/refunds.

(12) Electrical work permits will expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permits where the electrical installation has begun; or

(c) Any electrical work permit where an electrical inspection or electrical inspection request has been made.

Permit - annual telecommunications.

(13) The chief electrical inspector can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit.

Permit - annual electrical.

(14) The chief electrical inspector can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a single plant or building location. This type of permit does not include new or increased service or new square footage.

NEW SECTION

WAC 296-46B-905 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

(1) Residential.

(a) Single- and two-family residential (new construction).

Notes:

- (1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
- (2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
- (3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
- (4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft.	\$70.80
Each additional 500 sq. ft. or portion of	\$22.70
(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property	\$29.60
(iii) Each outbuilding or detached garage - inspected separately	\$46.70
(iv) Each swimming pool - inspected with the service	\$46.70
(v) Each swimming pool - inspected separately	\$70.80
(vi) Each hot tub, spa, or sauna - inspected with the service	\$29.60
(vii) Each hot tub, spa, or sauna - inspected separately	\$46.70
(viii) Each septic pumping system - inspected with the service	\$29.60
(ix) Each septic pumping system - inspected separately	\$46.70

(b) Multifamily residential and miscellaneous residential structures, services and feeders (new construction).

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$76.30	\$22.70
201 to 400	\$94.80	\$46.70
401 to 600	\$130.20	\$64.90
601 to 800	\$167.00	\$89.00
801 and over	\$238.10	\$178.60

(c) Single or multifamily altered services or feeders including circuits.

(i) Each altered service and/or altered feeder

Ampacity	Service or Feeder
0 to 200	\$64.90
201 to 600	\$94.80
601 and over	\$142.90

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)

\$35.20

(d) Single or multifamily residential circuits only (no service inspection).

Note:

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above)	\$46.70
(ii) Each additional circuit (see note above)	\$5.20

(e) Mobile homes, modular homes, mobile home parks, and RV parks.

(i) Mobile home or modular home service or feeder only	\$46.70
(ii) Mobile home service and feeder	\$76.30

(f) Mobile home park sites and RV park sites.

Note:

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder	\$46.70
(ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder	\$29.60

(2) Commercial/industrial.

(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).

Note:

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated from (2)(a)(table) of this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Service/feeders

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$76.30	\$46.70
101 to 200	\$94.80	\$59.40
201 to 400	\$178.60	\$70.80
401 to 600	\$208.20	\$83.20
601 to 800	\$269.10	\$113.30
801 to 1000	\$328.50	\$137.10
1001 and over	\$358.40	\$191.20

(b) Altered services or feeders (no circuits).

(i) Service/feeders

Ampacity	Service or Feeder
0 to 200	\$76.30
201 to 600	\$178.60
601 to 1000	\$269.10
1001 and over	\$298.90

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder)

\$64.90

(c) Circuits only.

Note:

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

(i) First 5 circuits per branch circuit panel	\$59.40
(ii) Each additional circuit per branch circuit panel	\$5.20
(d) Over 600 volts surcharge per permit.	\$59.40

(3) Temporary service(s).

PERMANENT

Note:

- (1) See WAC 296-46B-527 for information about temporary installations.
- (2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Ampacity	Service or Feeder	Additional Feeder
0 to 60	\$40.90	\$21.00
61 to 100	\$46.70	\$22.70
101 to 200	\$59.40	\$29.60
201 to 400	\$70.80	\$35.30
401 to 600	\$98.80	\$46.70
601 and over	\$107.50	\$53.60

(4) Irrigation machines, pumps, and equipment.

Irrigation machines.

- (a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL \$5.20
- (b) Towers - when not inspected at the same time as a service and feeders - 1 to 6 towers \$70.80
- (c) Each additional tower \$5.20
- (5) **Miscellaneous - commercial/industrial and residential.**
- (a) **Low-voltage thermostats** controlling a single piece of utilization equipment.
 - (i) First thermostat \$35.30
 - (ii) Each additional thermostat inspected at the same time as the first \$11.10

- (b) **Low-voltage systems and telecommunications systems.** Includes all telecommunications installations, fire alarm and burglar alarm, nurse call, intercom, security systems, energy management control systems, HVAC/refrigeration control systems (other than thermostats above), industrial and automation control systems, lighting control systems, stand-alone sound systems, public address, and similar low-energy circuits and equipment.

- (i) First 2500 sq. ft. or less \$40.90
- (ii) Each additional 2500 sq. ft. or portion thereof \$11.10

(c) Signs and outline lighting.

- (i) First sign (no service included) \$35.30
- (ii) Each additional sign inspected at the same time on the same building or structure \$16.80

(d) Berth at a marina or dock.

Note:

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL (a) (i) above.

- (i) Berth at a marina or dock \$46.70
- (ii) Each additional berth inspected at the same time \$29.60

(e) Yard pole, pedestal, or other meter loops only.

- (i) Yard pole, pedestal, or other meter loops only \$46.70
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$11.10

(f) Emergency inspections requested outside of normal working hours.

Regular fee plus surcharge of: \$89.00

(g) Generators.

Note:

Permanently installed generators: Refer to the appropriate residential or commercial new/alterd service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators \$64.90

(h) Electrical - annual permit fee.

Note:

See WAC 296-46B-900(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$1,710.80
4 to 6 plant electricians	24	\$3,423.30
7 to 12 plant electricians	36	\$5,134.60
13 to 25 plant electricians	52	\$6,847.10
More than 25 plant electricians	52	\$8,559.60

(i) Telecommunications - annual permit fee.

Note:

(1) See WAC 296-46B-900(13).

(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum \$141.60
 Each additional hour, or portion thereof, of portal-to-portal inspection time \$70.80

(j) Permit requiring ditch cover inspection only.

Each 1/2 hour, or portion thereof \$35.30

(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor. \$59.40

(6) Carnival inspections.

(a) First carnival field inspection each calendar year.

- (i) Each ride and generator truck \$16.80
- (ii) Each remote distribution equipment, concession, or gaming show \$5.20
- (iii) If the calculated fee for first carnival field inspection above is less than \$89.00, the minimum inspection fee shall be: \$89.00

(b) Subsequent carnival inspections.

- (i) First ten rides, concessions, generators, remote distribution equipment, or gaming show \$89.00
- (ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show \$5.20

(c) Concession(s) or ride(s) not part of a carnival.

- (i) First field inspection each year of a single concession or ride, not part of a carnival \$70.80
- (ii) Subsequent inspection of a single concession or ride, not part of a carnival \$46.70

(7) Trip fees.

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- (a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.) \$70.80
- (b) Submitter notifies the department that work is ready for inspection when it is not ready. \$35.30
- (c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection. \$35.30
- (d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work. \$35.30
- (e) Each trip necessary to remove a noncompliance notice. \$35.30
- (f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted. \$35.30
- (g) Installations that are covered or concealed before inspection. \$35.30

(8) Progress inspections.

Note:

The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.

On partial or progress inspections, each 1/2 hour. \$35.30

(9) Plan review.

Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-910, plus a plan review submission and shipping/handling fee of:

- (a) Supplemental submissions of plans per hour or fraction of an hour of review time. \$70.80
- (b) Plan review shipping and handling fee. \$16.80

(10) Out-of-state inspections.

(a) Permit fees will be charged according to the fees listed in this section.

(b) Travel expenses:

All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.

(11) Other inspections.

Inspections not covered by above inspection fees must be charged portal-to-portal per hour: \$70.80

(12) Refund processing fee.

All requests for permit fee refunds will be assessed a processing fee. (Refund processing fees will not be charged for electrical contractors, using the contractor deposit system, who request less than twenty-four refunds during a rolling calendar year.) \$11.10

(13) Variance request processing fee.

Variance request processing fee. This fee is nonrefundable once the transaction has been validated. \$70.80

(14) Marking of industrial utilization equipment.

- (a) Standard(s) letter review (per hour of review time). \$70.80
- (b) Equipment marking - charged portal-to-portal per hour: \$70.80

(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.

NEW SECTION

WAC 296-46B-910 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, temporary, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees.

- Notes:**
- (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status.
 - (2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.
 - (3) The amount of the fee due is calculated based on the fee effective at the date payment is made.

(1) General or specialty contractor's license. (Non-refundable after license has been issued.)

- (a) Per twenty-four-month period \$228.60
- (b) Reinstatement of a general or specialty contractor's license after a suspension \$45.90

(2) Master electrician/administrator/electrician/trainee certificate.

- (a) Examination application (nonrefundable)
 - Administrator certificate examination application. \$28.40
 - (Required only for department administered examinations.) (Not required when testing with the department's contractor.)

(b) Examination fees (nonrefundable)

Note: Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.

- (i) Master electrician or administrator first-time examination fee (when administered by the department) \$68.40
 - (ii) Master electrician or administrator retest examination fee (when administered by the department) \$80.00
 - (iii) Journeyman or specialty electrician examination fee (first test or retest when administered by the department) \$51.40
 - (iv) Certification examination review fee \$105.90
- (c) Original certificates (nonrefundable after certificate has been issued)**
- (i) Electrical administrator original certificate (except 09 telecommunication) \$102.15
 - (ii) Telecommunications administrator original certificate (for 09 telecommunications) \$68.10
 - (iii) Temporary specialty electrical administrator certificate (valid as allowed and described in WAC 296-46B-930(2)) (valid for twelve months) \$62.45
 - (iv) Master electrician original certificate ("grandfather" request) \$129.15

(v) Master electrician exam application (includes original certificate and application processing fee) (\$28.40 is non-refundable after application is submitted)	\$130.55
(vi) Journeyman or specialty electrician application (includes original certificate and application processing fee) (\$28.40 is non-refundable after application is submitted)	\$73.30
(vii) Training certificate	\$36.00
(A) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) (\$43.60 is non-refundable after application is submitted)	\$65.40
(B) 75% supervision modified supervision training certificate.	\$43.60
(C) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b).	\$21.80
(viii) Temporary electrician permit (valid as allowed and described in WAC 296-46B-940(27))	\$22.70
(ix) Temporary specialty electrician permit (valid as allowed and described in WAC 296-46B-940(28)) (\$28.40 is non-refundable after the application for the original specialty electrician certificate is submitted) (\$51.10 is non-refundable after temporary permit is issued)	\$96.00
(d) Certificate renewal (nonrefundable)	
(i) Master electrician or administrator certificate renewal	\$129.15
(ii) Telecommunications (09) administrator certificate renewal	\$86.10
(iii) Late renewal of master electrician or administrator certificate	\$258.30
(iv) Late renewal of telecommunications (09) administrator certificate	\$172.20
(v) Journeyman or specialty electrician certificate renewal	\$68.10
(vi) Late renewal of journeyman or specialty electrician certificate	\$136.20
(vii) Trainee certificate renewal or update of hours (i.e., submission of affidavit of experience)	\$43.60
(e) Reciprocal certificate (nonrefundable)	
(i) Master electrician reciprocal certificate	\$129.15
(ii) Journeyman or specialty electrician reciprocal certificate	\$73.30
(f) Certificate - reinstatement (nonrefundable)	
(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$45.90
(ii) Reinstatement of suspended journeyman, or specialty electrician certificate (in addition to normal renewal fee)	\$21.80
(g) Assignment/unassignment of master electrician/administrator designation (nonrefundable)	\$34.00
(3) Certificate/license - replacement for lost or damaged certificate/license. (Nonrefundable.)	\$15.00
(4) Continuing education courses. (Nonrefundable.)	
(a) Continuing education course submittal and approval (per course)	\$43.70
(b) Continuing education course renewal (per course)	\$21.80
(5) Copy fees. (Nonrefundable.)	
Certified copy of each document (maximum charge per file):	\$48.30
(a) First page:	\$21.80

(b) Each additional page:	\$2.00
(6) Refund processing fee. (Nonrefundable.)	\$11.10
(7) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$500.00
(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$250.00

NEW SECTION

WAC 296-46B-911 Electrical testing laboratory fees.

The amount of the fee due is calculated based on the fee effective at the date payment is made.

Initial filing fee: (Nonrefundable)	\$ 500.00
Initial accreditation fee:	
1 product category	\$ 250.00
Each additional category for the next 19 categories	\$ 100.00 each
Maximum for 20 categories or more	\$2150.00
Renewal fee: (Nonrefundable)	50% of initial filing fee
Renewal of existing accreditations	
Each additional category for the next 19 categories	\$ 100.00 each
Maximum for 20 categories or more	\$2150.00

NEW SECTION

WAC 296-46B-915 Civil penalty schedule.

- Notes:**
- (A) Each day that a violation occurs will be a separate offense.
 - (B) Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.
 - (C) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW or this chapter, or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW or this chapter the department may double the penalty amounts shown in subsections (1) through (13) of this section.
 - (D) A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.
 - (E) The penalty amount will be waived for the first offense. If a subsequent offense occurs within a three-year period, the first offense penalty amount will be reinstated and immediately due and payable without further right of appeal.

(1) Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:

- (a) That convey or utilize electrical current without having a valid electrical contractor's license.

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(b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(2) Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.

First offense:	\$100 (see note E)
Each offense thereafter:	\$500

(3) Performing electrical work without having a valid certificate of competency or electrical training certificate.

First offense:	\$250
Each offense thereafter:	\$500

(4) Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(5) Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(6) Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.

First offense:	\$50 (see note E)
Second offense:	\$250
Each offense thereafter:	\$500

(7) Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractor's license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.

First offense:	\$500
Second offense:	\$1,000
Each offense thereafter:	\$2,000

Definition: The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

First offense:	\$250 (see note E)
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(10) Failing to make corrections within fifteen days of notification by the department.

Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250 (see note E)
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(11) Failing to obtain or post an electrical/telecommunications work permit prior to beginning the electrical/telecommunications installation or alteration.

Exception: In cases of emergency repairs to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

First offense:	\$250
Homeowner - First offense:	\$50
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(12) Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator.

First offense:	\$100 (see note E except for RCW 19.28.061 (5)(a) or 19.28.430 (3)(a))
Second offense:	\$750
Third offense:	\$1,500
Each offense thereafter:	\$3,000

(13) Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.

RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.

First offense:	\$250
Each offense thereafter:	\$500

All other chapter 19.28 RCW provisions and the rules developed pursuant to them.

First offense:	\$250
Second offense:	\$750
Each offense thereafter:	\$2,000

NEW SECTION

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) General electrical (01): A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations.

(2) All specialties listed in this subsection may perform the work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. **Specialty (limited) electrical licenses and/or certificates** are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings not exceeding three floors above grade. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed

installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring occupancies defined in WAC 296-46B-010(12), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection (see Table 920-1).

(c) **Domestic well (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase used in residential potable water or residential sewage disposal systems.

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, or repair exterior luminaires that are mounted on a pole or other structure with like-in-kind components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) To form or pour a concrete pole base used to support a sign;

(C) To operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) To assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

On the effective date of this rule, any entity holding a currently valid electrical contractor's license, electrical administrator's certificate, master specialty electrician's certificate, or specialty electrician's certificate in this specialty will be issued combination specialty status for HVAC/refrigeration (06A) at no cost and without examination.

(f) **HVAC/refrigeration systems:**

(i) See WAC 296-46B-020 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard (see Figure 920-1 and Figure 920-2);

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

• Integrated building control systems, other than HVAC/refrigeration systems;

• Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigera-

tion system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other (see Figure 920-2); or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration (06A):

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three floors on/above grade; or Regardless of the number of floors above grade if the installation:

- Does not pass between floors;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;
- Repair, replace, and maintain HVAC/refrigeration:

Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of floors on/above grade.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - restricted (06B):

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

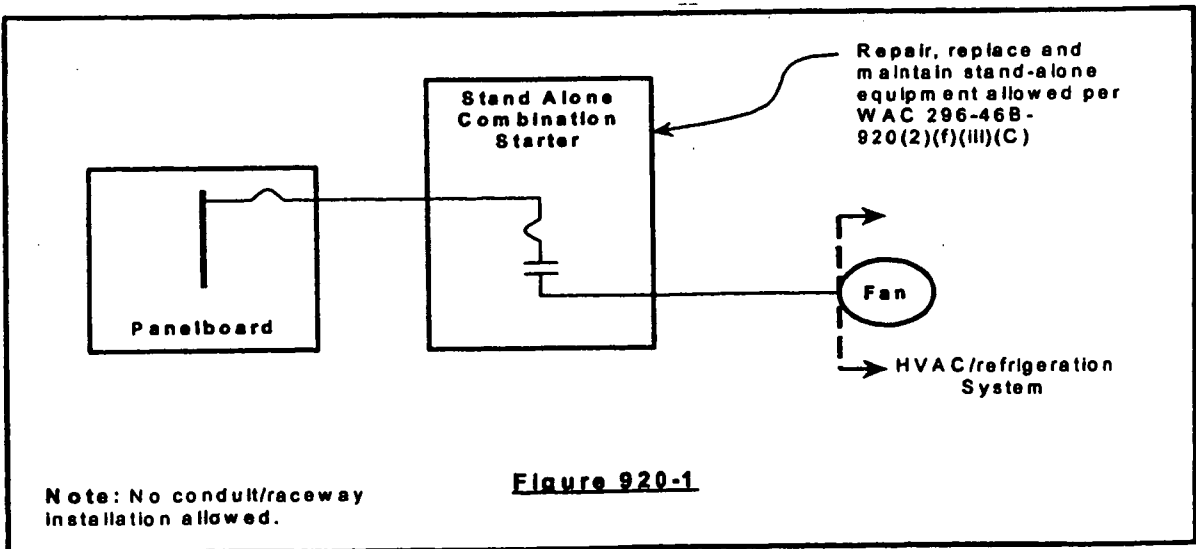
(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three floors on/above grade.

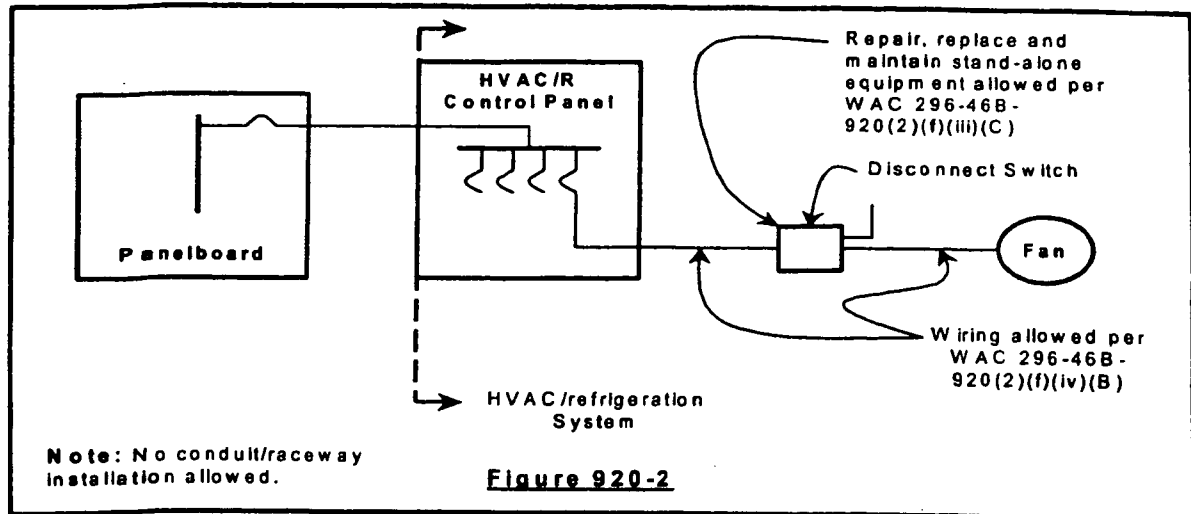
(C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

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(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors on industrial or commercial premises. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential (02) specialty electrician examination.

This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection (see Table 920-1).

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing luminaires, water heating equipment, ranges, electric heaters, similar household type appliances, and all permit exempted work as defined in WAC 296-46B-900.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing luminaires, water heating equipment, ranges, electric heaters, similar household type appliances, and all permit exempted work as defined in WAC 296-46B-900 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection (see Table 920-1).

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and utilization equipment include, but are not limited to: Dish washers, ovens, water heating equipment, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

(i) For the purposes of this subsection:

(A) The utilization equipment must be:

Self-contained on a single skid or frame;

Factory built to standardized sizes or types;

Connected as a single unit to a single source of electrical power limited to a maximum of 600 volts. The equipment may also be connected to a separate single source of electrical control power limited to a maximum of 250 volts; and

Listed or field evaluated by a laboratory or approved by the department under WAC 296-46B-030. See WAC 296-46B-430 for additional information on motors.

(B) Equipment includes, but is not limited to: Household type appliances, water heating equipment, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, motors, pumps, grind-

ers, scales, vehicle repair equipment, welders, air compressors, blowers, dryers, cranes/lifts, kilns, commercial/ industrial utilization equipment, commercial/industrial water processing equipment, and similar utilization equipment.

(C) Equipment does not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps used for the conditioning of occupant air, or door/gate/similar equipment.

(ii) This specialty includes:

(A) The in-place, like-in-kind replacement of the equipment if the same unmodified electrical circuit is used to supply the equipment being replaced;

(B) The in-place, like-in-kind replacement or repair of electrical components within the equipment;

(C) The in-place, like-in-kind replacement or repair of remote control components that are integral to the operation of the equipment (e.g., telemetry-signaling devices, pressure switches, limit switches, photoelectric sensors, etc.); or

(D) The disconnection, replacement, and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit.

(iii) This specialty does not include the installation, repair, or modification of wiring that interconnects equipment and/or remote components, branch circuit conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple equipment or other electrical components.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed

by appropriately licensed electrical contractors and certified electricians.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

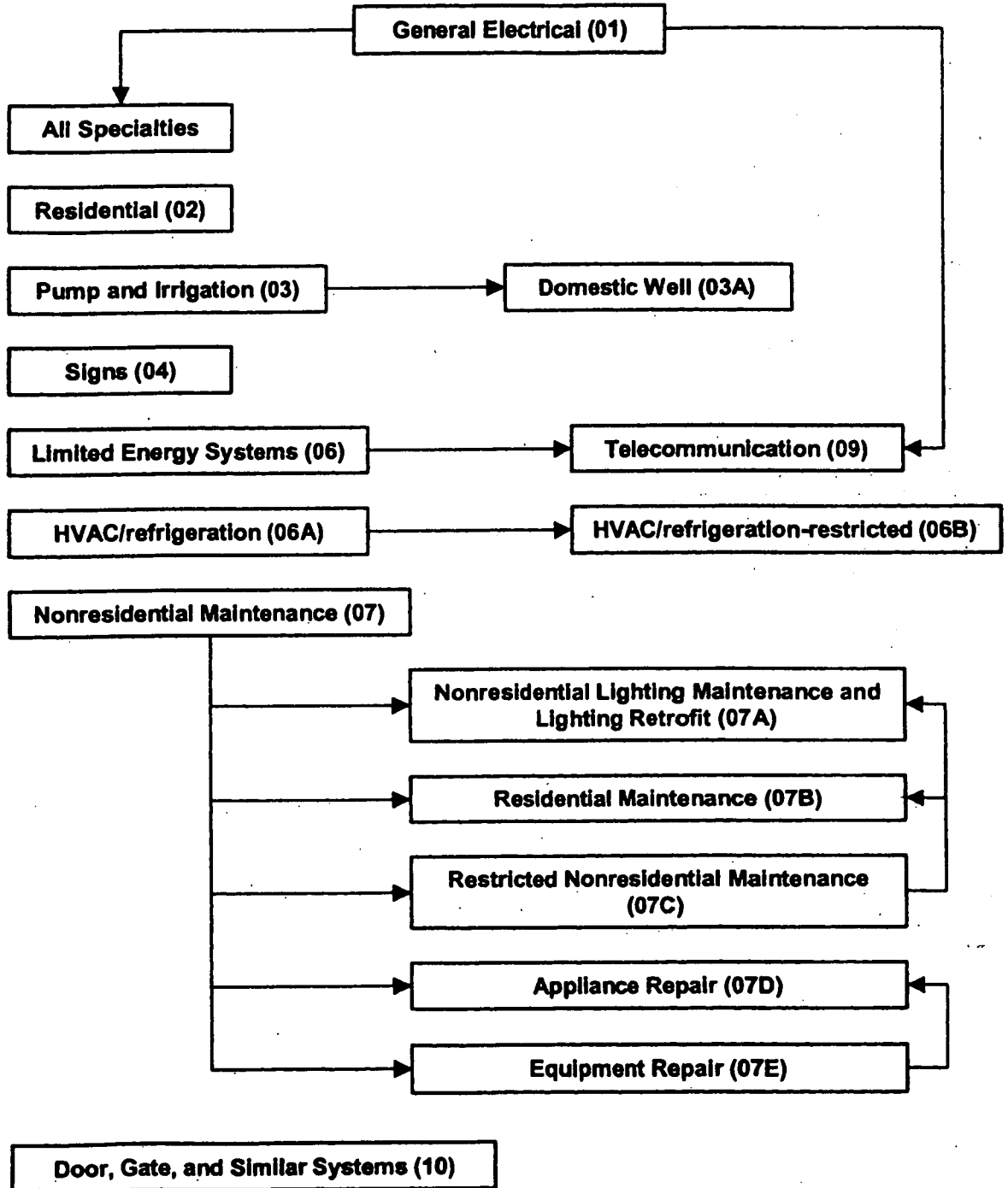
- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This spe-

cialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

Table 920-1 Allowed Scope of Work Crossover



PERMANENT

NEW SECTION**WAC 296-46B-925 Electrical/telecommunications contractor's license. General.**

(1) The department will issue an electrical/telecommunications contractor's license that will expire twenty-four months following the date of issue to a person, firm, partnership, corporation or other entity that complies with requirements for such license in chapter 19.28 RCW. An electrical/telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of the individual legal owner(s) are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications (09).

(3) The department may deny renewal of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) to the department.

Electrical/telecommunications contractor cash or securities deposit.

(4) Cash or securities deposit. The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Telecommunications contractor insurance.

(5) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than twenty thousand dollars for injury or damages to property, fifty thousand dollars for injury or damage including death to any one person, and one

hundred thousand dollars for injury or damage including death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the department in writing ten days prior to the effective date of said cancellation or failure to renew.

(6) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Electrical/telecommunications contractor exemptions.

(7) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

- (a) Built-in residential vacuum systems;
- (b) Underground landscape sprinkler systems;
- (c) Underground landscape lighting; and
- (d) Residential garage doors.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(e) The power supplying the installation must be derived from a listed Class 2 power supply;

(f) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(g) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(h) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(8) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(9) Firms who install listed plug and cord connected equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not exceed 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The equipment must be a single manufactured unit that does not require any electrical field assembly except for the installation of the plug and cord.

(10) Firms regulated by the Federal Communications Commission or the utilities and transportation commission, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(11) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(13) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(14) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder.

Volunteering for nonprofit organizations such as churches, senior centers, etc., is generally not allowed. Volunteering for these types of organizations may be allowed under the following guidelines:

(a) A local nonprofit organization, whose members own the building or structure, may solicit a volunteer electrical contractor to oversee the electrical installation. The organization's members or other persons may volunteer to perform electrical work for the organization, under the supervision of the volunteer electrical contractor, if they are properly certified by the department as electricians or trainees.

(b) The volunteer electrical contractor and its administrator will be responsible to maintain proper ratio, per RCW 19.28.161, of certified electricians to certified trainees on the job site at all times. The volunteer electrical contractor must either provide on-site supervision or designate one of the volunteer electricians as the on-site supervisor.

(c) The volunteer electrical contractor must purchase the electrical work permit, and ensure that the electrical installation is in compliance with the requirements of chapter 19.28 RCW and chapter 296-46B WAC.

(15) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

Exemptions - electrical utility and electrical utility's contractor.

(16) Electrical utility system exemption. Neither a serving electrical utility nor a contractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters and other apparatus or appliances used to measure the consumption of electricity.

(a) Street lighting exemption. A serving electrical utility is not required to have an electrical contractor's license or electrical permit to work on electrical equipment used in the lighting of streets, alleys, ways, or public areas or squares.

Utilities are allowed to install outside area lighting on privately owned property where the lighting fixture(s) is installed on a utility owned pole(s) used to support utility owned electric distribution wiring or equipment designed to supply electrical power to a customer's property.

Utilities are allowed to install area lighting outside and not attached to a building or other customer owned structure when the areas are outside publicly owned buildings such as: Publicly owned/operated parking lots, parks, schools, play fields, beaches, and similar areas; or the areas are privately owned where the public has general, clear and unrestricted access such as: Church parking lots, and commercial property public parking areas and similar areas.

Utilities are not allowed to install area lighting when the area is privately owned and the public does not have general, clear, and unrestricted access such as industrial property, residential property and controlled commercial property where the public's access is otherwise restricted.

Utilities are not allowed to install area lighting where the lighting is supplied from a source of power derived from a customer owned electrical system.

(b) Customer-owned equipment exemption. A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is on the primary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

(c) Exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.091.

(d) Exemption from inspection.

(i) The work of a serving electrical utility and its contractors on the utility system is not subject to inspection. The utility is responsible for inspection and approval for the installation.

(ii) Work exempted by NEC 90.2 (B)(5), 1981 edition, is not subject to inspection.

Exemptions - electrical utility telecommunications transition equipment installations, maintenance and repair.

(17) Until July 1, 2004, no license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC shall be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) # 8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) # 6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semi-annually for conformance with the requirements of (a), (b) and (c) of this subsection but shall not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption shall be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

Exemptions - independent electrical power production equipment exemption.

(18) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility and: Is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

- Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

- The electrical power generated by the facility is not used for self-generation or any other on- or off-site function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(c) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(d) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical

power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits supplied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

Exemptions - telegraph and telephone utility and telegraph and telephone utility's contractor.

(19) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The telecommunications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

Exemptions - manufacturers of electrical/telecommunications products.

(20) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period;

or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(21) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment,

modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or

(v) Test connections with any part of:

(A) The utility's transmission or distribution system; or

(B) The building or structure.

(22) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.-101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(23) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

NEW SECTION

WAC 296-46B-930 Assignment—Administrator or master electrician. (1) An administrator or master electrician designated on the electrical/telecommunications contractor's license must be a member of the firm who fulfills the duties of an assigned master electrician/administrator as required in RCW 19.28.061(5), or be a full-time supervisory employee. In determining whether the individual is a member of the firm, the department will require that the individual is named as:

- (a) The sole proprietor;
- (b) A partner on file with the department of licensing; or
- (c) A member of an LLC on file with the secretary of state.

In determining whether an individual is a full-time supervisory employee, the department will consider whether the individual is on the electrical/telecommunications contractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical/telecommunications contractor, and carries out the duties shown in chapter 19.28 RCW.

(2) A firm may designate certain temporary specialty administrator(s) to satisfy the requirements of RCW 19.28-041 and 19.28.061 under the guidelines described in Table 930-1 - Temporary Specialty Administrator Application/Enforcement Procedure. See note 1 on Figure 955-1 for additional requirements regarding failure to comply with the licensing/certification requirements during the open window opportunity.

Table 930-1 - Temporary Specialty Administrator Application/Enforcement Procedure

SPECIALTIES OPEN FOR ASSIGNING TEMPORARY SPECIALTY ADMINISTRATOR	<ul style="list-style-type: none"> • Domestic well (03A), • HVAC/refrigeration - restricted (06B), • Nonresidential maintenance (07), • Nonresidential lighting maintenance (07A), • Residential maintenance (07B), • Restricted nonresidential maintenance (New - 07C), • Appliance repair (New - 07D), • Equipment repair (New - 07E), • Door, gate and similar systems (10).
Last date to submit application for temporary administrator	September 30, 2004. ^{(2), (3)}
Required business status in the contracting specialty	Chapter 18.27 RCW contractor registration, chapter 19.28 RCW electrical contractor's license, or appropriate Washington business license (effective at any time between January 1, 2002 and September 1, 2002).
Minimum previous experience for firm making temporary designation	N/A

Table 930-1 - Temporary Specialty Administrator Application/Enforcement Procedure

Begin interim enforcement	Effective date of this chapter. ⁽¹⁾
Begin full enforcement	August 1, 2004. ⁽¹⁾
Must pass specialty administrator examination no later than:	Twelve months after submitting temporary specialty administrator assignment. ⁽³⁾

Notes:

- (1) See Figure 955-1 for enforcement procedures.
- (2) To qualify for a temporary specialty administrator certificate, the following must be submitted to the department: Complete contractor's application package, complete temporary specialty administrator's application, complete Assignment of Temporary Specialty Administrator's Certificate form, and all appropriate fees. Fees will be prorated from the three-year amount required in WAC 296-46B-910.
- (3) A firm may only designate a single individual as a temporary administrator in a specialty.
- (4) An individual may not receive a temporary specialty administrator certificate if the individual has previously held any type of administrator certificate in that specialty.

NEW SECTION

WAC 296-46B-935 Administrator certificate. General.

(1) The department will deny renewal of a certificate if an individual owes money as a result of an outstanding final judgment(s) to the department.

(2) For special accommodation see WAC 296-46B-960.

(3) An applicant will not be issued a specialty administrator certificate that is a subspecialty of a certificate the applicant currently holds (i.e., the applicant is not eligible to take the domestic well administrator examination if the applicant currently possesses a pump and irrigation administrator certificate).

Qualifying for examination.

(4) There are no qualification requirements for taking an administrator certificate examination. Applicants should contact the testing agency directly.

Original - administrator certificates.

(5) The scope of work for electrical administrators is described in WAC 296-46B-920. The department will issue an original administrator certificate to a general administrator, or specialty administrator who:

(a) Successfully completes the appropriate administrator examination; and

(b) Submits the appropriate examination passing report from the testing agency with the applicant's: Date of birth, mailing address, and Social Security number; and

(c) Pays all appropriate fees as listed in WAC 296-46B-910.

An individual's original administrator certificate will expire on their birth date at least one year, and not more than three years, from the date of original issue.

PERMANENT

Combination - specialty administrator certificate.

(6) The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate will plainly indicate the specialty administrator's certificate(s) the holder has qualified for. Telecommunications cannot be issued a combination because the renewal requirements are different from those required for electrical administrators. Temporary administrator certificates will not be issued as a part of a combination certificate.

Renewal - administrator certificate.

(7) An individual must apply for renewal of their administrator certificate before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years, with the exception of telecommunications administrators, who will be renewed for two years.

(8) An individual may renew their administrator certificate within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-910.

(9) All renewals received more than ninety days after the expiration date of the certificate will be denied. The administrator will be required to pass the appropriate administrator examination before being recertified.

(10) All applicants for certificate renewal must:

(a) Submit a complete renewal application;
 (b) Pay all appropriate fees as listed in WAC 296-46B-910; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate, the individual's certificate may be suspended or revoked.

Telecommunications administrators are not required to provide continuing education information.

(11) An individual who has not completed the required hours of continuing education can renew an administrator's certificate if the individual applies for renewal before the certificate expires and pays the appropriate renewal fee. However, the certificate will be placed in an inactive status.

When the certificate is placed in inactive status, an assigned administrator will be automatically unassigned from the electrical contractor. The electrical contractor will be notified of the unassignment and has ninety days to replace the administrator. An assignment fee will then be required per WAC 296-46B-910.

The inactive certificate will be returned to current status upon validation, by the department, of the required continuing education requirements.

(12) An individual may renew a suspended administrator's certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(13) An individual may not renew a revoked administrator's certificate.

Temporary specialty administrator certificate.

(14) See WAC 296-46B-930 for additional information.

NEW SECTION**WAC 296-46B-940 Electrician/training/temporary certificate of competency or permit required. Electrician - general.**

(1) The department will deny renewal of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) to the department.

Electrician - scope of work.

(2) The scope of work for electricians and trainees is described in WAC 296-46B-920.

Electrician - certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess a current valid:

(a) Master journeyman electrician certificate of competency issued by the department;

(b) Journeyman electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department;

(e) Temporary electrician permit. Unless continually supervised by an appropriately certified electrician, no temporary electrician can install, repair, replace, or maintain any electrical wiring or equipment where the system voltage is more than 600 volts, whether the system is energized or deenergized; or

(f) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journeyman electrician, journeyman electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

(a) General journeyman (01);

(b) Specialties:

(i) Residential (02);

(ii) Pump and irrigation (03);

(iii) Domestic well (03A);

(iv) Signs (04);

(v) Limited energy system (06);

(vi) HVAC/refrigeration (06A);

(vii) HVAC/refrigeration - restricted (06B);

(viii) Nonresidential maintenance (07);

(ix) Nonresidential lighting maintenance and lighting retrofit (07A);

(x) Residential maintenance (07B);

(xi) Restricted nonresidential maintenance (07C);

- (xii) Appliance repair (07D);
- (xiii) Equipment repair (07E); and
- (xiv) Door, gate, and similar systems (10).

Exemptions - linemen.

(5) See general definitions WAC 296-46B-020 for the definition of a lineman.

(6) Electrical linemen employed by a serving electrical utility or the serving utility's contractor, or a subcontractor to their subcontractor, while performing work described in WAC 296-46B-925 do not need certificates of competency.

(7) Electrical linemen employed by a licensed general electrical contractor do not need certificates of competency if the electrical equipment:

- (a) Is on commercial or industrial property;
- (b) Is located outside a building or structure; and
- (c) The work performed is on the primary side of the customer's transformer(s) supplying power at the customer's building or structure utilization voltage.

Original - master electrician, journeyman, and specialty electrician certificates of competency.

(8) The department will issue an original certificate of competency to master, journeyman, or specialty electricians who meet the eligibility requirements listed in:

- (a) RCW 19.28.191 (1)(a) or (b); and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910;

- (b) RCW 19.28.191 (1)(c) through (d);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910; or

- (c) RCW 19.28.191 (1)(e) through (j);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910.

(9) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - master electrician, journeyman, and specialty electrician certificates of competency.

(10) An individual must apply for renewal of their electrician certificate of competency before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(11) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-910.

(12) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(13) All applicants for certificate of competency renewal must:

- (a) Submit a complete renewal application;

- (b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate of competency, the individual's certificate of competency may be suspended or revoked.

(14) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education.

(15) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(16) An individual may not renew a revoked certificate of competency.

Reciprocal agreements between Washington and other states.

(17) The department negotiates reciprocal agreements with states that have equivalent requirements for certification of master electricians, journeymen, or specialty electricians. These agreements allow electricians from those reciprocal states to become certified in the state of Washington without examination and allow Washington certified electricians to become certified in the other states without taking competency examinations.

(18) An individual coming into the state of Washington from a reciprocal state will be issued a reciprocal electrician certificate of competency if all the following conditions are met:

(a) The department has a valid reciprocal agreement with the other state in the master electrician category requested, journeyman, or specialty category requested;

(b) The individual makes a complete application for the reciprocity certificate on the form provided by the department. A complete application includes:

- (i) Application for reciprocal certificate of competency;

(ii) Evidence that the individual meets the eligibility requirements listed in RCW 19.28.191, by presenting a valid journeyman or specialty electrician certificate or certified letter from the issuing state; and

- (iii) All appropriate fees as listed in WAC 296-46B-910.

(c) The individual obtained the reciprocal state's certificate of competency as a master electrician, journeyman, or specialty electrician by examination;

(19) An individual is not eligible for a reciprocal electrician certificate of competency if the individual:

(a) Has failed to renew a similar Washington master electrician or electrician certificate of competency as required in RCW 19.28.211;

(b) Has a similar Washington master electrician or electrician certificate of competency in suspended, revoked, or inactive status under this chapter; or

(c) Was a resident of the state of Washington at the time the examination was taken in the other state.

Military experience.

(20) An individual who has worked in the electrical construction trade performing work described in WAC 296-46B-920 while serving in the armed forces of the United States may be eligible to take the examination for the certificate of competency as a journeyman or specialty electrician. Credit may be allowed for hours worked or training received.

If an individual has military experience in a specialized electrical field (e.g., rating) that is similar to a specialty electrician category listed in WAC 296-46B-920, credit may be allowed toward the appropriate specialty certificate. Nuclear, marine, radar, weapons, aeronautical experience, or similar experience may not be acceptable.

The military experience should be related to the building construction trade, not shipboard, aircraft, weapons, or similar installations.

Experience in another country.

(21) If an individual has a journeyman electrician certificate from a country outside the United States that requires that at least four years of electrical construction training and certification is obtained by examination, the individual may be eligible for four thousand hours of the specialty credit allowed towards the qualification to take the Washington journeyman electrician examination.

No more than two years of the required training to become a Washington journeyman electrician may be for work described for specialty electricians or technicians in WAC 296-46B-920. In addition to the maximum of four thousand hours credit that may be allowed by this subsection, an additional four thousand hours of new commercial/industrial experience must be obtained using a training certificate in the state while under the supervision of a master journeyman electrician or journeyman electrician.

Documentation substantiating the individual's out-of-country experience must be submitted in English.

(22) Out-of-country experience credit is not allowed toward a specialty electrician certificate.

Training school credit.

(23) No more than fifty percent of the minimum work experience needed to qualify for specialty electrician certification is allowed for any training school program (e.g., a specialty requiring two thousand hours of minimum required work experience may receive no more than one thousand

hours credit from an electrical construction training program).

(24) See RCW 19.28.191 (1)(g) for training school credit allowed for journeyman applicants.

(25) See WAC 296-46B-971 for additional information on training schools.

Temporary electrician permit.

(26) Temporary permits are not allowed for master electricians.

(27) Temporary electrician permit when coming from out-of-state. An individual coming from out-of-state must either obtain a reciprocal electrician certificate, valid training certificate, or make application and receive approval for a temporary electrician permit to perform electrical work in the state, or otherwise obtain an electrician certificate of competency.

(a) Initial temporary electrician permit when coming from out-of-state.

(i) If an individual can show evidence of work experience in another state similar to RCW 19.28.191, the department may issue the individual one initial temporary journeyman or specialty electrician permit. The individual must present appropriate evidence at the time of application showing work experience equivalent to that required by RCW 19.28.191.

The initial temporary electrician permit allows the individual to work as an electrician between the date of filing a completed application for the certification examination and the notification of the results of the examination. This initial permit will be issued for one twenty-day period and will become invalid on the expiration date listed on the temporary electrician permit or the date the individual is notified they have failed the examination, whichever is earlier.

(ii) To qualify for an initial temporary electrician permit, an individual must:

(A) Meet the eligibility requirements of RCW 19.28.191; and

(B) Submit a complete application for an initial temporary electrician permit and original certification including:

- Date of birth, mailing address, Social Security number; and

- All appropriate fees as listed in WAC 296-46B-910.

(iii) The individual must not have ever possessed a Washington master journeyman, journeyman certificate of competency, or a master specialty or specialty electrician certificate of competency in the specialty requested.

(iv) If the initial temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a:

(A) Second temporary electrician permit; or

(B) Training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate specialty, or a specialty electrician working in the appropriate specialty.

(b) Second temporary electrician permit.

(i) If the individual fails the certification examination during the initial temporary electrician period and provides verification of enrollment in an approved journeyman refresher course or approved appropriate specialty electrician refresher course, as prescribed in RCW 19.28.231, application may be made for a second temporary electrician permit.

A complete second application must include proof of enrollment in the refresher course and all appropriate fees as listed in WAC 296-46B-910.

(ii) The second temporary electrician permit will be issued for one ninety-day period and will become invalid: Upon withdrawal from the electrician refresher course, on the expiration date listed on the temporary electrician permit, or the date the individual is notified they have failed the examination, whichever is earlier;

(iii) After successfully completing the electrician refresher course, the individual must provide appropriate course completion documentation to the department and will be eligible to retake the appropriate competency exam.

(iv) If the second temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate specialty, or a specialty electrician working in the appropriate specialty.

(28) Temporary specialty electrician permit gained by using previous work experience gained in the state.

(a) For the specialties listed in chapter 296-46B WAC Table 950-1, individuals credited with the minimum amount of work experience using the criteria described in WAC 296-46B-950 will be eligible for a temporary specialty electrician permit for the purposes of working without supervision and for supervising trainees in the appropriate specialty. This temporary specialty electrician permit will be valid for a period of two years or until the individual has passed the appropriate specialty examination, whichever is first.

(b) To qualify for an initial temporary specialty electrician permit, an individual must:

(i) Document the hour requirements described in chapter 296-46B WAC Table 945-1; and

(ii) Submit a complete application including:

(A) Application for consideration of previous work experience as described in WAC 296-46B-950;

(B) Application for original electrician certificate of competency/examination including: Date of birth, mailing address, Social Security number; and

(C) All appropriate fees as listed in WAC 296-46B-910.

(c) If the individual does not successfully complete the appropriate specialty examination before the temporary specialty electrician permit expires, the individual must obtain a training certificate to continue performing electrical work. Such an individual must apply for a training certificate and work under the supervision of an appropriate electrician.

NEW SECTION

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations. Qualifying for master, journeyman, specialty electrician examinations.

(1) All applicants must be at least sixteen years of age.

Qualifying for the master electrician examination.

(2) An individual may take the master electrician's certificate of competency examination if the individual meets the requirements described in RCW 19.28.191 (1)(c) or (d).

Qualifying for the master electrician examination from out-of-state.

(3) No credit may be applied from out-of-state toward qualifying for a master electrician certificate of competency examination.

Qualifying for the journeyman electrician competency examination.

(4) An individual may take the journeyman electrician's certificate of competency examination if the individual held a current electrical training certificate and has worked for an employer who employs at least one certified master electrician, journeyman, or specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of a master electrician, journeyman electrician or specialty electrician working in the appropriate specialty in the proper ratio, per RCW 19.28.161, for four years (eight thousand hours). Of the eight thousand hours:

(i) At least two years (four thousand hours) must be in new industrial and/or new commercial electrical installation (excluding all work described for specialty electricians or technicians) under the direct supervision of a master journeyman electrician or journeyman electrician while working for a general electrical contractor; and

(ii) Not more than a total of two years (four thousand hours) may be for work described as an electrical specialty in WAC 296-46B-920(2).

(b) Has completed a four-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of a master journeyman or journeyman electrician in the proper ratio, per RCW 19.28.161; or

(c) Has completed a two-year electrical construction training program as described in RCW 19.28.191 for journeyman electricians, and two years (four thousand hours) of work experience in new industrial and/or new commercial electrical installations (excluding work described for specialty electricians or electrical technicians) under the direct supervision of a journeyman electrician while working for a general electrical contractor in the proper ratio, per RCW 19.28.161. See WAC 296-46B-971 for additional training school information.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours)

will not be credited towards qualification for journeyman electrician.

The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state requiring electrician certification.

(5) An individual may take the journeyman/specialty electrician's competency examination when the appropriate state having authority certifies to the department that:

(a) The work was legally performed under the other state's licensing and certification requirements;

(i) For journeyman applicants who meet the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants who meet the minimum hour requirements described in WAC 296-46B-945(9).

(b) The other state's certificate of competency was obtained by examination.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) may not be credited towards qualification for journeyman electrician.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state that does not require electrician certification.

(6) If the other state requires electrical contractor licensing:

(a) An individual may take the journeyman/specialty electrician's competency examination when an appropriately licensed electrical contractor(s) files a notarized letter of experience with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(b) An individual may take the journeyman/specialty electrician's competency examination when an employer(s), acting under a property owner exemption, files a notarized letter of experience from the property owner with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(7) If the other state does not require electrical contractor licensing or registration: An individual may take the journeyman/specialty electrician's competency examination when the individual's employer(s) files a notarized letter(s) of

experience with the department accompanied by payroll documentation which certifies and shows that:

(a) For journeyman applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(4).

(b) For specialty applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(9).

(8) The letter of experience described in subsections (6) and (7) of this section should include a complete list of the individual's usual duties with percentages attributed to each.

Qualifying for a specialty electrician certificate of competency or examination.

(9) An individual may qualify for a specialty electrician's examination and certificate of competency if the individual held a current electrical training certificate, and has worked for an employer who employs at least one certified master journeyman electrician, journeyman electrician, appropriate master specialty electrician, or appropriate specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of an appropriate electrician in the appropriate specialty as follows:

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾⁽⁹⁾	Minimum Hours of Work Experience Required for Certification ⁽⁸⁾
Residential certificate (02)	4,000 ⁽³⁾	4,000
Pump and irrigation certificate (03)	4,000 ⁽³⁾	4,000
Domestic well certificate (03A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Signs certificate (04)	4,000 ⁽³⁾	4,000
Limited energy system certificate (06)	4,000 ⁽³⁾	4,000
HVAC/refrigeration system certificate (06A)	4,000 ⁽³⁾	4,000 ⁽⁷⁾
HVAC/refrigeration - restricted (06B)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Nonresidential maintenance certificate (07)	4,000 ⁽³⁾	4,000
Nonresidential lighting maintenance and lighting retrofit certificate (07A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Residential maintenance certificate (07B)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Restricted nonresidential maintenance certificate (07C)	4,000 ⁽³⁾	4,000
Appliance repair certificate (07D)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Equipment repair certificate (07E)	4,000 ⁽³⁾	4,000

PERMANENT

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾⁽⁹⁾	Minimum Hours of Work Experience Required for Certification ⁽⁸⁾
Door, gate, and similar systems certificate (10)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

- Notes:
- ⁽¹⁾Until the examination is successfully completed, the trainee must work under one hundred percent supervision. Once the appropriate examination is successfully completed, the modified supervision trainee may work under zero percent supervision.
 - ⁽²⁾Two calendar years after the date of initial trainee certification, the trainee must work under seventy-five percent supervision until all required work experience hours are gained and credited towards the minimum work experience requirement even if the trainee has completed the examination.
 - ⁽³⁾This specialty is not eligible for modified trainee status as allowed in chapter 19.28 RCW.
 - ⁽⁴⁾The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.
 - ⁽⁵⁾Neither previous work experience credit nor training school credit is allowed as a substitute for the initial hours of minimum work experience required to be eligible for examination unless the trainee's work experience hours under direct supervision are provided as required in RCW 19.28.191 (1)(f)(ii).
 - ⁽⁶⁾Electrical construction training hours gained in specialties requiring less than two years for certification may not be credited towards qualification for journeyman electrician.
 - ⁽⁷⁾The 2,000 minimum hours of work experience required for certification as a HVAC/refrigeration-restricted (06B) specialty electrician may be credited as 2,000 hours towards the 4,000 minimum hours of work experience required for certification as a HVAC/refrigeration (06A) specialty electrician. Hours of work experience credited from the HVAC/refrigeration-restricted (06B) specialty cannot be credited towards qualification for taking the general electrician (01) examination or minimum work experience requirements.
 - ⁽⁸⁾If any legislation is enacted in 2003 setting the minimum hours of work experience for a specialty electrician certification to be set at one year (2,000 hours), the minimum will be set at 2,000 hours.
 - ⁽⁹⁾If any legislation is enacted in 2003 setting the minimum hours of work experience for a specialty certification required to be eligible for examination to ninety days (720 hours), the minimum will be set at 1,000 hours.

(b) Or has completed an appropriate two-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of an electrician in the appropriate specialty in the proper ratio, per RCW 19.28.161.

Qualifying for a certificate of competency when the Washington electrical work experience is exempt from certification requirements in RCW 19.28.261.

(10) To receive credit for electrical work experience that is exempted in RCW 19.28.261, an individual must provide the department with verification from the employer or owner according to WAC 296-46B-965 (i.e., affidavit(s) of experi-

ence). For the purposes of this section, exempt work does not include work performed on property owned by the individual seeking credit.

(11) All exempt individuals learning the electrical trade must obtain an electrical training certificate from the department and renew it biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(12) The department may require verification of supervision in the proper ratio from the certified supervising electrician(s).

(13) Telecommunications work experience:

(a) Credit may be verified only by employers exempted by RCW 19.28.261, general electrical (01) contractors, and limited energy system (06) electrical contractors for limited energy experience for telecommunications work done:

(i) Under the supervision of a certified journeyman or limited energy electrician; and

(ii) In compliance with RCW 19.28.191.

(b) Individuals who want to obtain credit for hours of experience toward electrician certification for work experience doing telecommunications installations must:

(i) Obtain an electrical training certificate;

(ii) Renew the training certificate biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(c) Telecommunications contractors may not verify telecommunications work experience toward electrician certification.

NEW SECTION

WAC 296-46B-950 Opportunity for gaining credit for previous work experience gained in certain specialties. Some specialties have an opportunity to apply any previous work experience gained toward electrical training credit. See Table 950-1 for opportunities, deadlines and requirements.

To qualify previous work experience training credit toward eligibility for any of the specialty certificate examination(s) in this subsection, an individual must provide proof, upon application for a specialty electrician temporary permit, to the department with a notarized verification letter from the individual's employer(s) documenting:

(1) The specific specialty for which credit is being sought;

(2) The specific date time period for which credit is being sought; and

(3) The number of previous work experience hours for which credit is being sought.

The department will deny application for previous work experience credit if an individual owes money as a result of an outstanding final judgment(s) to the department.

PERMANENT

Table 950-1 Specialty Electrician Open Window to apply previous work experience

SPECIALTIES Available for Open Window	<ul style="list-style-type: none"> • HVAC/refrigeration (06A), HVAC/refrigeration - restricted (06B) 	<ul style="list-style-type: none"> • Domestic well (03A), • Nonresidential maintenance (07), • Nonresidential lighting maintenance and lighting retrofit (07A), • Residential maintenance (07B), • Door, gate and similar systems (10) 	<ul style="list-style-type: none"> • Restricted nonresidential maintenance (New - 07C), • Appliance repair (New - 07D) • Equipment repair (New - 07E)
Previous work experience training credit will only be allowed for:	Work performed prior to September 30, 2000 ⁽³⁾	Work performed prior to June 30, 2001 ⁽³⁾	Work performed prior to the effective date of this chapter ⁽²⁾
Last date to submit application for previous work experience	Make application on or before September 30, 2004, for a specialty electrician temporary permit as described in WAC 296-46B-940(28).		
Begin interim enforcement	Effective date of this chapter ⁽¹⁾		
Begin full enforcement	August 1, 2004 ⁽¹⁾		
Exam completion	If a temporary specialty electrician permit is awarded per WAC 296-46B-940(28), the applicant must pass the specialty electrician examination no later than two years after application. ⁽²⁾		

- Notes:**
- ⁽¹⁾See Figure 955-1 for enforcement procedures. See note 1 on Figure 955-1 for additional requirements regarding failure to comply with the licensing/certification requirements during the open window opportunity.
 - ⁽²⁾See WAC 296-46B-940(28) other temporary specialty electrician permit requirements.
 - ⁽³⁾Work experience gained for these specialties on or after this date will be credited only if the applicant possessed a valid training certificate during the time period worked and met all requirements of chapter 19.28 RCW and this chapter.
 - ⁽⁴⁾Previous work experience credit gained using this section will not be allowed for the same time periods for multiple specialties.
 - ⁽⁵⁾Previous work experience gained using this section will not be applicable towards journeyman certification until the trainee successfully completes the appropriate specialty certification examination and meets all other requirements in chapter 19.28 RCW and this chapter.
 - ⁽⁶⁾Previous work experience gained using this section will not be applicable toward journeyman certification if the specialty has a work experience requirement less than two years (four thousand hours). Hours of experience gained prior to the effective date of this rule may be applied toward journeyman certification if appropriate.
 - ⁽⁷⁾No extension, except as permitted by rule change, of the temporary specialty electrician's status will be permitted. A temporary specialty electrician permit cannot be renewed, except as permitted by rule.
 - ⁽⁸⁾An individual may not receive a temporary electrician permit in a specialty if the individual has previously held a specialty electrician permit in that specialty.

(2) All electrical contractors, administrators, and electricians who possessed a current domestic appliance (05) specialty license or certificate on the effective date of this chapter will be issued a residential (02) license or certificate. No application or examination is required to receive the replacement residential license or certificate.

(3) All training experience currently credited toward the domestic appliance (05) specialty will be considered to be residential (02) experience.

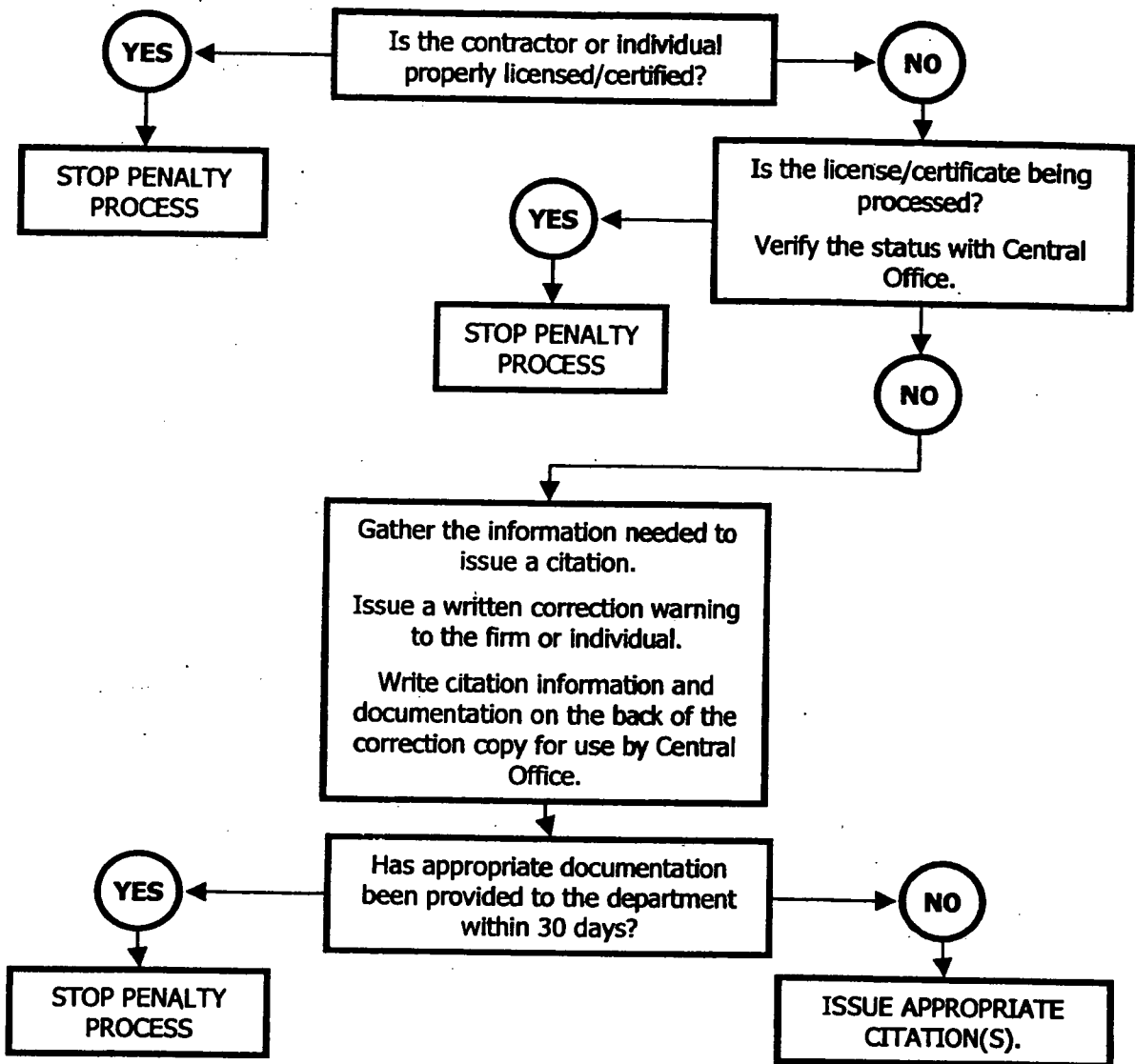
NEW SECTION

WAC 296-46B-955 Specialty contractor/electrician enforcement procedures. Interim noncompliance enforcement procedures are outlined in Figure 955-1 for the specialties listed. All other specialties require full compliance with the requirements of chapter 19.28 RCW and this chapter. Figure 955-1

NEW SECTION

WAC 296-46B-951 Domestic appliance specialty. (1) The domestic appliance specialty (05) is eliminated as of the effective date of this chapter.

PERMANENT



PERMANENT

- Domestic well (03A) ⁽¹⁾
- HVAC/refrigeration (06A) ⁽¹⁾
- HVAC/refrigeration-restricted (06B) ⁽¹⁾
- Nonresidential maintenance (07) ⁽¹⁾
- Nonresidential lighting maintenance and lighting retrofit (07A) ⁽¹⁾
- Residential maintenance (07B) ⁽¹⁾
- Restricted nonresidential maintenance (07C) ⁽¹⁾
- Appliance repair (07D) ⁽¹⁾
- Equipment repair (07E) ⁽¹⁾
- Door, gate and similar systems (10) ⁽¹⁾

Begin Interim enforcement
Effective date of this chapter
 Begin Full enforcement
August 1, 2004

Note: (1) If a citation is issued, the contractor/individual loses the right to apply previous experience or nominate a temporary administrator.

NEW SECTION**WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.**

(1) The minimum passing score on any examination or examination section is seventy percent. If examination is requested to be administered by the department, an application is required and the examination must be successfully completed within one year of application or the individual must submit a new application for exam including all appropriate fees.

(2) All examinations are open book.

(a) Candidates may use:

(i) Any original copyrighted material;

(ii) A silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations; or

(iii) Copies of chapter 19.28 RCW and this chapter.

(b) Candidates may not use:

(i) Copies of copyrighted material;

(ii) Copies of internet publications;

(iii) A foreign language dictionary that contains definitions;

(iv) Personal notes; or

(v) A personal computing device of any type other than the calculator in (a)(ii) of this subsection.

(3) Administrator and master electrician examinations may consist of multiple sections. All sections must be successfully completed within a one-year period of beginning the examination. Within the one-year examination period, the candidate does not have to retake any sections successfully completed within the examination period. If all sections are not successfully completed within the one-year period, the candidate must begin a new examination period and retake all sections.

Special accommodations for examination.

(4) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures, may submit a written request to the chief electrical inspector for the specific accommodation needed.

(a) The applicant must also submit to the department a signed and notarized release, authorizing the specifically identified physician or other specialist to discuss the matter with the department representative. The applicant must also submit an individualized written opinion from a physician or other appropriate specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific examination;

(iii) Stating what special accommodation is necessary; and

(iv) Stating if extra time for an examination is necessary and if so, how much time is required. The maximum allowance for extra time is double the normal time allowed.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department at least six weeks in advance of the examination

date and must be accompanied by a completed application and fees as described in WAC 296-46B-910.

(c) Only readers and interpreters provided from the administrative office of the courts and/or approved by the department may be used for reading or interpreting the examination. The applicant will be required to bear all costs associated with providing any reading or interpretive services used for an examination.

(d) Applicants who pass the examination with the assistance of a reader or interpreter will be issued a certificate with the following printed restriction: "Requires reading supervision for product usage." A competent reader or interpreter must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

Applicants who pass the examination with the assistance of a mechanical device (e.g., magnifier, etc.) will be issued a certificate with the following printed restriction: "Requires mechanical reading assistance for product usage." Appropriate mechanical reading assistance must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

If a candidate successfully retakes the examination without the assistance of a reader or translator, a new certificate will be issued without the restriction.

(5) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.

Failed examination appeal procedures.

(6) Any candidate who takes an examination and does not pass the examination may request a review of the examination.

(a) The department will not modify examination results unless the candidate presents clear and convincing evidence of error in the grading of the examination.

(b) The department will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(7) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be made in writing to the chief electrical inspector and must be received within twenty days of the date of the examination and must request a rescore of the examination. The written request must include the appropriate fees for examination review described in WAC 296-46B-910.

(b) The following procedures apply to a review of the results of the examination:

(i) The candidate will be allowed one hour to review their examination.

(ii) The candidate must identify the challenged questions of the examination and must state the specific reason(s) why the results should be modified with multiple published reference material supporting the candidate's position.

(iii) Within fifteen days of the candidate's review, the department will review the examination and candidate's justi-

fication and notify the candidate in writing of the department's decision.

Subjects included in administrator certificate, or master electrician, journeyman, or specialty electrician competency examinations.

(8) The following subjects are among those that may be included in the examination for an administrator certificate or electrician certificate of competency. The list is not exclusive. The examination may also contain subjects not on the list.

(a) For general administrators, master journeyman, and journeyman electricians:

AC - Generator; 3-phase; meters; characteristics of; power in AC circuits (power factor); mathematics of AC circuits.

Administration - Chapter 19.28 RCW and this chapter.

Air conditioning - Basic.

Blueprints - Surveys and plot plans; floor plans; service and feeders; electrical symbols; elevation views; plan views.

Building wire.

Cable trays.

Calculations.

Capacitive reactance.

Capacitor - Types; in series and parallel.

Circuits - Series; parallel; combination; basic; branch; outside branch circuits; calculations.

Conductor - Voltage drop (line loss); grounded.

Conduit - Wiring methods.

DC - Generator; motors; construction of motors; meters.

Definitions - Electrical.

Electrical units.

Electron theory.

Fastening devices.

Fire alarms - Introduction to; initiating circuits.

Fuses.

Generation - Electrical principles of.

Grounding.

Incandescent lights.

Inductance - Introduction to; reactance.

Insulation - Of wire.

Mathematics - Square root; vectors; figuring percentages.

Motors/controls - Motors vs. generators/CEMF; single phase; capacitor; repulsion; shaded pole; basic principles of AC motors.

Ohm's Law.

Power.

Power factor - AC circuits; correction of; problems.

Rectifiers.

Resistance - Of wire.

Rigging.

Safety - Electrical shock.

Services.

3-wire system.

Tools.

Transformers - Principles of; types; single-phase; 3-phase connections.

Voltage polarity across a load.

Wiring methods - Conduit; general.

Wiring systems - Less than 600 volts; 480/277 volts; single-and 3-phase delta or wye; distribution systems over 600 volts.

Note: The general administrator, master journeyman, and journeyman electrician examinations may also include the subjects listed below for specialty electrician examinations.

(b) For specialty administrators, master specialty and specialty electricians, the following subjects are among those that may be included in the examination. Examination subjects are restricted to those subjects related to the scope of work of the specialty described in WAC 296-46B-920. The list is not exclusive. The examination may also contain subjects not on the list.

AC - Meters.

Administration - Chapter 19.28 RCW and this chapter.

Appliance circuits or controls.

Blueprints - Floor plans; service and feeders.

Cables - Wiring methods.

Calculations.

Circuits - Series; parallel; combination; basic; outside branch.

Conductor - Voltage drop (line loss); grounded; aluminum or copper.

Conduit - Wiring methods.

Electrical signs, circuits, controls, or services.

Electrical units.

First aid.

Fuses.

General lighting.

Grounding of conductors.

Insulation of wire.

Limited energy circuits or systems.

Maintenance of electrical systems.

Mathematics - Figuring percentage.

Motor circuits, controls, feeders, or services.

Ohm's Law.

Overcurrent protection.

Resistance of wire.

Safety - Electrical shock.

Services.

Sizes of building wire.

3-wire system.

Tools.

Transformer - Ratios; single-phase/3-phase connections.

Failing an administrator certificate exam or electrician certificate of competency examination.

(9) Anyone failing an administrator or electrician competency examination may retake the examination by making arrangements with the testing agency and paying the retesting fee.

(10) If the individual makes a score of less than sixty percent, the individual must wait two weeks before being eligible to retest.

(11) If the individual makes a score of sixty to sixty-nine percent, the individual must wait one day before being eligible to retest.

(12) Anyone failing an electrician competency examination may continue to work in the electrical trade if they have a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161. However, if the applicant holds a temporary specialty electrician certificate per WAC 296-46B-940(28), the applicant may continue to work under the temporary specialty electrician certificate until it expires. After the temporary specialty electrician certificate expires, the applicant must obtain a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161.

Cheating on an examination.

(13) Anyone found cheating on an examination or using inappropriate materials/equipment during an examination will be required to wait at least eleven months before being allowed to reexamine. All such reexaminations will be administered by the department in Tumwater, Washington and the candidate will be required to apply and schedule for the examination with the chief electrical inspector.

NEW SECTION

WAC 296-46B-965 Training certificate required.

General.

(1) A training certificate is required to work in the electrical construction trade if an individual does not:

- (a) Possess a current journeyman certificate of competency issued by the department;
- (b) Possess a current specialty electrician certificate of competency issued by the department while working in that specialty's scope of work;
- (c) Possess a valid temporary electrician permit;
- (d) Possess a valid temporary specialty electrician permit while working in that specialty's scope of work; or
- (e) Is not working in exempt status as allowed by chapter 19.28 RCW.

(2) Trainees who have had their training certificates revoked or suspended (during the duration of the revocation or suspension) will not be issued a training certificate.

Original training certificates.

(3) The department will issue an original training certificate when the trainee applicant submits a complete training certificate application including:

- (a) Date of birth, mailing address, Social Security number; and
- (b) All appropriate fees as listed in WAC 296-46B-910.

All applicants for an electrical training certificate must be at least sixteen years of age. The original training certificate will be valid for two years.

Specialty specific - zero percent and seventy-five percent supervision modified training certificates.

(4) For specialties as allowed in Table 945-1 (i.e., specialties with seven hundred twenty minimum hours of work experience required to be eligible for examination):

(a) The department will approve the trainee to take the appropriate specialty competency examination necessary to qualify for a zero percent supervision modified training certificate. To qualify, the trainee applicant must submit a complete zero percent supervision modified training certificate application including:

- (i) Date of birth, mailing address, Social Security number;
- (ii) Affidavit of experience fulfilling the minimum work experience hours required to qualify for the specialty examination described in Table 945-1; and
- (iii) All appropriate fees as listed in WAC 296-46B-910.

Upon successful completion of the appropriate examination, the trainee will be issued a nonrenewable zero percent supervision modified training certificate for the appropriate specialty. The zero percent supervision modified training certificate will be restricted in duration to the time allowed in Table 945-1, note 2.

(b) Prior to the expiration of the zero percent supervision modified training certificate or temporary specialty electrician permit obtained as described in WAC 296-46B-940(28), the individual must submit a complete application for a seventy-five percent supervision modified training certificate for the appropriate specialty including:

(i) Seventy-five percent supervision training certificate application including: Date of birth, mailing address, Social Security number; and

(ii) All appropriate fees as listed in WAC 296-46B-910.

(c) A trainee may possess multiple (i.e., in different specialties) modified supervision training certificates for specialties where reduced supervision is allowed in Table 945-1. Combination training certificates will not be issued.

Renewal of training certificates.

(5) The individual may not apply for renewal more than ninety days prior to the expiration date. An individual will not be issued a renewed or reinstated training certificate if the individual owes the department money as a result of an outstanding final judgment. Within thirty days after renewing an electrical training certificate, the individual, if not enrolled in a department approved apprenticeship program, must submit a completed, signed, and notarized affidavit(s) of experience. If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual. The affidavit of experience must accurately attest to:

(a) The electrical installation work performed for each employer the individual worked for in the electrical trade during the previous period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category worked under the proper supervision of a Washington certified, master journeyman electrician, journeyman electrician or appropriate master specialty electrician or specialty electrician under that specific training certificate. If a trainee possesses multiple training certificates, an affidavit must be

submitted for each training certificate for the hours worked under that specific training certificate.

If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual.

(6) The individual should ask each employer and/or apprenticeship training director for an accurately completed, signed, and notarized affidavit of experience for the previous certification period. The employer(s) or apprenticeship training director(s) must provide the previous period's affidavit of experience to the individual within twenty days of the request. If an individual is enrolled in an approved apprenticeship program under chapter 49.04 RCW when the individual renews an electrical training certificate, the individual and their apprenticeship training director and/or each employer must give the department an accurately completed, signed, and notarized affidavit of experience accurately attesting to:

(a) The electrical installation work the individual performed in the electrical trade during the previous certification period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category under the proper supervision of a Washington certified master journeyman electrician, journeyman electrician or appropriate master specialty or specialty electrician for each employer. For apprentices enrolled in a registered apprenticeship program, the applicant and the training director are the only authorized signatures the department will accept on affidavits of experience.

(7) The individual and their employer(s) and/or apprenticeship training director(s) must sign and have notarized the affidavit of experience attesting to the accuracy of all information contained in the affidavit.

Trainees seeking a journeyman electrician certificate - working with no supervision.

(8) Trainee seeking a general (01) journeyman electrician certificate of competency. After review by the department, a trainee may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow the individual to work without supervision if the trainee:

(a) Has submitted a complete application for an unsupervised electrical training certificate;

(b) Has worked over seven thousand hours properly supervised not to include more than four thousand of specialty experience;

(c) Has successfully completed or is currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges;

(d) Has paid all appropriate training certificate fees listed in WAC 296-46B-910; and

(e) Is currently working for and continues to work for a licensed electrical contractor that employs at least one certi-

fied journeyman or specialty electrician in the appropriate specialty.

Trainees seeking certain specialty electrician certificates - working with reduced or no supervision.

(9) After review by the department, a trainee may be issued a nonrenewable zero percent supervision training certificate that will allow the individual to work without supervision if the trainee meets the requirements in subsection (4) of this section.

(10) Individuals who received a temporary specialty electrician certificate using previous work experience credit as allowed in WAC 296-46B-950 and fail to successfully complete the appropriate specialty examination before the expiration of the temporary specialty electrician permit may be issued a training certificate in the appropriate specialty if the individual submits a complete application as described in WAC 296-46B-965 (4)(b) prior to the expiration of the temporary specialty electrician permit.

(11) HVAC/refrigeration trainees (06A) may work unsupervised when installing HVAC thermostat cable when the system consists of a single thermostat in one- and two-family dwelling units where line voltage power is not connected to the system.

NEW SECTION

WAC 296-46B-970 Continuing education. General requirements - continuing education courses requirements for administrator, master electrician, and electrician renewal.

(1) An individual will not be given credit for the same approved continuing education course taken more than once in the three years prior to the renewal date. No credit will be granted for any course not approved per this section.

(2) Telecommunications administrators do not require continuing education.

(3) Other administrators, master electricians, and electricians.

(a) To be eligible for renewal of an administrator certificate, master electrician, or electrician certificate of competency, the individual must have completed at least eight hours of approved continuing education for each year of the prior certification period. At least eight hours of the total required continuing education must be on the currently adopted National Electrical Code changes. Beginning January 1, 2005, four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and its related WAC(s).

(b) An individual changing an electrical administrator and an electrician certificate of competency into a master electrician's certificate of competency as allowed in RCW 19.28.191 (1)(a) or (b) must have completed at least eight hours of approved continuing education for each year of the prior electrician certification period. Eight hours of the required continuing education must be on the currently adopted National Electrical Code changes.

(c) Any portion of a year of a prior electrician certification period is equal to one year for the purposes of the required continuing education.

Approval process - continuing education course.

(4) The department must review each continuing education course. The department will recommend approval or disapproval to an electrical board subcommittee. The chief electrical inspector will be an ex officio member of this subcommittee. The subcommittee will either approve or disapprove the course.

(5) To be considered for approval, a continuing education course must consist of not less than four hours of instruction and be open to monitoring by a representative of the department and/or the electrical board at no charge. If the department determines that the continuing education course does not meet or exceed the minimum requirements for approval, the department may revoke the course approval or reduce the number of credited hours.

(6) Approved courses must be based on:

(a) Currently adopted edition of the National Electrical Code;

(b) Chapter 19.28 RCW or chapter 296-46B WAC; or

(c) Materials and methods as they pertain to electrical construction, building management systems, electrical maintenance, or workplace health and safety.

(7) Code-update courses must be based on the entire currently adopted National Electrical Code.

Application - for continuing education course approval.

(8) All applications for course approval must be on forms provided by the department. The electrical board will only consider the written information submitted with the application when considering approval of the continuing education training course.

(9) The department will provide continuing education application forms to sponsors upon request. The course sponsor must submit an original completed application for course approval and three copies (unless submitted electronically using department prescribed technology) to the department. The department must receive the complete course application from the sponsor in writing at least forty-five days before the first class requested for approval is offered.

(10) A complete application for course approval must include:

(a) The appropriate course application fee;

(b) Course title, number of classroom instruction hours, and whether the training is open to the public;

(c) Sponsor's name, address, contact's name and phone number;

(d) Course outline (general description of the training, including specific National Electrical Code articles referenced);

(e) Lists of resources (texts, references, visual aids);

(f) Names and qualifications of instructors. Course instructors must show prior instructor qualification and experience similar to that required by the work force training and education coordinating board under chapter 28C.10 RCW;

(g) Any additional documentation to be considered; and

(h) A sample copy of the completion certificate issued to the course participants.

(11) The course sponsor seeking approval of a continuing education course will be notified of the subcommittee's decision within five days of the completed review of the application.

(12) If the application is not approved, the rejection notice will include an explanation of the reason(s) for rejection. If the course sponsor disagrees with the subcommittee's decision, the course sponsor may request a reconsideration hearing by the full electrical board. A request to appeal course rejection must be received by the department forty-five days before a regularly scheduled board meeting. The course sponsor must submit, to the department, any additional information to be considered during the hearing, in writing, at least thirty days before the board hearing. The course sponsor must provide at least twenty copies of any written information to be submitted to the board.

Offering - continuing education course.

(13) The course sponsor may offer an approved course for up to three years without additional approval. However, if the course is classified as code-update or code-related and a new edition of the National Electrical Code is adopted within the course approval period, the course approval will be considered automatically revoked and the course sponsor must submit a new application for review by the department and approval by the electrical board subcommittee.

(14) A continuing education course attended or completed by an individual before final approval by the electrical board subcommittee cannot be used to meet the administrator or electrician certificate renewal requirements.

Documentation - Washington approved training course attendance/completion.

(15) The department is not responsible for providing verification of an individual's continuing education history with the course sponsor.

(16) The course sponsor must provide the department with an accurate and typed course attendance/completion roster for each course given.

(a) The attendance/completion roster must be provided within thirty days of course completion.

(b) In addition, the course sponsor must provide the attendance/completion roster in an electronic format provided by the department.

(c) The attendance/completion roster must show each participant's name, Washington certificate number, course number, location of course, date of completion, and instructor's name. The typed roster must contain the signature of the course sponsor's authorized representative.

(17) If the course sponsor fails to submit the required attendance/completion rosters within thirty days of the course completion, the department may revoke or suspend the course approval.

(18) Course sponsors must award a certificate to each participant completing the course from which the participant will be able to obtain:

(a) Name of course sponsor;

- (b) Name of course;
- (c) Date of course;
- (d) Course approval number;
- (e) The number of continuing education units; and
- (f) The type of continuing education units.

(19) The department will only use a copy of the sponsor's attendance/completion roster as final evidence that the participant completed the training course.

(20) The department will keep submitted rosters of the continuing education courses on file only for audit purposes. The department is not responsible for the original of any completion certificate issued.

Documentation - out-of-state training course attendance/completion.

(21) To apply continuing education units earned out-of-state from course sponsors who do not have state of Washington approved courses, one of the following conditions must be met:

(a) The individual must request that the course sponsor submit a complete continuing education course application and requirements as described in this section for in-state courses.

Application for course approval will not be considered more than three years after the date of the course.

(b) The department must have entered into a reciprocal agreement with the state providing course approval.

The participant must provide a copy of an accurate and completed award or certificate from the course sponsor identifying the course location, date of completion, participant's name, and Washington certificate number. The department will only accept a copy of the sponsor's certificate or form as evidence that the participant attended and completed the course.

NEW SECTION

WAC 296-46B-971 Training schools. (1) The department must evaluate and approve training school programs in the electrical trade as regulated by chapter 19.28 RCW for equivalency to hours of supervised work experience. Approved training programs must be from a Washington state public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

(2) The minimum total hours for an electrical technical training program must be determined per RCW 19.28.191.

(3) Training school programs must be approved before their graduates may request credit for equivalent work experience hours toward journeyman or specialty electrician certification. Until December 31, 2003, existing electrical training programs, in effect after January 1, 2000, may apply for retroactive approval of their program to determine the number of hours that will be credited for the program graduates. After December 31, 2003, all training programs must be approved by the department prior to beginning instruction.

(4) Training schools must submit the curriculum of each journeyman or specific specialty electrical training program

to the department for approval. The curriculum must include a detailed description of each course that is included in the total training hours required by RCW 19.28.191. The curriculum must be reviewed by the department whenever significant changes in program content or course length are implemented or at an interval not to exceed three years. After department review, the program may be renewed. In evaluating the relevance of the curriculum, the department will consider the following criteria:

(a) Scope of work for the appropriate electrician certification.

(b) Understanding whole systems related to and integrated with electrical equipment installation, maintenance, troubleshooting, and appliance repair (e.g., refrigeration, pumps, hydraulics, thermodynamics, compressed air, and similar systems).

(c) Courses not directly related to electrical technical instruction or specific scope of work, but required to complete the specific training program (i.e., mathematics, technical writing, business, safety, first aid, ergonomics, etc.), must not exceed ten percent of the total student/instructor contact time of the program.

(5) Within thirty days after beginning a program, the program sponsor must supply the department with a roster of individuals enrolled in the program. Within thirty days after each graduation cycle, approved training school programs must provide the department with a roster of individuals that have successfully completed the program. The roster must show each student's name, date of completion, Washington training or electrician certificate number or student identification number, and the training program title. An individual must provide a copy of the certificate of completion or proof of graduation from the electrical training program when making application to the department for an electrician examination.

(6) All school training activities involving electrical work or appliance repair done outside of in-school lab facilities must be done under a valid Washington electrical contractor's license. All students performing such work must have a valid training certificate and work under a supervising journeyman or specialty electrician in a ratio, per RCW 19.28.161, in compliance with RCW 19.28.161.

(7) Individuals in a two-year electrical construction trade training program for journeyman electrician must obtain the additional two years of work experience required in new industrial or commercial installation prior to the beginning, or after the completion, of the technical school program.

All student electrical training hours obtained when working for contractors or other employers in intern programs arranged by the school must be evaluated as part of the training program hours. Additional work experience credit gained in an intern program is not allowed.

This does not prohibit trainees in a training program for specialty electricians from having concurrent employment and obtaining additional specialty work experience while attending school. All such concurrent work must be documented in an affidavit of experience per WAC 296-46B-965 (5), (6), (7), and (8).

The following supervision requirements must be met when working as an intern or student:

(a) Intern when working for contractors or other employers as a:

(i) General electrician, there must be not more than one noncertified individual for every certified master journeyman electrician or journeyman electrician.

(ii) Specialty electrician, there must be not more than two noncertified individuals for every certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician.

(b) Student when working for a public community or technical college, or not-for-profit nationally accredited trade or technical school licensed by the work force training and education coordinating board under chapter 28C.10 RCW as a journeyman or specialty electrician in the training program, the ratio requirements are one certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program. All such work will be considered to be an integral part of the training program and work experience credit will not be allowed except as a part of the program.

When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(i) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(ii) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

The public community or technical colleges, or not-for-profit nationally accredited trade or technical schools must be an appropriately licensed electrical contractor when performing work outside the classroom.

(8) The department will use the criteria in this section to evaluate the hours of credit that may be allowed for United States armed forces experience and training in the electrical construction, electrical maintenance, and appliance repair trades. See WAC 296-46B-940(20).

NEW SECTION

WAC 296-46B-975 Electrical audit. General.

(1) The department may audit the employment records of the electrical contractor or employer to verify the employment status of trainees, assigned administrators, or assigned master electricians.

(2) Every employer or contractor must keep a record of trainee, assigned administrator/master electrician employment so the department may obtain the information it needs to verify electrical trainee, assigned administrator, or assigned master electrician status and trainee work experience. Upon the request of the department's auditors or agents, these records must be made available to the department for inspection within seven business days.

(3) Any information obtained from the contractor or employer during the audit is confidential and is not open to public inspection under chapter 42.17 RCW.

Trainee hours.

(4) The time period covered by a trainee audit will not exceed five years prior to the period included in the last affidavit verifying trainee hours is submitted.

(5) An employer or contractor must maintain payroll records, time cards, or similar records to verify:

(a) The number of hours the trainee worked as a supervised trainee;

(b) The type of electrical work the trainee performed; and

(c) Who provided the trainee's supervision.

(6) The department's audit may include, but will not be limited to, the following:

(a) An audit to determine whether the trainee was employed by the contractor or employer during the period for which the hours were submitted, the actual number of hours the trainee worked, the category of electrical work performed, and who provided the trainee's supervision; and

(b) An audit covering a specific time period and examining a contractor's or employer's books and records which may include their reporting of the trainee's payroll hours required for industrial insurance, employment security or prevailing wage purposes.

Administrator/master electrician - status.

(7) The time period covered by an administrator/master electrician audit will not exceed five years prior to the beginning of the audit.

(8) Every employer or contractor must maintain payroll records, time cards, or similar records to verify the work relationship and status of the assigned administrator or master electrician so the department may obtain the information it needs to verify the contractor-administrator/master electrician relationship. Upon the request of the department's auditors or agents, these records must be made available to the department for inspection within seven business days.

(9) The department's audit may include, but will not be limited to, the following:

(a) An audit to determine whether the assigned administrator or assigned master electrician was employed by the contractor or employer during the period assigned which may include their reporting of the assigned administrator's/master electrician's payroll hours required for employment security, prevailing wage, worker's compensation, etc.; and

(b) An audit to determine the full-time supervisory status of the assigned administrator/master electrician.

NEW SECTION

WAC 296-46B-980 Enforcement—Installations, licensing, and certification requirements. (1) The department inspects the electrical worksites of individuals, employers, and employees with respect to the methods and installation requirements of chapter 19.28 RCW and this chapter. The department's electrical inspectors and electrical auditors make electrical work inspections. The department's electrical inspectors, electrical auditors, and compliance officers make electrical licensing/certification inspections.

(2) The department ensures that individuals, employers, and employees comply with the electrical licensing and certification requirements of chapter 19.28 RCW and this chapter. To do this, inspections are made by the department's electrical inspectors/auditors and compliance officers.

Compliance officers or electrical inspectors/auditors determine whether:

(a) Each person or entity advertising to do electrical work or doing electrical work on an electrical worksite has a proper license, certificate, or temporary electrician permit;

(b) The ratio, per RCW 19.28.161, of certified journeyman/specialty electricians to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual who possesses an appropriate certificate of competency or temporary electrician permit for the type of electrical work being performed.

NEW SECTION

WAC 296-46B-985 Penalties for false statements or material misrepresentations. (1) A person who knowingly makes a false statement or material misrepresentation on an application, statement of hours, or signed statement to the department may be referred to the county prosecutor for criminal prosecution under RCW 9A.72.020, 9A.72.030, and 9A.72.040. The department may also file a civil action under RCW 19.28.131 or 19.28.271 and may revoke or suspend a certificate under RCW 19.28.241 or 19.28.341.

(2) The department may file a civil action under RCW 19.28.131 or 19.28.271 and may revoke or suspend a certificate of competency under RCW 19.28.341 or 19.28.241 for inaccurate or false reporting of continuing education units on the administrator, master electrician, or electrician renewal form.

(3) If the department determines that a course sponsor has issued an inaccurate or incomplete course application or attendance/completion roster, the department may suspend or revoke the course approval and deny future approval of a continuing education course(s) by the course sponsor.

(4) The department may file a civil action under RCW 19.28.271 against both the trainee and the contractor, apprentice training director, or other entity verifying the training hours and may subtract up to two thousand hours of employment from a trainee's total hours if the department determines a false statement or material misrepresentation has been made in an affidavit of experience.

NEW SECTION

WAC 296-46B-990 Failure to comply with the electrical contractor licensing, administrator certification, or electrician certification laws. General.

(1) If the compliance officer or electrical inspector/auditor determines that an individual, employer, or employee has violated chapter 19.28 RCW or this chapter, the department will issue a citation that describes the violation.

Suspension or revocation - of an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, temporary electrician's permit, or training certificate.

(2) The department may revoke or suspend, for such time as it determines appropriate, an electrical contractor's license, administrator's certificate, master electrician's certificate of competency, electrician's certificate of competency, temporary electrician's permit, temporary specialty electrician's permit, or training certificate if:

(a) The license, certificate, or permit was obtained through error or fraud;

(b) The license, certificate, or permit holder is judged to be incompetent to work in the electrical construction trade as a master electrician, journeyman electrician, specialty electrician, electrical technician, temporary electrician, temporary specialty electrician, or electrical trainee;

(c) For serious noncompliance as described below. See RCW 19.28.241 and 19.28.341 for other grounds and procedures.

(d) A temporary electrician permit or temporary specialty electrician permit holder has violated any of the provisions of chapter 19.28 RCW or any rule adopted under chapter 19.28 RCW;

(e) The license or certificate holder incompletely or inaccurately reported continuing education units on an application for renewal; or

(f) The certificate holder falsely, incompletely, or inaccurately reported previous work experience.

The department will deny an application for any license/certificate during the period of revocation or suspension of the same or another license/certificate under chapter 19.28 RCW.

(3) For the purposes of this section, serious noncompliance includes, but is not limited to, any of the following:

(a) Failure to correct a serious violation. A serious violation is a violation of chapter 19.28 RCW or chapter 296-46B WAC that creates a hazard of fire or a danger to life safety. A serious violation is also a violation that presents imminent danger to the public. Imminent danger to the public is present when installations of wire and equipment that convey or utilize electric current have been installed in such a condition that a fire-hazard or a life-safety hazard is present. Imminent danger to the public is also present when unqualified, uncertified, or fraudulently certified electricians or administrators; or unlicensed or fraudulently licensed contractors are continuously or repeatedly performing or supervising the performance of electrical work covered under chapter 19.28 RCW. For the purposes of this section, a certified electrician is considered qualified, provided the electrician is working within his or her certification;

(b) The license or certificate was obtained through error or fraud;

(c) Submitting a fraudulent document to the department;

(d) Continuous noncompliance with the provisions of chapter 19.28 RCW or this chapter. For the purposes of this section, continuous noncompliance will be defined as three or more citations demonstrating a disregard of the electrical law,

rules, or regulations within a period of three years, or where it can be otherwise demonstrated that the contractor, master electrician, electrician, or administrator has continuously failed to comply with the applicable electrical standards;

(e) Failure to make any books or records, or certified copies thereof, available to the department for an audit to verify the hours of experience submitted by an electrical trainee;

(f) Making a false statement or material misrepresentation on an application, statement of hours, or signed statement required by the department; or

(g) The certificate holder falsely or inaccurately reported continuing education units on an application for renewal.

For any act of serious noncompliance, the person, firm, partnership, corporation, or other entity may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

(4) Before a license, certificate, or temporary electrician permit is revoked or suspended, the certificate holder will be given written notice of the department's intention to suspend or revoke. Notification will be sent by registered mail to the certificate holder's last known address. The notification will list the allegations against the certificate holder, and provide the certificate holder with the procedures necessary to request a hearing before the electrical board as described in WAC 296-46B-995.

Confiscation - of an electrical contractor's license, administrator certificate, electrician certificate of competency, temporary electrician permit, or training certificate.

(5) The department may confiscate a license, certificate, or temporary electrician permit that is counterfeit, revoked, expired, suspended, or altered. The individual may be referred to the county prosecutor for criminal prosecution under chapter 9A.72 RCW. The department may also file a civil action under chapter 19.28 RCW.

NEW SECTION

WAC 296-46B-995 Electrical board—Appeal rights and hearings. General.

(1) Chapter 19.28 RCW provides the authority for the duties and responsibilities of the electrical board. Except as provided in chapter 19.28 RCW and this chapter, all proceedings will be conducted according to chapter 34.05 RCW the Administrative Procedure Act and chapter 10-08 WAC, Model rules of procedure. See chapter 34.05 RCW the Administrative Procedure Act for specific definitions not described in this chapter.

(2) See RCW 19.28.311 for the composition of the electrical board.

(3) The board adopts the current edition of the "*Roberts' Rules of Order, Newly Revised*."

(4) The board will hold regular meetings on the last Thursday of January, April, July, and October of each year per RCW 19.28.311.

(5) The director or the chairperson of the board may call a special meeting at any time.

(6) Each board member must be notified in writing of the agenda, date, time, and place of each regular and special meeting. "Writing" includes by electronic mail, also known as "e-mail," if the member has provided an e-mail address for such notice.

(7) The board or department may elect to have an appeal heard by the office of administrative hearings either tape recorded or transcribed by a court reporter; and the board may so elect regarding hearings or board reviews heard by the board as a whole.

(8) A majority of the board constitutes a quorum for purposes of rendering any decision.

(a) If a majority does not attend a hearing or board review on an appeal, the board may either continue the hearing or board review to a date certain or may hear the testimony and arguments.

(b) If the board hears the testimony and arguments, the members of the board who are absent may make their decisions after hearing the tape recording or reading the transcript, of the hearing or board review.

(c) If the board selects the method in subsection (8)(b) of this section, at the time of the hearing, the board shall set a date certain for the absent members to complete review of the record and for the board as a whole to vote on the decision. The vote in subsection (8)(b) and (c) of this section may occur by U.S. mail, facsimile or by electronic mail and shall be determined by the board at the hearing; the members' votes shall be public record.

(9) All filings and documents for any matter before the board must be submitted to the chief electrical inspector, as secretary to the board, 7273 Linderson Way, P.O. Box 44460, Olympia, WA 98504-4460. The filings may be submitted by ordinary mail, certified or registered mail, or by personal delivery.

(10) All hearings before the board as a whole shall be held on regularly scheduled meeting dates, as listed in subsection (4) of this section, unless the board determines that an alternate date is necessary. All notices of appeal, with a certified check payable to the department in the sum of two hundred dollars if required, must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before the regularly scheduled board meeting at which the hearing would occur. The appellant must submit any written argument, briefs testimony or documents for the board's consideration at least twenty days prior to the scheduled hearing.

Appeals

(11) Appeals of penalties issued by the department.

(a) A party may appeal a penalty issued by the department, pursuant to chapter 19.28 RCW and this chapter, to the board. The appeal shall be assigned to the office of administrative hearings.

(b) The appeal must be filed within twenty days after the notice of the decision or penalty is served on the assessed party either by personal service or by certified mail, return receipt requested, sent to the last known address of the assessed party and shall be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the

board. The request for an appeal must be accompanied with a certified check payable to the department in the sum of two hundred dollars.

(12) Appeals of proposed decisions issued by the office of administrative hearings.

(a) A party may appeal a proposed decision issued by the office of administrative hearings pursuant to chapter 19.28 RCW to the board. The appeal must be filed within twenty days after service of the decision and must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board.

(b) The notice of appeal of a proposed decision must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before a regularly scheduled board meeting. The appellant must submit any written argument, briefs testimony or documents for the board's consideration at least twenty days prior to the scheduled hearing.

(13) Appeals of suspension or revocation.

(a) An appeal of the suspension or revocation of a license or certificate of competency under RCW 19.28.241 and 19.28.341 will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars for appeals of a revocation or suspension of a contractor's or administrator's license, must be filed within twenty days after the notice of suspension or revocation is served on the subject of said action, either by personal service or by certified mail, return receipt requested, sent to the last known address of the subject and shall be filed by written notice of appeal with the chief electrical inspector, as secretary to the board.

(14) Appeals of decisions on installation.

(a) A party may seek board review for disputes relating to the interpretation and application of electrical/telecommunications installation or maintenance standards under RCW 19.28.111, 19.28.480, and 19.28.531. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars, must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before a regularly scheduled board meeting. The appellant must submit any written argument, briefs testimony or documents for the board's consideration at least twenty days prior to the scheduled hearing.

(15) Judicial review of final decisions of the board.

A party may seek judicial review of a final order of the board within thirty days after service of the decision. Appeals of final decisions and orders must be done in accordance with chapter 34.05 RCW.

(16) If appeal(s) according to subsections (11), (12), and (13) of this section are not filed or the appeal is not filed timely, the proposed decision or action becomes final with no further action on the part of the department or the board.

(17) Appeals - general requirements.

(a) Appeals according to subsections (11) and (12) of this section must specify the contentions of the appellant, and must for subsection (12) of this section specify to which conclusions of law and findings of fact the party takes exception. The appeal will be based on the record of the hearing. The board shall not grant a hearing de novo.

(b) In appeals under subsections (12), (13) and (14) of this section, the issues to be adjudicated must be made as precise as possible, in order that the board may proceed promptly to conduct the hearing on relevant and material matter only.

(c) In all appeals of chapter 19.28 RCW and this chapter, the appellant has the burden of proof by a preponderance of the evidence.

Appearance and practice before board.

(18) No party may appear as a representative in proceedings other than the following:

(a) Attorneys at law qualified to practice before the supreme court of the state of Washington;

(b) Attorneys at law qualified to practice before the highest court of record of another state, if the attorneys at law of the state of Washington are permitted to appear as representatives before administrative agencies of the other state, and if not otherwise prohibited by Washington law; or

(c) An owner, officer, partner, or full-time employee of a firm, association, organization, partnership, corporation, or other entity who appears for the firm, association, organization, partnership, corporation or other entity.

(19) All persons appearing in proceedings as a representative must conform to the standards of ethical conduct required of attorneys before the courts of Washington. If a person does not conform to these standards, the board may decline to permit the person to appear as a representative in any proceeding before the board.

NEW SECTION

WAC 296-46B-998 Standards. (1) The standard(s) used, as the basis of electrical product certification, field evaluation, or department approval must be determined by the department to provide an adequate level of safety or define an adequate level of safety performance.

(2) Generally, standards will be:

(a) Developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, and governmental authorities, and others having broad experience in the electrical products safety field. A standard is used to control the quality and safety of a product;

(b) Compatible with and be maintained current with periodic revisions of applicable national codes and installation standards; and

(c) Approved by the department. The department will evaluate the proposed standard to determine that it provides an adequate level of safety.

(3) All ANSI safety designated electrical product standards may be deemed acceptable for their intended use without further qualification.

(4) If the product safety standard is not ANSI, the standard must be reviewed and approved by the department as an appropriate electrical product safety standard as a part of the field evaluation or department inspection process.

NEW SECTION

WAC 296-46B-999 Electrical testing laboratory requirements. General.

(1) This chapter describes the methods required to obtain recognition and accreditation of electrical product(s) certification and/or field evaluation laboratories by the state of Washington. This chapter provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

(2) An electrical product is considered to be safe when it is either certified by a laboratory accredited by the department or labeled with a field evaluation mark by a laboratory accredited by the department.

(a) The department may declare electrical equipment unsafe if:

(i) The equipment is not being manufactured or produced in accordance with all standards of design and construction and all terms and conditions set out in the certification report for the equipment referred to in this chapter;

(ii) The equipment has been shown by field experience to be unduly hazardous to persons or property;

(iii) An examination of the equipment or of the certification report for the equipment shows that the equipment does not comply with all applicable standards; or

(iv) An examination of the certification report or the equipment shows that the equipment cannot be installed in accordance with this chapter.

(b) When the department declares an electrical product unsafe, the department will:

(i) Notify the product manufacturer and the appropriate testing laboratory in writing;

(ii) Notify the general public by:

(A) Report to the Consumer Product Safety Commission;

(B) A published article in the *Electrical Currents*;

(C) Internet website posting; and

(D) News release.

Accreditation - general.

(3) The department's chief electrical inspector's office provides forms and procedures enabling applicants to submit the data necessary for evaluation or accreditation.

(4) The accreditation period of a NRTL will be valid for the period of the laboratory's current OSHA NRTL accreditation. The accreditation of a non-NRTL will be valid for the period of five years from the date of the department's accreditation.

(5) On-site inspection of a laboratory.

(a) On-site inspection of the laboratory may be required during the initial application process or the renewal process. Technically qualified representative(s) of the department will evaluate for compliance with accreditation criteria.

(b) On-site inspection is not required for NRTL-recognized laboratories requesting approval as certification laboratories using standards for which NRTL recognition has been approved.

(c) The department may waive on-site inspection for:

(i) Laboratories recognized or accredited by another state determined to provide an accreditation program acceptable to the department; or

(ii) NRTL-recognized laboratories requesting approval as certification laboratories for using other standards for which NRTL recognition has not been approved.

(d) The applicant must pay all costs associated with the on-site inspection.

(6) For purposes of chapter 19.28 RCW, all laboratories which certify and/or field evaluate electrical products offered for sale in the state of Washington must be accredited by the department. A NRTL requesting approval as a certification laboratory will be approved for accreditation by the department upon completion of the application process.

(7) Fees are payable as required in WAC 296-46B-911.

(8) The laboratory must apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period specified in subsection (4) of this section or notify the renewing laboratory of the department's reason(s) of refusal following receipt of the completed form and renewal fee. Accreditation may be renewed or refused for one or more electrical product category(ies).

(9) The department accepts or denies laboratory accreditation for all laboratories within the state. Accreditation is determined when a laboratory provides evidence to the department that all the requirements of this chapter are met. Accreditation is determined by the department and prior to making a determination, the department may require information and documentation to be provided by the laboratory.

(a) Accreditation is subject to review when deemed necessary by the department. The laboratory must pay all costs associated with on-site review.

(b) Every accredited laboratory must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. A non-NRTL accredited laboratory must furnish the department an annual report detailing the extent of its activities for the year. The report must include, but not be limited to:

(i) The number of factory inspections;

(ii) Organizational structure;

(iii) Statement of ownership;

(iv) Laboratory equipment verification;

(v) Client accreditation programs;

(vi) Reports of litigation, which in any way were the result of or may affect any accreditation or testing of products covered by this chapter; or

(vii) Assessment of recordkeeping (i.e., certification/evaluation plans, certification/evaluation reports).

(c) The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of a laboratory.

(10) The laboratory will be approved to certify only those categories identified and authorized by the department. The department will approve and list electrical product cate-

gory(ies) the laboratory is qualified to certify or evaluate. The accreditation letter will indicate the electrical product category(ies) for which accreditation is issued.

(11) The department may exclude specific electrical products from acceptance. When required, the laboratory must provide evidence, acceptable to the department, that the laboratory is qualified to certify or field evaluate the specific electrical product. Laboratory recognition as an NRTL for the standard(s) used to certify or field evaluate an electrical product will be acceptable evidence. The standards used for certification or field evaluation must be determined by the department to be acceptable and applicable to the electrical product being certified or field evaluated.

Suspension or revocation.

(12) Any laboratory failing to comply with the requirements of this chapter or submitting false information may have accreditation revoked or suspended for one or more electrical product category(ies).

(13) The department may suspend or revoke the accreditation of any laboratory found to be in noncompliance with this chapter or the laws of the state of Washington.

(14) The department will serve written notice of intent prior to suspension, revocation, or refusal to renew the accreditation of a laboratory.

(15) The laboratory must immediately notify all manufacturers whose products are covered by the accreditation that such products manufactured subsequent to the departmental revocation and offered for sale in the state of Washington can no longer bear the laboratory's label that identified it as a certified product in the state of Washington. A laboratory, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. A laboratory, whose accreditation has been revoked, may reapply for accreditation no sooner than one year after the date of revocation of accreditation.

Business structure, practices, and personnel.

(16) The laboratory must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with manufacturers, suppliers, installers, or vendors of products covered under its certification or evaluation programs.

The laboratory must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well-being of the laboratory.

(17) The laboratory must adequately meet the following business practices:

(a) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures;

(b) Assure that reported values accurately reflect measured and observed data;

(c) Limit work to that for which competence and capacity is available;

(d) Treat test data, records, and reports as proprietary information;

(e) Respond and attempt to resolve complaints contesting certifications and evaluation results;

(f) Maintain an independent relationship between its clients, affiliates, and other organizations so the laboratory's capacity to give certifications and evaluations objectively and without bias is not adversely affected; and

(g) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

(18) Laboratories accredited under this chapter must notify the department within thirty calendar days of any of the following:

(a) Change in company name and/or address;

(b) Changes in major test equipment which affect the ability to perform work for which accredited;

(c) Changes in principal officers, key supervisory and responsible personnel in the company including the director of testing and engineering services, director of follow-up services, and the laboratory supervisor; or

(d) Change in independent status.

(19) The laboratory must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

(a) The procedures and authority to ensure the product complies with the standard(s) established by the program;

(b) A quality control system;

(c) Adequate personnel to perform the certification or evaluation;

(d) Verification and maintenance of facilities and/or equipment; or

(e) Sample selection as applicable for product certifications, and for component testing as necessary for field evaluations.

The plan must demonstrate that the laboratory has adequate personnel, facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the laboratory operations control manual.

(20) The laboratory must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

(a) The laboratory's quality control system must include a quality control or laboratory operations control manual;

(b) The quality control or laboratory operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the laboratory's certification and/or evaluation program(s); and

(c) The laboratory must have a current copy of its quality control or laboratory operations control manual available in the laboratory for use by laboratory personnel.

(21) Competent personnel who must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought must staff the laboratory.

(22) The laboratory must:

(a) Provide adequate safeguards protecting the employment status of personnel from the influence or control of

manufacturers, vendors, or installers of electrical products certified or tested by the laboratory;

(b) Develop and maintain a job description for each technical position category;

(c) Ensure the competency of its staff to perform assigned tasks through individual yearly observation and/or examination by a person(s) qualified by the person who has technical responsibility for the laboratory;

(d) Develop and maintain records of the results and dates of the observation or examination of personnel performance;

(e) Maintain information on the training, technical knowledge, and experience of personnel; and

(f) Develop and maintain an adequate training program assuring that new or untrained personnel will be able to perform assigned tasks properly and uniformly.

Recordkeeping and reporting - general.

(23) The laboratory must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each program for which accreditation is sought. The laboratory must retain these records for a minimum of three years.

(24) The laboratory must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

Recordkeeping and reporting - certification.

(25) Certification reports must contain, as applicable:

(a) Name and address of the laboratory;

(b) Pertinent data and identification of tests or inspections;

(c) Name of client;

(d) Appropriate product title;

(e) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(f) Description and identification of the sample including, as necessary, where and how the sample was selected;

(g) Identification of the test, inspection, or procedure as specified for certification or evaluation by the standard;

(h) Known deviations, additions to, or exclusions from evaluation and certification activities in order to be appropriate for new or innovative products not contemplated by the standard;

(i) Measurements, examinations, derived results, and identification of test anomalies;

(j) A statement as to whether or not the results comply with the requirements of the standard;

(k) Name, contact information, and signature of person(s) having responsibility for the report;

(l) Raw data, calculations, tables, graphs, sketches, and/or photographs generated during certification or evaluation must be maintained if not included in the report;

(m) Control forms documenting the receipt, handling, storage, shipping, and testing of samples;

(n) Laboratory records of its quality control checks and audits for monitoring its test work associated with its certification programs, including:

(i) Records of products assurance (follow-up) test results; and

(ii) Records of detected errors and discrepancies and actions taken subsequent to such detection.

(o) Record of written complaints and disposition thereof; and

(p) A statement that records required by these criteria will be maintained for a minimum of three years after cessation of the certification or evaluation.

Recordkeeping and reporting - field evaluation.

(26) The evaluation report must include:

(a) Name and address of the laboratory;

(b) Name of client;

(c) Address where the evaluated product is or will be installed;

(d) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(e) Description and identification of the nonlisted and nonlabeled component(s) requiring evaluation by applicable standard(s);

(f) Description of the overall product evaluated to include full nameplate data and equipment type;

(g) A statement as to whether or not the results comply with the requirements of the standard;

(h) Pertinent test evaluation data and identification of tests or inspections including anomalies;

(i) Signature of person(s) having responsibility for the report;

(j) Any condition of acceptability or restrictions on use/relocation;

(k) Serial number(s) of the field evaluation label(s) applied must be included with the equipment identification; and

(l) The labor and industries department file identification number;

(27) Within thirty calendar days after affixing the evaluation mark, the laboratory must submit a copy of the evaluation report to:

(a) The department's chief electrical inspector submitted electronically in a format approved by the department;

(b) Local electrical inspection office submitted electronically in a format approved by the department; and

(c) Client submitted in any format acceptable to the client and testing laboratory.

Facilities and equipment.

(28) The laboratory must provide adequate evidence of the calibration, verification, and maintenance of the facilities and equipment specified for each certification or evaluation.

(29) Verification and maintenance of facilities and equipment must include as applicable, but not be limited to:

(a) Equipment description;

(b) Name of manufacturer;

(c) Model, style, serial number, or other identification;

(d) Equipment variables subject to calibration and verification;

- (e) Statement of the equipment's allowable error and tolerances of readings;
- (f) Calibration or verification procedure and schedule;
- (g) Dates and results of last calibrations or verifications;
- (h) Specified maintenance practices;
- (i) Calibration and/or verification of equipment used;
- (j) Name and contact information of personnel or outside contractor providing the calibration or verification service; and
- (k) Traceability to National Institute of Standards and Technology or other equivalent standard reference authority.

Standards.

(30) The laboratory must have copies available, for laboratory personnel use, of applicable standards and other documents referred to or used in performing each certification or test for which approval is sought.

(31) If a laboratory desires to use a standard other than an ANSI standard, the department will evaluate the proposed standard to determine that it provides an adequate level of safety. The National Electrical Code, NFPA 70, will not be allowed to be the primary standard used to evaluate a product.

Product certification.

(32) The electrical product certification program must contain test procedure(s), standard(s) used, certification agreement(s), method(s) of identification of products, follow-up inspection, and other laboratory procedures and authority necessary to ensure that the product complies with the standards (requirements) established by the program.

(33) All components of certified or tested products must be labeled or evaluated for compliance with all standards and conditions of use applicable to such components.

(34) The laboratory must publish an *Annual Product Directory* identifying products that are authorized to bear the laboratory's certification mark. The products directory must briefly describe the program, the products covered, the name of the manufacturer or vendor of the certified products, and the identification of the published standards or the compiled requirements on which the program is based. The product directory must be available to the public. Supplemental up-to-date information must be available to the public at the office of the laboratory during normal business hours.

Certification laboratory/manufacturer - agreement.

(35) Measures to provide for manufacturer compliance with the provisions of the product standard and laboratory control of the use of the certification mark must be embodied in an agreement between the manufacturer and the certification laboratory. The certification agreement must:

- (a) Require the manufacturer to provide information and assistance as needed by the laboratory to conduct the necessary product conformity and production assurance evaluation;
- (b) Allow the laboratory's representative(s) access to the manufacturer's facilities during working hours for inspection and may allow audit activities without prior notice;

(c) Restrict the manufacturer's application of certification marks to products that comply with requirements of the product standard;

(d) Secure the manufacturer's agreement to the publication of notice by the certification laboratory for any product already available in the marketplace that does not meet the safety standard;

(e) Require reevaluation of products whenever the standard covering the product is revised;

(f) Require the laboratory to notify the manufacturer's personnel responsible for and authorized to institute product recall in the case of a hazard;

(g) Provide for control of certification marks by the laboratory;

(h) Require that the laboratory provide the manufacturer with a report of original product evaluation. The report must document conformity with applicable product standards by test results and other data; and

(i) Require the identification of the manufacturer(s) of the product and the location(s) where the product is produced.

Certification mark.

(36) The laboratory owns the certification mark.

(37) The certification mark must be registered as a certification mark with the United States Patent and Trademark Office.

(38) The certification mark must:

(a) Not be readily transferable from one product to another; (b) Be directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. When the physical size of the unit does not permit individual marking, markings may be attached to the smallest package in which the unit is marketed;

(c) Include the name or other appropriate identification of the certification laboratory;

(d) Include the product category; and

(e) The laboratory must have a system of controls and records for all marks. The records must include marks removed or otherwise voided. See WAC 296-46B-999(25).

(39) The certification mark may be applied to the product prior to authorizing the use of a certification mark on a product. The laboratory must:

(a) Determine by examination and/or tests that representative samples of the product comply with the requirements (standards). Components of certified products must comply with the applicable safety requirements (standards) or be listed. Evaluation of the product design must be made on representative production samples or on prototype product samples with subsequent verification that factory productions are the same as the prototype;

(b) Determine that the manufacturer has the necessary facilities, test equipment, and control procedures to ensure that continuing production of the product complies with the requirements; and

(c) If the certification mark is not applied at the manufacturing facility, the laboratory must provide prior notification

to the department of its intent to affix the certification mark in the field.

Certification laboratory product - assurance/follow up.

(40) To verify continued product acceptability, the laboratory must develop and maintain a factory follow-up inspection program and manual to determine continued compliance of certified products with the applicable standard.

(41) The follow-up inspection file must include the:

- (a) Conditions governing the use of the certification mark on products;
- (b) Identification of the products authorized for certification;
- (c) Identification of manufacturer and plant location at which manufacture and certification are authorized;
- (d) Description, specifications, and requirements applicable to the product;
- (e) Description of processes needed for control purposes;
- (f) Description of the manufacturer's quality assurance program when used as part of the follow-up program;
- (g) Description of inspections and tests to be conducted by the manufacturer and the laboratory; and
- (h) Description of follow-up tests to be conducted in the laboratory.

(42) Follow-up procedures and activities must include:

- (a) Periodic inspections at the factory with testing at the factory or certification laboratory of representative samples selected from production and, if appropriate, from the market;
- (b) Periodic auditing or surveillance of the manufacturer's quality assurance program through the witnessing of manufacturer's tests, review of the manufacturer's records, and verification of the manufacturer's produced data;
- (c) Investigation of alleged field failures upon department request; and
- (d) Procedures for control of the use of the certification mark by:
 - (i) Keeping records of the release and use of certification marks;
 - (ii) Removal of marks from noncomplying products;
 - (iii) Return or destruction of unused marks when the authority to use the marks is terminated; and
 - (iv) Legal action.

(43) The frequency of laboratory follow-up inspections must not be less than four times per year during production, unless adequate data is provided to the department to justify less frequent inspections. If there is no production during the year, at least one follow-up inspection is to be completed. The frequency of follow-up inspections must be sufficient to provide a reasonable check on the method(s) the manufacturer exercises to assure that the product bearing the certification mark complies with the applicable standards.

Field evaluation - requirements.

(44) The field evaluation laboratory may perform evaluations on any products or product categories previously approved by the department. NRTL recognition may be accepted by the department as a basis for approval to perform field evaluations. Since OSHA does not review or recognize

laboratories for field evaluation purposes, laboratories seeking accreditation from the department for field evaluation may be required to provide additional justification of capability such as, but not limited to: Recordkeeping, employee standards and proficiency, equipment requirements, and other requirements described in this chapter.

(45) The laboratory must request permission from the department in writing two working days prior to conducting any field evaluation of an electrical product to be installed in any jurisdiction in the state. Requests must be made using a department-supplied form.

(46) The field evaluation process must be completed within six months following department approval. If the field evaluation is not completed within six months following department approval, the laboratory must request permission from the department in writing to continue the evaluation process. If this secondary permission is granted to the laboratory, the department may require the equipment to be placed out-of-service except as necessary to complete the field evaluation process.

(47) The scope of a field evaluation will depend on the status of the item to be evaluated as follows:

(a) A new piece of equipment must have a complete evaluation of all components and the assembly as provided by the manufacturer. For example: An industrial machine with a control panel, remote motors, sensors, controls, and other utilization equipment; and

(b) A product that has been modified internally or by an addition need have only those portions evaluated that were affected by the modification. For example: A switchboard with multiple sections that has a section added would only need the new section, the one section immediately adjacent, and any control modifications evaluated.

(48) Each unit that receives a field evaluation mark applied by the field evaluation laboratory must have sufficient inspections and/or testing completed to ensure it is in essential conformance with the applicable product standard(s).

(49) The laboratory may perform the preliminary evaluation in the manufacturer's facility. Final evaluation and acceptance of the product must be made on-site at the location of final installation, unless waived by the department.

Field evaluation mark.

(50) Only laboratory personnel may apply the field evaluation mark after final acceptance of the product. The field evaluation label must be applied on-site at the location of the final installation, unless waived by the department.

(51) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided.

(52) A field evaluated product may be relocated or fed from a different power source if not prohibited by the field evaluation mark or the field evaluation report.

(53) The field evaluation mark must:

(a) Not be readily transferable from one product to another;

(b) Be directly applied by the laboratory personnel to each unit of production in the form of labels or markings suitable for the environment and use of the product;

(c) Include the name or other appropriate identification of the certification laboratory; and

(d) Include a unique evaluation laboratory reference number.

(54) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided. See subsection (26) of this section.

WSR 03-09-112
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Filed April 22, 2003, 2:53 p.m.]

Date of Adoption: April 22, 2003.

Purpose: This rule establishes a 5% assessment on the gross sale price of the wholesale market value for all grapevine propagation material produced in Washington, and sold within the state or shipped from the state by any licensed nursery dealer. Chapter 15.13 RCW was amended during the 2002 legislative session authorizing the department to collect an assessment on grapevine nursery stock sold in the state and allowing the department to adopt rules to implement the statutory amendment.

Statutory Authority for Adoption: Chapters 15.13 and 34.05 RCW.

Adopted under notice filed as WSR 03-06-102 on March 5, 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 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 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 22, 2003
 Valoria H. Loveland
 Director

NEW SECTION

WAC 16-401-060 Annual assessment—Grapevines.

As provided in RCW 15.13.310, an annual assessment of five percent on the gross sale price of the wholesale market value for all grapevine propagation material produced in Washing-

ton, and sold within the state or shipped from the state by any licensed nursery dealer, is established.

WSR 03-09-142
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2003-01—Filed April 23, 2003, 10:42 a.m.]

Date of Adoption: April 23, 2003.

Purpose: The adopted rule is intended to reduce the burden on network reporting and increase the consistency of data. The rule clarifies the information to be reported, limits the reporting to necessary information, extends the deadline for reporting, and changes the manner in which the reports must be filed.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-220.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.43.515, 48.44.050, 48.46.030, 48.46.200.

Other Authority: RCW 48.42.100, 48.43.515, 48.46.030.

Adopted under notice filed as WSR 03-03-134 on January 22, 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.

April 23, 2003
 Mike Kreidler
 Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 99-2, filed 1/24/00, effective 1/1/01)

WAC 284-43-220 Network reports—Format. ((Beginning January 1, 1999, and by January 31st of every subsequent year,)) Each health carrier ((shall provide a description of each of its networks to the commissioner. In describing its network, each carrier shall include an explanation of its established access standards, noting the criteria used to measure the standards. For example, a carrier should indicate whether travel distances or driving times are used to

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determine accessibility. In addition, each carrier shall indicate which providers are classified as primary care providers, obstetric and women's health care providers) must file with the commissioner an access plan, Provider Network Form A, Network Enrollment Form B and Geographic Network Report.

(1) ~~((Beginning January 1, 1999, each health carrier shall provide the insurance commissioner with:~~

~~(a) An annual))~~ Access plan. A health carrier must describe each of its networks in an access plan as prescribed by WAC 284-43-210.

(2) Provider Network Form A. A carrier must file an electronic ~~((or hard copy paper))~~ report of all participating providers by network ~~((and monthly updates))~~. This report ~~((shall))~~ must contain all ~~((the))~~ data items shown in ~~((the table. (Form A.))~~) Provider Network Form A prescribed by and available from the commissioner. Updated reports must be filed each month. Filing of this data satisfies the reporting requirements of RCW 48.44.080 and the requirements of RCW 48.46.030 relating to filing of notices that describes changes in the provider network.

~~((b) An annual electronic or hard copy paper report indicating))~~ (3) Network Enrollment Form B. By March 31, 2004, and every year thereafter, a carrier must prepare an electronic report showing the total number of covered persons who were entitled to health care services during each month of the year, excluding nonresidents ~~((, by line of business, by product (with identifying form number filed with this office, if appropriate), by county, and by sex. The report shall conform to the table. (Form B.))~~

~~(2) In addition to the provider and covered persons reports, each carrier shall file annual reports meeting the standards below and shall))~~. A separate report must be filed for each network by line of business. The report must contain all data items shown in and conform to the format of Network Enrollment Form B prescribed by and available from the commissioner.

(4) Geographic Network Report. By March 31st of every year, a carrier also must file an electronic or hard copy paper report meeting the standards below. The carrier must update the reports whenever a material change in ~~((a))~~ the carrier's provider network occurs that significantly affects the ability of covered persons to access covered services. Each carrier ~~((shall))~~ must file for each network ~~((with identifying form number(s) filed with this office, if appropriate))~~, using a network accessibility analysis system, such as GeoNetworks or any other similar system:

(a) A map showing the location of covered persons and primary care providers with a differentiation between single and multiple provider locations(-);

(b) An access table illustrating the relationship between primary care providers and covered persons as of December of each year by county, including at a minimum:

(i) ~~((County-~~

~~((ii)))~~ Total number of covered persons(-);

~~((iii)))~~ (ii) Total number of primary care providers(-) (or, if the plan is a Preferred Provider Organization style of managed care, the total number of contracted providers);

~~((iv)))~~ (iii) Number of covered persons meeting the carrier's self defined access standard(-);

~~((v)))~~ (iv) Percentage of covered persons meeting the carrier's self defined access standard(-); and

~~((vi)))~~ (v) Average distance to at least one primary care provider for its covered persons(-); and

(c) ~~((A list indicating alphabetically by county and by city:~~

~~((i) County;~~

~~((ii) City;~~

~~((iii)))~~ An alphabetical list by county and city showing:

(i) Total number of covered persons;

~~((iv)))~~ (ii) Total number of primary care providers (or, if the plan is a Preferred Provider Organization style of managed care, the total number of contracted providers);

~~((v)))~~ (iii) Total number of obstetric and women's health care providers;

~~((vi)))~~ (iv) Total number of specialists;

~~((vii)))~~ (v) Total number of nonphysician providers by license type;

~~((viii)))~~ (vi) Total number of hospitals; and

~~((ix)))~~ (vii) Total number of pharmacies.

~~((3)))~~ (5) A carrier may vary the method of reporting required under subsection ~~((2))~~ (4) of this section upon written request and subsequent written approval by the commissioner ~~((after a showing by)).~~ In the request, the carrier must show that the carrier does not use or does not have easy access to electronic or data systems permitting the method of reporting required without incurring substantial costs.

(6) For purposes of this section:

(a) "Line of business" means either individual, small group or large group coverage;

(b) "Network" means the group of participating providers and facilities providing health care services to a particular line of business.

FORM A: PROVIDER LISTING FORMAT

ORGANIZATION REPORTING: _____

FOR THE YEAR ENDED DECEMBER 31, 19____

FIELD NAME	PROVIDER TYPE			FIELD WIDTH	VALID CODES/STANDARD
	PRACTITIONER	HOSPITAL	PHARMACY		
Health Carrier	*	*	*	10	Alpha
Provider Type	*	*	*	1	1=Practitioner, 2=Hospital, 3=Pharmacy
National Provider Identifier					If available
WA Licence Number (Primary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
WA Licence Number (Secondary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
Licence Type	*			12	Alpha
Last Name	*			25	Alpha
First Name	*			15	Alpha
Middle Initial/Name	*			15	Alpha
Birth Date	*			10	Month-Day-Year (XX-XX-XXXX)
Primary Specialty	*			14	Alpha
Secondary Specialty	*			14	Alpha
Languages, other than English	*			30	Alpha, If multiple, truncate and separate with commas
Business on Building	*	*	*	36	Alphanumeric
Address 1	*	*	*	36	Not a PO Box, meets US Postal Service requirements
Address 2	*	*	*	36	Not a PO Box, meets US Postal Service requirements
City	*	*	*	20	Alpha
State	*	*	*	2	WA, OR, ID
Zip	*	*	*	10	Numeric
County	*	*	*	13	Alpha
Day Phone	*			23	(XXX) XXX-XXXX ext XXXXX
Managed Care Plan (s)	*	*	*	60	String with comma separators if multiple
Plan Contract Number (s)	*	*	*	60	String with comma separators if multiple
Provides obstetric care?	*			1	Y=Yes, N=No
PCP, Specialist or Both	*			1	P=PCP, S=Specialist, B= Both
Date Credentialed					Month-Day-Year (XX-XX-XXXX)
Enrollee capacity	*			5	Numeric

* = Required

Date: _____

Signed: _____

Title: _____

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FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

ORGANIZATION REPORTING: _____ BUSINESS: _____ PRODUCT: _____

FOR THE CALENDAR YEAR ENDED DECEMBER 31, _____

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	Jan			Feb			Mar			Apr			May			Jun		
	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees
Adams																		
Asotin																		
Benton																		
Chelan																		
Clallam																		
Clark																		
Columbia																		
Cowlitz																		
Douglas																		
Ferry																		
Franklin																		
Garfield																		
Grant																		
Grays Harbor																		
Island																		
Jefferson																		
King																		
Kitsap																		
Kittitas																		
Klickitat																		
Lewis																		
Lincoln																		
Mason																		
Okanogan																		
Pacific																		
Pend Orielle																		
Pierce																		
San Juan																		
Skagit																		
Skamania																		
Snohomish																		
Spokane																		
Stevens																		
Thurston																		
Wahkiakum																		
Walla Walla																		
Whatcom																		
Whitman																		
Yakima																		
Total																		

Date _____

Signed _____

Title: _____

FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

ORGANIZATION REPORTING: _____ BUSINESS: _____ PRODUCT: _____

FOR THE CALENDAR YEAR ENDED DECEMBER 31, _____

	Jul			Aug			Sep			Oct			Nov			Dec		
	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees	Female employees	Male employees	Total employees
Adams																		
Asotin																		
Benton																		
Chelan																		
Clallam																		
Clark																		
Columbia																		
Cowlitz																		
Douglas																		
Ferry																		
Franklin																		
Garfield																		
Grant																		
Grays Harbor																		
Island																		
Jefferson																		
King																		
Kitsap																		
Kittitas																		
Klickitat																		
Lewis																		
Lincoln																		
Mason																		
Okanogan																		
Pacific																		
Pend Orielle																		
Pierce																		
San Juan																		
Skagit																		
Skamania																		
Snohomish																		
Spokane																		
Stevens																		
Thurston																		
Wahkiakum																		
Walla Walla																		
Whatcom																		
Whitman																		
Yakima																		
Total																		

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Permanent

Date _____

Signed _____

Title: _____

PERMANENT

WSR 03-09-144

PERMANENT RULES

ACADEMIC ACHIEVEMENT AND
ACCOUNTABILITY COMMISSION

[Filed April 23, 2003, 10:47 a.m.]

Date of Adoption: April 7, 2003.

Purpose: As provided by RCW 28A.655.030 (1)(a), the Academic Achievement and Accountability Commission is authorized to adopt and revise performance improvement goals. The purpose of this rule making is to provide school districts and schools with minimum performance improvement goals thereby encouraging improved student learning as measured by increasing percentages of students meeting the reading and mathematics standards on the Washington assessment of student learning and to align these goals with goals required under the federal No Child Left Behind Act. In addition, school districts and high schools are required to set high school graduation rate improvement goals.

Citation of Existing Rules Affected by this Order: Repealing WAC 3-20-100.

Statutory Authority for Adoption: RCW 28A.655.030 (1)(a).

Adopted under notice filed as WSR 03-05-101 on February 19, 2003.

Changes Other than Editing from Proposed to Adopted Version: (1) School and school district annual reading and math goals through 2013 will be determined using federal requirements rather than based on a 10% reduction in the percentage of students at the school or district not meeting standard compared to the preceding year.

(2) Reading and math goals for 2003 are added; they were not included in proposed rule.

(3) If elementary and middle schools and school districts with 4th and 7th grade students tested on the Washington Assessment of Student Learning meet the goal for unexcused absences as defined in the Washington State Accountability Plan, they may use a substitute calculation representing satisfactory progress rather than the performance improvement goal. If high schools and school districts with 10th grade students tested on the Washington Assessment of Student Learning meet the graduation rate goals provided in WAC 3-20-300, they may use a substitute calculation representing satisfactory progress rather than the performance improvement goal. These provisions were not in the proposed rule. The substitute calculation is based on an expected 10% reduction in the percentage of students at the school or district not meeting standard compared to the preceding year.

(4) The final rule removes the exemption for schools and districts with fewer than ten students in a grade who are eligible to be tested in reading and math; schools and districts with fewer than ten students must adopt the goals, but are not required to publish the goals.

(5) The high school graduation goals under the final rule are to be not less than the lesser of the statewide average graduation rate in 2002 (rather than the statewide average graduation rate in 2003, as had been provided in the proposed rule) or the high school's or school district's own graduation rate in 2003 plus one percentage point.

(6) High schools and school districts in which there are fewer than ten students in a graduating class, including students who have dropped out, had been exempt from the requirement to establish graduation goals under the proposed rule, but are not exempt under the final rule. Schools and districts with fewer than ten students in the graduating class, including students who have dropped out, are not required to publish goals and are not required to publish performance relative to the goals.

(7) The commission will review these goals in 2004 after more data on the graduation rates for the class of 2003 are available. Such provision was not included in the proposed rule.

The reason for adopting the changes is that they were recommended by the Office of Superintendent of Public Instruction (OSPI). In an electronic message to the executive director of the Academic Achievement and Accountability Commission dated April 21, 2003, the OSPI deputy superintendent for teaching and learning provided the following additional information regarding the principal reasons OSPI requested the changes:

WAC 3-20-200, goals for reading and mathematics.

(1)(a) *Original document* used the term "ESTABLISH" district-wide performance improvement goals...

Final document used the term "ADOPT" district-wide performance improvement goals...

Rationale: The federal legislation, "No Child Left Behind" requires one accountability system. The law specifies the setting of state performance targets with required formulas to determine these goals. Once calculated and established, they must apply to all schools, districts, the state, and each of the required subgroups specified in the law. Therefore, it is not necessary for schools or districts to "establish" their own goals, they simply need to "adopt" the required measures.

(1)(a), (b), and (2) the addition of "using the federal requirements to determine"... was added.

Rationale: Federal requirements must be followed in making the determinations of improvement goals. The addition of this language allows for any changes or flexibility developed in federal regulations to be accessed as the NCLB law is implemented in Washington state.

(2) *Original document* stated that schools and districts were not required to "establish" numerical improvement goals in which there were fewer than ten students eligible to be assessed.

Final document used the term "publish" referencing numerical improvement goals.

Rationale: Similar to the rationale for using "adopt" vs. "establish" in subsection (1)(a), the formula for establishing the goals are identified in NCLB. These state goals apply to all schools, districts, the state, and all subgroup information. When the "n" size for any of these groups of students is less than ten, this change maintains the intent to protect the privacy of students and maintenance of confidentiality of statewide data files. This information will not be reported or published. However, the target goals are still "established" and apply to all. Therefore, "publish" is a more accurate term in this section.

(4)(a) *Original document* language eliminated.

Final document restated the original intent.

Rationale: The language in this section was determined to be confusing so (a) was eliminated and replaced with identifying the requirement of schools and districts to use the starting point and annual goals established by NCLB. This change does not alter the original requirement; the clarity of the adopted language was simplified.

(3)(b) *Original document* did not include "other indicator" that was required in NCLB.

Final document added language to include the other indicators for elementary and high schools.

Rationale: The other indicators are required in NCLB.

WAC 3-20-300 High school graduation.

Throughout the new section, reference to "on time" graduation was removed and "9th grade" was added to the references for cohort graduation rates.

Rationale: NCLB requires a cohort graduation rate for every high school. The required formula for reporting cohort measure calculations are specified in the law. Since the regulations allow states to develop "extended graduation rates" we will report a 9th grade cohort measure, and add ALL successful graduates (who earn a HS diploma) to each high school's graduation rate. Though this does not eliminate the cohort measure requirement, "on time" graduates will only be one calculation. This allows the intended validation of all successful graduates regardless of the number of years required to develop the skills necessary to earn a meaningful diploma.

The information quoted above was provided by Mary Alice Heuschel, Washington State Deputy Superintendent, Office of Superintendent of Public Instruction, (360) 725-6115, mheuschel@ospi.wednet.edu.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 0, Repealed 1; 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.

April 23, 2003

Christopher M. Thompson
Executive Director

Academic Achievement and Accountability Commission

Performance Improvement Goals

Adopted April 7, 2003

NEW SECTION

WAC 3-20-200 Reading and mathematics. (1) Each school district board of directors shall by December 15, 2003:

(a) Adopt district-wide performance improvement goals using the federal requirements to determine the increase in the percentage of students who meet or exceed the standard on the Washington assessment of student learning for reading and mathematics in grades four, seven, and ten; and

(b) Direct each school in the district that administers the Washington assessment of student learning for grade four, seven, or ten to adopt performance improvement goals using the federal requirements to determine the increase in the percentage of students meeting the standard for its fourth, seventh, or tenth grade students in reading and mathematics.

(2) School districts and schools shall establish separate district-wide and school reading and mathematics improvement goals using the federal requirements to determine the increase in requirements under subsection (1) of this section for each of the following groups of students:

- (a) All students;
- (b) Students of each major racial and ethnic group;
- (c) Economically disadvantaged students;
- (d) Students with disabilities; and
- (e) Students with limited English proficiency.

(3) School districts and schools are not required to publish numerical improvement goals in a grade level for reading and mathematics for 2004 or in any year thereafter for any student group identified in subsection (2) of this section in which there were fewer than ten students eligible to be assessed on the Washington assessment of student learning in the prior year. However, this subsection shall not be construed to affect WAC 180-16-220 #(2)(b) or any other requirements for school and school district improvement plans.

(4) Annual performance improvement goals for both school districts and schools shall be determined:

(a) By using the starting point and annual goals established using the federal requirements for determining starting points in the 2003 Washington State No Child Left Behind (NCLB) Accountability Plan.

(b) If the performance improvement goals established by using the federal requirements to determine the increase for assessments administered in the spring of 2003 and each year thereafter through and including assessments administered in the spring of 2013 are not met, but the other indicator is met [the other indicator for high schools is the graduation goal (WAC 3-20-300) and the other indicator for elementary and middle schools is the unexcused absences goal (Washington State Accountability System under NCLB 2001)] then a substitute calculation may be made. That substitute calculation representing satisfactory progress shall not be less than the sum of:

(i) The percentage of students meeting standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject; and

(ii) The percentage of students who did not meet standard on the assessments administered in the spring of the preceding year for the relevant student group, grade level and subject, multiplied by ten percent.

(c) The performance improvement goals for assessments administered in the spring of 2014 shall be that all students eligible to be assessed meet standard on the Washington assessment of student learning.

(5) School districts and schools shall be deemed to have met the performance improvement goals established pursuant to this chapter if the school district or school achieves the minimum improvement goal required under subsection (4) of this section, even if the school district or school does not achieve the performance improvement goals established by using the federal requirements to determine the increase.

(6) No performance improvement goal for a group in a subject and grade established pursuant to this section shall be used for state or federal accountability purposes if fewer than thirty students in the group for a subject and grade are eligible to be assessed on the Washington assessment of student learning.

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.

NEW SECTION

WAC 3-20-300 High school graduation. (1) Each school district board of directors shall by December 15, 2003:

(a) Establish district-wide goals to increase the percentage of students who graduate in each 9th grade cohort group from high school with a regular diploma beginning with the graduating class of 2004 cohort; and

(b) Direct each high school in the district to establish goals to increase the percentage of students who graduate in each cohort group from high school with the 9th grade cohort with a regular diploma beginning with the graduating class of 2004 cohort, subject to approval by the board.

(2) High school cohort graduation rate goals for both school districts and schools shall be determined as follows:

(a) The school district and high school cohort graduation rate goals for the class of 2004 cohort shall not be less than the lesser of:

(i) The statewide percentage of public school students in the class of 2002 cohort who graduate with the 9th grade cohort with a regular diploma; or

(ii) The percentage of students in each cohort who graduated with the 9th grade cohort with a regular diploma from the relevant school district or high school in 2003 plus one percentage point.

(b) The school district and high school cohort graduation rate goals for the class of 2005 cohort through and including the graduation rate goals for the class of 2013 cohort shall not be less than the lesser of:

(i) The statewide percentage of public school students in the class of 2002 cohort who graduate with the 9th grade cohort with a regular diploma; or

(ii) The prior year target level percentage of students graduating from the relevant school district or high school with the 9th grade cohort with a regular diploma plus one percentage point.

(c) The school district and high school cohort graduation rate goals for the class of 2014 cohort shall be that the percentage of students who graduate in that cohort group with the 9th grade cohort with a regular diploma meet or exceed eighty-five percent for each group of students listed in WAC 3-20-200(2).

(3) School districts and high schools in which fewer than ten students are enrolled with the graduating class of 2003 cohort or would be enrolled with the class of 2003 cohort but have dropped out of high school are not required to publish numerical graduation rate improvement goals. In 2004 or any subsequent year school districts and high schools in which the number of students enrolled with their graduating class cohort combined with the number of students who would be enrolled with their graduating class cohort but have dropped out of high school is fewer than ten are not required to publish performance relative to the cohort graduation rate goals.

(4) Performance improvement goals established pursuant to this section shall not be used for state or federal accountability purposes in any school district or high school in which the number of students who are enrolled in a graduating class, including any who have dropped out of that graduating class, is less than thirty.

(5) The Commission will review these goals in 2004 after more data are available on cohort graduation rates for the class of 2003.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 3-20-100

Reading and mathematics.

WSR 03-09-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-58—Filed April 2, 2003, 2:16 p.m., effective April 6, 2003, 12:01 a.m.]

Date of Adoption: April 1, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900H and 232-28-61900T; 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: Modification of the Columbia River spring chinook sport fishery is necessary to keep impacts to listed upriver spring chinook within the guidelines of the preseason plans and consistent with the 2001 management agreement. Conforms Washington and Oregon state rules in concurrent waters. 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: April 6, 2003, 12:01 a.m.

April 1, 2003

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900T Exceptions to statewide rules—Columbia River Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. April 6, 2003 through May 15, 2003, it is unlawful to fish for or possess spring chinook, steelhead, and shad in those waters of the Columbia River from the I-5 Bridge upstream to 600 feet below the fish ladder at Bonneville Dam.

(2) Effective April 9, 2003 through May 15, 2003, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those waters

of the Columbia River from the mouth upstream to the I-5 Bridge.

a) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, and minimum size 12 inches in length. Two trout minimum size 12 inches in length. Release wild steelhead and wild cutthroat.

b) Season: Open Wednesdays through Saturdays only.

(3) Effective April 6, 2003 through May 15, 2003, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those areas listed below:

a) Areas: 1) The Bonneville Reservoir upstream from the Tower Island power lines. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

2) The Dalles Reservoir.

3) John Day Reservoir.

b) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, and minimum size 12 inches in length. Two trout minimum size 12 inches in length. Release wild steelhead.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 6, 2003:

WAC 232-28-61900H	Exceptions to statewide rules—Columbia River. (03-20)
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The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2003:

WAC 232-28-61900T	Exceptions to statewide rules—Columbia River.
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WSR 03-09-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-63—Filed April 4, 2003, 11:58 a.m., effective April 16, 2003, 6:00 a.m.]

Date of Adoption: April 3, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-051.

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: The 2003 state/tribal Strait of Juan de Fuca and North Sound shrimp harvest management

plans require adoption of harvest seasons and the prohibition on night time fishing contained in this emergency rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 16, 2003, 6:00 a.m.

April 3, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-05100P Puget Sound shrimp beam trawl fishery—Seasons. Notwithstanding the provisions of WAC 220-52-051 it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts:

Open effective 6:00 a.m. April 16, 2003, until further notice.

(b) Shrimp Management Area 1B: Marine Fish Shellfish Catch and Reporting Area 22A open effective 6:00 a.m. May 16, 2003, until further notice.

(2) It is unlawful to harvest shrimp using shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

**WSR 03-09-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-64—Filed April 4, 2003, 12:00 p.m.]

Date of Adoption: April 4, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-325.

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 ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp is available in the areas opened under this rule. Designation of the Port Townsend Bay shrimp district is necessary to simplify WAC and pamphlet language, because there are different open days and season length restrictions inside that bay, compared to the remainder of Marine Area 9. Limiting the number of open days each week is needed to manage catch within allocations. 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.

April 4, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-56-32500C Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, the following area shall be defined as a shrimp fishing district: Port Townsend Shrimp District – All waters of Port Townsend south and west of a line from Marrowstone Point to Point Hudson (including Kilsut Harbor).

2) Effective 7:00 a.m., April 19, 2003, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Port Townsend Shrimp District and Marine Area 10, except as provided for in this section:

(a) Open on Saturdays and Thursdays only. All shrimp, including spot shrimp, may be retained on these open days.

3) Effective 7:00 a.m., April 19, 2003, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1, 8-2 and 9, except as provided for in this section:

(a) Open Thursday through Sunday each week. All shrimp, including spot shrimp, may be retained on these open days.

WSR 03-09-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-62—Filed April 4, 2003, 3:25 p.m., effective May 2, 2003, 12:01 a.m.]

Date of Adoption: April 4, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900U; 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 necessary to eliminate premature harvest of catchable trout dedicated to the "Fishing Kids" event and to provide adequate numbers of fish for harvest on May 17 at Sarge Hubbard Park Pond.

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: May 2, 2003, 12:01 a.m.

April 4, 2003

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900U Exceptions to statewide rules—Columbia Park Pond (Benton Co.), Sarge Hubbard Park Pond (Yakima Co.) Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 8:00 a.m. May 2 until 9:00 a.m. May 3, 2003, it is unlawful to fish in those waters of Columbia Park Pond.

(2) Effective 8:00 a.m. May 16 until 9:00 a.m. May 17, 2003, it is unlawful to fish in those waters of Sarge Hubbard Park Pond.

(a) Effective 9:00 a.m. May 17, 2003 the daily limit for trout is three.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 18, 2003:

WAC 232-28-61900U Exceptions to statewide rules—Columbia Park Pond (Benton Co.), Sarge Hubbard Park Pond (Yakima Co.)

WSR 03-09-018

EMERGENCY RULES

STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:35 a.m.]

Date of Adoption: March 21, 2003.

Purpose: Amend WAC 180-51-063 to indicate notation on the high school transcript regarding the secondary Washington assessment of student learning (WASL) results.

Citation of Existing Rules Affected by this Order:
 Amending WAC 180-51-063 (2)(g).

Statutory Authority for Adoption: RCW 28A.230.090.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The new transcript form has been issued to schools with an area to note information about the secondary WASL results. Rule clarification is necessary so schools do not get confused.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 7, 2003

Larry Davis

Executive Director

EMERGENCY

AMENDATORY SECTION (Amending WSR 01-13-113, filed 6/20/01, effective 7/21/01)

WAC 180-51-063 Certificate of mastery—High school graduation requirement—Effective date. (1) Pursuant to RCW 28A.655.060 (3)(c):

(a) The certificate of mastery shall be a graduation requirement, but not the only requirement for graduation from high school; and

(b) The state board of education is responsible for determining when the secondary Washington assessment of student learning has been implemented and is sufficiently valid and reliable.

(2)(a) The state board of education establishes the 2007-08 school year as the first year in which graduating high school students shall be required to have attained the state certificate of mastery in order to graduate, in addition to other state and local graduation requirements.

(b) The state board of education fully recognizes that a higher standard of validity and reliability must be applied when the result of the assessment affects the ability of an individual student to receive a high school diploma. Therefore, the state board of education will continue to monitor the high school level Washington assessment of student learning. If the board finds that the assessment is lacking in this higher level of validity or reliability, or both, by the beginning of the 2004-05 school year, the state board may change the effective date of the certificate of mastery, for state graduation purposes, to a later school year.

(c) Beginning the 2007-08 school year, the certificate of mastery shall consist of the subject areas under the student learning goals for which a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for graduation purposes. It is expected that the initial certificate of mastery will be comprised of reading, writing, communications, and mathematics.

(d) Beginning the 2009-10 school year, the certificate of mastery shall include science if a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for this subject area.

(e) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in social studies may be required to achieve the certificate of mastery or may lead to an endorsement on the high school transcript.

(f) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in arts and health and fitness may lead to an endorsement on the high school transcript.

(g) ~~(Effective with students who begin the ninth grade in 2003 (the graduating class of 2007), students who take the secondary Washington assessment of student learning and earn the certificate of mastery and/or meet the standard, attainment of the state certificate of mastery and/or meeting the standard shall be noted on the student's transcript pursuant to WAC 180-57-070.)~~ At such time as the state board of education determines that the high school Washington assessments of student learning are sufficiently reliable and valid and that retake opportunities are available, the transcript shall then include notation that the student has met or exceeded (noting the month and year) or not met the standard on each of the required secondary Washington assessments of student learning and/or earned (noting the month and year) or not earned the state certificate of mastery, or that the particular Washington assessment of student learning was waived or not taken. For purposes of this subsection, "exceeded" shall mean the performance standard on each of the required high school Washington assessments of student learning as determined by the superintendent of public instruction.

~~(Effective with students who begin the ninth grade in 2003 (the graduating class of 2007), students who take the secondary Washington assessment of student learning and earn the certificate of mastery and/or meet the standard, attainment of the state certificate of mastery and/or meeting the standard shall be noted on the student's transcript pursuant to WAC 180-57-070.)~~ At such time as the state board of education determines that the high school Washington assessments of student learning are sufficiently reliable and valid and that retake opportunities are available, the transcript shall then include notation that the student has met or exceeded (noting the month and year) or not met the standard on each of the required secondary Washington assessments of student learning and/or earned (noting the month and year) or not earned the state certificate of mastery, or that the particular Washington assessment of student learning was waived or not taken. For purposes of this subsection, "exceeded" shall mean the performance standard on each of the required high school Washington assessments of student learning as determined by the superintendent of public instruction.

(3) Notwithstanding WAC 180-18-055 and 180-51-107, subsection (2) of this section shall not be waived.

(4) The certificate of mastery shall not be a graduation requirement for students who receive home-based instruction under RCW 28A.200.101(3) nor for students attending private schools under RCW 28A.195.010(6).

WSR 03-09-025

EMERGENCY RULES

STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:47 a.m.]

Date of Adoption: March 21, 2003.

Purpose: To allow individuals with a valid teaching certificate from the National Board of Professional Teaching Standards to have their national board endorsements placed on their Washington teaching certificate, if the endorsements are endorsements in the state of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82-204 and 180-82A-204.

Statutory Authority for Adoption: RCW 28.410.010.

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: See Purpose above.

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 1, 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: Immediately.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-108, filed 6/20/01, effective 7/21/01)

WAC 180-82-204 Endorsement requirements. (1)

Candidates for all primary teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)).

(2) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which shall include methodology (see WAC 180-78A-264(5)). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) Teachers may add an endorsement by achieving National Board certification in a Washington teaching endorsement area and possessing a valid National Board certificate.

(4) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

~~((4))~~ (5) Candidates from out-of-state shall be required to present verification that they completed a state-approved program in a Washington endorsement area, except as otherwise provided in WAC 180-79A-257 (1)(d).

~~((5))~~ (6) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

~~((6))~~ (7) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

~~((7))~~ (8) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-204 Endorsement requirements. (1)

Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the state board of

education pursuant to chapter 180-78A WAC, which include methodology (see WAC 180-78A-264(5)) and field experience/internship (see WAC 180-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 180-78A-264(5)) and addresses all endorsement-specific competencies adopted by the state board of education and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

WSR 03-09-027

EMERGENCY RULES

STATE BOARD OF EDUCATION

[Filed April 7, 2003, 11:49 a.m.]

Date of Adoption: March 21, 2003.

Purpose: (1) To amend the rules to revise the procedures by which college/universities will seek approval for their competency-based endorsement programs and (2) to allow teacher candidates enrolled in endorsement programs under chapter 180-82 WAC to have until August 31, 2005, to complete their programs.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82A-206 and 180-82A-215.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

EMERGENCY

Reasons for this Finding: See Purpose above.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 7, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-206 Endorsement program approval.

(1) The state board of education shall approve endorsement programs at Washington colleges and universities pursuant to the requirements of this chapter. Only colleges and universities with state board of education approved residency certificate teacher preparation programs are eligible to apply for approval to offer endorsement programs.

(2) The state board of education will establish performance/competency criteria for obtaining an endorsement. Revision in adopted endorsement competencies may occur only as approved by the state board.

(3) The superintendent of public instruction will publish, and make available, competencies for all endorsement areas identified in chapter 180-82A WAC.

(4) By August 31, 2003, each college or university desiring to establish an endorsement program shall ~~((comply with the following:~~

~~((a) Identification of opportunities for candidate to develop the capacity to demonstrate each competency;~~

~~((b)) submit a timeline to meet the following requirements for full approval by August 31, 2004:~~

~~((a) Identification of strategies that will be used to assess candidates' capacity/performance ((on each competency)) related to the competencies;~~

~~((e)) (b) A description of evidences that candidates will provide to document ((candidates') their positive impact on student learning in the ((respective)) endorsement area; and~~

~~((d)) (c) A description of the ((process)) assessment system by which ((summaries of candidates' assessment data, relative to performance on each competency, will be compiled)) candidate performance, relative to the competencies, will be aggregated, analyzed, and used for program improvement.~~

(5) The state board of education shall approve endorsement programs for a maximum of five years. Each institution shall submit endorsement programs for review when requested by the state board of education to ensure that the endorsement programs meet the competencies and to provide assessment data relative to candidate performance.

(6) The state board of education shall determine the schedule and process for endorsement program reviews.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-215 Implementation policies. (1) In order to offer an endorsement program after August 31, 2003, the timeline by which the colleges and universities will be in full compliance with the approval standards in this chapter shall be reviewed and approved. In order to offer an endorsement program after August 31, ~~((2003)) 2004~~, the endorsement program shall be reviewed and approved under the approval standards of this chapter. All teachers who obtain endorsements after September 1, 2003, shall meet the requirements in this chapter. Provided, that colleges and universities may permit an individual enrolled in programs in Washington state ~~((on or before September 1, 2003,))~~ to obtain endorsements under the requirements in chapter 180-82 WAC, if the individual completes the endorsement program on, or before August 31, 2005, and the college or university verifies endorsement program completion on or before December 31, 2005. Provided further, that the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers shall be required to obtain a minimum of one endorsement.

WSR 03-09-030

OFFICE OF THE GOVERNOR

[Filed April 7, 2003, 11:57 a.m.]

April 3, 2003

Ms. Lisa Hayes
The Cold and Hungry Coalition
329 Railroad Avenue, Suite 203
Shelton, Washington 98585

Dear Ms. Hayes:

I have reviewed your petition of emergency WAC 236-12-480, which provides:

Camping on the state capitol grounds is prohibited. Camping means erecting a tent or shelter, or arranging bedding, or parking a vehicle, for purposes of overnight habitation.

Pursuant to RCW 34.05.350(3), my review is limited to whether the following conditions, enumerated in RCW 34.05.350(1) were met:

a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public

EMERGENCY

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; or

- b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule, the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis.

Given that (b) has not been cited by the Department of General Administration as a basis for adoption of emergency WAC 236-12-480, I have focused my review on whether the conditions in (a) have been met.

I have decided to repeal the emergency rule. I find that there was not sufficient cause to adopt the rule on an emergency basis to preserve public health, safety, or general welfare.

However, I want to assure you that the purpose of this rule was to maintain the security of state owned public spaces and to protect the safety of all individuals who make use of those spaces. I appreciate your concern on behalf of the homeless individuals who may be adversely impacted by this emergency rule. This rule was in no way intended to criminalize homelessness or to make the lives of the homeless more difficult. The homeless who make use of the state capitol grounds are, in fact, among those individuals whose safety the rule is intended to protect.

I support the decision by Director Rob Fukai to initiate a rule-making process to consider the permanent adoption of a rule prohibiting camping. I believe it is important to have a full discussion of this public policy question. Through the public hearing processes provided in the Administrative Procedures Act, 34.05 RCW, a determination will be made regarding whether or not a permanent rule is necessary, and if so, how it should be crafted.

I hope that you and your colleagues will actively participate in the public hearing process that will be underway shortly.

Sincerely,

Gary Locke
Governor

cc: Rob Fukai, Director, Department of General Administration
Chief Ronal Serpas, Washington State Patrol
Dennis Cooper, Code Reviser
Martin Casey, Legislative and Business Relations
Director, Department of General Administration

April 3, 2003

Lawrence A. Hildes
PO Box 5405
Bellingham, Washington 98227

Paul Richmond
6057 N.W. 3rd Avenue
Seattle, Washington 98107

Subject: Repeal Emergency Rule-Making Order to WAC 236-12-480.

Dear Mr. Hildes and Mr. Richmond:

I have reviewed your petition of emergency WAC 236-12-480, which provides:

Camping on the state capitol grounds is prohibited. Camping means erecting a tent or shelter, or arranging bedding, or parking a vehicle, for purposes of overnight habitation.

Pursuant to RCW 34.05.350(3), my review is limited to whether the following conditions, enumerated in RCW 34.05.350(1) were met:

- a) 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; or
- b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule, the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis.

Given that (b) has not been cited by the Department of General Administration as a basis for adoption of emergency WAC 236-12-480, I have focused my review on whether the conditions in (a) have been met.

I have decided to repeal the emergency rule. I find that there was not sufficient cause to adopt the rule on an emergency basis to preserve public health, safety, or general welfare.

However, I believe that General Administration's concern that large numbers of individuals might appear and place tents or other shelters in close proximity to state buildings is legitimate. The war in Iraq and the resulting large number of demonstrations in this country and around the world make this concern more than an "imagined, implausible scenario." Such a situation could be difficult to monitor and ensure safety on the state capitol grounds.

Tents and other shelters, as well as bedding, by their very nature allow the concealment of both individuals and weapons. Never the less, the Department has demonstrated through its negotiation with the leadership of Camp Rachel that arrangements to alleviate the Department's and Washington State Patrol's concerns can be accomplished without the emergency rule.

The public health concerns are also legitimate. Again, Camp Rachel has been very cooperative in addressing the need for portable toilet facilities. The Department of General Administration has also been able to work with other major events to ensure appropriate public health protections, and I would expect that to continue.

You raised the concern that the rule infringes on the First Amendment. Despite the prohibition of overnight habitation in WAC 236-12-480, I do not conclude that this rises to a vio-

lation of the First Amendment. This is a content-neutral rule that does not unreasonably infringe upon rights of free expression, which are commonplace at our State's capitol grounds and are a hallmark of our democracy.

I support the decision by Director Fukai to initiate a rule-making process to consider the permanent adoption of a rule prohibiting camping. I believe it is important to have a full discussion of this public policy question. Through the public hearing processes provided in the Administrative Procedures Act, 34.05 RCW, a determination will be made regarding whether or not a permanent rule is necessary, and if so, how it should be crafted. My decision that there is not a sufficient emergency in this instance is a testimony to the ability of the Department manage the current situation through negotiation, not an opinion regarding the eventual need for a rule.

Sincerely,

Gary Locke
Governor

cc: Rob Fukai, Director, Department of General Administration
Chief Ronal Serpas, Washington State Patrol
Dennis Cooper, Code Reviser
Martin Casey, Legislative and Business Relations
Director, Department of General Administration

WSR 03-09-057
EMERGENCY RULES
HORSE RACING COMMISSION

[Filed April 14, 2003, 10:17 a.m.]

Date of Adoption: March 13, 2003.

Purpose: This rule adopts specific quantitative medication levels for those substances deemed permissible in test samples up to the stated quantitative levels. The agency has filed a CR-101 preproposal statement of inquiry, WSR 03-03-108, and has initiated proceedings to adopt a permanent rule on this subject matter.

Citation of Existing Rules Affected by this Order: Amending WAC 260-70-630.

Statutory Authority for Adoption: RCW 67.16.020, 67.16.040.

Reasons for this Finding: Live horse racing is scheduled to begin on April 5, 2003, and continue on an intermittent schedule at various racing venues throughout the year. The agency has previously set permissible quantitative medication levels (thresholds) by a resolution of the comm [commission] based on the recommendation of veterinary staff. The agency has determined that medication threshold levels because there is insufficient time to promulgate permanent rules prior to the start of the live racing season, however, permanent rule making is underway.

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: Immediately.

March 14, 2003
Robert 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 03-09-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-66—Filed April 14, 2003, 3:16 p.m., effective April 16, 2003, 8:00 p.m.]

Date of Adoption: April 14, 2003.
Purpose: Amend personal use rules.

EMERGENCY

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-33000W; 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 protect soft shell 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: April 16, 2003, 8:00 p.m.

April 14, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-33000X Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective 8:00 p.m. April 16, 2003 until further notice, it is unlawful to fish for crab for personal use in all waters of Puget Sound.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. April 16, 2003:

WAC 220-56-33000W Crab—Areas and seasons.
(03-59)

**WSR 03-09-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-65—Filed April 14, 2003, 3:16 p.m., effective May 1, 2003, 12:01 a.m.]

Date of Adoption: April 14, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-255.

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 necessary to implement federal rules on halibut seasons that were published in the Federal Register on March 7, 2003. The adoption of state rules is required to provide consistency to state and federal rules regarding halibut fishing. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 2003, 12:01 a.m.

April 14, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-25500E Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-56-255, it is unlawful to fish for or possess halibut taken for personal use except as provided for in this section:

(1) Catch Record Card Area 1 - Open May 1, 2003 until further notice, unless closed earlier by emergency regulation. The daily limit in Area 1 is the first halibut over 32 inches in length brought aboard the vessel.

(2) Catch Record Card Area 2:

(a) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May 1, 2003 until further

notice, unless closed earlier by emergency regulation. The daily limit is one halibut of any size.

(b) All other waters in Area 2 - Open May 1, 2003 until further notice unless closed by emergency regulation. Except closed from 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday during the open period. The daily limit is one halibut of any size.

(3) Catch Record Card Areas 3 and 4 - Open May 1 through June 17, 2003 unless closed by emergency regulation. Except closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The daily limit is one halibut of any size. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward facing "C" shaped closed area defined as: Beginning at 48°, 18'N, 125°18'W, thence to 48°18'N, 124°59'W, thence to 48°11'N, 124°59'W, thence to 48°11'N, 125°11'W, thence to 48°04'N, 125°11'W, thence to 48°04'N, 124°59'W, thence to 48°00'N, 124°59'W, thence to 48°00'N, 125°18'W, thence to the first coordinate.

(4) Catch Record Card Area 5: Open May 22 through August 1, 2003 - except closed from 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period. The daily limit is one halibut of any size.

(5) Catch Record Card Areas 6-13: Open May 8 through July 18, 2003 - except closed from 12:01 a.m. Tuesday through 11:59 p.m. Wednesday of each week during the open period. The daily limit is one halibut of any size.

(6) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

WSR 03-09-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-68—Filed April 15, 2003, 4:25 p.m.]

Date of Adoption: April 15, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-52-019.

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 necessary to discourage the practice of leaving geoducks on the bottom which are damaged during harvest and improves catch accountability. This also discourages the practice of discarding horse clams which may be inadvertently harvested during geoduck harvest operations. This rule has been adopted by the commission and an emergency rule is necessary 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 15, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-01900A Geoduck clams—Gear and unlawful acts. Notwithstanding the provisions of WAC 220-52-019, effective immediately until further notice:

(1) It is unlawful to possess only the siphon or neck portion of a geoduck clam aboard a geoduck vessel, except when a geoduck is incidentally damaged during harvest and must be reported under a department of natural resources harvest agreement.

(2) It is unlawful to retain any food fish or shellfish other than geoduck clams during geoduck harvest operations, except for horse clams (*Tresus capax* and *Tresus nuttallii*) when horse clam harvest is provided for under a Department of Natural Resources harvest agreement.

WSR 03-09-080
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-69—Filed April 17, 2003, 9:54 a.m., effective April 17, 2003, 7:00 p.m.]

Date of Adoption: April 16, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-33-01000D; and amending WAC 220-33-010.

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 select area fisheries in Deep River, Blind Slough/Knappa Slough, and Tongue Point/South Channel are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of February 6, 2003, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 17, 2003, 7:00 p.m.

April 16, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-33-01000D Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Blind Slough and Knappa Slough

Gear: 8-inch maximum mesh. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

Dates:

7:00 p.m. April 17 to 7:00 a.m. April 18, 2003

7:00 p.m. April 24 to 7:00 a.m. April 25, 2003

7:00 p.m. April 29 to 7:00 a.m. April 30, 2003

7:00 p.m. May 1 to 7:00 a.m. May 2, 2003

7:00 p.m. May 6 to 7:00 a.m. May 7, 2003

7:00 p.m. May 8 to 7:00 a.m. May 9, 2003

7:00 p.m. May 13 to 7:00 a.m. May 14, 2003

7:00 p.m. May 15 to 7:00 a.m. May 16, 2003

7:00 p.m. May 20 to 7:00 a.m. May 21, 2003

7:00 p.m. May 22 to 7:00 a.m. May 23, 2003

7:00 p.m. May 27 to 7:00 a.m. May 28, 2003

7:00 p.m. May 29 to 7:00 a.m. May 30, 2003

7:00 p.m. June 3 to 7:00 a.m. June 4, 2003

7:00 p.m. June 5 to 7:00 a.m. June 6, 2003

7:00 p.m. June 10 to 7:00 a.m. June 11, 2003

7:00 p.m. June 12 to 7:00 a.m. June 13, 2003

Allowable Sale: Salmon, sturgeon, shad

2) Tongue Point/South Channel Select Area

Area: Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank.

South Channel is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10".

All open waters are under concurrent jurisdiction.

Dates:

7:00 p.m. April 17 to 7:00 a.m. April 18, 2003

7:00 p.m. April 24 to 7:00 a.m. April 25, 2003

7:00 p.m. April 29 to 7:00 a.m. April 30, 2003

7:00 p.m. May 1 to 7:00 a.m. May 2, 2003

7:00 p.m. May 6 to 7:00 a.m. May 7, 2003

7:00 p.m. May 8 to 7:00 a.m. May 9, 2003

7:00 p.m. May 13 to 7:00 a.m. May 14, 2003

7:00 p.m. May 15 to 7:00 a.m. May 16, 2003

7:00 p.m. May 20 to 7:00 a.m. May 21, 2003

7:00 p.m. May 22 to 7:00 a.m. May 23, 2003

7:00 p.m. May 27 to 7:00 a.m. May 28, 2003

7:00 p.m. May 29 to 7:00 a.m. May 30, 2003

7:00 p.m. June 3 to 7:00 a.m. June 4, 2003

7:00 p.m. June 5 to 7:00 a.m. June 6, 2003

7:00 p.m. June 10 to 7:00 a.m. June 11, 2003

7:00 p.m. June 12 to 7:00 a.m. June 13, 2003

Gear: a) Tongue Point. 8-inch maximum mesh. Mono-filament gill nets are allowed. Legal gear restricted to a maximum length of 250 fathoms and weight on leadline not to exceed 2 pounds on any one fathom within Tongue Point Basin. Fishers participating in the Tongue Point Basin fishery may have stored on board their boats, gill nets with leadline in excess of 2 pounds per fathom.

b) South Channel. 8-inch maximum mesh. Mono-filament gill nets are allowed. Nets are restricted to 100 fathoms in length with no weight restrictions on the leadline.

Allowable Sale: Salmon, sturgeon and shad.

3) Deep River Select Area

Area: Upstream of a line from Channel Marker 16 southwesterly to a fishing boundary marker on the opposite bank, to the Highway 4 Bridge.

Dates:

7:00 p.m. April 17 to 7:00 a.m. April 18, 2003
 7:00 p.m. April 22 to 7:00 a.m. April 23, 2003
 7:00 p.m. April 23 to 7:00 a.m. April 24, 2003
 7:00 p.m. April 24 to 7:00 a.m. April 25, 2003
 7:00 p.m. April 29 to 7:00 a.m. April 30, 2003
 7:00 p.m. April 30 to 7:00 a.m. May 1, 2003
 7:00 p.m. May 1 to 7:00 a.m. May 2, 2003
 7:00 p.m. May 6 to 7:00 a.m. May 7, 2003
 7:00 p.m. May 7 to 7:00 a.m. May 8, 2003
 7:00 p.m. May 8 to 7:00 a.m. May 9, 2003
 7:00 p.m. May 13 to 7:00 a.m. May 14, 2003
 7:00 p.m. May 14 to 7:00 a.m. May 15, 2003
 7:00 p.m. May 15 to 7:00 a.m. May 16, 2003
 7:00 p.m. May 20 to 7:00 a.m. May 21, 2003
 7:00 p.m. May 21 to 7:00 a.m. May 22, 2003
 7:00 p.m. May 22 to 7:00 a.m. May 23, 2003
 7:00 p.m. May 27 to 7:00 a.m. May 28, 2003
 7:00 p.m. May 28 to 7:00 a.m. May 29, 2003
 7:00 p.m. May 29 to 7:00 a.m. May 30, 2003
 7:00 p.m. June 3 to 7:00 a.m. June 4, 2003
 7:00 p.m. June 4 to 7:00 a.m. June 5, 2003
 7:00 p.m. June 5 to 7:00 a.m. June 6, 2003
 7:00 p.m. June 10 to 7:00 a.m. June 11, 2003
 7:00 p.m. June 11 to 7:00 a.m. June 12, 2003
 7:00 p.m. June 12 to 7:00 a.m. June 13, 2003.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. June 13, 2003:

WAC 220-33-01000D Columbia River gillnet seasons below Bonneville.

**WSR 03-09-081
 EMERGENCY RULES
 DEPARTMENT OF
 FISH AND WILDLIFE**

[Order 03-67—Filed April 17, 2003, 9:54 a.m.]

Date of Adoption: April 16, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-05100P; and amending WAC 220-16-270, 220-52-035, and 220-52-051.

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: The 2003 state/tribal Puget Sound shrimp harvest management plans require adoption of the harvest seasons, harvest reporting areas, and the prohibition on night time fishing contained in this emergency rule. Emergency rapid reporting requirements are necessary as quotas can be far exceeded in one day of fishing. Rot cord of 100 thread size is no longer available, so the thread size of 120 will be mandated for commercial shrimp pots. 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 3, 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.

April 16, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-16-27000A Puget Sound shrimp districts. Notwithstanding the provisions of WAC 220-16-270, effective immediately until further notice, the following area shall be defined as a Puget Sound Shrimp District: Port Townsend Shrimp District - All waters of Port Townsend bay south and west of a line from Marrowstone Point to Point Hudson, including Kilisut Harbor.

NEW SECTION

WAC 220-52-03500A Crab and shrimp pot gear—Escape mechanism required. Notwithstanding the provisions of WAC 220-52-035, effective immediately until further notice, it is unlawful to fish for or possess crab or shrimp taken for commercial purposes with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(1) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated cotton twine or other natural fiber no larger than thread size 120 for crab pots or shrimp

pots so that the pot lid will open freely if the twine or fiber is broken.

(2) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size 120 for crab pots or shrimp pots. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

NEW SECTION

WAC 220-52-05100Q Puget Sound shrimp pot and beam trawl fishery—Seasons. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Marine Fish-Shellfish Management and Catch and Reporting Areas 23A-S (south), 23C, 23D, and 29, are open to harvest of all shrimp species from 6:00 a.m. May 1, 2003 until further notice.

(b) All waters of Shrimp Management Areas 1B (except as provided in section 1(f) and 1C, and Crustacean Management Regions 2 (except as provided in section 1(g)), 4, and 6, and Marine Fish-Shellfish Catch and Reporting Area 25A are open to harvest of all shrimp species except spot shrimp from 6:00 a.m. May 1, 2003 until further notice.

(c) The shrimp accounting week is Monday through Sunday.

(d) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information.

(i) The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(e) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(d) above.

(f) The following restrictions apply to shellfish pot gear harvest in Marine Fish-Shellfish Management and Catch Reporting Area 22A:

(i) Closed through June 15 in waters within a line beginning at the Blakely Island Marina at the northwest corner of Blakely Island, then projected two nautical miles due west, then southerly paralleling the western shore line of Blakely Island to a line projected due west from Bald Bluff on Blakely Island.

(g) The following restrictions apply to shellfish pot gear harvest in Marine Fish-Shellfish Management and Catch Reporting Area 25D:

(i) Closed through June 18 in waters of Port Townsend Bay south of the 48°06'N latitude line and north of the 48°04'N latitude line and east of the 122°46'W longitude line.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts: Open immediately, until further notice.

(b) Shrimp Management Area 1B: Marine Fish Shellfish Catch and Reporting Area 22A open effective 6:00 a.m. May 16, 2003, until further notice.

(3) It is unlawful to set or pull shellfish pot or shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(4) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100P Puget Sound shrimp beam trawl fishery—Seasons. (03-63)

WSR 03-09-123

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 03-70—Filed April 22, 2003, 4:51 p.m.]

Date of Adoption: April 18, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-23500Q; and amending WAC 220-56-235.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to prohibit the possession of yelloweye rockfish in Catch Record Card Areas 1 through 4 and to remain consistent with federal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 18, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-23500R 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, except it is unlawful to possess yelloweye rockfish.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-23500Q Possession limits—Bottomfish. (03-50)

EMERGENCY

WSR 03-07-019
RULES OF COURT
STATE SUPREME COURT
 [March 7, 2003]

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)

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

Purpose For Proposed Amendment to CrR 3.3:

Time-for-Trial Task Force. The Time-for-Trial Task Force was established by the Supreme Court on March 11, 2002, in order to conduct a comprehensive review of the rules governing time-for-trial of criminal cases and making such recommendation for change, if any, it believed warranted. Members of the Time-for-Trial Task Force included judges, prosecuting attorneys, criminal defense attorneys, legislators, and a representative of crime victims.

The fundamental goal for all task force members was to ensure fair and timely trials for all criminal cases in Washington. The task force drafted the enclosed amendments to the court rules on time-for-trial (CrR 3.3, CrRLJ 3.3, and JuCR 7.8) as well as amendments to several related court rules (CrR 2.2, CrR 4.1, CrRLJ 2.2, and CrRLJ 4.1). The proposed amendments to all these rules were unanimously approved by the task force members, with one exception: the "due diligence" amendments (discussed in the proposed amendments to CrR 2.2 and CrRLJ 2.2) were supported by a substantial majority, but not all, of the task force members.

Overview of the Package of Proposed Amendments: Taken as a whole, the proposed changes to all the court rules are intended to:

- Improve the administration of justice by reducing the likelihood that criminal cases will be subject to dismissal with prejudice due to minor, inadvertent rule violations.
 - Simplify the due-diligence requirements from *State v. Striker*, 87 Wn.2d 870 (1976), and *State v. Greenwood*, 120 Wn.2d 585 (1993), and change the procedures for obtaining arrest warrants so that due-diligence is addressed early in the case.
 - Provide courts with greater flexibility for getting cases heard, including flexibility with regard to court congestion.
 - Simplify and clarify the complicated provisions of these rules.
 - Increase accountability of the courts.
 - Provide for the collection of data that will lead to better-informed decisions on policy and resource allocation.
 - Eliminate the need for significant judicial expansion of the rule in appellate opinions.
- Proposed Changes for CrR 3.3:* The proposed changes to CrR 3.3 include:
- Adding a limited cure period, which would allow courts an additional, short period of time within which to cure a time-for-trial violation. The cure period must be invoked no later than five days after the 60/90-day period has expired.
 - Adding a 30-day buffer period, which would ensure that following the end of an excluded period of time there will always be at least 30 days within which to bring the case to trial.
 - Adding a reporting requirement, under which trial courts must report each case that is dismissed for time-for-trial reasons or for which the cure period is applied.
 - Simplifying and clarifying the rule, including stating more simply and specifically the beginning and ending points for various time periods; eliminating the separate category of "extensions" of time; defining key terms in order to reduce ambiguity; and re-organizing the rule to follow a more logical structure and to keep distinct issues that need to be kept distinct.
 - Eliminating the need for extensive judicial interpretation of the rule by expressly addressing more of the time-for-trial issues. The task force intends that the courts apply the proposed rule "as is" instead of adding new requirements not already there.

Task Force Report: A detailed discussion of all the proposed amendments, as well as the minority counter-proposal on the due diligence issues, may be found in the Time-for-Trial Task Force's final report (<http://www.courts.wa.gov/committee/tft/>).

Review by Board for Judicial Administration: The Board for Judicial Administration reviewed the task force's final report. During that review, two small amendments were made to the proposed rules, with the concurrence of an informal executive committee of the task force. The two amendments, incorporated into the enclosed proposals, (1) clarify

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that the cure period applies to CrR 3.3 (d)(4) and (2) slightly revise the provisions relating to the disqualification of judges and counsel.

**CrR 3.3
TIME FOR TRIAL**

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ensure a trial in accordance with this rule to each person charged with ~~((having committed))~~ a crime.

~~((b))~~ (2) Precedence Over Civil Cases. Criminal trials shall take precedence over civil trials.

(3) Definitions. For purposes of this rule:

(i) "Pending charge" means the charge for which the allowable time for trial is being computed.

(ii) "Related charge" means a charge based on the same conduct as the pending charge that is ultimately filed in the superior court.

(iii) "Appearance" means the defendant's physical presence in the adult division of the superior court where the pending charge was filed. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously noted on the record under the cause number of the pending charge.

(iv) "Arraignment" means the date determined under CrR 4.1(b).

(v) "Detained in jail" means held in the custody of a correctional facility pursuant to the pending charge. Such detention excludes any period in which a defendant is on electronic home monitoring, is being held in custody on an unrelated charge or hold, or is serving a sentence of confinement.

(4) Construction. The allowable time for trial shall be computed in accordance with this rule. If a trial is timely under the language of this rule, but was delayed by circumstances not addressed in this rule or CrR 4.1, the pending charge shall not be dismissed unless the defendant's constitutional right to a speedy trial was violated.

(5) Related Charges. The computation of the allowable time for trial of a pending charge shall apply equally to all related charges.

(6) Reporting of Dismissals and Untimely Trials. The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to trial within the time limit required by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time for Trial.

(1) Defendant Detained in Jail. A defendant who is detained in jail shall be brought to trial within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified under subsection (b)(5).

(2) Defendant Not Detained in Jail. A defendant who is not detained in jail shall be brought to trial within the longer of

(i) 90 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) Release of Defendant. If a defendant is released from jail before the 60-day time limit has expired, the limit shall be extended to 90 days.

(4) Return to Custody Following Release. If a defendant not detained in jail at the time the trial date was set is subsequently returned to custody on the same or related charge, the 90-day limit shall continue to apply. If the defendant is detained in jail when trial is reset following a new commencement date, the 60-day limit shall apply.

(5) Allowable Time After Excluded Period. If any period of time is excluded pursuant to section (e), the allowable time for trial shall not expire earlier than 30 days after the end of that excluded period.

~~((c))~~ Time for Arraignment and Trial.

(1) Cases Filed Directly in Superior Court. If the defendant is detained in jail or subject to conditions of release, the defendant shall be arraigned not later than 14 days after the date the information or indictment is filed directly in the superior court. If the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 14 days after that appearance in superior court which next follows the filing of the information or indictment. A defendant not released from jail pending trial shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release pending trial shall be brought to trial not later than 90 days after the date of arraignment.

(2) Cases Filed Initially in District Court.

(i) If after proceedings have been initiated in district court an information or indictment is filed with the superior court, and if at the time the information or indictment is filed the defendant is detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 14 days after the date the information or indictment is filed. If after proceedings have been initiated in district court an information or indictment is filed with the superior court, and if at the time the information or indictment is filed the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 14 days after the date of that appearance in superior court which next follows the filing of the information or indictment. A defendant not released from jail pending trial shall be brought to trial not later than 60 days after the date of arraignment, less time elapsed in district court. A defendant released from jail whether or not subjected to conditions of release pending trial shall be brought to trial not later than 90 days after the date of arraignment, less time elapsed in district court.

(ii) "Time elapsed in district court" means the following: If at the time a complaint is filed with the district court a defendant is detained in jail or subjected to conditions of release, time elapsed in district court commences on the date the complaint is filed. If at the time a complaint is filed with the district court the defendant is not detained in jail or subjected to conditions of release, time elapsed in district court commences on the date of the defendant's appearance in dis-

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triet court which next follows the filing of the complaint. Time elapsed in district court ends with the earlier of (a) an oral or written order of dismissal entered by the district court, or (b) the filing of an information or indictment in superior court. Time elapsed in district court does not include time which was the subject of a stipulation entered into pursuant to CrRLJ 3.2.1 (d)(3).

(3) **Cases Filed Initially in Juvenile Court.** If an information or indictment is filed with the superior court after a juvenile court has declined jurisdiction, and if at the time the information or indictment is filed the defendant is detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 14 days after the date the information or indictment is filed. If an information or indictment is filed with the superior court after a juvenile court has declined jurisdiction, and if at the time the information or indictment is filed the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 14 days after that appearance in superior court which next follows the filing of the information or indictment. A defendant not released from jail pending trial in superior court shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release pending trial in superior court shall be brought to trial not later than 90 days after the date of arraignment.

(4) **Untimely Arraignment.** If a defendant is not arraigned within the time limits of this rule and an objection to the date of arraignment has been made as required by section (c) of this rule, the time for trial established in this section shall commence on the last day the defendant could properly have been arraigned.

((5) **Rearraignment.** If a defendant is required to be rearraigned on a charge that arises out of the same occurrence and has the same elements of proof as those upon which the defendant was previously arraigned, the time for trial established in this section shall commence on the date of the previous arraignment in superior court.

(6) **Arraignment Defined.** As used in CrR 3.3, "arraignment" means the date on which a plea is entered to the charge.

(d) **Extensions of Time for Trial.** The following extensions of time limits apply notwithstanding the provisions of section (c):

(1) **Revocation of Release.** A defendant who has been released from jail pending trial, pursuant to an order imposing conditions of release, but whose release is then revoked by order of the court, shall be brought to trial within such a time period that the defendant spends no more than a total of 60 days in jail following the date of arraignment, and in any event within such a time period that the defendant is tried not later than a total of 90 days after the date of arraignment unless the time period is otherwise extended by this rule.

(2) **Failure To Appear.** When a defendant who has already been arraigned fails to appear for any trial or pretrial proceeding at which the defendant's presence is required pursuant to rule 3.4, the defendant shall be brought to trial not later than 60 days after the date upon which the defendant is present in the county where the criminal charge is pending and the defendant's presence has been made known to the court on the record, if the defendant is thereafter detained in

jail or not later than 90 days after such date if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(3) **Mistrial and New Trial.** If before verdict the superior court orders a mistrial, the defendant shall be brought to trial not later than 60 days after the oral order of the court if the defendant is thereafter detained in jail or not later than 90 days after the oral order if the defendant is not detained in jail and whether or not the defendant is subjected to conditions of release. If after verdict the superior court orders a new trial, the defendant shall be brought to trial not later than 60 days after entry of the written order of the court if the defendant is thereafter detained in jail, or not later than 90 days after entry of such written order if the defendant is not detained in jail and whether or not the defendant is thereafter subjected to conditions of release.

(4) **Trial After Appeal or Stay.** If a cause is remanded for trial after an appellate court accepts review or stays proceedings, the defendant shall be brought to trial not later than 60 days after that appearance by or on behalf of the defendant in superior court, with notice to both parties of any such appearance, which next follows receipt by the clerk of the superior court of the mandate or other written order, if after such appearance the defendant is detained in jail, or not later than 90 days after such appearance if the defendant is thereafter released whether or not subject to conditions of release.

(5) **Change of Venue.** If a change of venue has been granted pursuant to rule 5.2, the case shall be transferred to the receiving court as soon as practicable but within 7 days and the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the date upon which the court to which the case is being transferred for trial receives the filing of the case, whichever is later. If, however, after a change of venue is attempted, the criminal calendar of the receiving county will prevent compliance with the time limits within this section, the trial shall commence on the earliest available date permitted by the criminal calendar of the receiving county.

(6) **Disqualification.** If the prosecuting attorney or judge becomes disqualified from participating in the case, the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the disqualification, whichever is later.

(7) **Withdrawal of Guilty Plea.** If a defendant has been permitted to withdraw a plea of guilty, the defendant shall be brought to trial not later than 60 days after the date of the written order allowing withdrawal of the guilty plea if the defendant is thereafter detained in jail or not later than 90 days if the defendant is thereafter released from jail, whether or not subjected to conditions of release.

(8) **Five Day Extensions.** When a trial is not begun on the date set because of unavoidable or unforeseen circumstances beyond the control of the court or the parties, the court, even if the time for trial has expired, may extend the time within which trial must be held for no more than 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension. If the nature of the unforeseen or unavoidable circumstance continues, the court may extend

the time for trial in increments of not to exceed 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension.))

(c) Commencement Date.

(1) Initial Commencement Date. The initial commencement date shall be the date of arraignment as determined under CrR 4.1.

(2) Resetting of Commencement Date. On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.

(i) Waiver. The filing of a written waiver of the defendant's rights under this rule signed by the defendant. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the trial contemporaneously or subsequently set by the court.

(ii) Failure to Appear. The failure of the defendant to appear for any proceeding at which the defendant's presence was required. The new commencement date shall be the date of the defendant's next appearance.

(iii) New Trial. The entry of an order granting a mistrial or new trial or allowing the defendant to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.

(iv) Appellate Review or Stay. The acceptance of review or grant of a stay by an appellate court. The new commencement date shall be the date of the defendant's appearance that next follows the receipt by the clerk of the superior court of the mandate or written order terminating review or stay.

(v) Collateral Proceeding. The entry of an order granting a new trial pursuant to a personal restraint petition, a habeas corpus proceeding, or a motion to vacate judgment. The new commencement date shall be the date of the defendant's appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the superior court of notice of action terminating the collateral proceeding, whichever comes later.

(vi) Change of Venue. The entry of an order granting a change of venue. The new commencement date shall be the date of the order.

(vii) Disqualification of Counsel. The disqualification of the defense attorney or prosecuting attorney. The new commencement date shall be the date of the disqualification.

((e) Objection to Arraignment Date—Waiver of Objection. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment pursuant to section (c) of this rule, and the time for trial set out in section (c) shall be deemed to have commenced on that date. Failure of a party to object as required shall be a waiver of the objection, and the date of arraignment shall be conclu-

sively established as the date upon which the defendant was actually arraigned.))

((f) Setting of Trial Date—Notice to Parties—Objection to Trial Date—Waiver)) (d) Trial Settings and Notice—Objections—Loss of Right to Object.

(1) Initial Setting of Trial Date. The court shall, within 15 days of the defendant's actual arraignment in superior court((;)) or at the omnibus hearing, set a date for trial which is within the time limits prescribed by this rule((;)) and notify counsel for each party of the date set. If a ((party)) defendant is not represented by counsel, the notice shall be given to the ((party;)) defendant and may be mailed to the ((party's)) defendant's last known address. The notice shall set forth the proper date of the defendant's arraignment ((as established at the time of arraignment)) and the date set for trial. ((A party who objects to the date set up on the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such date, or on an extension of such date properly granted pursuant to this rule, is not within the time limits prescribed by this rule.))

(2) Resetting of Trial Date. When the court determines that the trial date should be reset for any reason, including but not limited to the applicability of a ((period of extension)) new commencement date pursuant to ((section (d))) subsection (c)(2) or a period of exclusion pursuant to section ((g)) (e), the court shall set a new date for trial which is within the time limits prescribed and notify each counsel or party of the date set. ((as provided in subsection (f)(1;-))

(3) Objection to Trial Setting. A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. ((Failure of a party, for any reason, to make such a motion shall be a waiver of the objection)) A party who fails, for any reason, to make such a motion shall lose the right to object that a trial commenced on such a date ((or on an extension of such date granted pursuant to subsection (d)(8))) is not within the time limits prescribed by this rule.

(4) Loss of Right to Object. If a trial date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for trial, subject to section (g). A later trial date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

((g)) (e) Excluded Periods. The following periods shall be excluded in computing ((the time for arraignment and)) the time for trial:

(1) Competency Proceedings. All proceedings relating to the competency of a defendant to stand trial on the pending charge, beginning on the date when the competency examina-

tion is ordered and terminating when the court enters a written order finding the defendant to be competent((;)).

(2) Proceedings on Unrelated Charges. Arraignment, ~~((Preliminary))~~ pre-trial proceedings, ~~((and))~~ trial, and sentencing on an unrelated charge. ~~((on another charge (except as otherwise provided by CrR 3.3 (e)(5);))~~

(3) Continuances. Delay granted by the court pursuant to section ~~((h;))~~ (f).

(4) Period between Dismissal and Refiling. The time between the dismissal of a charge and the ~~((defendant's arraignment or re-arraignment in superior court following the))~~ refiling of the same or related charge((;)).

~~((Reserved;))~~ (5) Disposition of Related Charge. The period between the commencement of trial or the entry of a plea of guilty on one charge and the defendant's arraignment in superior court on a related charge.

(6) Defendant Subject to Foreign or Federal Custody or Conditions. The time during which a defendant is detained in jail or prison outside the state of Washington or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington((;)).

(7) Juvenile Proceedings. All proceedings in juvenile court((;)).

(8) Unavoidable or Unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for trial beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(9) Disqualification of Judge. A five-day period of time commencing with the disqualification of the judge to whom the case is assigned for trial.

~~((h;))~~ (f) Continuances. Continuances or other delays may be granted as follows:

(1) Written Agreement. Upon written agreement of the parties, which must be signed by the defendant or all defendants, ~~the court may continue the trial date to a specified date. ((The agreement shall be effective when approved by the court on the record or in writing.))~~

(2) Motion by the Court or a Party. On motion of the ~~((State;))~~ the court or a party, the court may continue the ~~((ease when))~~ trial date to a specified date when such continuance is required in the administration of justice and the defendant will not be ~~((substantially))~~ prejudiced in the presentation of ~~((the))~~ his or her defense. The motion must be ~~((filed on or))~~ made before the ~~((date set for trial or the last day of any continuance or extension granted pursuant to this rule))~~ time for trial has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for trial has expired. Such a continuance may be granted only once in the case upon a finding on the record or in writing that the defendant will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 14 days for a defendant detained in jail, or 28 days for a defendant not detained in jail, from the date that the con-

tinuance is granted. The court may direct the parties to remain in attendance or be on-call for trial assignment during the cure period.

~~((i))~~ (h) Dismissal With Prejudice. A ~~((criminal))~~ charge not brought to trial within the time ~~((period provided by))~~ limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-trial reasons except as expressly required by this rule, a statute, or the state or federal constitution.

~~((j))~~ Waiver. A defendant may waive his or her time for trial rights. A waiver shall be in writing and shall be signed by the defendant. The waiver shall be to a date certain beyond the current expiration date as calculated pursuant to this rule or for a period of days beyond the current expiration date.))

Purpose for Proposed Amendment to CrR 2.2:

The proposed changes to CrR 2.2 are intended to address the "due diligence" issues from *State v. Striker*, 87 Wn.2d 870 (1976), and *State v. Greenwood*, 120 Wn.2d 585 (1993). The intent is to simplify the *Striker/Greenwood* issues and resolve them early in the case, thereby allowing the State a meaningful opportunity to cure any deficiencies in their efforts to locate the defendant without causing any prejudice to the defendant. Under this proposal, defendants would be protected from prejudicial delays and fewer cases would need to be dismissed with prejudice. (The proposed amendments to CrR 2.2 are supported by a substantial majority, but not all, of the task force members. See the task force's final report for a full discussion.)

For more details, see the purpose statement for the proposed amendments to CrR 3.3 and the Time-for-Trial Task Force's Final Report (<http://www.courts.wa.gov/committee/tfv/>).

CrR 2.2

WARRANT OF ARREST AND SUMMONS

(a) Warrant of Arrest.

(1) Generally. If an indictment is found or an information is filed, the court may direct the clerk to issue a warrant for the arrest of the defendant.

(2) Probable Cause. Before ruling on a request for a warrant the court may require the complainant to appear personally and may examine under oath the complainant and any witnesses the complainant may produce. A warrant of arrest may not issue unless the court determines that there is probable cause to believe that the defendant committed the offense charged. The court shall determine probable cause based on an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(3) *Ascertaining Defendant's Current Address.*

(i) *Search for Address.* The court shall not issue a warrant unless it determines that the complainant has attempted to ascertain the defendant's current address by searching the following: (A) the District Court Information System database (DISCIS), (B) the driver's license and identicaid database maintained by the Department of Licenses; and (C) the database maintained by the Department of Corrections listing persons incarcerated and under supervision. The court in its discretion may require that other databases be searched.

(ii) *Exemptions from Address Search.* The search required by subdivision (i) shall not be required if (A) the defendant has already appeared in court after filing of the same case, (B) the defendant is known to be in custody, or (C) the defendant's name is unknown.

(iii) *Effect of Erroneous Issuance.* If a warrant is erroneously issued in violation of this subsection (a)(3), that error shall not affect the validity of the warrant.

(b) Issuance of Summons in Lieu of Warrant.

(1) *Generally.* If an indictment is found or an information is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) *When Summons Must Issue.* If the indictment or information charges only the commission of a misdemeanor or a gross misdemeanor, the court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(3) *Summons.* A summons shall be in writing and in the name of the State of Washington, shall be signed by the clerk with the title of the office, and shall state the date when issued and the county where issued. It shall state the name of the defendant and shall summon the defendant to appear before the court at a stated time and place.

(4) *Failure To Appear on Summons.* If a person fails to appear in response to a summons, or if service is not effected within a reasonable time, a warrant for arrest may issue.

(c) *Requisites of a Warrant.* The warrant shall be in writing and in the name of the State of Washington, shall be signed by the clerk with the title of the office, and shall state the date when issued and the county where issued. It shall specify the name of the defendant, or if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty. The warrant shall specify the offense charged against the defendant and that the court has found that probable cause exists to believe the defendant has committed the offense charged and shall command that the defendant be arrested and brought forthwith before the court issuing the warrant. If the offense is bailable, the judge shall set forth in the order for the warrant, bail, or other conditions of release.

(d) *Execution; Service.*

(1) *Execution of Warrant.* The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) *Service of Summons.* The summons may be served any place within the state. It shall be served by a peace officer who shall deliver a copy of the same to the defendant personally, or it may be served by mailing the same, postage prepaid, to the defendant at the defendant's address.

(e) **Return.** The officer executing a warrant shall make return to the court before whom the defendant is brought pursuant to these rules. At the request of the prosecuting attorney any unexecuted warrant shall be returned to the issuing court to be canceled. The person to whom a summons has been delivered for service shall, on or before the return date, file a return with the court before which the summons is returnable. For reasonable cause, the court may order that the warrant be returned to it.

(f) *Defective Warrant or Summons.*

(1) *Amendment.* No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any irregularity in the warrant or summons, but the warrant or summons may be amended so as to remedy any such irregularity.

(2) *Issuance of New Warrant or Summons.* If during the preliminary examination of any person arrested under a warrant or appearing in response to a summons, it appears that the warrant or summons does not properly name or describe the defendant or the offense with which the defendant is charged, or that although not guilty of the offense specified in the warrant or summons, there is reasonable ground to believe that the defendant is guilty of some other offense, the judge shall not discharge or dismiss the defendant but may allow a new indictment or information to be filed and shall thereupon issue a new warrant or summons.

(g) *Failure to Issue Warrant—Dismissal.* Upon five days' notice to the prosecuting attorney, the court shall dismiss a charge without prejudice if (i) 90 days have elapsed since the indictment or information was filed and (ii) on the date that the order of dismissal is entered, no warrant has been issued and the defendant has not appeared in court.

Purpose For Proposed Amendment to CrR 4.1:

The proposed changes to CrR 4.1 include provisions related to timely arraignments that are currently a part of CrR 3.3. The task force proposes moving these provisions to CrR 4.1 so that the timely arraignment issues are kept distinct from the timely trial issues. Other changes are also proposed in order to coordinate this rule with the proposed amendments to CrR 3.3. For more details, see the purpose statement for the proposed amendments to CrR 3.3 and the task force's final report (<http://www.courts.wa.gov/committee/tft/>).

**CrR 4.1
ARRAIGNMENT**

(a) *Time.* ((Promptly after the indictment or information has been filed, the defendant shall be arraigned thereon in open court.))

(1) *Defendant Detained in Jail.* The defendant shall be arraigned not later than 14 days after the date the information or indictment is filed in the adult division of the superior court, if the defendant is (i) detained in the jail of the county

where the charges are pending or (ii) subject to conditions of release imposed in connection with the same charges.

(2) Defendant Not Detained in Jail. The defendant shall be arraigned not later than 14 days after that appearance which next follows the filing of the information or indictment, if the defendant is not detained in that jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for that delay. For purposes of this rule, "appearance" has the meaning defined in CrR 3.3 (a)(3)(iii).

(b) Objection to Arraignment Date—Loss of Right to Object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of CrR 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which the defendant was actually arraigned.

(c) Counsel. If the defendant appears without counsel, the court shall inform ~~(him or his)~~ the defendant of his or her right to have counsel before being arraigned. The court shall inquire if ~~(he)~~ the defendant has counsel. If ~~(he)~~ the defendant is not represented and is unable to obtain counsel, counsel shall be assigned ~~(to him)~~ by the court, unless otherwise provided.

(d) Waiver of Counsel. If the defendant chooses to proceed without counsel, the court shall ascertain whether this waiver is made voluntarily, competently and with knowledge of the consequences. If the court finds the waiver valid, an appropriate finding shall be entered in the minutes. Unless the waiver is valid, the court shall not proceed with the arraignment until counsel is provided. Waiver of counsel at arraignment shall not preclude the defendant from claiming ~~(his)~~ the right to counsel in subsequent proceedings in the cause, and the defendant shall be so informed. If such claim for counsel is not timely, the court shall appoint counsel but may deny or limit a continuance.

(e) Name. Defendant shall be asked his or her true name. If ~~(he)~~ the defendant alleges that ~~(his)~~ the true name is one other than that by which he or she is charged, it must be entered in the minutes of the court, and subsequent proceedings shall be had ~~(against him)~~ by that name or other names relevant to the proceedings.

(f) Reading. The indictment or information shall be read to defendant, unless the reading is waived, and a copy shall be given to defendant.

Purpose For Proposed Amendment to CrRLJ 3.3:

See the purpose statement for the proposed amendments to CrR 3.3 and the task force's final report (<http://www.courts.wa.gov/committee/tft/>).

CrRLJ RULE 3.3 TIME FOR TRIAL

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ensure a trial in accordance with this rule to each person charged with ~~((having committed))~~ a crime.

(2) Precedence Over Civil Cases. Criminal trials shall take precedence over civil trials.

(3) Definitions. For purposes of this rule:

(i) "Pending charge" means the charge for which the allowable time for trial is being computed.

(ii) "Related charge" means a charge based on the same conduct as the pending charge that is ultimately filed in the trial court.

(iii) "Appearance" means the defendant's physical presence in the trial court. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously placed on the record under the cause number of the pending charge.

(iv) "Arraignment" means the date determined under CrRLJ 4.1(b).

(v) "Detained in jail" means held in the custody of a correctional facility pursuant to the pending charge. Such detention excludes any period in which a defendant is on electronic home monitoring, is being held in custody on an unrelated charge or hold, or is serving a sentence of confinement.

(vi) "Trial court" means the court where the pending charge was filed.

(4) Construction. The allowable time for trial shall be computed in accordance with this rule. If a trial is timely under this language of this rule but was delayed by circumstances not addressed in this rule or CrRLJ 4.1, the pending charge shall not be dismissed unless the defendant's constitutional right to a speedy trial was violated.

(5) Related Charges. The computation of the allowable time for trial of a pending charge shall apply equally to all related charges.

(6) Reporting of Untimely Trials. The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to trial within the time allowed by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time for Trial.

(1) Defendant Detained in Jail. A defendant who is detained in jail shall be brought to trial within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(2) Defendant Not Detained in Jail. A defendant who is not detained in jail shall be brought to trial within the longer of

(i) 90 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) Release of Defendant. If a defendant is released from jail before the 60-day time limit has expired, the limit shall be extended to 90 days.

(4) Return to Custody following Release. If a defendant not detained in jail at the time the trial date was set is subse-

quently returned to custody on the same or related charge, the 90-day limit shall continue to apply. If the defendant is detained in jail when trial is reset following a new commencement date, the 60-day limit shall apply.

(5) Allowable Time after Excluded Period. If any period of time is excluded pursuant to section (f), the allowable time for trial shall not expire earlier than 30 days after the end of that excluded period.

((e) Time for Arraignment and Trial.

(1) Cases Filed in Court. If the defendant is detained in jail, or subject to conditions of release, the defendant shall be arraigned not later than 15 days after the date the complaint is filed in court. If the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after that appearance in court which next follows the filing of the complaint or citation and notice. A defendant not released from jail pending trial shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release pending trial shall be brought to trial not later than 90 days after the date of arraignment.

(2) [Reserved.]

(3) Cases Filed Initially in Juvenile Court. If a complaint or citation and notice is filed with the court after a juvenile court has declined jurisdiction, and if at the time the complaint or citation and notice is filed the defendant is detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after the date the complaint or citation and notice is filed. If a complaint or citation and notice is filed with the court after a juvenile court has declined jurisdiction, and if at the time the complaint or citation and notice is filed the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after the appearance in court which next follows the filing of the complaint or citation and notice. A defendant not released from jail pending trial in court shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release shall be brought to trial not later than 90 days after the date of arraignment.

(4) Untimely Arraignment. If a defendant is not arraigned within the time limits of this rule and an objection to the date of arraignment has been made as required by section (c) of this rule, the time for trial established in this section shall commence on the last day the defendant could properly have been arraigned.

(5) Rearraignment. If a defendant is required to be rearraigned on a charge that arises out of the same occurrence and has the same elements of proof as those upon which the defendant was previously arraigned, the time for trial established in this section shall commence on the date of the previous arraignment.

(6) Arraignment Defined. As used in this rule, "arraignment" shall be defined as in rule 4.1.

(d) Extensions of Time for Trial. The following extensions of time limits apply notwithstanding the provisions of section (c):

(1) Revocation of Release. A defendant who has been released from jail pending trial, pursuant to an order imposing conditions of release, but whose release is then revoked by order of the court, shall be brought to trial within such a time period that the defendant spends no more than a total of 60 days in jail following the date of arraignment, and in any event within such a time period that the defendant is tried not later than a total of 90 days after the date of arraignment unless the time period is otherwise extended by this rule.

(2) Failure To Appear. When a defendant who has already been arraigned fails to appear for any trial or pretrial proceeding at which the defendant's presence is required, the defendant shall be brought to trial not later than 60 days after the date upon which the defendant is present in the county where the criminal charge is pending and the defendant's presence has been made known to the court on the record, if the defendant is thereafter detained in jail or not later than 90 days after such date if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(3) Mistrial and New Trial. If before verdict the court orders a mistrial, the defendant shall be brought to trial not later than 60 days after the oral or written order of the court, whichever first occurs, if the defendant is thereafter detained in jail or not later than 90 days after the order if the defendant is not detained in jail and whether or not the defendant is subjected to conditions of release. If after verdict the court orders a new trial, the defendant shall be brought to trial not later than 60 days after entry of the oral or written order of the court if the defendant is thereafter detained in jail, or not later than 90 days after entry of such order if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(4) Trial After Appellate Review or Stay. If a cause is remanded for trial after an appellate court accepts review or stays proceedings, the defendant shall be brought to trial not later than 60 days after that appearance by or on behalf of the defendant in court, with notice to both parties of any such appearance, which next follows receipt by the clerk of the court of the mandate or other written order, if after such appearance the defendant is detained in jail, or not later than 90 days after such appearance if the defendant is thereafter released whether or not subject to conditions of release.

(5) Change of Venue. If a change of venue has been granted, the case shall be transferred to the receiving court as soon as practicable but within 7 days and the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the date upon which the court to which the case is being transferred for trial receives the filing of the case, whichever is later. If, however, after a change of venue is attempted, the criminal calendar of the receiving county will prevent compliance with the time limits within this section, the trial shall commence on the earliest available date permitted.

(6) Disqualification. If the prosecuting authority or judge becomes disqualified from participating in the case, the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the disqualification, whichever is later.

~~(7) Withdrawal of Guilty Plea. If a defendant has been permitted to withdraw a plea of guilty, the defendant shall be brought to trial not later than 60 days after the date of the written order allowing withdrawal of the guilty plea if the defendant is thereafter detained in jail or not later than 90 days if the defendant is thereafter released from jail, whether or not subjected to conditions of release.~~

~~(8) Five Day Extensions. When a trial is not begun on the date set because of unavoidable or unforeseen circumstances beyond the control of the court or the parties, the court, even if the time for trial has expired, may extend the time within which trial must be held for no more than 5 days unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension. If the nature of the unforeseen or unavoidable circumstance continues, the court may extend the time for trial in increments of not to exceed 5 days unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension.)~~

(c) Commencement date.

~~(1) Initial Commencement Date. The initial commencement date shall be the date of arraignment as determined under CrRLJ 4.1.~~

~~(2) Resetting of commencement date. On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.~~

~~(i) Waiver. The filing of a written waiver of the defendant's rights under this rule signed by the defendant. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the trial contemporaneously or subsequently set by the court.~~

~~(ii) Failure to Appear. The failure of the defendant to appear for any proceeding at which the defendant's presence was required. The new commencement date shall be the date of the defendant's next appearance.~~

~~(iii) New Trial. The entry of an order granting a mistrial or a new trial or allowing the defendant to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.~~

~~(iv) Appellate Review or Stay. The acceptance of review or grant of a stay by an appellate court, or the issuance of a writ of certiorari, mandamus, or prohibition. The new commencement date shall be the date of the defendant's appearance that next follows the receipt by the clerk of the trial court of the mandate or written order terminating review or stay.~~

~~(v) Collateral Proceeding. The entry of an order granting a new trial pursuant to a personal restraint proceeding, a habeas corpus proceedings, or a motion to vacate judgment. The new commencement date shall be the date of the defendant's appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the trial court of notice of action terminating the collateral proceeding, whichever comes later.~~

~~(vi) Change of venue. The entry of an order granting a change of venue. The new commencement date shall be the date of the order.~~

~~(vii) Disqualification of Counsel. The disqualification of the defense attorney or prosecuting attorney. The new commencement date shall be the date of the disqualification.~~

~~(viii) Deferred Prosecution. The filing of a motion for deferred prosecution. The new commencement date shall be the date that an order is entered denying the motion or revoking deferred prosecution.~~

~~((e) Objection to Arraignment Date—Waiver of Objection)~~

~~((A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment pursuant to section (c) of this rule, and the time for trial set out in section (c) shall be deemed to have commenced on that date. Failure of a party to object as required shall be a waiver of the objection, and the date of arraignment shall be conclusively established as the date upon which the defendant was actually arraigned.))~~

~~((f) Setting of Trial Date—Notice to Parties—Objection to Trial Date—Waiver of Objection)~~ **(d) Trial Settings and Notice—Objections—Loss of Right to Object.**

~~(1) Initial Setting of Trial Date. The court shall, within 15 days of the defendant's actual arraignment in the trial court((;)) or at the ((pretrial)) omnibus hearing, set a date for trial which is within the time limits prescribed by this rule((;)) and notify ((the lawyer)) counsel for each party of the date set. If a ((party)) defendant is not represented by ((a lawyer)) counsel, the notice ((of the trial date)) shall be given to the ((party)) defendant((;)) and may be mailed to the ((party's)) defendant's last known address. The notice shall set forth the proper date of the defendant's arraignment ((as established at the time of arraignment,)) and the date set for trial. ((A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such a date, or on an extension of such date properly granted pursuant to this rule, is not within the time limits prescribed by this rule.))~~

~~(2) Resetting of Trial Date. When the court determines that the trial date should be reset for any reason, including but not limited to the applicability of a ((period of extension)) new commencement date pursuant to ((section (d))) subsection (c)(2) or a period of exclusion pursuant to section ((g)) (e), the court shall set a new date for trial which is within the time limits prescribed and notify each ((lawyer or)) party of the date set ((in subsection (f)(1))).~~

~~(3) Objection to Trial Setting. A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial~~

within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. ((Failure of a party, for any reason, to make such a motion shall be a waiver of the objection)) A party who fails, for any reason, to make such a motion shall lose the right to object that a trial commenced on such a date((-or on any extension of such date granted pursuant to subsection (d)(8)),) is not within the time limits prescribed by this rule.

(4) Loss of Right to Object. If a trial date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for trial, subject to section (g). A later trial date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

((g)) (e) Excluded Periods. The following periods shall be excluded in computing ((the time for arraignment and)) the time for trial:

(1) Competency Proceedings. All proceedings relating to the competency of a defendant to stand trial on the pending charge, beginning on the date when the competency examination is ordered and terminating when the court enters ((an)) a written order finding the defendant to be competent((;)).

(2) Proceedings on Unrelated Charges. Arraignment, ((Preliminary)) pre-trial proceedings, ((and)) trial, and sentencing on ((another)) an unrelated charge ((except as otherwise provided by subsection (e)(5);)).

(3) Continuances. Delay granted by the court pursuant to section ((h;)) (f).

(4) Period between Dismissal and Filing. The time between the dismissal of a charge and the ((defendant's arraignment or re-arraignment in court following the)) re-filing of the same or related charge((;)).

(5) Disposition of Related Charge. The period between the commencement of trial or the entry of a plea of guilty on one charge and the defendant's arraignment in the trial court on a related charge.

((5)) (6) Defendant Subject to Foreign or Federal Custody or Conditions. The time during which a defendant is detained in jail or prison outside the county in which the defendant is charged or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington((;)).

((6)) (7) Juvenile Proceedings. All proceedings in juvenile court.

(8) Unavoidable or Unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for trial beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(9) Disqualification of Judge. A five-day period of time commencing with the disqualification of the judge to whom the case is assigned for trial.

((h;)) (f) Continuances. Continuances or other delays may be granted as follows:

(1) Written Agreement. Upon written agreement of the parties, which must be signed by the defendant or all defendants, the court may continue the trial to a specified date.

((The agreement shall be effective when approved by the court on the record or in writing.))

(2) Motion by the Court or a Party. On motion of the ((State, the)) court or a party, the court may continue the ((ease when)) trial date to a specified date when such continuance is required in the administration of justice and the defendant will not be ((substantially)) prejudiced in the presentation of his or her defense. The motion must be filed ((on or)) before the ((date set for trial or the last day of any continuance or extension granted pursuant to this rule)) time for trial has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for trial has expired. Such a continuance may be granted only once in the case upon a finding on the record or in writing that the defendant will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 14 days for a defendant detained in jail, or 28 days for a defendant not detained in jail, from the date that the continuance is granted. The court may direct the parties to remain in attendance or be on-call for trial assignment during the cure period.

((h;)) (h) Dismissal With Prejudice. A ((criminal)) charge not brought to trial within the time ((period provided by)) limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-trial reasons except as expressly required by this rule, a statute, or the state or federal constitution.

((j) Waiver. A defendant may waive his or her time for trial rights. A waiver shall be in writing and shall be signed by the defendant. The waiver shall be to a date certain beyond the current expiration date as calculated pursuant to this rule or for a period of days beyond the current expiration date.))

Purpose For Proposed Amendment to CrRLJ 2.2:

See the purpose statement for the proposed amendments to CrR 2.2 and 3.3, as well as the task force's final report (<http://www.courts.wa.gov/committee/tft/>).

CrRLJ 2.2

WARRANT OF ARREST OR SUMMONS UPON COMPLAINT

(a) Issuance of Warrant of Arrest.

(1) Generally. If a complaint is filed and if the offense charged may be tried in the jurisdiction in which the warrant issues, and if the sentence for the offense charged may include confinement in jail, the court may direct the clerk to issue a warrant for the arrest of the defendant unless the defendant has already been arrested in connection with the offense charged and is in custody or has been released on obligation to appear in court.

(2) Probable Cause. A warrant of arrest must be supported by an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The evidence shall be preserved. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. The evidence shall be subject to constitutional limitations for probable cause determinations and may be heard in whole or in part.

(3) Ascertaining Defendant's Current Address.

(i) Search for Address. The court shall not issue a warrant unless it determines that the complainant has attempted to ascertain the defendant's current address by searching the following: (A) the District Court Information System database (DISCIS), (B) the driver's license and identicaid database maintained by the Department of Licenses; and (C) the database maintained by the Department of Corrections listing persons incarcerated and under supervision. The court in its discretion may require that other databases be searched.

(ii) Exemptions from Address Search. The search required by subdivision (i) shall not be required if (A) the defendant has already appeared in court (in person or through counsel) after filing of the same case, (B) the defendant is known to be in custody, or (C) the defendant's name is unknown.

(iii) Effect of Erroneous Issuance. If a warrant is erroneously issued in violation of this subsection (a)(3), that error shall not affect the validity of the warrant.

(b) Issuance of Summons in Lieu of Warrant.

(1) Generally. If a complaint is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) When Summons Must Issue. If the complaint charges the commission of a misdemeanor or a gross misdemeanor, the court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(3) Summons for Felony Complaint. If the complaint charges the commission of a felony, the court may direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(4) Summons. A summons shall be in writing and in the name of the charging jurisdiction, shall be signed by the clerk with the title of that office, and shall state the date when issued. It shall state the name of the defendant and the nature of the charge, and shall summon the defendant to appear before the court at a stated time and place. The summons shall inform the defendant that failure to appear as commanded may result in the issuance of a warrant for the arrest of the accused.

(5) Failure To Appear on Summons. If a person fails to appear in response to a summons, or if delivery is not effected

within a reasonable time, a warrant of arrest may issue, if the sentence for the offense charged may include confinement in jail.

(c) Requisites of a Warrant. The warrant shall be in writing and in the name of the charging jurisdiction, shall be signed by the judge or clerk with the title of that office, and shall state the date when issued. It shall specify the name of the defendant, or if his or her name is unknown, any name or description by which he or she can be identified with reasonable certainty. The warrant shall specify the offense charged against the defendant and that the court has found that probable cause exists to believe the defendant has committed the offense charged and shall command the defendant be arrested and brought forthwith before the court issuing the warrant. If the offense is not a capital offense, the court shall set forth in the order for the warrant, bail and/or other conditions of release.

(d) Execution; Service.

(1) Execution of Warrant. The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) Delivery of Summons. The summons may be served any place within the state. It may be served by a peace officer, who shall deliver a copy of the same to the defendant personally, or it may be delivered by the court mailing the same, postage prepaid, to the defendant at his or her last known address.

(e) Return. The officer executing a warrant shall make return thereof to the court before whom the defendant is brought pursuant to these rules. At the request of the prosecuting authority any unexecuted warrant shall be returned to the issuing court to be canceled. The peace officer to whom a summons has been given for service shall, on or before the return date, file a return thereof with the court before whom the summons is returnable. For reasonable cause, the court may order that the warrant be returned to it.

(f) Defective Warrant or Summons.

(1) Amendment. No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any irregularity in the warrant or summons, but the warrant or summons may be amended so as to remedy any irregularity.

(2) Issuance of New Warrant or Summons. If during the preliminary examination of any person arrested under a warrant or appearing in response to a summons, it appears that the warrant or summons does not properly name or describe the defendant or the offense with which he or she is charged, or that although not guilty of the offense specified in the warrant or summons, there is reasonable ground to believe that he or she will be charged with some other offense, the judge shall not discharge or dismiss the defendant but may allow a new complaint to be filed and shall thereupon issue a new warrant or summons.

(g) Failure to Issue Warrant—Dismissal. Upon five days' notice to the prosecuting attorney, the court shall dismiss a charge without prejudice if (i) 90 days have elapsed since the citation or complaint was filed and (ii) on the date that the order of dismissal is entered, no warrant has been issued and the defendant has not appeared in court.

Purpose For Proposed Amendment to CrRLJ 4.1:

See the purpose statements for the proposed amendments to CrR 4.1 and CrR 3.3, as well as the task force's final report (<http://www.courts.wa.gov/committee/tft/>).

CrRLJ 4.1
ARRAIGNMENT

(a) Procedures. After the complaint or the citation and notice has been filed, the defendant shall be arraigned thereon in open court.

(1) Time.

(i) The defendant shall be arraigned not later than 15 days after the date the complaint is filed in court, if the defendant is (A) detained in a county or city jail in the county where the charges are pending, or (B) subject to conditions of release imposed in connection with the same charges.

(ii) The defendant shall be arraigned not later than 15 days after that appearance which next follows the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for the delay. For purposes of this rule, "appearance" has the meaning defined in CrRLJ 3.3 (a)(3)(iii).

~~((+))~~ (2) Reading and Plea. Arraignment shall consist of reading the complaint or the citation and notice to the defendant or stating to him or her the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the complaint or the citation and notice before being called upon to plead, unless a copy has previously been supplied. The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested.

~~((2))~~ (3) Advisement. At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:

(i) of the right to trial by jury if applicable; and

(ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one.

(b) Objection to Arraignment Date—Loss of Right to Object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of CrRLJ 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which the defendant was actually arraigned.

~~((b))~~ (c) Waiver.

(1) *Jury Trial.* A waiver of jury trial at arraignment must be in writing and signed by the defendant. If the defendant waives a jury trial at arraignment, he or she must be advised of the right to withdraw the waiver and request a jury trial within 10 days of arraignment.

(2) *Lawyer.* If the defendant chooses to proceed without a lawyer, the court shall determine on the record that the waiver is made voluntarily, competently and with knowledge of the consequences. The defendant must be advised that waiver of a lawyer at arraignment does not preclude the defendant from asserting the right to a lawyer later in the proceedings.

~~((e))~~ (d) Name. At arraignment, the court shall ask the defendant his or her true name. If the defendant's name has been incorrectly stated in the complaint or citation and notice, the court shall order the complaint or citation and notice to be corrected accordingly.

~~((d))~~ (e) Appearance by Defendant's Lawyer. Except as otherwise provided by statute or by local court rule, a lawyer may enter an appearance or a plea of not guilty on behalf of a client for any offense. Such appearance or plea may be entered only after a complaint or citation and notice has been filed.

(1) The appearance or the plea of not guilty shall be made only in writing or in open court, and eliminates the need for a further arraignment.

(2) An appearance that waives arraignment but fails to state a plea shall be deemed to constitute entry of a plea of not guilty.

(3) An appearance under this rule constitutes a waiver of any defect in the complaint or the citation and notice except for failure to charge a crime which may be raised at any time and except for any other defect that is specifically stated in writing or on the record at the time the appearance is entered.

(4) A written appearance shall commence the running of the time periods established in rule 3.3 from the date of its receipt by the court, unless the time periods have previously been commenced by an appearance in open court.

(5) Telephonic requests or notices by either the defendant or the defendant's lawyer shall not constitute an arraignment or an appearance or entry of a plea, and shall not commence the running of the time periods under rule 3.3.

(6) The appearance by a lawyer authorized by this rule shall be construed as an "arraignment" under the other provisions of these rules.

Purpose For Proposed Amendment to JuCR 7.8:

See the purpose statement for the proposed amendment to CrR 3.3 and the task force's final report (<http://www.courts.wa.gov/committee/tft/>).

JuCR 7.8
TIME FOR ADJUDICATORY HEARING

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ~~((insure))~~ ensure an adjudicatory hearing in accordance with the provisions of this rule to each person charged with a juvenile offense ~~((an adjudicatory hearing in accordance with the provisions of this rule))~~.

(2) Definitions. For purposes of this rule:

(i) "Pending charge" means the charge for which the allowable time for trial is being computed.

(ii) "Related charge" means a charge based on the same conduct as the pending charge that is ultimately filed in juvenile court.

(iii) "Appearance" means the juvenile's physical presence in the court where the pending charge was filed. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously noted on the record under the cause number of the pending charge.

(iv) "Arrest" means the date determined under JuCR 7.6 and CrR 4.1(b).

(v) "Held in detention" means held in the custody of a detention facility pursuant to the pending charge. Such detention excludes any period in which a juvenile is on electronic home monitoring, is being held on an unrelated charge or hold, or is serving a sentence of confinement.

(3) *Construction.* The allowable time for the adjudicatory hearing shall be computed in accordance with this rule. If a hearing is timely under the language of this rule but was delayed by circumstances not addressed in this rule or JuCR 7.6, the pending charge shall not be dismissed unless the juvenile's constitutional right to a speedy trial was violated.

(4) *Related Charges.* The computation of the allowable time for the adjudicatory hearing on a pending charge shall apply equally to all related charges.

(5) *Reporting of Dismissals and Untimely Hearings.* The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to hearing within the time limit required by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time Limits for Adjudicatory Hearing.

(1) *Juvenile Held in Detention.* ((The adjudicatory hearing on a juvenile offense shall begin within 60 days following the juvenile's arraignment in juvenile court on the charges contained in the information. If the alleged juvenile offender is held in detention pending the adjudicatory hearing and would be at liberty but for the current charges, the hearing shall begin within 30 days following the juvenile's arraignment in juvenile court on the charges contained in the information.)) A juvenile who is held in detention shall be brought to hearing within the longer of

(i) 30 days after the commencement date specified in this rule, or

(ii) the time specified under subsection (b)(5).

(2) *Juvenile Not Held in Detention.* A juvenile who is not held in detention shall be brought to hearing within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) *Release of Juvenile.* If a juvenile is released from detention before the 30 day time limit has expired, the limit shall be extended to 60 days.

(4) *Return to Detention following Release.* If a juvenile not held in detention at the time the hearing date was set but

is subsequently returned to detention on the same or related charge, the 60-day limit shall continue to apply. If the juvenile is held in detention when the hearing is reset following a new commencement date, the 30-day limit shall apply.

(5) *Allowable Time after Excluded Period.* If any period of time is excluded pursuant to section (e), the allowable time for the adjudicatory hearing shall not expire earlier than 15 days after the end of that excluded period.

~~((e) Setting of Hearing Date Notice to Parties—Objection to Hearing Date Waiver. CrR 3.3(f) applies in juvenile court. The court shall notify the juvenile of the hearing date in accordance with CrR 3.3(f), and any party who objects to the hearing date must do so by motion within 10 days after the notice is mailed or otherwise given. The failure of a party to make a timely objection shall be a waiver of the objection to the hearing date.))~~

(c) Commencement date.

(1) *Initial Commencement Date.* The initial commencement date shall be the date of arraignment as determined under JuCR 7.6 and CrR 4.1.

(2) *Resetting of Commencement Date.* On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.

(i) *Waiver.* The filing of a written waiver of the juvenile's rights under this rule signed by the juvenile. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the hearing contemporaneously or subsequently set by the court.

(ii) *Failure to Appear.* The failure of the juvenile to appear for any proceeding at which the juvenile's appearance was required. The new commencement date shall be the date of the juvenile's next appearance.

(iii) *New Adjudicatory Hearing.* The entry of an order granting a mistrial or new adjudicatory hearing or allowing the juvenile to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.

(iv) *Appellate Review or Stay.* The acceptance of review or grant of a stay by an appellate court. The new commencement date shall be the date of the juvenile's appearance that next follows the receipt by the clerk of the juvenile court of the mandate or written order terminating review or stay.

(v) *Collateral Proceeding.* The entry of an order granting a new adjudicatory hearing pursuant to a person restraint petition, a habeas corpus proceeding, or a motion to vacate judgment. The new commencement date shall be the date of the juvenile's appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the juvenile court of notice of action terminating the collateral proceeding, whichever comes later.

(vi) *Change of Venue.* The entry of an order granting a change of venue. The new commencement date shall be the date of the order.

(vii) Disqualification of Counsel. The disqualification of the defense attorney or prosecuting attorney. The new commencement date shall be the date of the disqualification.

(d) Setting of Hearing Date—Notice—Objections—Loss of Right to Object.

(1) Initial Setting of Hearing Date. The court shall, within 15 days of the juvenile's actual arraignment in juvenile court, set a date for the adjudicatory hearing which is within the time limits prescribed by this rule and notify counsel for each party of the date set. If a juvenile is not represented by counsel, the notice shall be given to the juvenile and may be mailed to the juvenile's last known address. The notice shall set forth the proper date of the juvenile's arraignment and the date set for the hearing.

(2) Resetting of Hearing Date. When the court determines that the hearing date should be reset for any reason, including but not limited to the applicability of a new commencement date pursuant to subsection (c)(2) or a period of exclusion pursuant to section (e), the court shall set a new date for the hearing which is within the time limits prescribed and notify each party of the date set.

(3) Objection to Hearing Date. A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set an adjudicatory hearing within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. A party who fails, for any reason, to make such a motion shall lose the right to object that an adjudicatory hearing commenced on such a date is not within the time limits prescribed by this rule.

(4) Loss of Right to Object. If a hearing date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for the adjudicatory hearing, subject to section (g). A later hearing date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

(e) Excluded Periods. The following periods shall be excluded in computing the time for the adjudicatory hearing:

(1) Competency Proceedings. All proceedings related to the competency of the alleged juvenile (~~offender~~) to participate in the hearing on the pending charge, beginning on the date when the competency examination is ordered and terminating when the court enters a written order finding the juvenile to be competent.

(2) Proceedings on Unrelated Charges. ~~((Preliminary proceedings and an adjudicatory hearing on another charge.))~~ Arraignment, pre-adjudicatory hearing proceedings, adjudicatory hearing, and disposition hearing on an unrelated charge.

(3) Continuances. Delay granted by the court pursuant to section ~~((e))~~ (f).

(4) Period between Dismissal and Refiling. The time between the dismissal of a charge and the refiling of the same or related charge.

(5) Disposition of Related Charge. The period between the commencement of an adjudicatory hearing or the entry of

a plea of guilty on one charge and the juvenile's arraignment in superior court on a related charge. ~~((The time between a motion for revision of a court commissioner's ruling and the entry of a decision by a judge.))~~

(6) Juvenile Subject to Foreign or Federal Custody or Conditions. The time during which a juvenile is detained outside the state of Washington or in a federal facility and the time during which a juvenile is subject to conditions of release not imposed by a court of the State of Washington. ~~((The time required for determining the capacity of the juvenile offender.))~~

(7) Unavoidable or Unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for the adjudicatory hearing beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(8) Motion for Revision. When a motion for revision of a court commissioner's ruling is filed, the time between the court commissioner's ruling and an order deciding the motion.

(9) Disqualification of Judge. A five-day period of time commencing with the disqualification of the judge to whom the case is assigned for the adjudicatory hearing.

~~((e))~~ **(f) Continuances.** Continuances or other delays may be granted as follows:

(1) On motion of the alleged juvenile offender on a showing of good cause.

(2) On motion of the prosecuting attorney if:

(i) the alleged juvenile offender consents to a continuance or delay and good cause is shown; or

(ii) the States evidence is presently unavailable, the prosecution has exercised due diligence, and there are reasonable grounds to believe that it will be available within a reasonable time; or

(iii) required in the due administration of justice and the alleged juvenile offender will not be substantially prejudiced in the presentation of his or her defense.

~~(3) The court on its own motion may continue the case when required in the due administration of justice and the alleged juvenile offender will not be substantially prejudiced in the presentation of his or her defense.))~~

(1) Written Agreement. Upon written agreement of the parties, which must be signed by the alleged juvenile offender or all the alleged offenders, the court may continue the hearing date to a specified date.

(2) Motion by the Court or a Party. On motion of the court or a party, the court may continue the hearing to a specified date when such continuance is required in the administration of justice and the juvenile will not be prejudiced in the presentation of his or her defense. The motion must be made before the time for the adjudicatory hearing has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for the adjudicatory hearing has expired. Such a continuance may be granted only once in the case upon a finding on the record or

in writing that the juvenile will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 7 days for a juvenile who is held in detention, or 28 days for a juvenile not held in detention, from the date that the continuance is granted. The court may direct the parties to remain in attendance or be on-call for hearing assignment during the cure period.

~~((f))~~ **Absence of Alleged Juvenile Offender.** ~~In the event the alleged juvenile offender is absent from the court and thereby unavailable for the adjudicatory hearing or for any preliminary proceeding at which his or her presence is required, the time period specified in section (b) shall start to accrue anew when the alleged juvenile offender is actually present in the county where the charge is pending, and his presence appears upon the record of the court.)~~

~~((g))~~ **(h) Dismissal With Prejudice.** ~~((If the adjudicatory hearing on a juvenile offense is not held within the time limits in this rule, the information shall be dismissed with prejudice.))~~ A charge not brought to adjudicatory hearing within the time limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-hearing reasons except as expressly required by this rule, a statute, or the state or federal constitution.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The 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.

WSR 03-09-003
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed April 2, 2003, 4:39 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 03-002.
Subject: Using a substitute consumer price index (CPI).
Effective Date: March 31, 2003.

Document Description: This memo explains to DCS staff how to use a substitute consumer price index when calculating child support obligations.

To receive 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 31, 2003
Stephanie E. Schiller

WSR 03-09-004
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed April 2, 2003, 4:40 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instruction.
Subject: Chemical-using pregnant (CUP) women program.
Effective Date: November 1, 2002.

Document Description: MAA last published this document in 1993. Most of the material in this new publication adds current program practice that was omitted in the 1993 publication. The new publication now includes the process for extended stays, billing instructions, and information on Medicare and Healthy Options. Other things in the new publication worth noting are that MAA has discontinued Revenue Code 169 for extended stays, has added resource linkages, and has defined basic program services.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

March 31, 2003
E. A. Myers, Manager
Rules and Publications Section

WSR 03-09-006
NOTICE OF PUBLIC MEETINGS
LOWER COLUMBIA COLLEGE

[Memorandum—March 31, 2003]

Instead of their regularly scheduled meeting on July 16, 2003, the board of trustees of Lower Columbia College will be holding an all day workshop on August 20, 2003, beginning at 9:00 a.m. at 650 Smith Road, Toutle, WA.

Lower Columbia College Board of Trustees
2003 Meeting Schedule
Revised 3-31-03

The trustees meet on the 3rd Wednesday of the month @ 5:00 unless noted differently below.

January 15, 2003	5:00 p.m.	Regular Meeting	Heritage Room
February 19, 2003	9:00 a.m.	Regular Meeting/ Workshop	Heritage Room
March 19, 2003	5:00 p.m.	Regular Meeting	Heritage Room
April 16, 2003	5:00 p.m.	Regular Meeting	Heritage Room
May 21, 2003	5:00 p.m.	Regular Meeting	Heritage Room
June 18, 2003	5:00 p.m.	Regular Meeting	Heritage Room
July 16, 2003		NO MEETING	
August 20, 2003	9:00 a.m.	Workshop	TBD

MISC.

September 17, 2003	5:00 p.m.	Regular Meeting	Heritage Room
October 15, 2003	5:00 p.m.	Regular Meeting	Heritage Room
November 19, 2003	5:00 p.m.	Regular Meeting	Heritage Room
December 17, 2003	5:00 p.m.	Regular Meeting	Heritage Room

WSR 03-09-007

**INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 3, 2003, 10:50 a.m.]

In accordance with RCW 34.05.230(12), following is a list of Policy and Interpretive Statements issued by the department for March 2003.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

WISHA Services Division

WISHA Regional Directive (WRD) 2.17 Targeting WISHA Activities (Seasonal Agriculture).

This policy provides guidance to WISHA enforcement and consultation staff regarding programmed activities within seasonal agriculture. As part of settlement discussions related to ongoing litigation, the department has agreed to temporarily suspend programmed enforcement in agriculture. This directive, which rescinds previous versions, will remain in effect until further notice. This policy was amended March 10, 2003.

Contact Marcia Benn, Mailstop 44648, phone (360) 902-5496.

Carmen Moore
Legislative and
Governmental Affairs Office

WSR 03-09-008

**INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 3, 2003, 10:50 a.m.]

In accordance with RCW 34.05.230(12), following is a list of Policy and Interpretive Statements issued by the department for January 2003.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

Insurance Services Division

INTERIM POLICY 40.16 Orthotrac Pneumatic Vest.

This policy applies to state fund and self-insured workers' compensation and crime victims claims. This policy provides guidelines for adjudicators regarding authorizing or denying requests for an orthotrac pneumatic vest. This policy was issued January 21, 2003.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

POLICY 62.12 Maritime Activities

This policy applies to state fund workers' compensation claims. This policy does not apply to self-insurance and crime victims. The policy provides guidelines for staff when determining whether maritime-related employments will be covered under state fund, industrial insurance, Title 51 RCW. This policy was amended January 30, 2003.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

POLICY 63.60 Determining Policy Effective/Business Active Dates

This policy applies to state fund workers' compensation claims. This policy does not apply to self-insurance and crime victims. This policy provides guidelines for staff when determining the industrial insurance policy effective date for first-time applicants. This policy was amended January 30, 2003.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

Carmen Moore
Legislative and
Governmental Affairs Office

WSR 03-09-011

**RULES COORDINATOR
COLUMBIA RIVER
GORGE COMMISSION**

[Filed April 4, 2003, 11:17 a.m.]

The Columbia River Gorge Commission has changed its rules coordinator to be Nancy Andring, Administrative Secretary, 288 East Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323, fax (509) 493-2229, www.gorgecommission.org.

Martha J. Bennett
Executive Director

WSR 03-09-012

**POLICY STATEMENT
UNIVERSITY OF WASHINGTON**

[Filed April 4, 2003, 11:18 a.m.]

The University of Washington has recently adopted or revised the following policy statements:

UW Board of Regents By-Laws, Article II, "Meetings of the Board," revised effective February 21, 2003.

UW Board of Regents By-Laws, Article III, "Committees of the Board," revised effective February 21, 2003.

UW Executive Order No. 3, "Executive Order Procedure," revised effective January 6, 2003.

UW Executive Order No. 28, "Graduate Student Service Appointments," revised effective January 14, 2003.

Administrative Policy Statement 1.2, "University-Wide Organization List," revised effective March 12, 2003.

MISC.

Administrative Policy Statement 10.11, "UW Health and Safety Committees," revised effective February 18, 2003.

Administrative Policy Statement 11.2, "Management and Disposal of Hazardous Wastes," effective February 18, 2003.

Administrative Policy Statement 11.4, "Spills and Releases," revised effective February 18, 2003.

Additionally, the following policy statement was rescinded:

Administrative Policy Statement 12.2, "Disposal of Hazardous Wastes," effective February 18, 2003.

To view UW board of regents by-laws and UW executive orders, go to the *University Handbook* website: <http://www.washington.edu/faculty/facsenate/handbook/handbook.html>; to view administrative policy statements, go to the *UW Administrative Policy Statements* website: <http://www.washington.edu/admin/adminpro/APS/APSIndex.html> or, for paper copies, contact Rebecca Goodwin Dear-dorff, Director, Administrative Procedures Office, University of Washington at 4014 University Way N.E., Seattle, WA 98105-6203, by e-mail at adminpro@u.washington.edu, and by fax at (206) 616-6294.

WSR 03-09-037

NOTICE OF PUBLIC MEETINGS

BELLINGHAM TECHNICAL COLLEGE

[Memorandum—April 8, 2003]

The board of trustees of Bellingham Technical College will meet on Wednesday, April 9, 2003, 5 p.m. to 6 p.m., in the College Services Building Board Room on the Bellingham Technical College campus, in a special board meeting which will convene into executive session to discuss the acquisition of real estate by purchase and pending legal matters. Action may be taken, if necessary, as a result of board discussion. Call 738-3105 ext. 334 for information.

WSR 03-09-038

NOTICE OF PUBLIC MEETINGS

BELLINGHAM TECHNICAL COLLEGE

[Memorandum—April 8, 2003]

The regularly schedule meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 17, 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 03-09-039

NOTICE OF PUBLIC MEETINGS

BATES TECHNICAL COLLEGE

[Memorandum—April 4, 2003]

The board of trustees of Bates Technical College will have a study session prior to their regular board meeting on

April 16, 2003. The purpose of the study session will be to discuss capital planning for Bates Technical College with Mithun Architectural firm. The study session will begin at 2:00 p.m. and end at approximately 2:55 p.m. and will be held in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma.

WSR 03-09-044

NOTICE OF PUBLIC MEETINGS

COMMISSION ON JUDICIAL CONDUCT

[Memorandum—April 7, 2003]

The Commission on Judicial Conduct public meeting scheduled for 11:00 a.m., Friday, August 1, 2003, is hereby changed. The meeting will now be held on Friday, August 15, 2003, at the same time (11:00 a.m.) and location (Holiday Inn Express Hotel and Suites, 19621 International Boulevard, SeaTac, WA 98188).

WSR 03-09-045

NOTICE OF PUBLIC MEETINGS

CONVENTION AND TRADE CENTER

[Memorandum—April 9, 2003]

A meeting of the Washington State Convention and Trade Center board of directors Design and Construction Committee will be held on **Tuesday, April 15, 2003, at 12:30 p.m.** in the Administrative Boardroom, 5th Floor of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 03-09-046

NOTICE OF PUBLIC MEETINGS

CONVENTION AND TRADE CENTER

[Memorandum—April 9, 2003]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday, April 15, 2003, at 2:00 p.m.** in Room 201 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 03-09-047
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
[Memorandum—April 8, 2003]

To ensure a quorum, the South Puget Sound Community College board of trustees has changed the time of their regular meeting of Thursday, May 8, 2003, 3:00-4:30 p.m. to Thursday, May 8, 2003, 9:00-10:30 a.m.

If you have any questions, please contact Diana Toledo at 596-5206.

WSR 03-09-048
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS
[Memorandum—April 10, 2003]

MEETING SCHEDULE
2003

MONTH	DATE	LOCATION
January	23/24	Olympia
March	7/8	Bellingham/Mt. Vernon
May	8/10	Wenatchee
July	11/12	Burien/White Center
September	12/13	Brewster
November	7/8	Moses Lake

2004

MONTH	DATE	LOCATION
January	22/23	Olympia
March	12/13	Benton City
May	14/15	Mattawa
July	9/10	Bellevue
September	17/18	Yakima
November	12/13	Longview

WSR 03-09-055
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
[Memorandum—April 11, 2003]

Special Board Meeting/Teleconference
128 10th Avenue S.W.
Olympia, WA 98504
(360) 753-5660

The Workforce Training and Education Coordinating Board (WTECB) will hold a special board meeting/teleconference at its office in Olympia, WA, on April 18, 2003, at 3:30 p.m. - 4:30 p.m.

The purpose of the teleconference meeting is to review and adopt a proposal for the National Institute for Literacy Work Readiness Credential project.

The WTECB office will be the site for public attendance at this meeting.

People needing special accommodations please call Mary Reister in advance at (360) 753-5660, e-mail mreister@wtb.wa.gov.

WSR 03-09-056
ATTORNEY GENERAL'S OFFICE

[Filed April 14, 2003, 10:16 a.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 May 14, 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.

The Attorney General's Office seeks public input on the following opinion request(s):

03-04-01 Request by Mary Margaret Haugen
Chair, Municipal Research Council

Are public lands owned by a city, which are located within the corporate limits of the city, subject to assessments levied by a mosquito control district pursuant to RCW 17.28.255?

MISC.

WSR 03-09-063
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
 (Board of Natural Resources)
 [Memorandum—April 11, 2003]

Special Meeting, Board of Natural Resources

Below please find a revised schedule for the Board of Natural Resources meeting. There will be no July meeting. If you have any questions please feel free to call (360) 902-1727.

DATE	June 25, 2003
TIME	9:00 a.m.
LOCATION	NRB-Room 172

WSR 03-09-067
DEPARTMENT OF AGRICULTURE
 [Filed April 15, 2003, 1:10 p.m.]

LEGAL NOTICE

The Washington State Department of Agriculture (WSDA) Laboratory Services Division is hereby notifying the affected public that the herbicide Rodeo® (glyphosate), surfactant (R-11, X-77 or LI-700) and marker dyes may be used between June 1, 2003, and October 31, 2003. Properly licensed pesticide applicators who have obtained coverage under a WSDA National Pollutant Discharge Elimination System Waste Discharge General Permit may apply Rodeo® to control the noxious weed *Spartina* on the saltwater tide-flats of Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, and the north and west sides of the Olympic Peninsula.

Use of the herbicide Rodeo® is one of the options used to control *Spartina*. These infestations may also be treated by crushing, mowing, digging or covering.

For more information, including locations of possible application sites, contact the WSDA *Spartina* Control Program at (360) 902-1923 or (360) 902-1853, or write WSDA *Spartina* Program, P.O. Box 42560, Olympia, WA 98504-2560. The Washington State Department of Ecology 24-hour emergency/spill response hotline is (425) 649-7000 (northwest region) or (360) 407-6300 (southwest region).

WSR 03-09-077
NOTICE OF PUBLIC MEETINGS
ECONOMIC DEVELOPMENT
FINANCE AUTHORITY
 [Memorandum—April 16, 2003]

The Washington Economic Development Finance Authority (WEDFA) is an independent agency (#106) within the executive branch of the state government. The authority has four regular board meetings each year, one per quarter.

The authority's meetings are open to the public, and access for persons with disabilities is provided at all meetings of the authority. We would like to have the board meeting schedule for the remainder of 2003 published in the next issue of the State Register.

Our next regular meeting will be held at 10:00 a.m., Wednesday, June 4th in the 12th Floor Conference Room, 428 West Riverside, Spokane, WA 99201. The remaining meeting dates and locations are: 10:00 a.m., Wednesday, September 10th at a location in Yakima, WA, to be announced, and 10:00 a.m., Wednesday, December 3rd in the Cascadia World Trade Club on the mezzanine level of the main terminal building, SeaTac International Airport, SeaTac, Washington.

Please call Jonathan A. Hayes at (206) 587-5634 if you have any questions.

WSR 03-09-095
INTERPRETIVE AND POLICY STATEMENT
HORSE RACING COMMISSION

[Filed April 21, 2003, 10:03 a.m.]

In accordance with Revised Code of Washington the Washington Horse Racing Commission (WHRC) is submitting its interpretive and policy statements for publication in the Washington State Register.

The following are the current policy statements of the WHRC:

2002-01	Equine Testing Policy
2003-01	Financial Responsibility

Copies of these policies can be obtained on the agency website at www.whrc.wa.gov/rules.htm or from Robert J. Lopez, Administrative Services Manager, by writing to the Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462, fax (360) 459-6461.

Robert M. Leichner
 Executive Secretary

WSR 03-09-099
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF REVENUE

[Filed April 21, 2003, 11:43 a.m.]

CANCELLATION OF INTERPRETIVE AND/OR POLICY STATEMENTS

This announcement of the cancellation of these interpretive statements is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has cancelled the following Excise Tax Advisories effective April 21, 2003.

ETA 064.04.208 Intercompany Loans of Gasoline, Oil, and Similar Products

ETA 428.04.103.208 Exchange Agreements Involving Inventory

These documents explain the application of the accommodation sale exemption to intercompany loans/exchange agreements for fungible products. These documents are being canceled because this issue is addressed in the latest revision of WAC 458-20-208 (Exemptions for adjustments of new motor vehicle inventory between new car dealers and accommodation sales).

Questions regarding the cancellation of these documents may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6125, fax (360) 664-0693, Internet alanl@dor.wa.gov.

Alan R. Lynn
Rules Coordinator

WSR 03-09-104
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
(Natural Heritage Advisory Council)
[Memorandum—April 21, 2003]

NOTICE OF MEETINGS
OF THE
NATURAL HERITAGE ADVISORY COUNCIL

The Natural Heritage Advisory Council will meet on the following dates:

- June 12, 2003 10:00 a.m. to 4:30 p.m.
Trout Lake Motel
Trout Lake, Washington
- June 13, 2003 Field trip to natural areas in western
Klickitat County
- October 15, 2003 9:30 a.m. to 4:30 p.m.
Natural Resources Building
1111 Washington Street S.E.

Regular council business generally includes consideration of proposals for new natural areas, additions to existing natural areas, and management activities within existing natural areas.

For further information contact the Department of Natural Resources, Natural Heritage Program, 1111 Washington Street S.E., Olympia, WA 98504-7014, (360) 902-1661.

WSR 03-09-105

NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—April 21, 2003]

Change in location of the regular May board meeting for Skagit Valley College, Community College District No. 4

At the April 14, 2003, board meeting, the Skagit Valley College board of trustees voted to change the location of the regular May 12 board meeting from 11042 SR 525, #138, Clinton, to 2405 East College Way (Board Room), Mount Vernon.

WSR 03-09-113

RULES COORDINATOR
STATE INVESTMENT BOARD

[Filed April 22, 2003, 3:13 p.m.]

This letter is to appoint Ms. Liz Mendizabal as rules coordinator for the Washington State Investment Board, replacing Scott Huntley. Please direct any rules issues to Ms. Mendizabal.

Joe Dear
Executive Director

WSR 03-09-115

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed April 22, 2003, 4:34 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 235.
Subject: Tribal IV-D programs.
Effective Date: April 17, 2003.

Document Description: This notice explains to DCS staff how to interface with Indian tribes that have child support programs that are directly funded by the federal government.

To receive 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 ssschille@dshs.wa.gov.

April 18, 2003
Stephanie E. Schiller

MISC.

WSR 03-09-128
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH

[Filed April 23, 2003, 9:16 a.m.]

NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT

Title of Statement: Medication Organizer Devices in Community Based Long Term Care and Private Homes: Roles for RNs and LPNs.

Issuing Entity: Department of Health, Nursing Care Quality Assurance Commission.

Subject Matter: This interpretive statement clarifies that RNs and LPNs may fill medication organizers as a component of medication administration.

Effective Date: July 12, 2002.

Contact Person: Pamela Lovinger, Acting Executive Director, Health Professions Quality Assurance, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4984.

WSR 03-09-129
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed April 23, 2003, 9:16 a.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy: Best Practice Guidelines for Verbal Prescriptions.

Issuing Entity: Department of Health, Board of Pharmacy.

Subject Matter: This policy describes best practices for communicating verbal prescriptions.

Effective Date: January 2003.

Contact Person: Pamela Lovinger, Regulatory Affairs Manager, Health Professions Quality Assurance, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4984.

WSR 03-09-130
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH

[Filed April 23, 2003, 9:17 a.m.]

NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT

Title: Advisory Opinion Medication Assistance and Administration of Over the Counter Drugs.

Issuing Entity: Department of Health, Nursing Care Quality Assurance Commission, and Board of Pharmacy.

Subject Matter: This interpretive statement clarifies who may provide medication assistance and administration of over-the-counter drugs.

Effective Date: February 18, 2003.

Contact Person: Pamela Lovinger, Acting Executive Director, Health Professions Quality Assurance, Department

of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4984.

WSR 03-09-136
OFFICE OF THE GOVERNOR

[Filed April 23, 2003, 9:34 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 April 17, 2003, the Governor received a request by the Washington Forest Law Center to review the March 19, 2003 Forest Practices Board decision not to initiate rulemaking that would prevent multiple related SEPA-exempt forest practices from having a significant adverse cumulative impact on aquatic resources, upland wildlife habitat, recreation and scenic beauty.

DATED: April 18, 2003

Jennifer Joly
General Counsel
to the Governor

WSR 03-09-138
NOTICE OF PUBLIC MEETINGS
MARINE EMPLOYEES' COMMISSION

[Memorandum—April 22, 2003]

Change in May 2003 Public Meeting Location

There will be a change in the previously adopted schedule for the 2003 meeting schedule of the Marine Employees' Commission. The May 22, 2003, meeting location will be changed from Seattle to Olympia. The meeting will be held in the Second Floor Conference Room of the Evergreen Plaza Building, 711 Capitol Way South, Olympia, and will begin at 10:00 a.m.

For further information, please call (360) 586-6354 or send an e-mail to mec@olywa.net.

WSR 03-09-139
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE

[Memorandum—April 22, 2003]

The following dates and times need to be reflected for the Tacoma Community College board of trustees meetings:

Addition: Wednesday, May 7 at 3:00-4:00 (special meeting to be held)

Change: Thursday, May 22 at 4:00 (previously scheduled for May 15 at 4:00 p.m.)

Change: Friday-Saturday, August 1-2 board retreat (previously scheduled for July 11-12)

MISC.

The meetings listed above will be held in the Learning Resources Center, Building 7, Baker Room at Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466.

If you need any other information, call Cathie Bitz at (253) 566-5101.

MISC.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
 - E = Emergency action
 - P = Proposed action
 - S = Supplemental notice
 - W = Withdrawal of proposed action
 - X = Expedited rule making
 - XA = Expedited adoption
 - XR = Expedited repeal
- No suffix means permanent action
- WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.
- WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-321-010	REP-X	03-03-124	16-662-105	AMD	03-08-017	132F-108-130	AMD-P	03-06-067
16-321-010	REP	03-08-018	16-662-110	AMD-X	03-03-123	132F-108-140	AMD-P	03-06-067
16-321-020	REP-X	03-03-124	16-662-110	AMD	03-08-017	132F-120	REP-P	03-06-067
16-321-020	REP	03-08-018	16-662-115	AMD-X	03-03-123	132F-120-020	REP-P	03-06-067
16-321-030	REP-X	03-03-124	16-662-115	AMD	03-08-017	132F-120-030	REP-P	03-06-067
16-321-030	REP	03-08-018	16-750-005	AMD	03-04-001	132F-120-040	REP-P	03-06-067
16-321-040	REP-X	03-03-124	16-750-011	AMD	03-04-001	132F-120-041	REP-P	03-06-067
16-321-040	REP	03-08-018	16-750-015	AMD	03-04-001	132F-120-042	REP-P	03-06-067
16-321-050	REP-X	03-03-124	36- 12-170	AMD-W	03-06-072	132F-120-043	REP-P	03-06-067
16-321-050	REP	03-08-018	36- 14-120	NEW-W	03-06-072	132F-120-050	REP-P	03-06-067
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16-321-060	REP	03-08-018	82- 50-021	AMD-X	03-07-083	132F-120-061	REP-P	03-06-067
16-321-070	REP-X	03-03-124	98- 70-010	PREP	03-04-077	132F-120-070	REP-P	03-06-067
16-321-070	REP	03-08-018	98- 70-010	AMD-P	03-08-009	132F-120-080	REP-P	03-06-067
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16-321-090	REP	03-08-018	118- 65-040	REP-P	03-04-108	132F-120-120	REP-P	03-06-067
16-321-100	REP-X	03-03-124	118- 65-050	REP-P	03-04-108	132F-120-130	REP-P	03-06-067
16-321-100	REP	03-08-018	118- 65-060	REP-P	03-04-108	132F-120-140	REP-P	03-06-067
16-321-110	REP-X	03-03-124	118- 65-070	REP-P	03-04-108	132F-120-150	REP-P	03-06-067
16-321-110	REP	03-08-018	118- 65-081	REP-P	03-04-108	132F-120-160	REP-P	03-06-067
16-321-120	REP-X	03-03-124	118- 65-090	REP-P	03-04-108	132F-120-170	REP-P	03-06-067
16-321-120	REP	03-08-018	118- 66-010	NEW-P	03-04-108	132F-120-180	REP-P	03-06-067
16-328-008	AMD-P	03-07-090	118- 66-020	NEW-P	03-04-108	132F-120-190	REP-P	03-06-067
16-328-010	PREP	03-03-121	118- 66-030	NEW-P	03-04-108	132F-120-200	REP-P	03-06-067
16-328-010	REP-P	03-07-090	118- 66-040	NEW-P	03-04-108	132F-120-210	REP-P	03-06-067
16-328-011	PREP	03-03-121	118- 66-042	NEW-P	03-04-108	132F-121-010	NEW-P	03-06-067
16-328-011	AMD-P	03-07-090	118- 66-045	NEW-P	03-04-108	132F-121-020	NEW-P	03-06-067
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16-333-040	PREP	03-03-120	118- 66-080	NEW-P	03-04-108	132F-121-040	NEW-P	03-06-067
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16-333-041	PREP	03-03-120	118- 66-085	NEW-P	03-04-108	132F-121-060	NEW-P	03-06-067
16-333-041	AMD-P	03-07-089	118- 66-090	NEW-P	03-04-108	132F-121-070	NEW-P	03-06-067
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132F-121-230	NEW-P	03-06-067	173-157-040	NEW	03-03-081	173-314-300	REP-X	03-05-095
132F-121-240	NEW-P	03-06-067	173-157-050	NEW	03-03-081	173-314-310	REP-X	03-05-095
132F-121-250	NEW-P	03-06-067	173-157-100	NEW	03-03-081	173-314-320	REP-X	03-05-095
132F-121-260	NEW-P	03-06-067	173-157-110	NEW	03-03-081	173-314-330	REP-X	03-05-095
132H-116	PREP	03-04-074	173-157-120	NEW	03-03-081	173-314-340	REP-X	03-05-095
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132H-120-020	AMD-P	03-08-021	173-157-140	NEW	03-03-081	173-350-020	NEW	03-03-043
132H-120-030	AMD-P	03-08-021	173-157-150	NEW	03-03-081	173-350-025	NEW	03-03-043
132H-120-040	AMD-P	03-08-021	173-157-160	NEW	03-03-081	173-350-030	NEW	03-03-043
132H-120-050	AMD-P	03-08-021	173-157-170	NEW	03-03-081	173-350-040	NEW	03-03-043
132H-120-200	AMD-P	03-08-021	173-157-180	NEW	03-03-081	173-350-100	NEW	03-03-043
132H-120-220	AMD-P	03-08-021	173-157-200	NEW	03-03-081	173-350-200	NEW	03-03-043
132H-120-300	AMD-P	03-08-021	173-157-210	NEW	03-03-081	173-350-210	NEW	03-03-043
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132H-132-020	REP-P	03-08-019	173-170-010	AMD	03-07-104	173-350-240	NEW	03-03-043
132H-152-135	PREP	03-04-073	173-170-020	AMD	03-07-104	173-350-300	NEW	03-03-043
132H-152-135	REP-P	03-08-020	173-170-040	AMD	03-07-104	173-350-310	NEW	03-03-043
132H-155-010	NEW-P	03-08-020	173-170-050	AMD	03-07-104	173-350-320	NEW	03-03-043
132H-155-020	NEW-P	03-08-020	173-170-070	AMD	03-07-104	173-350-330	NEW	03-03-043
132H-155-030	NEW-P	03-08-020	173-170-080	AMD	03-07-104	173-350-350	NEW	03-03-043
132H-155-040	NEW-P	03-08-020	173-170-090	AMD	03-07-104	173-350-360	NEW	03-03-043
132H-155-050	NEW-P	03-08-020	173-170-100	AMD	03-07-104	173-350-400	NEW	03-03-043
132H-155-060	NEW-P	03-08-020	173-183-820	AMD-X	03-06-036	173-350-410	NEW	03-03-043
132H-155-070	NEW-P	03-08-020	173-183-830	AMD-X	03-06-036	173-350-490	NEW	03-03-043
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132Q- 06	PREP	03-09-094	173-303-070	AMD	03-07-049	173-350-710	NEW	03-03-043
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132Q- 94	PREP	03-09-094	173-303-100	AMD	03-07-049	173-350-990	NEW	03-03-043
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132X- 60-065	AMD	03-03-089	173-303-140	AMD	03-07-049	180- 10-003	REP-W	03-03-060
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136- 60-020	AMD	03-05-009	173-303-200	AMD	03-07-049	180- 10-007	REP-W	03-03-060
136- 60-030	AMD	03-05-009	173-303-283	AMD	03-07-049	180- 10-010	REP-W	03-03-060
136- 60-040	AMD	03-05-009	173-303-380	AMD	03-07-049	180- 10-015	REP-W	03-03-060
136- 60-050	AMD	03-05-009	173-303-390	AMD	03-07-049	180- 10-020	REP-W	03-03-060
136- 60-060	AMD	03-05-009	173-303-400	AMD	03-07-049	180- 10-025	REP-W	03-03-060
136-150-023	AMD	03-05-010	173-303-500	AMD	03-07-049	180- 10-030	REP-W	03-03-060
136-150-024	REP	03-05-010	173-303-505	AMD	03-07-049	180- 10-035	REP-W	03-03-060
136-150-030	AMD	03-05-010	173-303-506	AMD	03-07-049	180- 10-040	REP-W	03-03-060
136-150-040	AMD	03-05-010	173-303-510	AMD	03-07-049	180- 10-045	REP-W	03-03-060
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139- 10-215	AMD-P	03-09-010	173-303-692	AMD	03-07-049	180- 57-055	AMD	03-04-055
139- 30-015	AMD	03-07-098	173-303-806	AMD	03-07-049	180- 57-070	AMD	03-04-055
139- 35-015	AMD	03-07-098	173-303-830	AMD	03-07-049	180- 78A-250	PREP	03-09-086
173- 06-120	AMD-X	03-04-081	173-314-010	REP-X	03-05-095	180- 78A-264	PREP	03-09-085
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180- 79A-117	PREP	03-07-004	196- 24	PREP	03-09-032	220- 33-04000T	REP-E	03-07-015
180- 79A-117	AMD-E	03-08-060	196- 25	PREP	03-09-032	220- 33-060	AMD	03-05-062
180- 79A-117	AMD-P	03-09-029	196- 26A	PREP	03-09-032	220- 36-03001	AMD	03-05-062
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180- 79A-150	PREP	03-04-109	197- 11-070	AMD-P	03-03-082	220- 36-03001A	REP-E	03-05-002
180- 79A-155	AMD	03-04-022	197- 11-250	AMD-P	03-03-082	220- 40-030	AMD	03-05-062
180- 79A-231	AMD-P	03-04-019	197- 11-310	AMD-P	03-03-082	220- 44-050	AMD-P	03-02-105
180- 79A-231	AMD-P	03-09-023	197- 11-800	AMD-P	03-03-082	220- 44-050	AMD	03-05-078
180- 79A-308	PREP	03-09-021	197- 11-820	AMD-P	03-03-082	220- 44-05000R	REP-E	03-04-058
180- 82-110	AMD	03-04-023	197- 11-835	AMD-P	03-03-082	220- 44-05000S	NEW-E	03-04-058
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180- 82-204	AMD-E	03-04-027	197- 11-902	AMD-P	03-03-082	220- 44-05000T	REP-E	03-07-024
180- 82-204	AMD-P	03-09-024	197- 11-904	AMD-P	03-03-082	220- 44-05000U	NEW-E	03-07-024
180- 82-204	AMD-E	03-09-025	197- 11-908	AMD-P	03-03-082	220- 47-301	AMD	03-05-076
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180- 82A-204	AMD-E	03-04-028	212- 12-210	NEW	03-06-063	220- 52-019	AMD-P	03-06-065
180- 82A-204	AMD-P	03-09-024	212- 12-220	NEW	03-06-063	220- 52-01900A	NEW-E	03-09-072
180- 82A-204	AMD-E	03-09-025	212- 12-230	NEW	03-06-063	220- 52-03500A	NEW-E	03-09-081
180- 82A-206	PREP	03-04-021	212- 12-240	NEW	03-06-063	220- 52-04000M	REP-E	03-06-030
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180- 82A-206	AMD-E	03-09-027	212- 12-260	NEW	03-06-063	220- 52-04600P	NEW-E	03-04-007
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180- 82A-215	AMD-P	03-09-026	212- 12-280	NEW	03-06-063	220- 52-04600P	REP-E	03-07-014
180- 82A-215	AMD-E	03-09-027	212- 12-290	NEW	03-06-063	220- 52-04600Q	NEW-E	03-04-046
180- 86-100	PREP	03-09-082	212- 12-300	NEW	03-06-063	220- 52-04600Q	REP-E	03-07-002
180- 86-116	PREP	03-09-083	212- 12-310	NEW	03-06-063	220- 52-04600R	NEW-E	03-05-006
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180- 90-110	REP	03-04-053	212- 12-330	NEW	03-06-063	220- 52-04600S	NEW-E	03-05-047
180- 90-112	AMD	03-04-053	212- 12-340	NEW	03-06-063	220- 52-04600T	NEW-E	03-06-020
180- 90-115	REP	03-04-053	212- 12-350	NEW	03-06-063	220- 52-04600U	NEW-E	03-07-002
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180- 90-123	REP	03-04-053	212- 12-380	NEW	03-06-063	220- 52-04600V	REP-E	03-07-014
180- 90-125	REP	03-04-053	212- 12-390	NEW	03-06-063	220- 52-04600W	NEW-E	03-08-048
180- 90-130	AMD	03-04-053	212- 12-400	NEW	03-06-063	220- 52-050	AMD	03-05-060
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192- 16-042	REP	03-06-038	220- 33-01000A	NEW-E	03-05-036	220- 52-07300D	NEW-E	03-06-001
192- 16-045	REP	03-06-038	220- 33-01000A	REP-E	03-05-036	220- 52-07300D	REP-E	03-06-001
192- 16-047	REP	03-06-038	220- 33-01000A	REP-E	03-06-007	220- 52-075	AMD	03-05-064
192-240-010	NEW	03-06-038	220- 33-01000B	NEW-E	03-06-007	220- 55-001	AMD-P	03-06-079
192-240-015	NEW	03-06-038	220- 33-01000B	REP-E	03-06-007	220- 55-060	REP-P	03-06-079
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192-240-025	NEW	03-06-038	220- 33-01000C	REP-E	03-08-004	220- 56-129	NEW	03-05-057
192-240-030	NEW	03-06-038	220- 33-01000D	NEW-E	03-09-080	220- 56-175	AMD	03-05-057
192-240-035	NEW	03-06-038	220- 33-01000D	REP-E	03-09-080	220- 56-230	AMD	03-05-057
192-240-040	NEW	03-06-038	220- 33-01000Y	REP-E	03-04-033	220- 56-23000A	NEW-E	03-07-032
192-240-045	NEW	03-06-038	220- 33-01000Z	NEW-E	03-04-033	220- 56-23000A	REP-E	03-07-032
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220- 56-25000E	REP-E	03-07-032	222- 21-035	AMD	03-06-039	232- 28-02206	REP-P	03-02-103
220- 56-255	AMD	03-05-057	222- 21-040	AMD	03-06-039	232- 28-02206	REP	03-06-110
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220- 56-27000P	NEW-E	03-05-025	230- 04-110	AMD-P	03-08-002	232- 28-02280	REP	03-06-110
220- 56-27000P	REP-E	03-05-025	230- 08-017	AMD	03-05-089	232- 28-248	AMD-P	03-06-108
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220- 56-33000S	REP-E	03-06-020	230- 40-550	AMD	03-09-076	232- 28-278	REP-P	03-06-113
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220- 56-33000V	REP-E	03-08-049	230- 40-825	AMD-P	03-05-087	232- 28-331	NEW	03-06-110
220- 56-33000W	NEW-E	03-08-049	230- 40-825	AMD	03-09-076	232- 28-332	NEW-P	03-02-103
220- 56-33000W	REP-E	03-09-060	230- 40-860	AMD-P	03-05-087	232- 28-332	NEW	03-06-110
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220- 56-35000P	NEW-E	03-07-025	230- 40-875	AMD	03-09-076	232- 28-334	NEW-P	03-02-103
220- 56-35000P	REP-E	03-07-025	230- 40-895	AMD-P	03-05-087	232- 28-334	NEW	03-06-110
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220- 69-240	AMD	03-05-064	232- 12-054	AMD-P	03-06-104	232- 28-336	NEW	03-06-110
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220- 72-073	AMD-P	03-06-109	232- 12-31500J	NEW-E	03-08-075	232- 28-42600C	REP-E	03-03-102
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220- 72-086	NEW-P	03-06-109	232- 19-010	REP-P	03-06-080	232- 28-619	AMD	03-05-057
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220- 72-089	NEW-P	03-06-109	232- 19-020	REP-P	03-06-080	232- 28-61900C	NEW-E	03-03-004
220- 72-090	NEW-P	03-06-109	232- 19-030	REP-P	03-06-080	232- 28-61900C	REP-E	03-03-004
220- 72-092	NEW-P	03-06-109	232- 19-040	REP-P	03-06-080	232- 28-61900D	NEW-E	03-03-098
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220- 88C-030	AMD-P	03-08-100	232- 19-050	REP-P	03-06-080	232- 28-61900E	NEW-E	03-04-047
220- 88C-040	AMD-P	03-08-100	232- 19-055	REP-P	03-06-080	232- 28-61900E	REP-E	03-04-047
220- 88C-050	AMD-P	03-08-100	232- 19-060	REP-P	03-06-080	232- 28-61900F	REP-E	03-05-003
220-100-010	AMD-P	03-06-080	232- 19-070	REP-P	03-06-080	232- 28-61900F	NEW-E	03-05-003
220-100-020	AMD-P	03-06-080	232- 19-080	REP-P	03-06-080	232- 28-61900G	REP-E	03-05-038
220-100-027	NEW-P	03-06-080	232- 19-090	REP-P	03-06-080	232- 28-61900G	NEW-E	03-05-038
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232- 28-61900M	REP-E	03-07-016	246-290-025	AMD	03-08-037	246-290-71001	NEW-P	03-03-079
232- 28-61900N	NEW-E	03-07-023	246-290-060	AMD-P	03-03-078	246-290-71001	NEW	03-08-037
232- 28-61900N	REP-E	03-07-023	246-290-060	AMD-P	03-03-079	246-290-71002	NEW-P	03-03-079
232- 28-61900P	NEW-E	03-07-075	246-290-060	AMD	03-08-037	246-290-71002	NEW	03-08-037
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232- 28-61900R	NEW-E	03-07-068	246-290-125	AMD-P	03-03-079	246-290-71005	NEW-P	03-03-079
232- 28-61900R	REP-E	03-07-068	246-290-125	AMD	03-08-037	246-290-71005	NEW	03-08-037
232- 28-61900S	NEW-E	03-08-054	246-290-220	AMD-P	03-03-079	246-290-71006	NEW-P	03-03-079
232- 28-61900S	REP-E	03-08-054	246-290-220	AMD	03-08-037	246-290-71006	NEW	03-08-037
232- 28-61900T	NEW-E	03-09-001	246-290-300	AMD-P	03-03-079	246-290-71007	NEW-P	03-03-079
232- 28-61900T	REP-E	03-09-001	246-290-300	AMD	03-08-037	246-290-71007	NEW	03-08-037
232- 28-61900U	NEW-E	03-09-016	246-290-310	AMD-P	03-03-079	246-290-72001	AMD-P	03-03-079
232- 28-61900U	REP-E	03-09-016	246-290-310	AMD	03-08-037	246-290-72001	AMD	03-08-037
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246-100-070	NEW	03-05-048	246-290-638	AMD	03-08-037	246-455-001	AMD-S	03-09-127
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246-244-030	AMD-P	03-07-094	246-290-662	AMD	03-08-037	246-455-030	AMD-S	03-09-127
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246-244-110	AMD-P	03-07-094	246-290-664	AMD	03-08-037	246-455-040	AMD-S	03-09-127
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246-244-160	AMD-P	03-07-094	246-290-666	AMD	03-08-037	246-455-080	AMD-P	03-05-024
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246-290	PREP-W	03-07-102	246-290-691	AMD	03-08-037	246-815-990	AMD	03-07-095
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246-847-170	PREP	03-08-030	260- 70-610	AMD-P	03-07-052	284- 91-050	REP	03-07-007
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246-851-170	PREP	03-04-043	260- 70-630	AMD-E	03-09-057	296- 13-001	REP-P	03-05-074
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246-933-501	NEW-P	03-06-100	284- 22-080	AMD	03-03-052	296- 13-050	REP	03-09-111
246-933-510	NEW-P	03-06-100	284- 24A-070	NEW-W	03-03-063	296- 13-052	REP-P	03-05-074
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250- 18-025	AMD-P	03-09-145	284- 30-3904	NEW-P	03-03-132	296- 13-060	REP	03-09-111
250- 18-030	AMD-P	03-09-145	284- 30-3904	NEW-S	03-09-143	296- 13-080	REP-P	03-05-074
250- 18-035	AMD-P	03-09-145	284- 30-3905	NEW-P	03-03-132	296- 13-080	REP	03-09-111
250- 18-040	REP-P	03-09-145	284- 30-3905	NEW-S	03-09-143	296- 13-090	REP-P	03-05-074
250- 18-070	NEW-P	03-09-145	284- 30-3906	NEW-P	03-03-132	296- 13-090	REP	03-09-111
250- 61	PREP	03-04-079	284- 30-3906	NEW-S	03-09-143	296- 13-100	REP-P	03-05-074
250- 69	AMD	03-04-101	284- 30-3907	NEW-P	03-03-132	296- 13-100	REP	03-09-111
250- 69-010	AMD	03-04-101	284- 30-3907	NEW-S	03-09-143	296- 13-110	REP-P	03-05-074
250- 69-020	AMD	03-04-101	284- 30-3908	NEW-P	03-03-132	296- 13-110	REP	03-09-111
250- 69-030	AMD	03-04-101	284- 30-3908	NEW-S	03-09-143	296- 13-130	REP-P	03-05-074
250- 69-040	AMD	03-04-101	284- 30-3909	NEW-P	03-03-132	296- 13-130	REP	03-09-111
250- 69-050	AMD	03-04-101	284- 30-3909	NEW-S	03-09-143	296- 13-140	REP-P	03-05-074
250- 69-060	AMD	03-04-101	284- 30-3910	NEW-P	03-03-132	296- 13-140	REP	03-09-111
250- 69-070	AMD	03-04-101	284- 30-3910	NEW-S	03-09-143	296- 13-150	REP-P	03-05-074
250- 69-090	AMD	03-04-101	284- 30-3911	NEW-P	03-03-132	296- 13-150	REP	03-09-111
250- 69-110	REP	03-04-101	284- 30-3911	NEW-S	03-09-143	296- 13-160	REP-P	03-05-074
251- 04-035	NEW-E	03-03-042	284- 30-3912	NEW-P	03-03-132	296- 13-160	REP	03-09-111
251- 04-035	NEW-P	03-07-059	284- 30-3912	NEW-S	03-09-143	296- 13-170	REP-P	03-05-074
260	PREP	03-09-131	284- 30-3913	NEW-P	03-03-132	296- 13-170	REP	03-09-111
260- 08-595	NEW	03-03-041	284- 30-3913	NEW-S	03-09-143	296- 13-180	REP-P	03-05-074
260- 13-420	PREP	03-03-067	284- 30-3914	NEW-P	03-03-132	296- 13-180	REP	03-09-111
260- 13-420	AMD-P	03-07-054	284- 30-3914	NEW-S	03-09-143	296- 13-190	REP-P	03-05-074
260- 20-035	PREP	03-03-025	284- 30-3915	NEW-P	03-03-132	296- 13-190	REP	03-09-111
260- 20-035	REP-P	03-07-051	284- 30-3915	NEW-S	03-09-143	296- 13-200	REP-P	03-05-074
260- 24	PREP	03-05-067	284- 30-3916	NEW-S	03-09-143	296- 13-200	REP	03-09-111
260- 24-510	AMD-P	03-09-132	284- 30-505	NEW-W	03-08-071	296- 13-210	REP-P	03-05-074
260- 28-030	AMD-P	03-03-040	284- 43-220	AMD-X	03-03-134	296- 13-210	REP	03-09-111
260- 28-030	AMD	03-07-056	284- 43-220	AMD	03-09-142	296- 13-220	REP-P	03-05-074
260- 32-005	NEW-P	03-07-074	284- 43-323	NEW	03-07-006	296- 13-220	REP	03-09-111
260- 34-090	AMD	03-05-071	284- 91	AMD	03-07-007	296- 13-230	REP-P	03-05-074
260- 48	PREP	03-05-068	284- 91-001	NEW	03-07-007	296- 13-230	REP	03-09-111
260- 48-630	AMD-P	03-04-089	284- 91-010	REP	03-07-007	296- 13-240	REP-P	03-05-074
260- 48-630	AMD	03-07-057	284- 91-020	REP	03-07-007	296- 13-240	REP	03-09-111
260- 48-890	AMD-P	03-09-133	284- 91-025	REP	03-07-007	296- 13-250	REP-P	03-05-074

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296-13-250	REP	03-09-111	296-17-76204	PREP	03-03-026	296-46A-092	REP	03-09-111
296-13-260	REP-P	03-05-074	296-17-76205	PREP	03-03-026	296-46A-095	REP-P	03-05-074
296-13-260	REP	03-09-111	296-17-76206	PREP	03-03-026	296-46A-095	REP	03-09-111
296-13-270	REP-P	03-05-074	296-17-76207	PREP	03-03-026	296-46A-100	REP-P	03-05-074
296-13-270	REP	03-09-111	296-17-76208	PREP	03-03-026	296-46A-100	REP	03-09-111
296-13-280	REP-P	03-05-074	296-17-76209	PREP	03-03-026	296-46A-102	REP-P	03-05-074
296-13-280	REP	03-09-111	296-17-76210	PREP	03-03-026	296-46A-102	REP	03-09-111
296-13-290	REP-P	03-05-074	296-17-76211	PREP	03-03-026	296-46A-104	REP-P	03-05-074
296-13-290	REP	03-09-111	296-17-76212	PREP	03-03-026	296-46A-104	REP	03-09-111
296-13-300	REP-P	03-05-074	296-200A	PREP	03-04-098	296-46A-110	REP-P	03-05-074
296-13-300	REP	03-09-111	296-20-135	AMD-P	03-09-107	296-46A-110	REP	03-09-111
296-13-310	REP-P	03-05-074	296-23-220	AMD-P	03-09-107	296-46A-130	REP-P	03-05-074
296-13-310	REP	03-09-111	296-23-230	AMD-P	03-09-107	296-46A-130	REP	03-09-111
296-13-320	REP-P	03-05-074	296-24	PREP	03-03-110	296-46A-140	REP-P	03-05-074
296-13-320	REP	03-09-111	296-24-650	REP	03-09-009	296-46A-140	REP	03-09-111
296-13-330	REP-P	03-05-074	296-24-65003	REP	03-09-009	296-46A-155	REP-P	03-05-074
296-13-330	REP	03-09-111	296-24-65005	REP	03-09-009	296-46A-155	REP	03-09-111
296-13-340	REP-P	03-05-074	296-24-65007	REP	03-09-009	296-46A-21052	REP-P	03-05-074
296-13-340	REP	03-09-111	296-24-6555	REP	03-09-009	296-46A-21052	REP	03-09-111
296-13-350	REP-P	03-05-074	296-24-65501	REP	03-09-009	296-46A-215	REP-P	03-05-074
296-13-350	REP	03-09-111	296-24-657	REP	03-09-009	296-46A-215	REP	03-09-111
296-13-360	REP-P	03-05-074	296-24-65701	REP	03-09-009	296-46A-220	REP-P	03-05-074
296-13-360	REP	03-09-111	296-24-65703	REP	03-09-009	296-46A-220	REP	03-09-111
296-13-370	REP-P	03-05-074	296-24-660	REP	03-09-009	296-46A-22530	REP-P	03-05-074
296-13-370	REP	03-09-111	296-24-66001	REP	03-09-009	296-46A-22530	REP	03-09-111
296-13-380	REP-P	03-05-074	296-24-66003	REP	03-09-009	296-46A-23001	REP-P	03-05-074
296-13-380	REP	03-09-111	296-24-66005	REP	03-09-009	296-46A-23001	REP	03-09-111
296-13-390	REP-P	03-05-074	296-24-66007	REP	03-09-009	296-46A-23028	REP-P	03-05-074
296-13-390	REP	03-09-111	296-24-66009	REP	03-09-009	296-46A-23028	REP	03-09-111
296-13-400	REP-P	03-05-074	296-24-66011	REP	03-09-009	296-46A-23040	REP-P	03-05-074
296-13-400	REP	03-09-111	296-24-663	REP	03-09-009	296-46A-23040	REP	03-09-111
296-13-410	REP-P	03-05-074	296-24-66301	REP	03-09-009	296-46A-23062	REP-P	03-05-074
296-13-410	REP	03-09-111	296-24-66303	REP	03-09-009	296-46A-23062	REP	03-09-111
296-13-420	REP-P	03-05-074	296-24-66305	REP	03-09-009	296-46A-250	REP-P	03-05-074
296-13-420	REP	03-09-111	296-24-66307	REP	03-09-009	296-46A-250	REP	03-09-111
296-13-430	REP-P	03-05-074	296-24-66309	REP	03-09-009	296-46A-300	REP-P	03-05-074
296-13-430	REP	03-09-111	296-24-66311	REP	03-09-009	296-46A-300	REP	03-09-111
296-13-440	REP-P	03-05-074	296-24-66313	REP	03-09-009	296-46A-30011	REP-P	03-05-074
296-13-440	REP	03-09-111	296-24-66315	REP	03-09-009	296-46A-30011	REP	03-09-111
296-14-310	NEW-P	03-06-074	296-24-66317	REP	03-09-009	296-46A-324	REP-P	03-05-074
296-14-315	NEW-P	03-06-074	296-24-66319	REP	03-09-009	296-46A-324	REP	03-09-111
296-14-320	NEW-P	03-06-074	296-24-66321	REP	03-09-009	296-46A-348	REP-P	03-05-074
296-14-325	NEW-P	03-06-074	296-24-665	REP	03-09-009	296-46A-348	REP	03-09-111
296-14-330	NEW-P	03-06-074	296-24-66501	REP	03-09-009	296-46A-365	REP-P	03-05-074
296-150C	PREP	03-04-098	296-24-66503	REP	03-09-009	296-46A-365	REP	03-09-111
296-150F	PREP	03-04-098	296-24-66505	REP	03-09-009	296-46A-370	REP-P	03-05-074
296-150M	PREP	03-04-098	296-24-66507	REP	03-09-009	296-46A-370	REP	03-09-111
296-150P	PREP	03-04-098	296-24-66509	REP	03-09-009	296-46A-41004	REP-P	03-05-074
296-150R	PREP	03-04-098	296-24-670	REP	03-09-009	296-46A-41004	REP	03-09-111
296-150T	PREP	03-04-098	296-24-67001	REP	03-09-009	296-46A-41030	REP-P	03-05-074
296-150V	PREP	03-04-098	296-24-67003	REP	03-09-009	296-46A-41030	REP	03-09-111
296-17	PREP	03-05-072	296-24-67005	REP	03-09-009	296-46A-422	REP-P	03-05-074
296-17	PREP-W	03-09-106	296-27-01109	AMD	03-09-110	296-46A-422	REP	03-09-111
296-17-757	PREP	03-03-026	296-37	PREP	03-04-097	296-46A-450	REP-P	03-05-074
296-17-758	PREP	03-03-026	296-400A	PREP	03-04-098	296-46A-450	REP	03-09-111
296-17-759	PREP	03-03-026	296-401B	PREP	03-04-098	296-46A-500	REP-P	03-05-074
296-17-760	PREP	03-03-026	296-402A	PREP	03-04-098	296-46A-500	REP	03-09-111
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296-17-762	PREP	03-03-026	296-46A	PREP	03-04-098	296-46A-514	REP	03-09-111
296-17-76201	PREP	03-03-026	296-46A-090	REP-P	03-05-074	296-46A-517	REP-P	03-05-074
296-17-76202	PREP	03-03-026	296-46A-090	REP	03-09-111	296-46A-517	REP	03-09-111
296-17-76203	PREP	03-03-026	296-46A-092	REP-P	03-05-074	296-46A-550	REP-P	03-05-074

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296-46A-550	REP	03-09-111	296-46B-300	NEW	03-09-111	296-46B-945	NEW	03-09-111
296-46A-553	REP-P	03-05-074	296-46B-314	NEW-P	03-05-074	296-46B-950	NEW-P	03-05-074
296-46A-553	REP	03-09-111	296-46B-314	NEW	03-09-111	296-46B-950	NEW	03-09-111
296-46A-600	REP-P	03-05-074	296-46B-334	NEW-P	03-05-074	296-46B-951	NEW-P	03-05-074
296-46A-600	REP	03-09-111	296-46B-334	NEW	03-09-111	296-46B-951	NEW	03-09-111
296-46A-680	REP-P	03-05-074	296-46B-358	NEW-P	03-05-074	296-46B-955	NEW-P	03-05-074
296-46A-680	REP	03-09-111	296-46B-358	NEW	03-09-111	296-46B-955	NEW	03-09-111
296-46A-700	REP-P	03-05-074	296-46B-394	NEW-P	03-05-074	296-46B-960	NEW-P	03-05-074
296-46A-700	REP	03-09-111	296-46B-394	NEW	03-09-111	296-46B-960	NEW	03-09-111
296-46A-702	REP-P	03-05-074	296-46B-410	NEW-P	03-05-074	296-46B-965	NEW-P	03-05-074
296-46A-702	REP	03-09-111	296-46B-410	NEW	03-09-111	296-46B-965	NEW	03-09-111
296-46A-900	REP-P	03-05-074	296-46B-422	NEW-P	03-05-074	296-46B-970	NEW-P	03-05-074
296-46A-900	REP	03-09-111	296-46B-422	NEW	03-09-111	296-46B-970	NEW	03-09-111
296-46A-910	REP-P	03-05-074	296-46B-430	NEW-P	03-05-074	296-46B-971	NEW-P	03-05-074
296-46A-910	REP	03-09-111	296-46B-430	NEW	03-09-111	296-46B-971	NEW	03-09-111
296-46A-915	REP-P	03-05-074	296-46B-450	NEW-P	03-05-074	296-46B-975	NEW-P	03-05-074
296-46A-915	REP	03-09-111	296-46B-450	NEW	03-09-111	296-46B-975	NEW	03-09-111
296-46A-920	REP-P	03-05-074	296-46B-501	NEW-P	03-05-074	296-46B-980	NEW-P	03-05-074
296-46A-920	REP	03-09-111	296-46B-501	NEW	03-09-111	296-46B-980	NEW	03-09-111
296-46A-930	REP-P	03-05-074	296-46B-514	NEW-P	03-05-074	296-46B-985	NEW-P	03-05-074
296-46A-930	REP	03-09-111	296-46B-514	NEW	03-09-111	296-46B-985	NEW	03-09-111
296-46A-931	REP-P	03-05-074	296-46B-517	NEW-P	03-05-074	296-46B-990	NEW-P	03-05-074
296-46A-931	REP	03-09-111	296-46B-517	NEW	03-09-111	296-46B-990	NEW	03-09-111
296-46A-932	REP-P	03-05-074	296-46B-520	NEW-P	03-05-074	296-46B-995	NEW-P	03-05-074
296-46A-932	REP	03-09-111	296-46B-520	NEW	03-09-111	296-46B-995	NEW	03-09-111
296-46A-933	REP-P	03-05-074	296-46B-527	NEW-P	03-05-074	296-46B-998	NEW-P	03-05-074
296-46A-933	REP	03-09-111	296-46B-527	NEW	03-09-111	296-46B-998	NEW	03-09-111
296-46A-934	REP-P	03-05-074	296-46B-550	NEW-P	03-05-074	296-46B-999	NEW-P	03-05-074
296-46A-934	REP	03-09-111	296-46B-550	NEW	03-09-111	296-46B-999	NEW	03-09-111
296-46A-935	REP-P	03-05-074	296-46B-553	NEW-P	03-05-074	296-52-60020	AMD	03-06-073
296-46A-935	REP	03-09-111	296-46B-553	NEW	03-09-111	296-52-60130	AMD	03-06-073
296-46A-940	REP-P	03-05-074	296-46B-555	NEW-P	03-05-074	296-52-61040	AMD-X	03-05-073
296-46A-940	REP	03-09-111	296-46B-555	NEW	03-09-111	296-52-62005	AMD-X	03-05-073
296-46A-950	REP-P	03-05-074	296-46B-600	NEW-P	03-05-074	296-52-63005	AMD-X	03-05-073
296-46A-950	REP	03-09-111	296-46B-600	NEW	03-09-111	296-52-65005	AMD-X	03-05-073
296-46A-960	REP-P	03-05-074	296-46B-680	NEW-P	03-05-074	296-52-66005	AMD-X	03-05-073
296-46A-960	REP	03-09-111	296-46B-680	NEW	03-09-111	296-52-67065	AMD	03-06-073
296-46B-005	NEW-P	03-05-074	296-46B-700	NEW-P	03-05-074	296-52-67160	AMD	03-06-073
296-46B-005	NEW	03-09-111	296-46B-700	NEW	03-09-111	296-52-68060	AMD	03-06-073
296-46B-010	NEW-P	03-05-074	296-46B-800	NEW-P	03-05-074	296-52-69010	AMD	03-06-073
296-46B-010	NEW	03-09-111	296-46B-800	NEW	03-09-111	296-52-69015	AMD	03-06-073
296-46B-020	NEW-P	03-05-074	296-46B-900	NEW-P	03-05-074	296-52-69095	AMD	03-06-073
296-46B-020	NEW	03-09-111	296-46B-900	NEW	03-09-111	296-52-69125	AMD	03-06-073
296-46B-030	NEW-P	03-05-074	296-46B-905	NEW-P	03-05-074	296-52-69130	NEW	03-06-073
296-46B-030	NEW	03-09-111	296-46B-905	NEW	03-09-111	296-52-70010	AMD	03-06-073
296-46B-040	NEW-P	03-05-074	296-46B-910	NEW-P	03-05-074	296-52-710	AMD	03-06-073
296-46B-040	NEW	03-09-111	296-46B-910	NEW	03-09-111	296-52-71020	AMD	03-06-073
296-46B-110	NEW-P	03-05-074	296-46B-911	NEW-P	03-05-074	296-52-71040	AMD	03-06-073
296-46B-110	NEW	03-09-111	296-46B-911	NEW	03-09-111	296-52-71045	AMD	03-06-073
296-46B-210	NEW-P	03-05-074	296-46B-915	NEW-P	03-05-074	296-56	PREP	03-03-110
296-46B-210	NEW	03-09-111	296-46B-915	NEW	03-09-111	296-59	PREP	03-03-110
296-46B-215	NEW-P	03-05-074	296-46B-920	NEW-P	03-05-074	296-62	PREP	03-04-097
296-46B-215	NEW	03-09-111	296-46B-920	NEW	03-09-111	296-62	PREP	03-08-073
296-46B-220	NEW-P	03-05-074	296-46B-925	NEW-P	03-05-074	296-62-054	REP-X	03-04-100
296-46B-220	NEW	03-09-111	296-46B-925	NEW	03-09-111	296-62-05402	REP-X	03-04-100
296-46B-225	NEW-P	03-05-074	296-46B-930	NEW-P	03-05-074	296-62-05404	REP-X	03-04-100
296-46B-225	NEW	03-09-111	296-46B-930	NEW	03-09-111	296-62-05406	REP-X	03-04-100
296-46B-230	NEW-P	03-05-074	296-46B-935	NEW-P	03-05-074	296-62-05408	REP-X	03-04-100
296-46B-230	NEW	03-09-111	296-46B-935	NEW	03-09-111	296-62-05410	REP-X	03-04-100
296-46B-250	NEW-P	03-05-074	296-46B-940	NEW-P	03-05-074	296-62-05412	REP-X	03-04-100
296-46B-250	NEW	03-09-111	296-46B-940	NEW	03-09-111	296-62-070	REP-X	03-04-100
296-46B-300	NEW-P	03-05-074	296-46B-945	NEW-P	03-05-074	296-62-07001	REP-X	03-04-100

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296-62-07003	REP-X	03-04-100	296-150P-0020	AMD-P	03-09-109	296-307-45019	REP-X	03-04-100
296-62-07005	REP-X	03-04-100	296-150P-3000	AMD-P	03-09-108	296-307-45020	NEW-X	03-04-100
296-62-071	AMD-P	03-08-044	296-150R-0020	AMD-P	03-09-109	296-307-45021	REP-X	03-04-100
296-62-080	REP-X	03-04-100	296-150R-3000	AMD-P	03-09-108	296-307-45023	REP-X	03-04-100
296-62-08001	AMD	03-09-110	296-150T-3000	AMD-P	03-09-108	296-307-45025	AMD-X	03-04-100
296-62-11021	REP-X	03-04-100	296-150V-0020	AMD-P	03-09-109	296-307-45027	REP-X	03-04-100
296-62-130	REP-X	03-04-100	296-150V-0800	AMD-P	03-09-109	296-307-45029	REP-X	03-04-100
296-78-56505	AMD	03-06-076	296-150V-1090	AMD-P	03-09-109	296-307-45030	NEW-X	03-04-100
296-78-71001	AMD	03-06-076	296-150V-1220	REP-P	03-09-109	296-307-45035	NEW-X	03-04-100
296-78-71011	AMD	03-06-076	296-150V-1530	AMD-P	03-09-109	296-307-45045	NEW-X	03-04-100
296-78-835	AMD	03-06-076	296-150V-1600	NEW-P	03-09-109	296-307-45050	NEW-X	03-04-100
296-79	PREP	03-03-110	296-150V-3000	AMD-P	03-09-108	296-307-455	NEW-X	03-04-100
296-96	PREP	03-04-098	296-155	PREP	03-04-097	296-307-45505	NEW-X	03-04-100
296-96-01005	AMD-P	03-09-108	296-155-300	AMD	03-06-075	296-307-45510	NEW-X	03-04-100
296-96-01030	AMD-P	03-09-108	296-155-305	AMD	03-06-075	296-307-45515	NEW-X	03-04-100
296-96-01050	AMD-P	03-09-108	296-155-310	AMD	03-06-075	296-307-45520	NEW-X	03-04-100
296-96-01055	AMD-P	03-09-108	296-155-315	AMD	03-06-075	296-307-45525	NEW-X	03-04-100
296-104	PREP	03-03-129	296-304-01001	AMD	03-04-099	296-307-45535	NEW-X	03-04-100
296-104-055	AMD-P	03-08-076	296-304-01003	AMD	03-04-099	296-307-45540	NEW-X	03-04-100
296-104-700	AMD-P	03-08-076	296-304-02007	AMD	03-04-099	296-307-45545	NEW-X	03-04-100
296-128-500	AMD	03-03-109	296-304-02009	AMD	03-04-099	296-307-45550	NEW-X	03-04-100
296-128-532	NEW	03-03-109	296-304-03007	AMD	03-04-099	296-307-45555	NEW-X	03-04-100
296-128-533	NEW	03-03-109	296-304-04001	AMD	03-04-099	296-307-45560	NEW-X	03-04-100
296-130-010	AMD	03-03-010	296-304-05001	AMD	03-04-099	296-307-45565	NEW-X	03-04-100
296-130-020	AMD	03-03-010	296-304-05003	AMD	03-04-099	296-307-460	NEW-X	03-04-100
296-130-030	AMD	03-03-010	296-304-05005	AMD	03-04-099	296-307-46005	NEW-X	03-04-100
296-130-035	AMD	03-03-010	296-304-05009	AMD	03-04-099	296-307-46025	NEW-X	03-04-100
296-130-040	AMD	03-03-010	296-304-05013	AMD	03-04-099	296-307-46030	NEW-X	03-04-100
296-130-050	AMD	03-03-010	296-304-06003	AMD	03-04-099	296-307-465	NEW-X	03-04-100
296-130-060	AMD	03-03-010	296-304-07009	AMD	03-04-099	296-307-55030	AMD-X	03-04-100
296-130-065	AMD	03-03-010	296-304-07011	AMD	03-04-099	296-307-560	NEW-X	03-04-100
296-130-070	AMD	03-03-010	296-304-07013	AMD	03-04-099	296-307-56005	NEW-X	03-04-100
296-130-080	AMD	03-03-010	296-304-08001	AMD	03-04-099	296-307-56010	NEW-X	03-04-100
296-130-100	NEW	03-03-010	296-304-09017	AMD	03-04-099	296-307-56015	NEW-X	03-04-100
296-130-500	REP	03-03-010	296-304-09021	AMD	03-04-099	296-307-56020	NEW-X	03-04-100
296-150C-0150	NEW-P	03-09-109	296-304-09023	AMD	03-04-099	296-307-56025	NEW-X	03-04-100
296-150C-3000	AMD-P	03-09-108	296-304-10003	AMD	03-04-099	296-307-56030	NEW-X	03-04-100
296-150F-3000	AMD-P	03-09-109	296-304-10007	AMD	03-04-099	296-307-56035	NEW-X	03-04-100
296-150M-0020	AMD-P	03-09-109	296-305	PREP	03-04-097	296-307-56040	NEW-X	03-04-100
296-150M-0049	AMD-P	03-09-109	296-305-01515	AMD	03-09-110	296-307-56045	NEW-X	03-04-100
296-150M-0050	AMD-P	03-09-109	296-305-02501	AMD	03-09-110	296-307-56050	NEW-X	03-04-100
296-150M-0051	NEW-P	03-09-109	296-307-009	AMD-X	03-04-100	296-400A-045	AMD-P	03-09-108
296-150M-0302	AMD-P	03-09-109	296-307-018	AMD-X	03-04-100	296-401B-092	REP-P	03-05-074
296-150M-0320	AMD-P	03-09-109	296-307-03930	NEW-X	03-04-100	296-401B-092	REP	03-09-111
296-150M-0322	NEW-P	03-09-109	296-307-03935	NEW-X	03-04-100	296-401B-100	REP-P	03-05-074
296-150M-0360	AMD-P	03-09-109	296-307-03940	NEW-X	03-04-100	296-401B-100	REP	03-09-111
296-150M-0705	NEW-P	03-09-109	296-307-03945	NEW-X	03-04-100	296-401B-110	REP-P	03-05-074
296-150M-0715	NEW-P	03-09-109	296-307-40013	AMD-X	03-04-100	296-401B-110	REP	03-09-111
296-150M-0725	NEW-P	03-09-109	296-307-40015	AMD-X	03-04-100	296-401B-120	REP-P	03-05-074
296-150M-0800	NEW-P	03-09-109	296-307-40027	AMD-X	03-04-100	296-401B-120	REP	03-09-111
296-150M-0805	NEW-P	03-09-109	296-307-445	NEW-X	03-04-100	296-401B-130	REP-P	03-05-074
296-150M-0810	NEW-P	03-09-109	296-307-450	AMD-X	03-04-100	296-401B-130	REP	03-09-111
296-150M-0815	NEW-P	03-09-109	296-307-45001	REP-X	03-04-100	296-401B-140	REP-P	03-05-074
296-150M-0820	NEW-P	03-09-109	296-307-45003	REP-X	03-04-100	296-401B-140	REP	03-09-111
296-150M-0830	NEW-P	03-09-109	296-307-45005	AMD-X	03-04-100	296-401B-180	REP-P	03-05-074
296-150M-0835	NEW-P	03-09-109	296-307-45007	REP-X	03-04-100	296-401B-180	REP	03-09-111
296-150M-0840	NEW-P	03-09-109	296-307-45009	REP-X	03-04-100	296-401B-200	REP-P	03-05-074
296-150M-0845	NEW-P	03-09-109	296-307-45010	NEW-X	03-04-100	296-401B-200	REP	03-09-111
296-150M-0855	NEW-P	03-09-109	296-307-45011	REP-X	03-04-100	296-401B-250	REP-P	03-05-074
296-150M-0860	NEW-P	03-09-109	296-307-45013	REP-X	03-04-100	296-401B-250	REP	03-09-111
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296-150M-3000	AMD-P	03-09-109	296-307-45017	REP-X	03-04-100	296-401B-260	REP	03-09-111

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296-402A-570	REP	03-09-111	296-807-16025	NEW	03-09-009	296-823-16015	NEW	03-09-110
296-402A-580	REP-P	03-05-074	296-807-16030	NEW	03-09-009	296-823-16020	NEW	03-09-110
296-402A-580	REP	03-09-111	296-807-16035	NEW	03-09-009	296-823-16025	NEW	03-09-110
296-402A-590	REP-P	03-05-074	296-807-170	NEW	03-09-009	296-823-16030	NEW	03-09-110
296-402A-590	REP	03-09-111	296-807-17005	NEW	03-09-009	296-823-170	NEW	03-09-110
296-402A-600	REP-P	03-05-074	296-807-17010	NEW	03-09-009	296-823-17005	NEW	03-09-110
296-402A-600	REP	03-09-111	296-807-17015	NEW	03-09-009	296-823-17010	NEW	03-09-110
296-402A-610	REP-P	03-05-074	296-807-17020	NEW	03-09-009	296-823-180	NEW	03-09-110
296-402A-610	REP	03-09-111	296-807-180	NEW	03-09-009	296-823-18005	NEW	03-09-110
296-402A-620	REP-P	03-05-074	296-807-18005	NEW	03-09-009	296-823-18010	NEW	03-09-110
296-402A-620	REP	03-09-111	296-807-18010	NEW	03-09-009	296-823-18015	NEW	03-09-110
296-402A-630	REP-P	03-05-074	296-807-18015	NEW	03-09-009	296-823-18020	NEW	03-09-110
296-402A-630	REP	03-09-111	296-807-18020	NEW	03-09-009	296-823-18025	NEW	03-09-110
296-402A-640	REP-P	03-05-074	296-807-18025	NEW	03-09-009	296-823-18030	NEW	03-09-110
296-402A-640	REP	03-09-111	296-807-18030	NEW	03-09-009	296-823-18035	NEW	03-09-110
296-402A-650	REP-P	03-05-074	296-807-18035	NEW	03-09-009	296-823-18040	NEW	03-09-110
296-402A-650	REP	03-09-111	296-807-18040	NEW	03-09-009	296-823-18045	NEW	03-09-110
296-402A-660	REP-P	03-05-074	296-807-18045	NEW	03-09-009	296-823-18050	NEW	03-09-110
296-402A-660	REP	03-09-111	296-807-18050	NEW	03-09-009	296-823-18055	NEW	03-09-110
296-402A-670	REP-P	03-05-074	296-807-18055	NEW	03-09-009	296-823-200	NEW	03-09-110
296-402A-670	REP	03-09-111	296-807-18060	NEW	03-09-009	296-824-50030	AMD	03-09-110
296-402A-675	REP-P	03-05-074	296-807-18065	NEW	03-09-009	296-841	PREP	03-08-073
296-402A-675	REP	03-09-111	296-807-18070	NEW	03-09-009	296-842-100	NEW-P	03-08-044
296-402A-680	REP-P	03-05-074	296-807-18075	NEW	03-09-009	296-842-105	NEW-P	03-08-044
296-402A-680	REP	03-09-111	296-807-18080	NEW	03-09-009	296-842-10505	NEW-P	03-08-044
296-402A-690	REP-P	03-05-074	296-807-18085	NEW	03-09-009	296-842-110	NEW-P	03-08-044
296-402A-690	REP	03-09-111	296-807-190	NEW	03-09-009	296-842-11005	NEW-P	03-08-044
296-800	PREP	03-04-097	296-823-100	NEW	03-09-110	296-842-11010	NEW-P	03-08-044
296-800-15005	AMD	03-09-110	296-823-110	NEW	03-09-110	296-842-120	NEW-P	03-08-044
296-807-100	NEW	03-09-009	296-823-11005	NEW	03-09-110	296-842-12005	NEW-P	03-08-044
296-807-110	NEW	03-09-009	296-823-11010	NEW	03-09-110	296-842-12010	NEW-P	03-08-044
296-807-11005	NEW	03-09-009	296-823-120	NEW	03-09-110	296-842-130	NEW-P	03-08-044
296-807-120	NEW	03-09-009	296-823-12005	NEW	03-09-110	296-842-13005	NEW-P	03-08-044
296-807-12005	NEW	03-09-009	296-823-12010	NEW	03-09-110	296-842-140	NEW-P	03-08-044
296-807-130	NEW	03-09-009	296-823-12015	NEW	03-09-110	296-842-14005	NEW-P	03-08-044
296-807-13005	NEW	03-09-009	296-823-130	NEW	03-09-110	296-842-150	NEW-P	03-08-044
296-807-140	NEW	03-09-009	296-823-13005	NEW	03-09-110	296-842-15005	NEW-P	03-08-044
296-807-14005	NEW	03-09-009	296-823-13010	NEW	03-09-110	296-842-160	NEW-P	03-08-044
296-807-14010	NEW	03-09-009	296-823-140	NEW	03-09-110	296-842-16005	NEW-P	03-08-044
296-807-14015	NEW	03-09-009	296-823-14005	NEW	03-09-110	296-842-170	NEW-P	03-08-044
296-807-14020	NEW	03-09-009	296-823-14010	NEW	03-09-110	296-842-17005	NEW-P	03-08-044
296-807-14025	NEW	03-09-009	296-823-14015	NEW	03-09-110	296-842-17010	NEW-P	03-08-044
296-807-14030	NEW	03-09-009	296-823-14020	NEW	03-09-110	296-842-17015	NEW-P	03-08-044
296-807-14035	NEW	03-09-009	296-823-14025	NEW	03-09-110	296-842-180	NEW-P	03-08-044
296-807-14040	NEW	03-09-009	296-823-14030	NEW	03-09-110	296-842-18005	NEW-P	03-08-044
296-807-150	NEW	03-09-009	296-823-14035	NEW	03-09-110	296-842-18010	NEW-P	03-08-044
296-807-15005	NEW	03-09-009	296-823-14040	NEW	03-09-110	296-842-190	NEW-P	03-08-044
296-807-15010	NEW	03-09-009	296-823-14045	NEW	03-09-110	296-842-19005	NEW-P	03-08-044
296-807-15015	NEW	03-09-009	296-823-14050	NEW	03-09-110	296-842-200	NEW-P	03-08-044
296-807-15020	NEW	03-09-009	296-823-14055	NEW	03-09-110	296-842-20005	NEW-P	03-08-044
296-807-15025	NEW	03-09-009	296-823-14060	NEW	03-09-110	296-842-20010	NEW-P	03-08-044
296-807-15030	NEW	03-09-009	296-823-14065	NEW	03-09-110	296-842-20015	NEW-P	03-08-044
296-807-15035	NEW	03-09-009	296-823-150	NEW	03-09-110	296-842-210	NEW-P	03-08-044
296-807-15040	NEW	03-09-009	296-823-15005	NEW	03-09-110	296-842-21005	NEW-P	03-08-044
296-807-15045	NEW	03-09-009	296-823-15010	NEW	03-09-110	296-842-220	NEW-P	03-08-044
296-807-15050	NEW	03-09-009	296-823-15015	NEW	03-09-110	296-842-22005	NEW-P	03-08-044
296-807-15055	NEW	03-09-009	296-823-15020	NEW	03-09-110	296-842-22010	NEW-P	03-08-044
296-807-160	NEW	03-09-009	296-823-15025	NEW	03-09-110	296-842-22015	NEW-P	03-08-044
296-807-16005	NEW	03-09-009	296-823-15030	NEW	03-09-110	296-842-22020	NEW-P	03-08-044
296-807-16010	NEW	03-09-009	296-823-160	NEW	03-09-110	296-842-300	NEW-P	03-08-044
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308- 13-150	AMD-P	03-08-062	308-100-180	AMD-P	03-07-097	316- 45-170	AMD-X	03-08-070
308- 15	PREP	03-04-080	308-124B-150	AMD-P	03-09-059	316- 45-190	AMD-X	03-08-070
308- 17-120	AMD	03-03-024	308-124C-010	PREP	03-09-049	316- 45-210	AMD-X	03-08-070
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308- 20-120	AMD	03-08-043	308-124H-029	PREP	03-03-080	316- 45-270	AMD-X	03-08-070
308- 20-210	AMD-P	03-03-119	308-124H-029	AMD-P	03-09-058	316- 45-290	AMD-X	03-08-070
308- 20-210	AMD	03-06-054	308-124H-061	PREP	03-03-080	316- 45-310	AMD-X	03-08-070
308- 48-800	PREP	03-04-076	308-124H-061	AMD-P	03-09-058	316- 45-330	AMD-X	03-08-070
308- 48-800	AMD-P	03-08-010	308-129-100	AMD	03-03-055	316- 45-350	AMD-X	03-08-070
308- 56A-020	AMD	03-05-081	308-420-010	REP	03-03-054	316- 45-370	AMD-X	03-08-070
308- 56A-021	AMD-P	03-07-080	308-420-020	AMD	03-03-054	316- 45-390	AMD-X	03-08-070
308- 56A-030	AMD	03-05-081	308-420-050	AMD	03-03-054	316- 45-410	AMD-X	03-08-070
308- 56A-040	AMD	03-05-081	308-420-060	AMD	03-03-054	316- 45-430	AMD-X	03-08-070
308- 56A-056	AMD	03-05-081	308-420-070	AMD	03-03-054	316- 45-550	AMD-X	03-08-070
308- 56A-060	AMD	03-05-081	308-420-080	REP	03-03-054	316- 55-001	AMD-X	03-08-070
308- 56A-065	AMD-P	03-06-040	308-420-090	AMD	03-03-054	316- 55-005	AMD-X	03-08-070
308- 56A-070	AMD-P	03-08-093	308-420-100	AMD	03-03-054	316- 55-010	AMD-X	03-08-070
308- 56A-075	AMD-P	03-06-040	308-420-130	REP	03-03-054	316- 55-020	AMD-X	03-08-070
308- 56A-110	AMD	03-05-081	308-420-140	AMD	03-03-054	316- 55-030	AMD-X	03-08-070
308- 56A-115	AMD	03-05-081	308-420-190	AMD	03-03-054	316- 55-070	AMD-X	03-08-070
308- 56A-140	AMD-P	03-05-001	308-420-200	AMD	03-03-054	316- 55-090	AMD-X	03-08-070
308- 56A-150	AMD-P	03-05-001	308-420-210	AMD	03-03-054	316- 55-110	AMD-X	03-08-070
308- 56A-150	AMD	03-05-081	308-420-230	AMD	03-03-054	316- 55-120	AMD-X	03-08-070
308- 56A-160	AMD-P	03-05-001	314- 12-170	REP-P	03-02-097	316- 55-130	AMD-X	03-08-070
308- 56A-200	AMD-P	03-05-001	314- 12-170	REP	03-09-015	316- 55-150	AMD-X	03-08-070
308- 56A-210	AMD	03-05-081	314- 12-180	REP-P	03-02-097	316- 55-160	AMD-X	03-08-070
308- 56A-215	AMD-P	03-05-001	314- 12-180	REP	03-09-015	316- 55-170	AMD-X	03-08-070
308- 56A-250	AMD-P	03-03-095	314- 12-300	REP-P	03-02-097	316- 55-500	AMD-X	03-08-070
308- 56A-250	AMD	03-08-055	314- 12-300	REP	03-09-015	316- 55-505	AMD-X	03-08-070
308- 56A-265	AMD-P	03-03-095	314- 12-310	REP-P	03-02-097	316- 55-510	AMD-X	03-08-070
308- 56A-265	AMD	03-08-055	314- 12-310	REP	03-09-015	316- 55-515	AMD-X	03-08-070
308- 56A-270	AMD-P	03-03-095	314- 12-320	REP-P	03-02-097	316- 55-517	AMD-X	03-08-070
308- 56A-270	AMD	03-08-055	314- 12-320	REP	03-09-015	316- 55-525	AMD-X	03-08-070
308- 56A-275	AMD-P	03-03-095	314- 12-330	REP-P	03-02-097	316- 55-600	AMD-X	03-08-070
308- 56A-275	AMD	03-08-055	314- 12-330	REP	03-09-015	316- 55-700	AMD-X	03-08-070
308- 56A-295	AMD	03-05-081	314- 12-340	REP-P	03-02-097	316- 55-710	AMD-X	03-08-070
308- 56A-300	AMD-P	03-08-093	314- 12-340	REP	03-09-015	316- 55-730	AMD-X	03-08-070
308- 56A-305	AMD-P	03-08-093	314- 29-003	NEW-P	03-02-097	352- 28	PREP	03-04-115
308- 56A-315	AMD-P	03-08-093	314- 29-003	NEW	03-09-015	352- 40	PREP	03-04-038
308- 56A-320	AMD-P	03-08-093	314- 29-015	NEW-P	03-02-097	352- 40-010	AMD-P	03-08-101
308- 56A-325	AMD-P	03-08-093	314- 29-015	NEW	03-09-015	352- 40-020	AMD-P	03-08-101
308- 56A-330	AMD-P	03-08-093	314- 29-020	NEW-P	03-02-097	352- 40-030	AMD-P	03-08-101
308- 56A-455	AMD-P	03-06-040	314- 29-020	NEW	03-09-015	352- 40-040	AMD-P	03-08-101
308- 56A-640	PREP-W	03-07-078	314- 29-025	NEW-P	03-02-097	352- 40-050	REP-P	03-08-101
308- 56A-640	AMD-P	03-09-031	314- 29-025	NEW	03-09-015	352- 40-060	AMD-P	03-08-101
308- 56A-640	AMD-W	03-09-075	314- 29-030	NEW-P	03-02-097	352- 40-070	AMD-P	03-08-101
308- 57	PREP-W	03-07-077	314- 29-030	NEW	03-09-015	352- 40-080	AMD-P	03-08-101
308- 63	PREP-W	03-07-079	314- 29-035	NEW-P	03-02-097	352- 40-090	AMD-P	03-08-101
308- 93-370	AMD	03-07-076	314- 29-035	NEW	03-09-015	352- 40-100	AMD-P	03-08-101
308- 93-380	AMD	03-07-076	314- 29-040	NEW-P	03-02-097	352- 40-110	AMD-P	03-08-101
308- 93-390	AMD	03-07-076	314- 29-040	NEW	03-09-015	352- 40-120	AMD-P	03-08-101
308- 93-440	AMD	03-07-076	315- 04-065	NEW-C	03-07-067	352- 40-125	REP-P	03-08-101
308- 96A-021	AMD	03-05-080	316- 45-001	AMD-X	03-08-070	352- 40-127	REP-P	03-08-101
308- 96A-047	NEW	03-05-080	316- 45-003	AMD-X	03-08-070	352- 40-130	AMD-P	03-08-101
308- 96A-074	AMD	03-05-082	316- 45-010	AMD-X	03-08-070	352- 40-140	REP-P	03-08-101
308- 96A-177	REP	03-05-080	316- 45-020	AMD-X	03-08-070	352- 40-150	AMD-P	03-08-101
308- 96A-314	AMD	03-05-082	316- 45-030	AMD-X	03-08-070	352- 40-900	REP-P	03-08-101
308- 96A-316	AMD	03-05-082	316- 45-050	AMD-X	03-08-070	363-116-185	AMD-P	03-09-135
308- 96A-550	AMD	03-05-082	316- 45-110	AMD-X	03-08-070	363-116-300	AMD-P	03-08-058
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363-116-405	NEW	03-09-096	388- 15-660	REP	03-06-024	388- 71-0605	AMD-E	03-05-044
365-210-030	AMD	03-07-035	388- 15-661	REP	03-06-024	388- 71-0605	AMD-E	03-05-098
365-210-060	AMD	03-07-035	388- 15-662	REP	03-06-024	388- 71-0605	AMD-P	03-09-042
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365-210-100	NEW	03-07-035	388- 32-0030	AMD-E	03-03-069	388- 71-0704	NEW	03-06-024
365-210-110	NEW	03-07-035	388- 71-0194	AMD-E	03-05-044	388- 71-0706	NEW	03-06-024
365-210-120	NEW	03-07-035	388- 71-0194	AMD-E	03-05-098	388- 71-0708	NEW	03-06-024
365-210-130	NEW	03-07-035	388- 71-0194	AMD-P	03-09-042	388- 71-0710	NEW	03-06-024
365-210-140	NEW	03-07-035	388- 71-0202	AMD-E	03-05-044	388- 71-0712	NEW	03-06-024
365-210-150	NEW	03-07-035	388- 71-0202	AMD-E	03-05-098	388- 71-0714	NEW	03-06-024
365-210-160	NEW	03-07-035	388- 71-0202	AMD-P	03-09-042	388- 71-0716	NEW	03-06-024
365-210-170	NEW	03-07-035	388- 71-0203	AMD-E	03-05-044	388- 71-0718	NEW	03-06-024
365-210-180	NEW	03-07-035	388- 71-0203	AMD-E	03-05-098	388- 71-0720	NEW	03-06-024
365-210-190	NEW	03-07-035	388- 71-0203	AMD-P	03-09-042	388- 71-0722	NEW	03-06-024
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365-212-020	NEW	03-07-036	388- 71-0405	AMD-E	03-05-098	388- 71-0726	NEW	03-06-024
365-212-030	NEW	03-07-036	388- 71-0405	AMD-P	03-09-042	388- 71-0728	NEW	03-06-024
365-212-040	NEW	03-07-036	388- 71-0410	AMD-E	03-05-044	388- 71-0730	NEW	03-06-024
365-212-050	NEW	03-07-036	388- 71-0410	AMD-E	03-05-098	388- 71-0732	NEW	03-06-024
365-212-060	NEW	03-07-036	388- 71-0410	AMD-P	03-09-042	388- 71-0734	NEW	03-06-024
365-212-070	NEW	03-07-036	388- 71-0415	AMD-E	03-05-044	388- 71-0736	NEW	03-06-024
365-212-080	NEW	03-07-036	388- 71-0415	AMD-E	03-05-098	388- 71-0738	NEW	03-06-024
365-212-090	NEW	03-07-036	388- 71-0415	AMD-P	03-09-042	388- 71-0740	NEW	03-06-024
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374- 80-040	AMD	03-06-015	388- 71-0420	AMD-E	03-05-098	388- 71-0744	NEW	03-06-024
374- 80-050	AMD	03-06-015	388- 71-0420	AMD-P	03-09-042	388- 71-0746	NEW	03-06-024
388- 02-0005	AMD-W	03-06-070	388- 71-0425	AMD-E	03-05-044	388- 71-0748	NEW	03-06-024
388- 02-0215	AMD-E	03-07-043	388- 71-0425	AMD-E	03-05-098	388- 71-0750	NEW	03-06-024
388- 02-0215	AMD-P	03-09-116	388- 71-0425	AMD-P	03-09-042	388- 71-0752	NEW	03-06-024
388- 14A-3100	AMD-E	03-04-088	388- 71-0430	AMD-E	03-05-044	388- 71-0754	NEW	03-06-024
388- 14A-3102	AMD-E	03-04-088	388- 71-0430	AMD-E	03-05-098	388- 71-0756	NEW	03-06-024
388- 14A-3110	AMD-E	03-04-088	388- 71-0430	AMD-P	03-09-042	388- 71-0758	NEW	03-06-024
388- 14A-3115	AMD-E	03-04-088	388- 71-0435	AMD-E	03-05-044	388- 71-0760	NEW	03-06-024
388- 14A-3120	AMD-E	03-04-088	388- 71-0435	AMD-E	03-05-098	388- 71-0762	NEW	03-06-024
388- 14A-3122	NEW-E	03-04-088	388- 71-0435	AMD-P	03-09-042	388- 71-0764	NEW	03-06-024
388- 14A-3370	AMD-E	03-04-088	388- 71-0442	NEW-E	03-05-044	388- 71-0766	NEW	03-06-024
388- 14A-3810	AMD-E	03-04-088	388- 71-0442	NEW-E	03-05-098	388- 71-0768	NEW	03-06-024
388- 14A-4500	PREP	03-09-090	388- 71-0442	NEW-P	03-09-042	388- 71-0770	NEW	03-06-024
388- 14A-4505	PREP	03-09-090	388- 71-0445	AMD-E	03-05-044	388- 71-0772	NEW	03-06-024
388- 14A-4510	PREP	03-09-090	388- 71-0445	AMD-E	03-05-098	388- 71-0774	NEW	03-06-024
388- 14A-4515	PREP	03-09-090	388- 71-0445	AMD-P	03-09-042	388- 71-0776	NEW	03-06-024
388- 14A-4520	PREP	03-09-090	388- 71-0460	AMD-E	03-05-044	388- 71-0800	AMD-P	03-09-091
388- 14A-4525	PREP	03-09-090	388- 71-0460	AMD-E	03-05-098	388- 71-0805	AMD-P	03-09-091
388- 14A-4530	PREP	03-09-090	388- 71-0460	AMD-P	03-09-042	388- 71-0810	AMD-P	03-09-091
388- 14A-6105	NEW-E	03-07-030	388- 71-0465	AMD-E	03-05-044	388- 71-0815	AMD-P	03-09-091
388- 14A-6110	NEW-E	03-07-030	388- 71-0465	AMD-E	03-05-098	388- 71-0820	AMD-P	03-09-091
388- 14A-6115	NEW-E	03-07-030	388- 71-0465	AMD-P	03-09-042	388- 71-0825	AMD-P	03-09-091
388- 14A-6120	NEW-E	03-07-030	388- 71-0470	AMD-E	03-05-044	388- 71-0835	AMD-P	03-09-091
388- 14A-6125	NEW-E	03-07-030	388- 71-0470	AMD-E	03-05-098	388- 71-0840	AMD-P	03-09-091
388- 15-650	REP	03-06-024	388- 71-0470	AMD-P	03-09-042	388- 71-0845	AMD-P	03-09-091
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388- 15-652	REP	03-06-024	388- 71-0475	REP	03-09-092	388- 72A-0010	NEW	03-05-097
388- 15-653	REP	03-06-024	388- 71-0480	AMD-E	03-05-044	388- 72A-0015	NEW	03-05-097
388- 15-654	REP	03-06-024	388- 71-0480	AMD-E	03-05-098	388- 72A-0020	NEW	03-05-097
388- 15-655	REP	03-06-024	388- 71-0480	AMD-P	03-09-042	388- 72A-0025	NEW	03-05-097
388- 15-656	REP	03-06-024	388- 71-05923	PREP	03-09-089	388- 72A-0030	NEW	03-05-097
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388-150-440	REP-P	03-09-005	388-292-0130	NEW-P	03-09-033	388-295-3140	NEW-P	03-09-005
388-150-450	REP-P	03-09-005	388-292-0135	NEW-P	03-09-033	388-295-3150	NEW-P	03-09-005
388-150-460	REP-P	03-09-005	388-292-0140	NEW-P	03-09-033	388-295-3160	NEW-P	03-09-005
388-150-470	REP-P	03-09-005	388-292-0145	NEW-P	03-09-033	388-295-3170	NEW-P	03-09-005
388-150-480	REP-P	03-09-005	388-292-0150	NEW-P	03-09-033	388-295-3180	NEW-P	03-09-005
388-150-490	REP-P	03-09-005	388-292-0155	NEW-P	03-09-033	388-295-3190	NEW-P	03-09-005
388-150-500	REP-P	03-09-005	388-292-0160	NEW-P	03-09-033	388-295-3200	NEW-P	03-09-005
388-150-990	REP-P	03-09-005	388-295-0001	NEW-P	03-09-005	388-295-3210	NEW-P	03-09-005
388-150-991	REP-P	03-09-005	388-295-0010	NEW-P	03-09-005	388-295-3220	NEW-P	03-09-005
388-150-992	REP-P	03-09-005	388-295-0020	NEW-P	03-09-005	388-295-3230	NEW-P	03-09-005
388-150-993	REP-P	03-09-005	388-295-0030	NEW-P	03-09-005	388-295-4010	NEW-P	03-09-005
388-155-070	AMD-P	03-06-092	388-295-0040	NEW-P	03-09-005	388-295-4020	NEW-P	03-09-005
388-155-070	AMD	03-09-074	388-295-0050	NEW-P	03-09-005	388-295-4030	NEW-P	03-09-005
388-155-090	AMD-P	03-06-092	388-295-0055	NEW-P	03-09-005	388-295-4040	NEW-P	03-09-005
388-155-090	AMD	03-09-074	388-295-0060	NEW-P	03-09-005	388-295-4050	NEW-P	03-09-005
388-165-130	REP-P	03-09-033	388-295-0070	NEW-P	03-09-005	388-295-4060	NEW-P	03-09-005
388-180-0100	NEW	03-04-013	388-295-0080	NEW-P	03-09-005	388-295-4070	NEW-P	03-09-005
388-180-0110	NEW	03-04-013	388-295-0090	NEW-P	03-09-005	388-295-4080	NEW-P	03-09-005
388-180-0120	NEW	03-04-013	388-295-0100	NEW-P	03-09-005	388-295-4090	NEW-P	03-09-005
388-180-0130	NEW	03-04-013	388-295-0110	NEW-P	03-09-005	388-295-4100	NEW-P	03-09-005
388-180-0140	NEW	03-04-013	388-295-0120	NEW-P	03-09-005	388-295-4110	NEW-P	03-09-005
388-180-0150	NEW	03-04-013	388-295-0130	NEW-P	03-09-005	388-295-4120	NEW-P	03-09-005
388-180-0160	NEW	03-04-013	388-295-0140	NEW-P	03-09-005	388-295-4130	NEW-P	03-09-005
388-180-0170	NEW	03-04-013	388-295-0150	NEW-P	03-09-005	388-295-4140	NEW-P	03-09-005
388-180-0180	NEW	03-04-013	388-295-1010	NEW-P	03-09-005	388-295-5010	NEW-P	03-09-005
388-180-0190	NEW	03-04-013	388-295-1020	NEW-P	03-09-005	388-295-5020	NEW-P	03-09-005
388-180-0200	NEW	03-04-013	388-295-1030	NEW-P	03-09-005	388-295-5030	NEW-P	03-09-005
388-180-0210	NEW	03-04-013	388-295-1040	NEW-P	03-09-005	388-295-5040	NEW-P	03-09-005
388-180-0220	NEW	03-04-013	388-295-1050	NEW-P	03-09-005	388-295-5050	NEW-P	03-09-005
388-180-0230	NEW	03-04-013	388-295-1060	NEW-P	03-09-005	388-295-5060	NEW-P	03-09-005
388-290-0075	AMD-E	03-06-045	388-295-1070	NEW-P	03-09-005	388-295-5070	NEW-P	03-09-005
388-290-0085	AMD-E	03-06-045	388-295-1080	NEW-P	03-09-005	388-295-5080	NEW-P	03-09-005
388-290-0190	AMD-E	03-06-045	388-295-1090	NEW-P	03-09-005	388-295-5090	NEW-P	03-09-005
388-290-0210	REP-E	03-06-045	388-295-1100	NEW-P	03-09-005	388-295-5100	NEW-P	03-09-005
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388-292-0003	NEW-P	03-09-033	388-295-1120	NEW-P	03-09-005	388-295-5120	NEW-P	03-09-005
388-292-0005	NEW-P	03-09-033	388-295-2010	NEW-P	03-09-005	388-295-5140	NEW-P	03-09-005
388-292-0010	NEW-P	03-09-033	388-295-2020	NEW-P	03-09-005	388-295-5150	NEW-P	03-09-005
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388-292-0020	NEW-P	03-09-033	388-295-2040	NEW-P	03-09-005	388-295-5170	NEW-P	03-09-005
388-292-0025	NEW-P	03-09-033	388-295-2050	NEW-P	03-09-005	388-295-6010	NEW-P	03-09-005
388-292-0030	NEW-P	03-09-033	388-295-2060	NEW-P	03-09-005	388-295-6020	NEW-P	03-09-005
388-292-0035	NEW-P	03-09-033	388-295-2070	NEW-P	03-09-005	388-295-6030	NEW-P	03-09-005
388-292-0040	NEW-P	03-09-033	388-295-2080	NEW-P	03-09-005	388-295-6040	NEW-P	03-09-005
388-292-0045	NEW-P	03-09-033	388-295-2090	NEW-P	03-09-005	388-295-6050	NEW-P	03-09-005
388-292-0050	NEW-P	03-09-033	388-295-2100	NEW-P	03-09-005	388-295-6060	NEW-P	03-09-005
388-292-0055	NEW-P	03-09-033	388-295-2110	NEW-P	03-09-005	388-295-7010	NEW-P	03-09-005
388-292-0060	NEW-P	03-09-033	388-295-2120	NEW-P	03-09-005	388-295-7020	NEW-P	03-09-005
388-292-0065	NEW-P	03-09-033	388-295-2130	NEW-P	03-09-005	388-295-7030	NEW-P	03-09-005
388-292-0070	NEW-P	03-09-033	388-295-3010	NEW-P	03-09-005	388-295-7040	NEW-P	03-09-005
388-292-0075	NEW-P	03-09-033	388-295-3020	NEW-P	03-09-005	388-295-7050	NEW-P	03-09-005
388-292-0080	NEW-P	03-09-033	388-295-3030	NEW-P	03-09-005	388-295-7060	NEW-P	03-09-005
388-292-0085	NEW-P	03-09-033	388-295-3040	NEW-P	03-09-005	388-295-7070	NEW-P	03-09-005
388-292-0090	NEW-P	03-09-033	388-295-3050	NEW-P	03-09-005	388-295-7080	NEW-P	03-09-005
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388-292-0102	NEW-P	03-09-033	388-295-3080	NEW-P	03-09-005	388-400-0045	AMD	03-05-028
388-292-0105	NEW-P	03-09-033	388-295-3090	NEW-P	03-09-005	388-406-0015	PREP-W	03-03-112
388-292-0110	NEW-P	03-09-033	388-295-3100	NEW-P	03-09-005	388-408-0034	PREP	03-06-056
388-292-0115	NEW-P	03-09-033	388-295-3110	NEW-P	03-09-005	388-408-0035	PREP	03-06-056
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388-410-0030	PREP	03-07-040	388-515	PREP	03-08-086	388-552	PREP	03-08-086
388-424-0005	PREP	03-03-007	388-515-1530	REP	03-08-067	388-555	PREP	03-08-086
388-424-0010	PREP	03-03-007	388-515-1540	NEW-E	03-05-044	388-556	PREP	03-08-086
388-424-0015	PREP	03-03-007	388-515-1540	NEW-E	03-05-098	388-557-5000	NEW-P	03-09-119
388-424-0020	AMD	03-05-029	388-515-1540	NEW-P	03-09-042	388-557-5050	NEW-P	03-09-119
388-424-0025	AMD	03-05-029	388-517	PREP	03-08-086	388-557-5100	NEW-P	03-09-119
388-436-0002	AMD-E	03-04-067	388-519	PREP	03-08-086	388-557-5150	NEW-P	03-09-119
388-444-0035	AMD	03-05-031	388-523	PREP	03-08-086	388-557-5200	NEW-P	03-09-119
388-448-0130	AMD-P	03-08-079	388-523-0120	PREP	03-04-085	388-557-5250	NEW-P	03-09-119
388-448-0140	AMD-P	03-08-079	388-526	PREP	03-08-086	388-557-5300	NEW-P	03-09-119
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388-818-0270	NEW	03-05-100	388-865-0105	PREP	03-08-077	388-865-0460	PREP	03-08-077
388-818-0280	NEW	03-05-100	388-865-0110	PREP	03-08-077	388-865-0462	PREP	03-08-077
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391- 55-002	AMD	03-03-064	415-108-475	AMD	03-06-042	458- 16-060	REP-P	03-03-099
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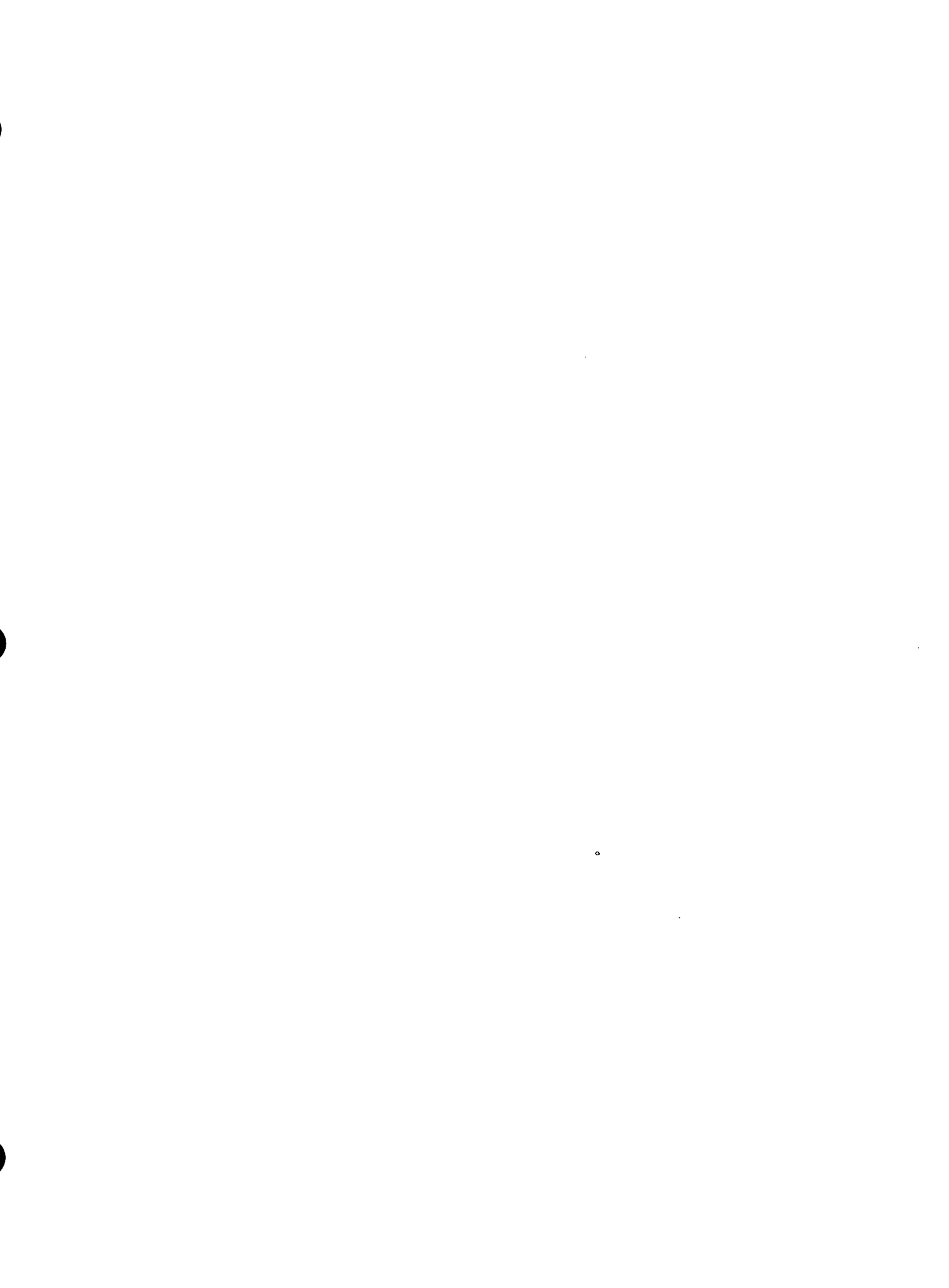
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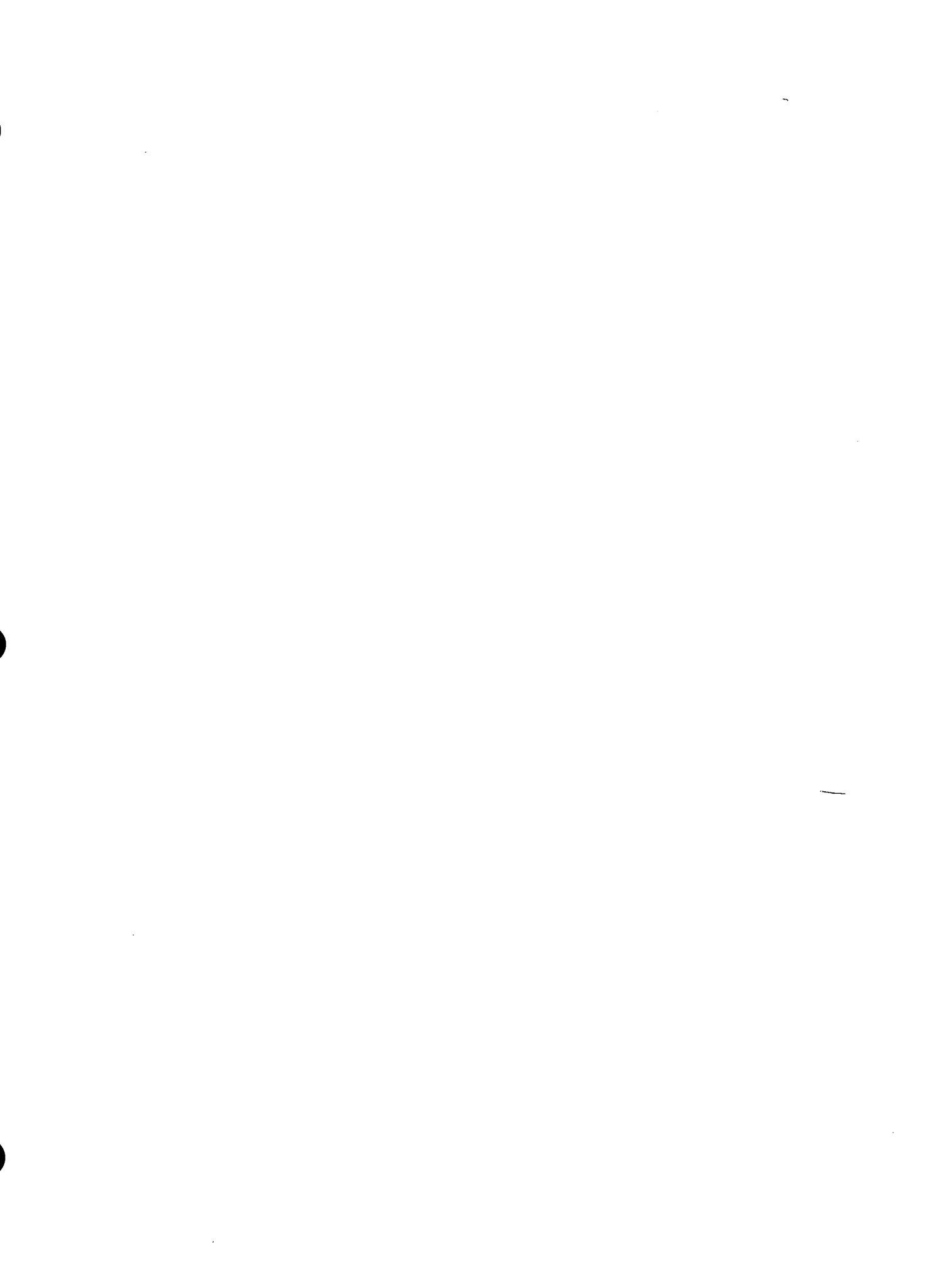
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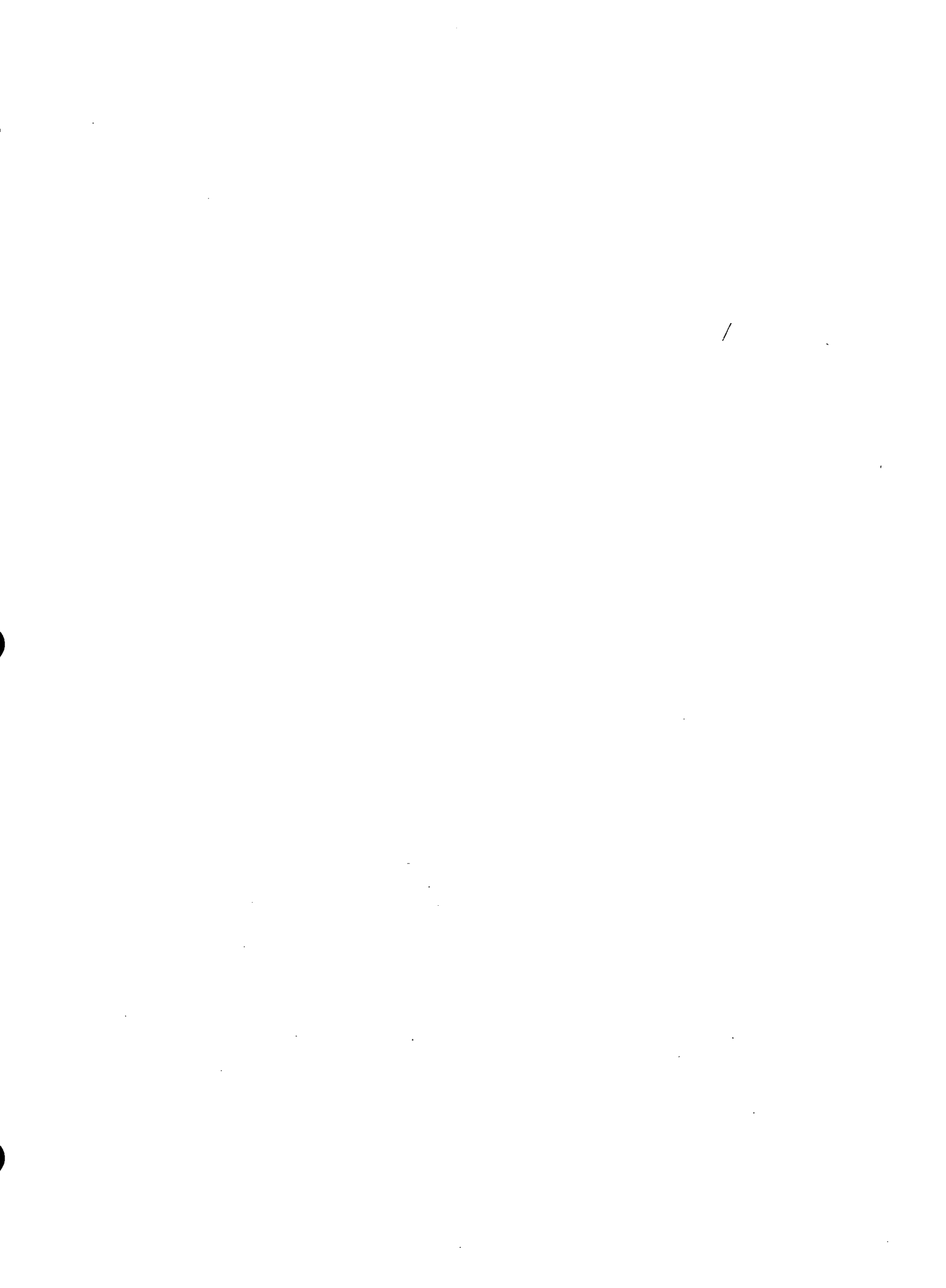
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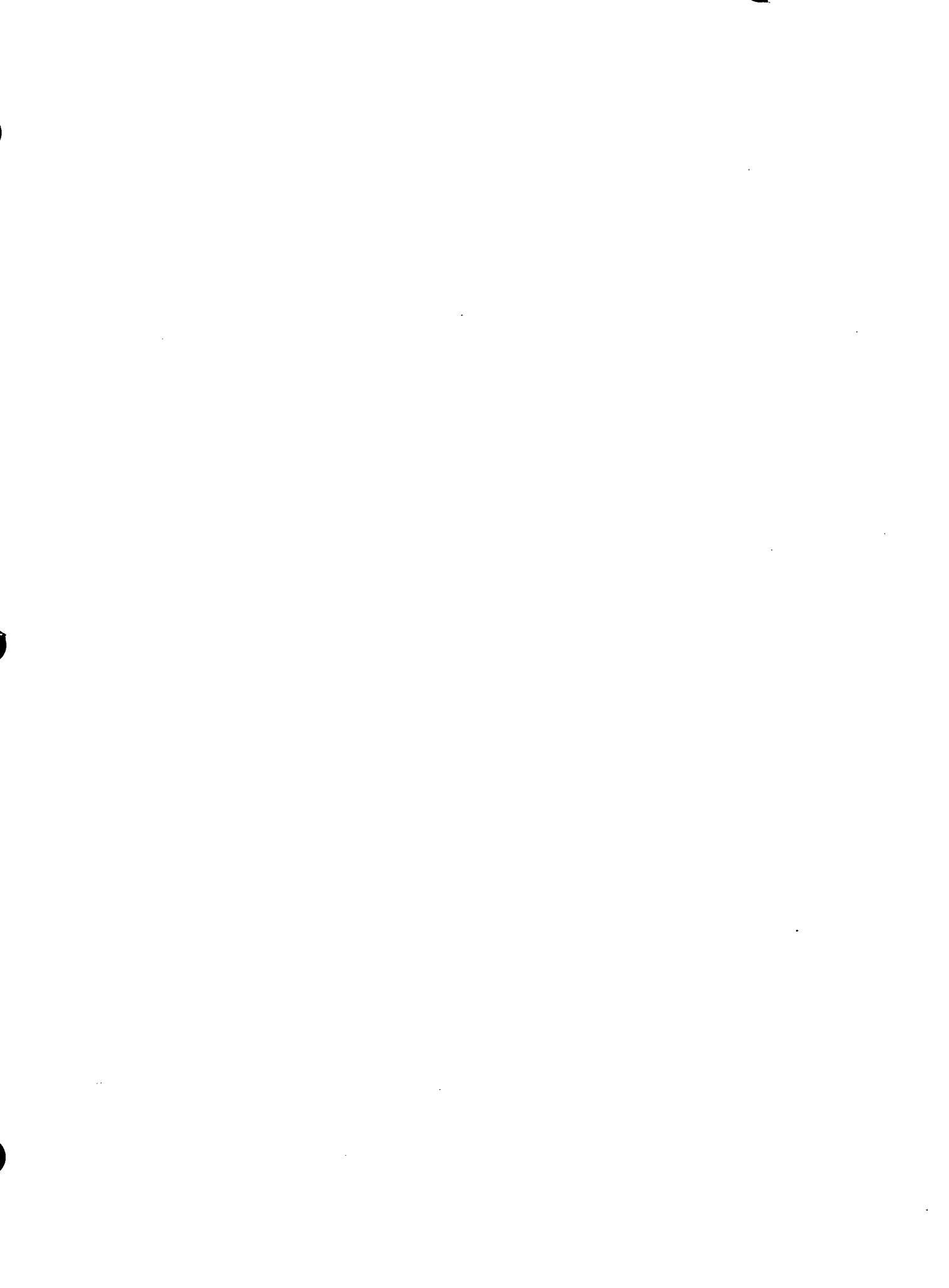












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