

Washington State Register

August 6, 2003

OLYMPIA, WASHINGTON

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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 August 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

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

John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

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Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

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

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

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

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

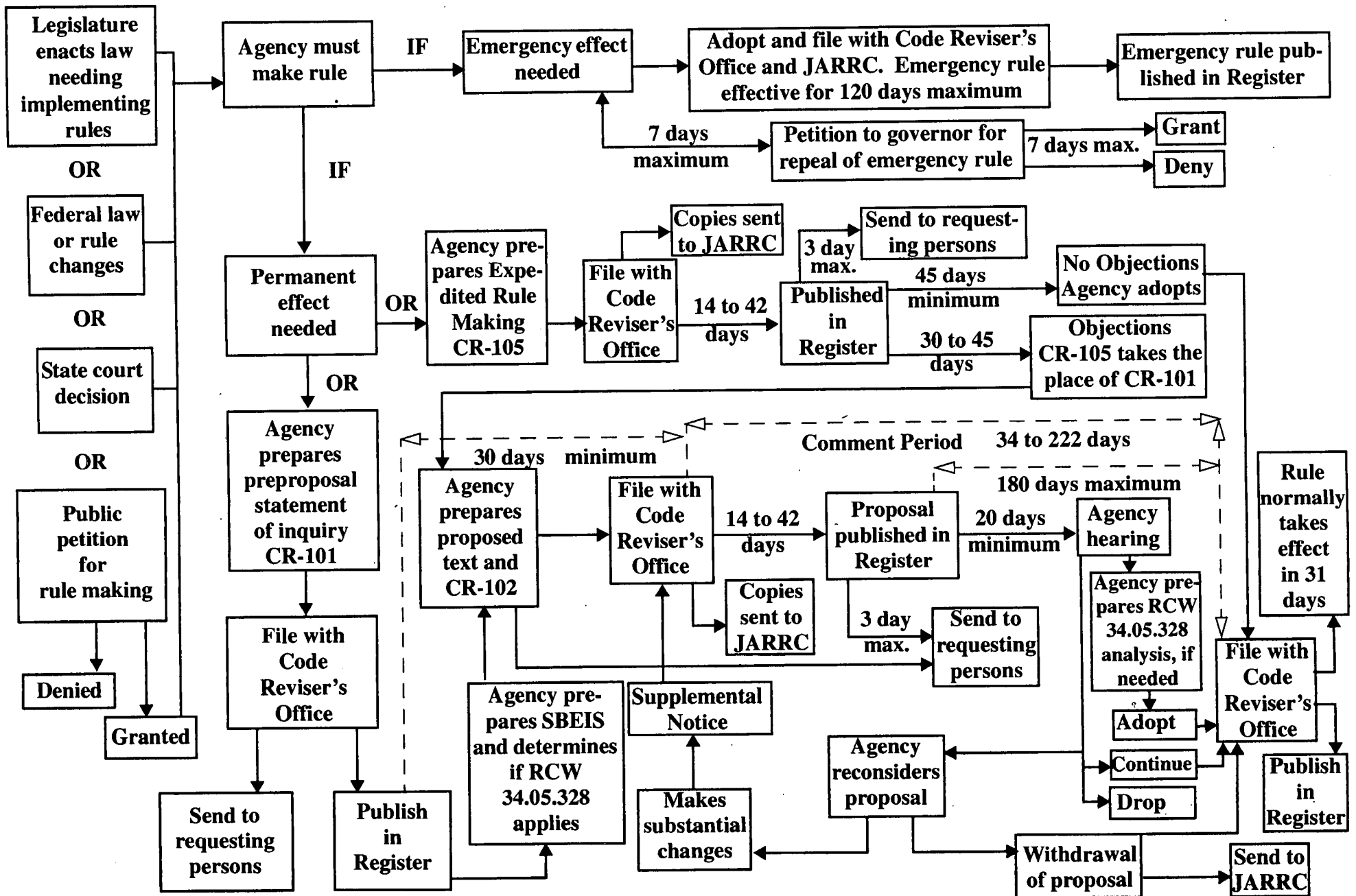
There is less than minor economic impact on business;

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 03-15-002

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed July 2, 2003, 3:22 p.m.]

Subject of Possible Rule Making: The subject of this rule making is regarding the expiration date of original bail bond agent licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.185 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The reason for changing the rule is to improve service delivery processes and to make licensing fees fair to all bail bond agent applicants. Currently the rule states: Licenses issued to bail bond agents expire on their respective birth dates. However, if an application for the bail bond agent license is received by the Department of Licensing within ninety days from the applicant's birth date, the license issued shall not expire until the next birth date.

This rule is confusing for customers to calculate expiration dates. The rule is also not fair because a license issued within ninety days of their birth date can gain up to three months more than a year before expiring compared to if the birth date is just outside of the ninety days of their birth date, the license being issued expires up to three months earlier than a year. This rule change will not affect the expiration dates of current bail bond agent licensees.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Haglund, Department of Licensing, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 664-6624, fax (360) 570-7888.

July 2, 2003

Mary Haglund

Program Manager

WSR 03-15-022

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

(Medical Assistance Administration)

[Filed July 8, 2003, 4:22 p.m.]

The Medical Assistance Administration would like to withdraw the following two preproposal statement of inquiries: WSR 02-24-071, filed on July 6, 2001; and WSR 03-08-082, filed on April 1, 2003.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-023

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

(Economic Services Administration)

[Filed July 8, 2003, 4:23 p.m.]

Subject of Possible Rule Making: The department's Division of Employment and Assistance Programs plans to amend the rules in chapters 388-412 and 388-460 WAC to update program language and clarify program requirements for payees, allotments, and benefit issuance for the Washington basic food program. The department plans to amend the following as well as any related rules: WAC 388-412-0015 General information about your food assistance allotments, 388-412-0020 When do I get my benefits?, 388-412-0025 How do I get my benefits?, 388-412-0040 Can I get my benefits replaced?, 388-460-0001 Who may be issued cash, child care, medical and food assistance benefits?, 388-460-0005 Can I choose someone to apply for basic food for my assistance unit?, 388-460-0010 Food assistance authorized representative—Treatment centers and group homes, and 388-460-0015 Persons who may not be an authorized representative for a food assistance unit.

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

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

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publishes federal regulations for the food stamp program in the Federal Register. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices to inform states of new program requirements that are not yet in the United States Code of Federal Regulations. DSHS incorporates these regulations and exercises state options by adopting administrative rules for food assistance benefits in Washington state.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570,

phone (360) 413-3232, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

July 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3232, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

July 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-024

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

[Filed July 8, 2003, 4:24 p.m.]

Subject of Possible Rule Making: The department's Division of Employment and Assistance Programs plans to amend the rules in chapters 388-406 and 388-416 WAC to update program language and clarify program requirements for the application process, expedited service, and certification periods for the Washington basic food program. The department plans to amend the following as well as any related rules: WAC 388-406-0005 Who may apply?, 388-406-0010 Filing an application, 388-406-0015 Can I get food assistance right away?, 388-406-0021 How the department decides if you are a migrant or seasonal farmworker and if you are destitute, 388-406-0035 How long does the department have to process my application?, 388-406-0040 What happens if the processing of my application is delayed?, 388-406-0055 When do my benefits start?, 388-406-0060 What happens when my application is denied?, 388-406-0065 Can I still get benefits even after my application is denied?, and 388-416-0005 How long can I get food assistance?

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

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

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publishes federal regulations for the food stamp program in the Federal Register. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices to inform states of new program requirements that are not yet in the United States Code of Federal Regulations. DSHS incorporates these regulations and exercises state options by adopting administrative rules for food assistance benefits in Washington state.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy

WSR 03-15-025

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

[Filed July 8, 2003, 4:25 p.m.]

Subject of Possible Rule Making: The department's Division of Employment and Assistance Programs plans to update program language and clarify program requirements for strikers and students for the Washington basic food program. The department plans to amend the following as well as any related rules: WAC 388-480-0001 How being on strike effects food assistance benefits and 388-482-0005 Student status for food assistance.

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

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

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publishes federal regulations for the food stamp program in the Federal Register. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices to inform states of new program requirements that are not yet in the United States Code of Federal Regulations. DSHS incorporates these regulations and exercises state options by adopting administrative rules for food assistance benefits in Washington state.

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

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

lication by contacting John Camp, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3232, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

July 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-038

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed July 9, 2003, 3:57 p.m.]

Subject of Possible Rule Making: WAC 458-20-244 (~~Food products~~) Food and food ingredients.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.01.060 and 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-20-244 provides guidelines for determining if the sale of a food or food ingredient is subject to retail sales tax. In 2003, the legislature adopted the food definitions set forth in the national Streamlined Sales and Use Tax Agreement. The 2003 amendments to these statutes significantly change how sales of food and food ingredients are taxed on and after January 1, 2004. This rule provides guidance on the new food definitions and their tax implications.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, 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 Cindy Evans, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6134, fax (360) 664-0693, e-mail cindyev@dor.wa.gov.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on August 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.

July 9, 2003

Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

WSR 03-15-039

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed July 9, 2003, 3:59 p.m.]

Subject of Possible Rule Making: WAC 458-20-24001 Sales and use tax deferral—Manufacturing and research/development activities in distressed areas—Applications filed after July 31, 1999 and 458-20-24001A Sales and use tax deferral—Manufacturing and research/development activities in distressed areas—Applications filed prior to August 1, 1999.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.01.060 and 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules implement the distressed area sales and use tax deferral statutes and explain the administrative procedures for the programs. The department anticipates making the following changes to Rule 24001:

- Subsection (2), clarifying existing definitions and adding a new definition for "date of application";
- Subsection (5), clarifying the explanation of the apportionment formula (no change to the formula provided in the rule) for building construction and providing an additional formula to provide flexibility to taxpayers;
- Subsection (7), explaining that the department will consider approving an application only if construction will begin within one year or the applicant can establish that there is a specific and active program to begin construction within two years; and
- Subsection (13), explaining that in the case of a project no longer satisfying required employment positions, while no interest or penalties apply to the deferred sales or use taxes found owing, other penalties and interest that apply to delinquent payments will apply. Subsection (13) currently explains that interest but not penalties apply to taxes found owing.

The department anticipates making the following changes to Rule 24001A:

- Subsections (4), (17), and (30), clarifying the explanation of the apportionment formula for building construction (no change to the formula provided in the rule); and
- Subsection (27), correcting an inaccurate definition of "person."

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, 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 Cindy Evans, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6134, fax (360) 664-0693, e-mail cindyev@dor.wa.gov.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on September 8, 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.

July 9, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

WSR 03-15-044

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed July 11, 2003, 8:33 a.m.]

Subject of Possible Rule Making: Licensing and regulating money transmission and currency exchange businesses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Sections 6, 7, 8, 11, 13, 15, 17, 18, 19 and 33, chapter 287, Laws of 2003.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to establish licensing procedures and applications; to establish and define reporting requirements; to establish enforcement and examination procedures; to establish a fee schedule; and to generally carry out the agency mandates under the law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Agencies: Financial Crimes Enforcement Network and the Office of Foreign Assets Control, United States Department of the Treasury. The Department of Financial Institutions staff communicates regularly with established federal contacts to avoid duplication and facilitate joint program effectiveness.

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 Department of Financial Institutions, P.O. Box 41200, Olympia, WA 98501-1200, (360) 902-8700, e-mail Chuck Cross, ccross@dfi.wa.gov; Whittier Johnson, wjohnson@dfi.wa.gov; Kwadwo Boateng, kboateng@dfi.wa.gov; or Kae McDonnell, kmcdonnell@dfi.wa.gov.

July 11, 2003

David D. Cheal

Rules Coordinator

WSR 03-15-045

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF RETIREMENT SYSTEMS

[Filed July 11, 2003, 11:06 a.m.]

Subject of Possible Rule Making: TRS 1 Option 1 Annuity Factors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.32.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: TRS Plan 1 retirees can select an Option 1 when they retire. This option provides a reduced single life benefit (from the maximum that can be received). If the retiree dies, any remaining balance from the retiree's contributions are paid in a lump sum to the retiree's estate. (The maximum does not allow a distribution of the retiree's remaining balance.) To pay for this, the benefit is reduced from the maximum benefit. The proposed WAC will provide the annuity factors that the Department of Retirement Systems (DRS) uses for the calculation of this benefit option.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DRS will work with the Office of the State Actuary in regards to the annuity factors.

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.

July 10, 2003

Merry A. Kogut

Rules Coordinator

WSR 03-15-048

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 11, 2003, 1:18 p.m.]

Subject of Possible Rule Making: The DSHS Division of Employment and Assistance Programs will amend chapter 388-474 WAC, State supplementary payments.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This change is necessary to add additional supplemental security income recipients to the population who receive a state supplementary payment.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole McRae, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3074, fax (360) 413-3493, e-mail MCRAECA@DSHS.WA.GOV.

July 10, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-049

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Medical Assistance Administration)

[Filed July 11, 2003, 1:20 p.m.]

Subject of Possible Rule Making: WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services and 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.575, ESHB 2257 (chapter 28, Laws of 2003).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To permanently adopt federal standard increases that were effective April 1, 2003, and to reduce the maximum resource allocation for a community spouse from \$90,660 to \$40,000 for clients institutionalized on or after August 1, 2003. These changes will be adopted under an emergency rule filing effective August 1, 2003.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DSHS' Aging and Disabilities Services Administration (ADSA).

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and informa-

tion about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Lou Percival, ADSA Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2318, e-mail perciML@dshs.wa.gov, fax (360) 438-8633, TDD 1-800-848-5429.

July 10, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-050

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Disabilities Services Administration)

[Filed July 11, 2003, 1:21 p.m.]

Subject of Possible Rule Making: To implement SSB 5579 (chapter 231, Laws of 2003) by amending current sections and adding a new section to chapter 388-105 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 231, Laws of 2003; chapter 18.20 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2003 legislature passed SSB 5579 to change the policy on paying for bed holds. To implement the changes, the department must amend chapter 388-105 WAC to reduce rates by the amount the rates were increased effective July 1, 2002, to pay for bed holds in the rate. Also, the department must adopt WAC that describes the new policy, which includes setting a rate amount for absences that go from the eighth day through the twentieth day.

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

Process for Developing New Rule: By publishing in the Washington State Register this CR-101 Preproposal statement of inquiry; CR-102 Proposed rule making; and CR-103 Rule-making order including a concise explanatory statement.

ADSA welcomes the public participation in developing its rule(s). Anyone interested in participating should contact the staff person indicated below. At a later date, ADSA will [file] propose rules with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the HCS mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. If you would like to be personally notified when draft regulations are ready for review, please contact Patricia Hague, fax (360) 725-2641, e-mail HaguePE@dshs.wa.gov,

or write to Home and Community Rates, P.O. Box 45600, Olympia, WA 98504-5600.

July 9, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-051
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 11, 2003, 1:23 p.m.]

The Medical Assistance Administration would like to withdraw the following preproposal statement of inquiries:

- WSR 02-20-054, WAC 388-416-0035, 388-478-0085 and 388-517-0300, filed September 9, 2002;
- WSR 02-10-075, WAC 388-475-1250, filed April 26, 2002;
- WSR 02-09-050, WAC 388-513-1365, filed April 12, 2002;
- WSR 02-07-011 [02-07-111], WAC 388-416-0035, filed May 20, 2002;
- WSR 00-18-056, chapter 388-529 WAC, filed September 1, 2000;
- WSR 01-07-018, chapters 388-535, 388-544 and 388-438 WAC, filed March 13, 2001;
- WSR 99-21-039, WAC 388-517-0300, filed October 15, 1999; and
- WSR 99-08-120, chapters 388-440 and 388-426 WAC, filed April 7, 1999.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-15-059
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed July 14, 2003, 10:45 a.m.]

Subject of Possible Rule Making: Deferred compensation program (DCP), WAC 415-501-430, 415-501-510, and possibly others.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780; 26 U.S.C. (Internal Revenue Code) and related tax regulations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: On July 10, the Internal Revenue Service (IRS) released final "457" regulations (section 457 of the IRS code applies to governmental deferred compensation plans). The Department of Retirement Systems (DRS) is reviewing these final regulations and determining whether any changes to DCP WACs will be needed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The IRS Code in 26 U.S.C. and a variety of regulations and procedures also regulate this subject. If necessary, DRS will work with the IRS, as well as with many national professional associations, in ensuring that any rule changes are accurate and timely.

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.

July 11, 2003

Merry A. Kogut
Rules Coordinator

WSR 03-15-065
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed July 15, 2003, 9:22 a.m.]

Subject of Possible Rule Making: WAC 458-20-148 Barber and beauty shops.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-20-148 explains the business and occupation, retail sales, and use tax responsibilities of persons operating barber and beauty shops. The department anticipates revising the rule to incorporate discussion about the tax reporting responsibilities of independent contractors renting chairs or work stations in a salon or similar establishment and how tax applies to income received by shop or salon operators from independent contractors. The department also plans to update the rule to reflect the diverse services that are currently provided by shops, salons, and similar establishments.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: While the Washington State Department of Licensing's Processional Licensing Support Services unit and the Department of Health's Health Processions Quality Assurance Division regulate industries whose activities are addressed in this rule, they do not administer the tax laws that apply to the activities.

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 JoAnne Gordon, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6121, e-mail joanneg@dor.wa.gov, fax (360) 664-0693.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on August 27, 2003, at 1:30 p.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.

July 11, 2003
Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

WSR 03-15-067

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed July 15, 2003, 10:48 a.m.]

Subject of Possible Rule Making: WAC 246-869-220
Patient counseling required.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board would like to increase compliance with the patient counseling rule. The board is considering requiring pharmacies to post a sign in the pharmacy to inform patients that pharmacists must provide patient counseling on new prescriptions and as needed on refill prescriptions. Increasing compliance with this rule will promote public health and safety by assuring that patients receive important information about their medications.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State/federal medication assistance programs also require counseling on new prescriptions. Representatives of these agencies will be invited to participate in rule-making process.

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, Department of Health, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, Lisa.Salmi@doh.wa.gov, phone (360) 236-4828, fax

(360) 586-4359. Information on public meetings can be obtained from Lisa Salmi, Board of Pharmacy.

July 1, 2003

D. H. Williams
Executive Director

WSR 03-15-080

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed July 16, 2003, 3:04 p.m.]

Subject of Possible Rule Making: Card rooms.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 and 9.46.0282.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Rob Saucier, on behalf of Galaxy Gaming Inc., Las Vegas, Nevada. Mr. Saucier is requesting an amendment to Title 230 WAC to allow new card games in Washington state, by removing the current restriction on players betting on the houses' hand.

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; Robert Berg, 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: The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100, on August 14 and 15, 2003; at the Best Western Icicle Inn, 505 Highway 2, Leavenworth, WA 98826, (509) 548-7000, on September 11 and 12, 2003; and at the Double Tree Hotel-Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, (509) 744-2310, on October 9 and 10, 2003.

July 16, 2003
Susan Arland
Rules Coordinator

WSR 03-15-085

PREPROPOSAL STATEMENT OF INQUIRY BOARD FOR VOLUNTEER FIREFIGHTERS AND RESERVE OFFICERS

[Filed July 17, 2003, 11:41 a.m.]

Subject of Possible Rule Making: To amend chapter 491-02 WAC to adopt new actuarial tables for use in calculating joint survivor pensions, survivor pensions, and lump sum settlements for pensions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.24.290(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Office of the State Actuary has produced new tables based upon the 1995-2000 actuarial experience study published in 2002.

Process for Developing New Rule: Agency study; and calculations by the Office of the State Actuary.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Board for Volunteer Firefighters and Reserve Officers, P.O. Box 114, 605 East 11th Avenue, #112, Olympia, WA 98507, phone (360) 753-7318, toll free (877) 753-7318, fax (360) 586-1987.

July 17, 2003
Brigette K. Smith
Executive Secretary

WSR 03-15-086

**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed July 17, 2003, 2:50 p.m.]

Subject of Possible Rule Making: Bingo licensees.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide some type of relief to bingo licensees who fail to meet their adjusted cash flow requirements, rather than proceeding directly to an administrative action to revoke the bingo license.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Robert Berg, 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: The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100, on August 14 and 15, 2003; at the Best Western Icicle Inn, 505 Highway 2, Leavenworth, WA 98826, (509) 548-7000, on September 11 and 12, 2003; and at the Double Tree Hotel, Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, (509) 744-2310, on October 9 and 10, 2003.

July 16, 2003
Susan Arland
Rules Coordinator

WSR 03-15-096

**PREPROPOSAL STATEMENT OF INQUIRY
HIGHER EDUCATION
COORDINATING BOARD**

[Filed July 21, 2003, 8:53 a.m.]

Subject of Possible Rule Making: Development of a satisfactory progress requirement for promise scholarship recipients.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.80.370, 28B.119.010(9), and 28B.119.020(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Student aid administrators have requested the rule. It is needed to ensure consistency and integrity relative to other student aid programs.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Klacik, Associate Director, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, phone (360) 753-7851, fax (360) 704-6251, e-mail <johnk@hecba.wa.gov>.

July 15, 2003
John Klacik
Associate Director

WSR 03-15-097

**PREPROPOSAL STATEMENT OF INQUIRY
HIGHER EDUCATION
COORDINATING BOARD**

[Filed July 21, 2003, 8:55 a.m.]

Subject of Possible Rule Making: 1. Modifying the state need grant limitation that prevents awards from exceeding the actual value of tuition and fees.

2. Allowing aid administrators to make certain professional judgement exceptions to the prohibition that prevents students from receiving the state need grant to pursue a second associate degree after having received a first associate degree with the assistance of the grant.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.80.370 and 28B.10.822.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Student aid administrators have requested the modifications in order to avoid unnecessary complication and delays to the awarding of the state need grant to eligible students and to mitigate certain compelling circumstances in which otherwise eligible students may be prevented from receiving the grant.

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 John Klacik, Associate Director, Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, phone (360) 753-7851, fax (360) 704-6251, e-mail <johnk@hecb.wa.gov>.

July 17, 2003
John Klacik
Associate Director

WSR 03-15-099
PREPROPOSAL STATEMENT OF INQUIRY
UNIVERSITY OF WASHINGTON
[Filed July 21, 2003, 9:35 a.m.]

Subject of Possible Rule Making: Chapter 478-136 WAC, Use of University of Washington facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.20.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In ESB 5560, the 2003 legislature repealed RCW 66.44.190 Sales on university grounds prohibited—Exceptions, which had prohibited the sale of liquor on campus except at the faculty center. Currently WAC 478-136-030 prohibits only the consumption and possession of alcoholic beverages in Husky Stadium; it does not address the sale of alcohol. Amendment of these rules will provide regulation regarding the sale, possession, consumption, and service of alcohol on the University of Washington campuses.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The University of Washington will notify the Washington State Liquor Control Board of its proposed rule amendments.

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.

July 17, 2003
Rebecca Goodwin Deardorff
Director, Administrative Procedures

WSR 03-15-103
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed July 21, 2003, 11:18 a.m.]

Subject of Possible Rule Making: WAC 246-887-220 through 246-887-280, regulations implementing the Uniform Controlled Substances Act—Chemical capture programs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 2003 legislature enacted legislation (chapter 175, Laws of 2003) to allow Department of Fish and Wildlife agents and biologists to possess and use controlled substances in chemical capture programs. The legislation grants rule-making authority to the Board of Pharmacy and requires the Board of Pharmacy, in consultation with the Department of Fish and Wildlife, to develop a list of controlled substances appropriate for chemical capture programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Staff of the Board of Pharmacy will meet with representatives of the Department of Fish and Wildlife and the Drug Enforcement Administration.

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, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, Lisa.Salmi@doh.wa.gov, (360) 236-4828 or fax (360) 586-4359. Information on public meetings can be obtained from Lisa Salmi, Board of Pharmacy.

July 9, 2003
D. H. Williams
Executive Director

WSR 03-15-108
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
[Filed July 21, 2003, 3:21 p.m.]

Subject of Possible Rule Making: WAC 308-30-100, possible adjustments to fees charged by the program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.24.086 and 42.44.190.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Assure that revenue collection is properly aligned with the cost of operating the program.

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

Process for Developing New Rule: Agency study. Communication with the public in general through the DOL/ notaries web page, and notary association's newsletters.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Margaret Vogeli, Management Analyst, P.O. Box 9660, Olympia, WA 98507-9660, (360) 664-1530, fax (360) 586-4414, e-mail ucc@dol.wa.gov.

July 18, 2003

Jon Donnellan
Administrator

WSR 03-15-109

**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE LOTTERY**

[Filed July 21, 2003, 3:25 p.m.]

Subject of Possible Rule Making: WAC 315-34-040 Prizes for Lotto.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: At the Lottery Commission's November 13, 2003, meeting the Washington Lottery intends to recommend permanent amendment of this rule, to correctly reflect the prize and odds structure of the Lotto game that will be relaunched on October 5, 2003. The rule has already been adopted by the Lottery Commission, on an emergency basis, effective October 5, 2003. The emergency rule is shown below and is identical to the amendment that will be proposed for permanent adoption.

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 Ceil Buddeke, Legal Counsel, Washington Lottery, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

July 21, 2003

Ceil Buddeke
Legal Counsel

[AMENDATORY SECTION (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)]

WAC 315-34-040 Prizes for Lotto. (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, and third prize categories are as follows:

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
All six winning numbers in one play	First Prize	Jackpot	1:13,983,816 <u>1:6,991,908</u>
Any five but not six winning numbers in one play	Second Prize	\$1,000	1:54,201 <u>1:27,100</u>
Any four but not five or six winning numbers in one play	Third Prize	\$35 <u>\$30</u>	1:1,033 <u>1:516</u>

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
Any three but not four, five or six winning numbers in one play	Fourth Prize	\$3	1:57 <u>1:28</u>

(2) Prize amounts.

(a) First prize (jackpot). The first prize will be the amount announced by the director as the Lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence).

(b) Second prize. The second prize will be \$1,000, which will be paid to each player who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. The third prize will be ~~\$35~~ \$30, which will be paid to each player who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. A \$3.00 prize is to be paid to each player who selected three of the six winning numbers in one play (in any sequence).

(e) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn, and shall be entitled only to the highest prize category won by those numbers.

(f) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

~~(3) The amendments to chapter 315-34 WAC, as adopted at the July 2001 lottery commission meeting, shall take effect on September 30, 2001, or on a date to be designated by the director and advertised to the public. The provisions of the existing chapter 315-36 WAC shall remain in effect until September 30, 2001, or until the date designated by the director for the commencement of this amended rule.~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 03-15-111

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

[Filed July 21, 2003, 4:16 p.m.]

Subject of Possible Rule Making: Publishing notice of sales.

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: Rules currently specify a specific newspaper and this can be changed to reduce costs and increase awareness in the locally affected communities.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by September 4, 2003. Expected proposal filing date is on or after September 5, 2003.

July 21, 2003

Evan Jacoby
Rules Coordinator

WSR 03-15-112

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed July 21, 2003, 4:18 p.m.]

Subject of Possible Rule Making: Rules regarding commercial fishing for crab.

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 considering changes that would provide for better management of the commercial crab fishery including catch area designations and ways to better discriminate and manage for soft shell crab.

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. Contact by September 4, 2003. Expected proposal filing date is on or after September 5, 2003.

July 21, 2003

Evan Jacoby
Rules Coordinator

WSR 03-15-113

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 22, 2003, 9:49 a.m.]

Subject of Possible Rule Making: Independent medical examinations (IME).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.36.070, 51.32.055, 51.32.112, 51.32.114.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Labor and industries contracted for a review of its IME program. The consultants rec-

ommended changes to improve the quality of IMEs department purchases. The department is implementing a number of these recommended changes. These rules are needed to ensure providers know the department's requirements to be an independent medical examiner, and the standards providers are expected to meet as approved examiners. The rules together with an enhanced quality assurance program will improve workers' experiences during IMEs and the quality of the services purchased by the department. It will also allow the department to effectively manage its IME-related costs.

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

Process for Developing New Rule: The consultants recommended changes to improve the quality of IMEs the department purchases. The department has responded and will implement a number of these recommended changes through rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. An update on the department's proposed IME changes will be mailed to interested persons in early August 2003. The department will also hold a series of focus groups in late August 2003 to gather input on the proposals. Interested persons may also call, write, e-mail or fax their comments or express their interest in being included in mailings or meetings to David Overby, Senior Health Policy Analyst, Health Services Analysis, Department of Labor and Industries, P.O. Box 44322, Olympia, WA 98504-4322, phone (360) 902-6791, fax (360) 902-4249, e-mail over235@lni.wa.gov.

July 22, 2003

Paul Trause
Director

WSR 03-15-114

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 22, 2003, 9:49 a.m.]

Subject of Possible Rule Making: Plumber certification rules, chapter 296-400A WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.106 RCW and chapter 399, Laws of 2003 (ESSB 5713).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to implement changes resulting from legislation enacted in 2003; make clarifying and housekeeping changes; and review the rules for possible substantive changes.

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

Process for Developing New Rule: The state Advisory Board of Plumbers as established in RCW 18.106.110 will be utilized in the development of these rules. Other interested parties and the public may also participate by providing writ-

ten comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

July 22, 2003

Paul Trause

Director

WSR 03-15-115

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 22, 2003, 9:50 a.m.]

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

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.22 RCW and chapter 291, Laws of 2003 (SHB 1734).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to adopt the most recent International Building Codes (based on 2003 legislative changes) and other nationally recognized codes and standards; make clarifying and housekeeping changes; and review the rules for possible substantive changes.

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

Process for Developing New Rule: These rules will be reviewed with the assistance of the Factory Assembled Structures' Advisory Board. In addition, the public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

July 22, 2003

Paul Trause

Director

WSR 03-15-116

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 22, 2003, 9:50 a.m.]

Subject of Possible Rule Making: Electrical safety standards, administration, and installation, chapter 296-46B WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.28 RCW; chapter 399, Laws of 2003 (ESSB 5713); chapter 211, Laws of 2003 (ESB 5210); chapter 78, Laws of 2003 (SHB 1848); and chapter 242, Laws of 2003 (SHB 5434).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to implement changes resulting from legislation enacted in 2003; review the fees for possible changes; and make substantive, clarifying, and housekeeping changes to these 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: An advisory committee and the state Electrical Board (as established by RCW 19.28.311) will be utilized in the development of these rules. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

July 22, 2003

Paul Trause

Director

WSR 03-15-118

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF AGRICULTURE

[Filed July 22, 2003, 9:52 a.m.]

Subject of Possible Rule Making: As part of its ongoing Executive Order 97-02 rule review, the department will propose amending chapter 16-406 WAC, Standards for apricots, that repeals WAC 16-406-001 Promulgation, which is outdated and no longer needed; and amends WAC 16-406-025 Applications of tolerances, so it is consistent with the tolerance requirements in subsection (1) of WAC 16-406-020 Tolerances.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs and chapter 34.05 RCW, Administrative Procedure Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the course of an Executive Order 97-02 rule review, the fruit and vegetable

inspection program noted that the tolerance requirements in WAC 16-406-020(1) and 16-406-025 were not consistent but should be. By deleting the reference to "not more than one apricot" in WAC 16-406-025 (2) and (3), the tolerance requirements in both sections will be consistent and the rule will be easier to understand and apply.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture's Agriculture Marketing Service, Fruit and Vegetable Program, and Fresh Products Branch and Federal Marketing Order 922 all regulate the certification of apricots. The United States Standards for Grades of Apricots provides for the same tolerance for serious damage with no restrictions.

Process for Developing New Rule: Fruit and vegetable inspection program staff will develop the proposed rule amendments. Interested parties will be able to comment on the proposal during the formal comment period and at the public hearing, the dates of which will be announced when the CR-102 is filed with the code reviser in September 2003.

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

July 22, 2003
Robert W. Gore
Assistant Director

WSR 03-15-119
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed July 22, 2003, 9:52 a.m.]

Subject of Possible Rule Making: The department, based upon a rule review by the fruit and vegetable inspection program in the Commodity Inspection Division, will propose amendments to chapter 16-461 WAC that repeals WAC 16-461-015 Effective date, because it is obsolete and no longer needed; and revises WAC 16-461-010 Inspection certificate and/or permit required, by adding language specifying that the requirements in the section apply to both the intrastate and out-of-state movement of listed commodities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs and chapter 34.05 RCW, Administrative Procedure Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed rule amendments for listed commodities are needed to comply with statutory requirements that listed commodities must meet the state standards that are specific to the commodity. The proposed amendments for listed commodities clarify the type of commodity movements that require an inspection. This clarification will make it easier for industry to comply with the rule.

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

Process for Developing New Rule: Fruit and vegetable inspection program staff will develop the proposed rule amendments. Interested parties will be able comment on the proposal during the formal comment period and at the public hearing, the dates of which will be announced when the CR-102 is filed with the code reviser in September 2003.

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

July 22, 2003
Robert W. Gore
Assistant Director

WSR 03-15-120
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed July 22, 2003, 9:53 a.m.]

Subject of Possible Rule Making: The department will propose amendments to chapter 16-461 WAC that repeals WAC 16-403-280 Adoption of United States standards as state standards, that adopt the new United States Standards for Grades of Apples, which were effective on December 19, 2002.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs and chapter 34.05 RCW, Administrative Procedure Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: By adopting the United States standards for grades of apples certified under state standards will meet United States standards. This means they can be marketed in areas that require only United States grades without having to be recertified. This simplified process should make marketing Washington state apples easier and should reduce the cost of marketing to the industry.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture's Agriculture Marketing Service, Fruit and Vegetable Program and Fresh Products Branch provide oversight to USDA licensed state cooperators like the department.

Process for Developing New Rule: Fruit and vegetable inspection program staff will develop the proposed rule amendments. Interested parties will be able comment on the proposal during the formal comment period and at the public hearing, the dates of which will be announced when the CR-102 is filed with the code reviser in September 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, P.O. Box 42560, Olym-

Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

July 22, 2003
 Robert W. Gore
 Assistant Director

WSR 03-15-124
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 22, 2003, 2:57 p.m.]

Subject of Possible Rule Making: Chapter 388-533 WAC, Maternity-related services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.760 through 74.09.910 (Maternity Care Access Act of 1989).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Maternity services and the First Steps program are being redesigned to provide services based on need, reduce expenditure growth, and improve quality of care.

Changes Include: Changing eligibility criteria for infant case management; defining core services; changing codes and time limits for billings units; integrating Maternity Case Management (MCM) into Maternity Support Services (MCS); and creating a separate rule for Childbirth Education.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Health and Human Services and Washington State Department of Health. The workgroup will include representatives from the Washington State Department of Health.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Myra Davis, Regulatory Improvement Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, e-mail daviss@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

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

WSR 03-15-125
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 22, 2003, 2:59 p.m.]

Subject of Possible Rule Making: WAC 388-478-0015 Need standards for cash assistance, the DSHS Division of Employment and Assistance Programs is required by state law (RCW 74.04.770) to establish, on an annual basis, standards of need for cash assistance programs. These standards are based on studies of actual living costs for basic requirements. This is a request for the annual change in those actual living costs for basic requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.770, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule needs to be updated as it contains need standards for cash assistance.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patti Clark, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3084, fax (360) 413-3493, e-mail clarkpi@dshs.wa.gov.

July 21, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 03-15-140
PREPROPOSAL STATEMENT OF INQUIRY
GRAYS HARBOR
COMMUNITY COLLEGE
[Filed July 23, 2003, 9:05 a.m.]

Subject of Possible Rule Making: Chapter 132B-120 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: The rules need to be revised to reflect the ever changing needs of Grays Harbor Community College.

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 Arlene Torgerson, Vice-President of Student Services, Grays Harbor Community College, 1620 Edward P. Smith Drive, Aberdeen, WA 98520, office (360) 538-4066, e-mail atorgers@ghc.ctc.edu.

July 21, 2003
Arlene Torgerson
Vice-President for
Student Services

WSR 03-15-146
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed July 23, 2003, 11:07 a.m.]

Subject of Possible Rule Making: Rules pertaining to catch record cards.

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: Rules pertaining to annual catch limits on sturgeon have changed, the legislature requires recording for marked and unmarked salmon, and the rules requiring a daily tally of crab retained has been confusing to the public. These changes will bring the catch record card into compliance with current law and rules and reduce the confusion for the fishing public.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by September 3, 2003. Expected proposal filing date is September 5, 2003.

July 23, 2003
Evan Jacoby
Rules Coordinator

WSR 03-15-147
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed July 23, 2003, 11:51 a.m.]

Subject of Possible Rule Making: Oiled wildlife rescue and rehabilitation care standards: Procedures, methods, and certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 90.56.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The success of oiled wildlife rescue and rehabilitation activities is dependent on the standards of care provided. Some of the key elements critical to

successful rehabilitation include the availability of adequate quantities and qualities of water, space, and air; specialized supplies; and well-trained and experienced personnel. For oiled wildlife rehabilitation operations to be most successful, these critical components must be available in a timely manner and in quantities commensurate with the numbers of animals oiled. Rules reflecting the necessary thresholds of these critical components are needed. Standards developed in rules that are based on the best available science will provide the guidance necessary to ensure a significantly greater level of success when engaging in oiled wildlife rescue and rehabilitation activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington Department of Ecology (DOE) is responsible for the state's "Oil and Hazardous Substance Spill Prevention and Response Program," per chapter 90.56 RCW. That RCW does not stipulate specific requirements for wildlife rescue, but does require entities covered by the statute to meet the requirements of rules that may be adopted by the Washington Department of Fish and Wildlife (WDFW) through authority granted in RCW 90.56.110.

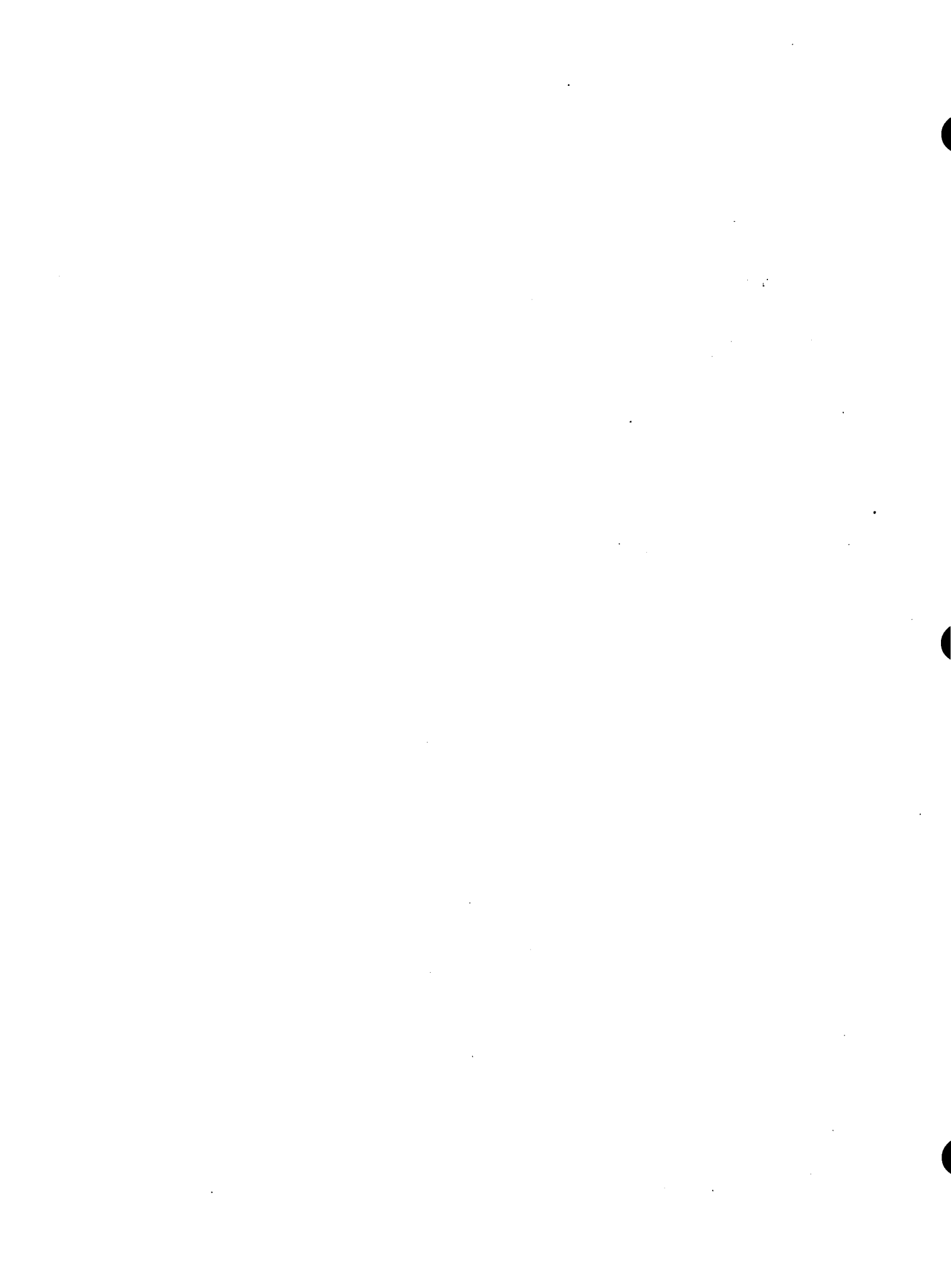
The USFWS has authority to issue federal permits for the rehabilitation of wildlife, and special permits for taking and rehabilitating oiled wildlife. The WDFW has included the DOE and the USFWS as stakeholders in this rule-making process.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. WDFW will solicit input by holding stakeholder workshops, a public hearing, and by use of e-mail, voicemail, or other avenues of information dissemination. WDFW will be following the standard rule-making process as required by the Administrative Procedure Act and the Regulatory Fairness Act. WDFW is actively soliciting science-based information which will refute or support proposed wildlife rescue and rehabilitation care standards and will review all information received when developing these standards.

For more information contact Eric Larsen, Oil Spill Section Manager, Washington Department of Fish and Wildlife, Habitat Program, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-8123, fax (360) 902-8126, larseeml@dfw.wa.gov. Contact by September 4, 2003. Expected proposal filing on or after September 5, 2003.

July 23, 2003
Evan Jacoby
Rules Coordinator



WSR 03-14-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 30, 2003, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086.

Title of Rule: Amending WAC 388-550-1050 Hospital services definitions, 388-550-6100 Outpatient hospital physical therapy, 388-550-6150 Outpatient hospital occupational therapy, 388-550-6200 Outpatient hospital speech therapy services, and 388-550-6400 Outpatient hospital diabetes education.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant by October 16, 2003.

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

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

Summary: The department is amending the rules to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Also, the rules are being revised to ensure the department's administrative code reflects current policy and practice.

Reasons Supporting Proposal: Complies with the HIPAA requirements and avoids federal penalties by amending rules to be HIPAA-compliant by October 16, 2003. Updates rule content to reflect current department policy.

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 necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules meet HIPAA-specific standards that all states must meet in regards to electronic health information transactions and the privacy of client health information. In addition, the proposed rules delete language and provide a cross-reference to appropriate WAC sections to ensure current policy is reflected in rule. Also, the proposed rules update current policy by stating the department pays for six hours of outpatient diabetes education per calendar year per client.

The purpose of the rules is to ensure department rules are HIPAA-compliant by October 16, 2003, and to adopt into permanent rule clarifying language to reflect current department policy and business practices.

The anticipated effects are: (1) To meet HIPAA-specific standards all states must meet in regards to electronic health information transactions and the privacy of client health information; (2) to ensure MAA rules are HIPAA-compliant

by October 16, 2003, to avoid federal penalties; and (3) to incorporate into rule existing policy for the number of hours of outpatient diabetes education the department pays per calendar year per client.

Proposal Changes the Following Existing Rules: The department is amending language to comply with HIPAA requirements. In addition, the department has changed language that states the department pays for a maximum of "six hours of individual core survival skills diabetes education per lifetime per client" to "six hours of individual core survival skills diabetes education per calendar year per client."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the memo can be obtained from John Hanson, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 753-4338, e-mail hansonjr@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

June 27, 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 388-550-1050 Hospital services definitions. The following definitions and abbreviations and those found in WAC 388-500-0005, Medical definitions, apply to this chapter.

"**Accommodation costs**" means the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made. These expenses include, but are not limited to, room and board, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"**Acute**" means a medical condition of severe intensity with sudden onset.

"**Acute care**" means care provided for patients who are not medically stable or have not attained a satisfactory level

of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status (see WAC 248-27-015).

"Acute physical medicine and rehabilitation (Acute PM&R)" means a twenty-four hour inpatient comprehensive program of integrated medical and rehabilitative services provided during the acute phase of a client's rehabilitation.

"ADATSA/DASA assessment center" means an agency contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcoholism and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"Add-on procedure(s)" means secondary procedure(s) that are performed in addition to another procedure.

"Administrative day" means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and noninpatient hospital placement is appropriate.

"Admitting diagnosis" means the medical condition before study, which is initially responsible for the client's admission to the hospital, as defined by the ICD-9-CM diagnostic code.

"Advance directive" means a document, such as a living will executed by a client. The advanced directive tells the client's health care providers and others the client's decisions regarding the client's medical care, particularly whether the client or client's representative wishes to accept or refuse extraordinary measures to prolong the client's life.

"Aggregate capital cost" means the total cost or the sum of all capital costs.

"Aggregate cost" means the total cost or the sum of all constituent costs.

"Aggregate operating cost" means the total cost or the sum of all operating costs.

"Alcoholism and drug addiction treatment and support act (ADATSA)" means the law and the state-funded program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

"Alcoholism and/or alcohol abuse treatment" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

"All-patient grouper (AP-DRG)" means a computer program that determines the DRG assignments.

"Allowed charges" means the maximum amount for any procedure that the department allows as the basis for payment computation.

"Ancillary hospital costs" means the expenses incurred by a hospital to provide additional or supporting services to

its patients during their hospital stay. See **"ancillary services."**

"Ancillary services" means additional or supporting services provided by a hospital to a patient during the patient's hospital stay. These services include, but are not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services.

"Approved treatment facility" means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

"Audit" means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) Medical, financial and billing records pertaining to billed services paid by the department through Medicaid or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and medical records, including mathematical computations and special studies conducted supporting Medicare cost reports, HCFA Form 2552, submitted to MAA for the purpose of establishing program rates of reimbursement to hospital providers.

"Audit claims sample" means a subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent. See also **"random claims sample"** and **"stratified random sample."**

"Authorization" - See **"prior authorization"** and **"expedited prior authorization (EPA)."**

"Average hospital rate" means the average of hospital rates for any particular type of rate that MAA uses.

"Bad debt" means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

"Beneficiary" means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

"Billed charge" means the charge submitted to the department by the provider.

"Blended rate" means a mathematically weighted average rate.

"Border area hospital" means a hospital located outside Washington state and located in one of the border areas listed in WAC 388-501-0175.

"Bundled services" mean interventions which are integral to the major procedure and are not reimbursable separately.

"Buy-in premium" means a monthly premium the state pays so a client is enrolled in part A and/or part B Medicare.

"By report" means a method of reimbursement in which MAA determines the amount it will pay for a service when the rate for that service is not included in MAA's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Callback" means keeping hospital staff members on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services which are usually associated with hospital emergency room, surgery, laboratory and radiology services.

"Capital-related costs" mean the component of operating costs related to capital assets, including, but not limited to:

- (1) Net adjusted depreciation expenses;
- (2) Lease and rentals for the use of depreciable assets;
- (3) The costs for betterment and improvements;
- (4) The cost of minor equipment;
- (5) Insurance expenses on depreciable assets;
- (6) Interest expense; and
- (7) Capital-related costs of related organizations that provide services to the hospital.

Capital costs due solely to changes in ownership of the provider's capital assets are excluded.

"Case mix complexity" means, from the clinical perspective, the condition of the treated patients and the difficulty associated with providing care. Administratively, it means the resource intensity demands that patients place on an institution.

"Case mix index (CMI)" means the arithmetical index that measures the average relative weight of a case treated in a hospital during a defined period.

"Charity care" means necessary hospital health care rendered to indigent persons, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

"Chemical dependency" means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

"Children's hospital" means a hospital primarily serving children.

"Client" means a person who receives or is eligible to receive services through department of social and health services (DSHS) programs.

"Comorbidity" means of, relating to, or caused by a disease other than the principal disease.

"Complication" means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

"Comprehensive hospital abstract reporting system (CHARS)" means the department of health's hospital data collection, tracking and reporting system.

"Contract hospital" means a licensed hospital located in a selective contracting area, which is awarded a contract to participate in MAA's hospital selective contracting program.

"Contractual adjustment" means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

"Cost proxy" means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services

where the hospital has Medicaid claim charges for the services, but does not report costs in corresponding centers in its Medicare cost report.

"Cost report" means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:

- (1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and
- (2) To Medicaid to establish appropriate DRG and RCC reimbursement.

"Costs" mean MAA-approved operating, medical education, and capital-related costs as reported and identified on the HCFA 2552 form.

"Cost-based conversion factor (CBCF)" means a hospital-specific dollar amount that reflects a hospital's average cost of treating Medicaid clients. It is calculated from the hospital's cost report by dividing the hospital's costs for treating Medicaid clients during a base period by the number of Medicaid discharges during that same period and adjusting for the hospital's case mix. See also **"hospital conversion factor"** and **"negotiated conversion factor."**

"County hospital" means a hospital established under the provisions of chapter 36.62 RCW.

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Customary charge payment limit" means the limit placed on aggregate DRG payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

"Day outlier" means a case that requires MAA to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See **"day outlier payment"** and **"day outlier threshold."**

"Day outlier payment" means the additional amount paid to a disproportionate share hospital for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose covered charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

"Day outlier threshold" means the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

"Deductible" means the amount a beneficiary is responsible for, before Medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

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

"Detoxification" means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"Diabetic education program" means a comprehensive, multidisciplinary program of instruction offered by an

MAA-approved facility to diabetic clients on dealing with diabetes, including instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

"Diagnosis code" means a set of numeric or alphanumeric characters assigned by the ICD-9-CM, or successor document, as a shorthand symbol to represent the nature of a disease.

"Diagnosis-related group (DRG)" means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases (ICD-9), the presence of a surgical procedure, patient age, presence or absence of significant co-morbidities or complications, and other relevant criteria.

"Direct medical education costs" means the direct costs of providing an approved medical residency program as recognized by Medicare.

"Discharging hospital" means the institution releasing a client from the acute care hospital setting.

"Disproportionate share payment" means additional payment(s) made by the department to a hospital which serves a disproportionate number of Medicaid and other low-income clients and which qualifies for one or more of the disproportionate share hospital programs identified in the state plan.

"Disproportionate share program" means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients.

"Dispute conference" - See **"hospital dispute conference."**

"Distinct unit" means a Medicare-certified distinct area for psychiatric or rehabilitation services within an acute care hospital or a department-designated unit in a children's hospital.

"Division of alcohol and substance abuse (DASA)" is the division within DSHS responsible for providing alcohol and drug-related services to help clients recover from alcoholism and drug addiction.

"DRG" - See **"diagnosis-related group."**

"DRG-exempt services" means services which are paid for through other methodologies than those using cost-based conversion factors (CBCF) or negotiated conversion factors (NCF).

"DRG payment" means the payment made by the department for a client's inpatient hospital stay. This payment calculated by multiplying the hospital-specific conversion factor by the DRG relative weight for the client's medical diagnosis.

"DRG relative weight" means the average cost or charge of a certain DRG divided by the average cost or charge, respectively, for all cases in the entire data base for all DRGs.

"Drug addiction and/or drug abuse treatment" means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

"DSHS" means the department of social and health services.

"Elective procedure or surgery" means a nonemergent procedure or surgery that can be scheduled at convenience.

"Emergency room" or **"emergency facility"** means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and is capable of providing emergency services including trauma care.

"Emergency services" means medical services required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. For hospital reimbursement purposes, inpatient maternity services are treated as emergency services.

"Equivalency factor (EF)" means a conversion factor used, in conjunction with two other factors (cost-based conversion factor and the ratable factor), to determine the level of state-only program payment.

"Exempt hospital—DRG payment method" means a hospital that for a certain patient category is reimbursed for services to MAA clients through methodologies other than those using cost-based or negotiated conversion factors.

"Exempt hospital—Hospital selective contracting program" means a hospital that is either not located in a selective contracting area or is exempted by the department from the selective contracting program.

"Expedited prior authorization (EPA)" means the MAA-delegated process of creating an authorization number for selected medical/dental procedures and related supplies and services in which providers use a set of numeric codes to indicate which MAA-acceptable indications, conditions, diagnoses, and/or MAA-defined criteria are applicable to a particular request for service.

"Expedited prior authorization (EPA) number" means an authorization number created by the provider that certifies that MAA-published criteria for the medical/dental procedures and related supplies and services have been met.

"Experimental" means a term to describe a procedure, or course of treatment, which lacks scientific evidence of safety and effectiveness. See WAC 388-531-0500. A service is not "experimental" if the service:

(1) Is generally accepted by the medical profession as effective and appropriate; and

(2) Has been approved by the FDA or other requisite government body if such approval is required.

"Facility triage fee" means the amount MAA will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, for a nonemergent condition of a *healthy options* client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level A or level B service.

"Fee-for-service" means the general payment method the department uses to reimburse providers for covered medical services provided to medical assistance clients when these services are not covered under MAA's *healthy options* program.

"Fiscal intermediary" means Medicare's designated fiscal intermediary for a region and/or category of service.

"Fixed per diem rate" means a daily amount used to determine payment for specific services.

"Global surgery days" means the number of preoperative and follow-up days that are included in the reimbursement to the physician for the major surgical procedure.

"Graduate medical education costs" means the direct and indirect costs of providing medical education in teaching hospitals.

"Grouper" - See **"all-patient grouper (AP-DRG)."**

"HCFA 2552" - See **"cost report."**

"Health care team" means a group of health care providers involved in the care of a client.

"High-cost outlier" means a claim paid under the DRG method that did not meet the definition of "administrative day," and has extraordinarily high costs when compared to other claims in the same DRG, in which the allowed charges, before January 1, 2001, exceed three times the applicable DRG payment and exceed twenty-eight thousand dollars. For dates of service January 1, 2001 and after, to qualify as a high-cost outlier, the allowed charges must exceed three times the applicable DRG payment and exceed thirty-three thousand dollars.

"Hospice" means a medically-directed, interdisciplinary program of palliative services for terminally ill clients and the clients' families. Hospice is provided under arrangement with a Title XVIII Washington state-licensed and Title XVIII-certified Washington state hospice.

"Hospital" means an entity which is licensed as an acute care hospital in accordance with applicable state laws and regulations, and which is certified under Title XVIII of the federal Social Security Act.

"Hospital base period" means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

"Hospital base period costs" means costs incurred in or associated with a specified base period.

"Hospital conversion factor" means a hospital-specific dollar amount that reflects the average cost for a DRG paid case of treating Medicaid clients in a given hospital. See cost-based conversion factor (CBCF) and negotiated conversion factor (NCF).

"Hospital covered service" means a service that is provided by a hospital, included in the medical assistance program and is within the scope of the eligible client's medical care program.

"Hospital cost report" - See **"cost report."**

"Hospital dispute resolution conference" means a meeting for deliberation during a provider administrative appeal.

(1) The first dispute resolution conference is usually a meeting between medical assistance administration and hospital staff, to discuss a department action or audit finding(s). The purpose of the meeting is to clarify interpretation of regulations and policies relied on by the department or hospital, provide an opportunity for submission and explanation of additional supporting documentation or information, and/or to verify accuracy of calculations and application of appropriate methodology for findings or administrative actions being appealed. Issues appealed by the provider will be addressed in writing by the department.

(2) At the second level of dispute resolution:

(a) For hospital rates issues, the dispute resolution conference is an informal administrative hearing conducted by an MAA administrator for the purpose of resolving contractor/provider rate disagreements with the department's action at the first level of appeal. The dispute resolution conference in this regard is not a formal adjudicative process held in accordance with the Administrative Procedure Act.

(b) For hospital audit issues, the audit dispute resolution hearing will be held by the office of administrative hearings in accordance with WAC 388-560-1000. This hearing is a formal proceeding and is governed by chapter 34.05 RCW.

"Hospital facility fee" - See **"facility triage fee."**

"Hospital market basket index" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, as measured by Data Resources, Inc. (DRI).

"Hospital peer group" means the peer group categories adopted by the former Washington state hospital commission for rate-setting purposes:

(1) Group A - rural hospitals paid under a ratio of costs-to-charges (RCC) methodology (same as peer group 1);

(2) Group B - urban hospitals without medical education programs (same as peer group 2);

(3) Group C - urban hospitals with medical education programs; and

(4) Group D - specialty hospitals and/or hospitals not easily assignable to the other three peer groups.

"Hospital selective contracting program" or **"selective contracting"** means a negotiated bidding program for hospitals within specified geographic areas to provide inpatient hospital services to medical assistance clients.

"Indigent patient" means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or is otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or coinsurance amounts required by a third-party payer.

"Indirect medical education costs" means the indirect costs of providing an approved medical residency program as recognized by Medicare.

"Inflation adjustment" means, for cost inflation, the hospital inflation adjustment. This adjustment is determined by using the inflation factor method and guidance indicated by the legislature in the budget notes to the biennium appropriations bill. For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

"Informed consent" means that an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

- (1) Disclosed and discussed the patient's diagnosis;
- (2) Offered the patient an opportunity to ask questions about the procedure and to request information in writing;
- (3) Given the patient a copy of the consent form;
- (4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. 441.257; and
- (5) Given the patient oral information about all of the following:
 - (a) The patient's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure;
 - (b) Alternatives to the procedure including potential risks, benefits, and consequences; and
 - (c) The procedure itself, including potential risks, benefits, and consequences.

"Inpatient hospital" means a hospital authorized by the department of health to provide inpatient services.

"Inpatient hospital admission" means admission as an inpatient to a hospital for a stay longer than twenty-four hours, or for a stay twenty-four hours or less with cases including:

- (1) The death of a client;
- (2) Obstetrical delivery;
- (3) Initial care of a newborn; or
- (4) Transfer to another acute care facility.

To qualify for inpatient reimbursement, even when the stay is longer than twenty-four hours, the medical care record must evidence the need for inpatient care.

"Inpatient services" means all services provided directly or indirectly by the hospital to a patient subsequent to admission and prior to discharge, and includes, but is not limited to, the following services: Bed and board; medical, nursing, surgical, pharmacy and dietary services; maternity services; psychiatric services; all diagnostic and therapeutic services required by the patient; the technical and/or professional components of certain services; use of hospital facilities, medical social services furnished by the hospital, and such drugs, supplies, appliances and equipment as required by the patient; transportation services subsequent to admission and prior to discharge; and services provided by the hospital within twenty-four hours of the patient's admission as an inpatient.

"Inpatient stay" - See "inpatient hospital admission."

"Intermediary" - See "fiscal intermediary."

"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition" means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions and procedures into numerical or alpha numerical designations (coding).

"Length of stay (LOS)" means the number of days of inpatient hospitalization. See also "PAS length of stay (LOS)."

"Length of stay extension request" means a request from a hospital provider for the department, or in the case of psychiatric admission, the appropriate regional support network (RSN), to approve a client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

"Lifetime hospitalization reserve" means, under the Medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also "reserve days."

"Low-cost outlier" means a case with extraordinarily low costs when compared to other cases in the same DRG, in which the allowed charges before January 1, 2001, are less than ten percent of the applicable DRG payment or less than four hundred dollars. For dates of service on and after January 1, 2001, to qualify as a low-cost outlier, the allowed charges must be less than ten percent of the applicable DRG payment or less than four hundred and fifty dollars.

"Low income utilization rate" means a formula represented as $(A/B)+(C/D)$ in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments in a period;

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) in the same period as the numerator;

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care in a period, less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services in the same period as the numerator.

"Major diagnostic category (MDC)" means one of the twenty-five mutually exclusive groupings of principal diagnosis areas in the DRG system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

"Market basket index" - See "hospital market basket index."

"Medicaid" is the state and federally funded aid program that covers the categorically needy (CNP) and medically needy (MNP) programs.

"Medicaid cost proxy" means a figure developed to approximate or represent a missing cost figure.

"Medicaid inpatient utilization rate" means a formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

"Medical assistance administration (MAA)" is the administration within DSHS authorized by the secretary to administer the acute care portion of the Title XIX Medicaid, Title XXI children's health insurance program (CHIP), and the state-funded medical care programs, with the exception of certain nonmedical services for persons with chronic disabilities.

"Medical assistance program" means both Medicaid and medical care services programs.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance-unemployable (GAU) and ADATSA clients.

"Medical education costs" means the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"Medical screening evaluation" means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. See also **"facility triage fee."**

"Medical stabilization" means a return to a state of constant and steady function. It is commonly used to mean the patient is adequately supported to prevent further deterioration.

"Medically indigent person" means a person certified by the department of social and health services as eligible for the limited casualty program-medically indigent (LCP-MI) program. See also **"indigent patient."**

"Medicare cost report" means the annual cost data reported by a hospital to Medicare on the HCFA form 2552.

"Medicare crossover" means a claim involving a client who is eligible for both Medicare benefits and Medicaid.

"Medicare fee schedule (MFS)" means the official HCFA publication of Medicare policies and relative value units for the resource based relative value scale (RBRVS) reimbursement program.

"Medicare Part A" means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;

- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries.

"Medicare Part B" means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;
- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and
- (9) Home health services.

"Medicare buy-in premium" - See **"buy-in premium."**

"Medicare payment principles" means the rules published in the federal register regarding reimbursement for services provided to Medicare clients.

"Mentally incompetent" means a person who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the person has been declared competent for purposes which include the ability to consent to sterilization.

"Multiple occupancy rate" means the rate customarily charged for a hospital room with two to four patient beds.

"Negotiated conversion factor (NCF)" means a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also **"hospital conversion factor"** and **"cost-based conversion factor."**

"Nonallowed service or charge" means a service or charge that is not recognized for payment by the department, and cannot be billed to the client.

"Noncontract hospital" means a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the hospital selective contracting program.

"Noncovered service or charge" means a service or charge that is not reimbursed by the department.

"Nonemergent hospital admission" means any inpatient hospitalization of a patient who does not have an emergent condition, as defined in WAC 388-500-0005, Emergency services.

"Nonparticipating hospital" means a noncontract hospital. See **"noncontract hospital."**

"Operating costs" means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

"OPPS" - See **"outpatient prospective payment system."**

"OPPS adjustment" means the legislative mandated reduction in the outpatient adjustment factor made to account for the delay of OPPS implementation.

"OPPS outpatient adjustment factor" means the outpatient adjustment factor reduced by the OPSS and adjustment factor as a result of legislative mandate.

"Orthotic device" or "orthotic" means a corrective or supportive device that:

- (1) Prevents or corrects physical deformity or malfunction; or
- (2) Supports a weak or deformed portion of the body.

"Out-of-state hospital" means any hospital located outside the state of Washington and outside the designated border areas in Oregon and Idaho.

"Outlier set-aside factor" means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases.

"Outlier set-aside pool" means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year.

"Outliers" means cases with extraordinarily high or low costs when compared to other cases in the same DRG.

"Outpatient" means a patient who is receiving medical services in other than an inpatient hospital setting.

"Outpatient care" means medical care provided other than inpatient services in a hospital setting.

"Outpatient hospital" means a hospital authorized by the department of health to provide outpatient services.

"Outpatient prospective payment system (OPPS)" means a classification system that groups outpatient visits according to the clinical characteristics, and typical resource use and costs associated with their diagnoses and the procedures performed.

"Outpatient short stay" means an acute hospital stay of twenty-four hours or less, with the exception of cases involving:

- (1) The death of a client;
- (2) Obstetrical delivery;
- (3) Initial care of a new born; or
- (4) Transfer to another acute care facility.

When the department determines that the need for inpatient care is not evidenced in the medical record, even in stays longer than twenty-four hours, the department considers and reimburses the stay as an outpatient short stay.

"Outpatient stay" - See **"outpatient short stay."**

"Pain treatment facility" means an MAA-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

"Participating hospital" means a licensed hospital that accepts MAA clients.

"PAS length of stay (LOS)" means the average length of an inpatient hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)."**

"Patient consent" means the informed consent of the patient and/or the patient's legal guardian, as evidenced by the patient's or guardians's signature on a consent form, for

the procedure(s) to be performed upon or for the treatment to be provided to the patient.

"Peer group" - See **"hospital peer group."**

"Peer group cap" means the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

"Per diem charge" means the daily room charge, per client, billed by the facility for room and board services that are covered by the department. This is sometimes referred to as "room rate."

"Personal comfort items" means items and services which do not contribute meaningfully to the treatment of an illness or injury or the functioning of a malformed body member.

"PM&R" - See **"Acute PM&R."**

"Physician standby" means physician attendance without direct face-to-face patient contact and does not involve provision of care or services.

"Physician's current procedural terminology (CPT)" - See **"CPT."**

"Plan of treatment" or "plan of care" means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

"Pregnant and postpartum women (PPW)" means eligible female clients who are pregnant or until the end of the month which includes the sixtieth day following the end of the pregnancy.

"Principal diagnosis" means the condition established after study to be chiefly responsible for the admission of the patient to the hospital for care.

"Principal procedure" means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

"Prior authorization" means a process by which clients or providers must request and receive MAA approval for certain medical services, equipment, or supplies, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are forms of prior authorization.

"Private room rate" means the rate customarily charged by a hospital for a one-bed room.

"Professional activity study (PAS)" means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

"Professional component" means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a reimbursement that recognizes the physician's cognitive skill.

"Prognosis" means the probable outcome of a patient's illness, including the likelihood of improvement or deteriora-

tion in the severity of the illness, the likelihood for recurrence, and the patient's probable life span as a result of the illness.

"Prolonged service" means direct face-to-face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.

"Prospective payment system (PPS)" means a system that sets payment rates for a predetermined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the predetermined period.

"Prosthetic device" or "prosthetic" means a replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction;
- (3) Support a weak or deformed portion of the body.

"Psychiatric hospitals" means Medicare-certified distinct part psychiatric units, Medicare-certified psychiatric hospitals, and state-designated pediatric distinct part psychiatric units in acute care hospitals. State-owned psychiatric hospitals are excluded.

"Public hospital district" means a hospital district established under chapter 70.44 RCW.

"Random claims sample" means a sample in which all of the items are selected randomly, using a random number table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also **"audit claims sample"** and **"stratified random sample."**

"Ratable" means a hospital-specific adjustment factor applied to the cost-based conversion factor (CBCF) to determine state-only program payment rates to hospitals.

"Ratio of costs-to-charges (RCC)" means a method used to pay hospitals for services exempt from the DRG payment method. It also refers to the factor applied to a hospital's allowed charges for medically necessary services to determine payment to the hospital for these DRG-exempt services.

"RCC" - See **"ratio of costs-to-charges."**

"Rebasing" means the process of recalculating the hospital cost-based conversion factors or RCC using historical data.

"Recalibration" means the process of recalculating DRG relative weights using historical data.

"Regional support network (RSN)" means a county authority or a group of county authorities recognized and certified by the department, that contracts with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC.

"Rehabilitation units" means specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals that meet Medicare criteria for distinct part rehabilitation units.

"Relative weights" - See **"DRG relative weights."**

"Remote hospitals" means hospitals that meet the following criteria during the Hospital Selective Contracting (HSC) waiver application period:

- (1) Are located within Washington state;
- (2) Are more than ten miles from the nearest hospital in the HSC competitive area; and
- (3) Have fewer than seventy-five beds; and
- (4) Have fewer than five hundred Medicaid admissions within the previous waiver period.

"Reserve days" means the days beyond the ninetieth day of hospitalization of a Medicare patient for a benefit period or spell of illness. See also **"lifetime hospitalization reserve."**

"Retrospective payment system" means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

"Revenue code" means a nationally-assigned ((three-digit)) coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

"Room and board" means the services a hospital facility provides a patient during the patient's hospital stay. These services include, but are not limited to, a routine or special care hospital room and related furnishings, routine supplies, dietary and nursing services, and the use of certain hospital equipment and facilities.

"Rural health clinic" means a clinic that is located in areas designed by the Bureau of Census as rural and by the Secretary of the Department of Health, Education and Welfare (DHEW) as medically underserved.

"Rural hospital" means a rural health care facility capable of providing or assuring availability of health services in a rural area.

"Secondary diagnosis" means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

"Selective contracting area (SCA)" means an area in which hospitals participate in negotiated bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by Medicaid patients.

"Semi-private room rate" means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

"Seven-day readmission" means the situation in which a patient who was admitted as an inpatient and discharged from the hospital has returned to inpatient status to the same or a different hospital within seven days as a result of one or more of the following:

- (1) A new spell of illness;
- (2) Complication(s) from the first admission;
- (3) A therapeutic admission following a diagnostic admission;
- (4) A planned readmission following discharge; or
- (5) A premature hospital discharge.

"Short stay" - See **"outpatient short stay."**

"Special care unit" means a department of health (DOH) or Medicare-certified hospital unit where intensive

care, coronary care, psychiatric intensive care, burn treatment or other specialized care is provided.

"**Specialty hospitals**" means children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of patients or diseases.

"**Spenddown**" means the process of assigning excess income for the medically needy program, or excess income and/or resources for the medically indigent program, to the client's cost of medical care. The client must incur medical expenses equal to the excess income (spenddown) before medical care can be authorized.

"**Stat laboratory charges**" means the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

"**State plan**" means the plan filed by the department with the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), outlining how the state will administer Medicaid services, including the hospital program.

"**Stratified random sample**" means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also "**audit claims sample**" and "**random claims sample**."

"**Subacute care**" means care provided to a patient which is less intensive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

"**Surgery**" means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

"**Swing-bed day**" means a day in which an inpatient is receiving skilled nursing services in a hospital designated swing bed at the hospital's census hour. The hospital swing bed must be certified by the health care financing administration (HCPA) for both acute care and skilled nursing services.

"**Teaching hospital**" means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington Medical Center and Harborview Medical Center.

"**Technical component**" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of a reimbursement that recognizes the equipment cost and technician time.

"**Tertiary care hospital**" means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

"**Total patient days**" means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"**Transfer**" means to move a client from one acute care facility or distinct unit to another.

"**Transferring hospital**" means the hospital or distinct unit that transfers a client to another acute care facility.

"**Trauma care facility**" means a facility certified by the department of health as a level I, II, III, IV, or V facility. See chapter 246-976 WAC.

"**Trauma care service**" - See department of health's WAC 246-976-935.

"**UB-92**" means the uniform billing document intended for use nationally by hospitals, nonhospital-based acute PM&R (Level B) nursing facilities, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to patients.

"**Unbundled services**" means services which are excluded from the DRG payment to a hospital.

"**Uncompensated care**" - See "**charity care**."

"**Uniform cost reporting requirements**" means a standard accounting and reporting format as defined by Medicare.

"**Uninsured indigent patient**" means an individual who has no health insurance coverage or has insufficient health insurance or other resources to cover the cost of provided inpatient and/or outpatient services.

"**Usual and customary charge (UCC)**" means the charge customarily made to the general public for a procedure or service, or the rate charged other contractors for the service if the general public is not served.

"**Vendor rate increase**" means an inflation adjustment determined by the legislature, used to periodically increase reimbursement to vendors, including health care providers, that do business with the state.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-6100 Outpatient hospital physical therapy. (1) The department ~~((shall pay))~~ pays for physical therapy ~~((as an outpatient hospital service when:~~

~~(a) The attending physician prescribes physical therapy;~~

~~(b) A licensed physical therapist or physiatrist or a physical therapist assistant supervised by a licensed physical therapist provides the treatment; and~~

~~(c) The therapy assists the client:~~

~~(i) In avoiding hospitalization or nursing facility care; or~~

~~(ii) In becoming employable; or~~

~~(iii) Who suffers from severe motor disabilities to obtain a greater degree of self care or independence; or~~

~~(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization))~~ provided to eligible clients as an outpatient hospital service according to WAC 388-545-500 and 388-550-6000.

(2) ~~((The))~~ A hospital ~~((shall))~~ must bill outpatient hospital physical therapy services ~~((to the department))~~ using ~~((the))~~ appropriate billing codes listed in the department's current ((procedural terminology or department assigned codes)) published billing instructions. The department ~~((shall))~~ does not pay outpatient hospitals a facility fee for such services.

~~((3) The department shall pay for outpatient hospital physical therapy for clients eligible under the:~~

~~(a) Categorically needy, general assistance unemployable and ADATSA programs;~~

~~(b) Medically needy program only when the client is:~~

~~(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program; or~~

~~(ii) Receiving home health care services.~~

~~(4) The department shall not pay for physical therapy programs for clients under the limited casualty program medically indigent program.~~

~~(5)(a) For clients who are twenty years of age or under, the department shall not require prior authorization or limit the number of physical therapy sessions payable per client per calendar year, subject to the provision of subsection (8) below, provided the services are medically necessary.~~

~~(b) Providers shall fully document in the client's medical record the medical justification for continued therapy.~~

~~(6)(a) Except as provided in subsection (7) below, the department shall pay for categorically needy, medically needy and medical care services clients who are twenty one years of age or older a total of eighteen hours of physical therapy in a calendar year, in any combination of modalities and procedures, for:~~

~~(i) Acute conditions; or~~

~~(ii) Following joint surgery.~~

~~(b) The department shall set time unit equivalents for each physical therapy procedure or modality, and publish such schedules periodically.~~

~~(7) For a client twenty one years of age or older who has a medical diagnosis specified in the outpatient hospital billing instructions as normally requiring more intensive physical therapy treatment, the department shall cover up to twenty four hours of physical therapy in a calendar year, in any combination of modalities and procedures.~~

~~(8)(a) Notwithstanding the hours per calendar year limit, the department shall reimburse a maximum of one hour of physical therapy session per day, except that a maximum of two hours shall be allowed when a client assessment/evaluation is performed on the same date.~~

~~(b) The physical therapy provider shall document in each client's record the amount of time spent on services to the client.~~

~~(9)(a) The department shall require that physical therapy begin within thirty days of the date the therapy was prescribed.~~

~~(b) The department may deny payment for therapy started more than thirty days after the date of the prescription, unless medical justification for the delay is presented to the department.~~

~~(c) The hospital shall include the prescription for physical therapy services in the client's medical record.~~

~~(10) The department shall not pay for physical therapy services under fee for service when physical therapy is already included in other reimbursement methodologies applied to the case, including but not limited to DRG payment for inpatient hospital services and nursing facility per diem.)~~

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-6150 Outpatient hospital occupational therapy. (1) The department ((shall pay)) pays for occupational therapy provided as an outpatient hospital service ((when:

~~(a) The service is provided by a licensed occupational therapist or a licensed occupational therapy assistant supervised by a licensed occupational therapist;~~

~~(b) The provider obtains approval from the department before services are performed, for services requiring prior approval as designated in the department's billing instructions; and~~

~~(c) The occupational therapy is provided:~~

~~(i) As part of an outpatient program when identified in the early and periodic screening, diagnosis, and treatment program of a recipient twenty years of age and younger; or~~

~~(ii) As part of the physical medicine and rehabilitation program) to eligible clients according to WAC 388-545-300 and 388-550-6000.~~

~~(2)((a)) The hospital ((shall)) must bill outpatient hospital occupational therapy services ((to the department)) using ((the)) appropriate ((current procedural terminology or department assigned codes.~~

~~(b) The department shall not pay outpatient hospitals a facility fee for these services.~~

~~(3) The department shall pay for occupational therapy provided to clients eligible under the:~~

~~(a) Categorically needy, general assistance unemployable and ADATSA programs;~~

~~(b) Medically needy program only when the client is:~~

~~(i) Twenty years of age and younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program; or~~

~~(ii) Receiving home health care services.~~

~~(4) The department shall reimburse for occupational therapy as part of an outpatient program when identified in the early and periodic screening, diagnosis, and treatment program of an eligible client.~~

~~(5) The department shall cover one assessment, two durable medical equipment needs assessments, and twelve sessions of outpatient hospital occupational therapy per year.~~

~~(6) The department shall pay for up to twenty four additional therapy visits for clients under the children with special health care needs program when the therapy visits are related to the approved list of diagnoses as published by the department.~~

~~(7) The department shall not pay for occupational therapy when payment for occupational therapy is included in the reimbursement of other treatment programs including, but not limited to the hospital inpatient diagnosis related group and inpatient physical medicine and rehabilitation services)) billing codes listed in the department's current published billing instructions. The department does not pay outpatient hospitals a facility fee for such services.~~

PROPOSED

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-6200 Outpatient hospital speech therapy services. (1) The department ~~((shall cover))~~ pays for speech therapy services ~~((for eligible medical care clients who have a medically recognized disease or defect which requires speech therapy services, except as limited below:~~

(a) ~~Under the medically needy program the department shall limit therapy to clients twenty years of age and under.~~

(b) ~~The department shall not pay for specialized speech therapy under the medically indigent program.~~

(2) ~~The department shall cover speech therapy when provided under a written plan of treatment:~~

(a) ~~Established by a speech pathologist who has been granted a certificate of clinical competence by the American Speech, Language and Hearing Association; or~~

(b) ~~An individual who has completed the equivalent educational and work experience necessary for such a certificate; and~~

(c) ~~That is periodically reviewed by the client's primary care physician.~~

(3) ~~The department shall cover one medical diagnostic evaluation and twelve speech therapy sessions in a calendar year per client. The department may cover up to twenty-four additional speech therapy sessions only when associated with the specific diagnoses listed in the department's outpatient hospital billing instructions. The department shall make such instructions available to the public.~~

(4) ~~The department shall require a provider to submit an authorization request to the office of children with special health care needs on the appropriate form for a child with special health care needs who needs more than twelve speech therapy sessions or the additional twenty-four sessions, but does not have any of the specific diagnoses identified in subsection (3) of this section.~~

(5)) provided to eligible clients as an outpatient hospital service according to this section and WAC 388-545-700 and 388-550-6000.

(2) The department ~~((shall require))~~ requires swallowing (dysphagia) evaluations to be performed by a speech/language pathologist who holds a master's degree in speech pathology and who has received extensive training in the anatomy and physiology of the swallowing mechanism, with additional training in the evaluation and treatment of dysphagia.

~~((6))~~ (3) The department ~~((shall require))~~ requires a swallowing evaluation to include:

(a) An oral-peripheral exam to evaluate the anatomy and function of the structures used in swallowing;

(b) Dietary recommendations for oral food and liquid intake therapeutic or management techniques;

(c) Therapeutic or management techniques; and

(d) Videofluoroscopy, when necessary, for further evaluation of swallowing status and aspiration risks.

~~((7) The provider shall))~~

(4) A hospital must bill outpatient hospital speech therapy services ((to the department)) using ((the)) appropriate ((current procedural terminology or department assigned codes)) billing codes listed in the department's current pub-

lished billing instructions. The department ~~((shall))~~ does not pay the outpatient hospital a facility fee for these services.

~~((8) The department shall not pay for speech therapy when payment for speech therapy is included in the reimbursement as part of other treatment programs including, but not limited to the hospital inpatient diagnosis related group and nursing facility services.))~~

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-6400 Outpatient hospital diabetes education. (1) The department ~~((shall pay))~~ pays for outpatient hospital-based diabetes education for an eligible client when:

(a) The facility where the services are provided is approved by the department of health (DOH) as a diabetes education center, and

(b) The client is referred by a licensed health care provider.

(2) The department ~~((shall require))~~ requires the diabetes education teaching curriculum to have measurable, behaviorally-stated educational objectives. The diabetes education teaching curriculum ~~((shall))~~ must include all the following core modules:

(a) An overview of diabetes;

(b) Nutrition, including individualized meal plan instruction that is not part of the women, infants, and children program;

(c) Exercise, including an individualized physical activity plan;

(d) Prevention of acute complications, such as hypoglycemia, hyperglycemia, and sick day management;

(e) Prevention of other chronic complications, such as retinopathy, nephropathy, neuropathy, cardiovascular disease, foot and skin problems;

(f) Monitoring, including immediate and long term diabetes control through monitoring of glucose, ketones, and glycosylated hemoglobin; and

(g) Medication management, including administration of oral agents and insulin, and insulin start-up.

(3) The department ~~((shall pay))~~ pays for a maximum of six hours of individual core survival skills outpatient diabetes education per ~~((lifetime))~~ calendar year per client.

(4) The department ~~((shall require))~~ requires DOH-approved centers to bill the department for diabetes education services on the UB92 billing form using the specific revenue ~~((codes assigned))~~ code(s) designated and published by the department.

(5) The department ~~((shall reimburse))~~ reimburses for outpatient hospital-based diabetes education based on the individual hospital's current specific ratio of costs-to-charges, or the hospital's customary charge for diabetes education, whichever is less.

WSR 03-14-103
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 30, 2003, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-06-086.

Title of Rule: Chapter 388-540 WAC, Kidney disease program and kidney center services.

CHAPTER 388-540 WAC, KIDNEY DISEASE PROGRAM AND KIDNEY CENTER SERVICES: Amending WAC 388-540-001 Purpose and 388-540-005 Definitions; repealing WAC 388-540-010, 388-540-020, 388-540-030, 388-540-040, 388-540-050 and 388-540-060; and new sections **KIDNEY DISEASE PROGRAM (KDP):** WAC 388-540-015 Client eligibility, 388-540-025 Eligibility determination, 388-540-035 Transfer of resources, 388-540-045 Provider requirements, 388-540-055 Covered services and 388-540-065 Reimbursement, **KIDNEY CENTER SERVICES:** WAC 388-540-101 Purpose and scope, 388-540-105 Definitions, 388-540-110 Eligibility, 388-540-120 Provider requirements, 388-540-130 Covered services, 388-540-140 Noncovered services, 388-540-150 Reimbursement, 388-540-160 Items and services included in the composite rate, 388-540-170 Items and services not included in the composite rate, 388-540-180 Laboratory services, 388-540-190 Blood products and services, 388-540-200 Epoetin alpha therapy, and 388-540-210 Injectable drugs given in the kidney center.

Purpose: To reflect operating changes that are necessary to: (1) Comply with federal requirements for Medicaid dialysis reimbursements; and (2) meet Department of Social and Health Services (DSHS) utilization and cost containment initiative (UCCI) budget targets.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.09.510, 74.09.520(3), and 74.09.522; 42 C.F.R. 405.2101 and 42 C.F.R. 447.325.

Summary: The proposed changes will:

- Improve the clarity and completeness of rules for the state-funded kidney disease program;
- Improve the clarity and completeness of rules for MAA's reimbursements to free-standing kidney centers;
- Establish rules for new reimbursement limitations and methodologies.

Reasons Supporting Proposal: These rules are needed in order to reflect operating changes and reimbursement limitations. Stakeholders have been actively involved in developing the rules. A state plan amendment has been approved.

Name of Agency Personnel Responsible for Drafting: Myra Davis, MAA, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and Enforcement: Mary Wendt, MAA, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1840.

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

Rule is necessary because of federal law, 42 C.F.R. 405.2101 and 42 C.F.R. 447-325.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal replaces brief, general language in chapter 388-540 WAC with a more complete description of MAA's kidney disease program (KDP) and rules for reimbursing free-standing kidney centers. The proposal includes new reimbursement methodologies and limitations.

Proposal Changes the Following Existing Rules: There are no substantive operating changes for the kidney disease program.

There are substantive changes in how the Medical Assistance Administration (MAA) reimburses free-standing kidney centers for providing dialysis to MAA clients) other than KDP clients):

- A single dialysis session is reimbursed through a single "composite rate payment";
- Composite rate payments are limited on a per month per client basis;
- Drugs billed to MAA must meet rebate requirements of WAC 388-530-1125;
- Reimbursement for Epoetin alpha is subject to hematocrit and hemoglobin specifications;
- Injectable drugs given in the kidney center are reimbursed up to MAA's published maximum fees.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Medical Assistance Administration (MAA) is proposing to amend chapter 388-540 WAC, Kidney disease program and kidney center services.

The new rules are needed to clarify and set-apart MAA rules for the state-funded kidney disease program, and to bring MAA rules for free-standing kidney centers into compliance with federal requirements.

The proposed changes:

- Update program-related definitions;
- Provide a more complete description of the kidney disease program (KDP); and
- Update department policy for dialysis services in free-standing kidney centers, including limitations and reimbursement methodology:
 - A single dialysis session is reimbursed through a single "composite rate payment";
 - Composite rate payments are limited on a per month per client basis;
 - Drugs billed to MAA must meet rebate requirements of WAC 388-530-1125;
 - Reimbursement for Epoetin alpha is subject to hematocrit and hemoglobin specifications; and
 - Injectable drugs given in the kidney center are reimbursed up to MAA's published maximum fees.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires

that the economic impact of proposed regulations be analyzed in relation to small businesses and outlines the information that must be included in a small business economic impact statement (SBEIS).

Preparation of an SBEIS is required when a proposed rule has the potential of placing "a more than minor economic impact" on small businesses.

The Medical Assistance Administration (MAA) has analyzed the proposed rule and concludes:

- There is a more than minor economic impact on free-standing kidney centers;
- There is no disproportionate impact on small businesses; and
- The centers are either nonprofit corporations or business sites run by major private for-profit corporations that do not qualify under the definition of small business.

MAA began analysis of the kidney center rates and reimbursement methodology early in 2002. The kidney centers' dialysis reimbursement and drug costs were targeted for cost savings by the legislatively mandated utilization and cost containment initiative.

MAA changed the payment method for the free-standing kidney centers; moving from billed charges for unbundled services to a "composite rate" method. Over this past year MAA has negotiated with CMS in calculating a statewide payment per composite dialysis session for Washington state, including a cost factor for education and support in beginning dialysis. The composite rate was calculated from an average cost of the free-standing kidney centers' dialysis sessions, then inflated from CY 2000 to CY 2002 by the Washington general vendor rate increase for these related years.

MAA, the kidney centers and other stakeholders have made a concerted effort to satisfy all regulatory and budgetary requirements while minimizing, to the extent possible, the negative economic impacts.

EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS: As required by RCW 34.05.328 (1)(c), the administration has analyzed the probable costs and probable benefits of the proposed amendments, taking into account both the qualitative and quantitative benefits and costs.

The proposed amendments make significant changes to current rules for free-standing kidney centers. These amendments and reduced reimbursements reflect changes in the federal regulatory environment, critical economic conditions for Washington state and regulatory improvement efforts.

MAA's new payment method will mirror Medicare processes, so there will be only minimal costs of implementation for the centers. However, over the course of the 2001-2003 biennium, the change from billed charges to the composite rate may result in the centers collectively receiving approximately \$3,180,000.00 less in revenue.

This is a critical cost savings to MAA and the state of Washington.

Given the financial emergency within state government, and considering that failure to reduce reimbursements could have resulted in loss of federal match for all sums paid above the Medicare rate; MAA concludes the probable benefits outweigh the probable costs.

A copy of the statement may be obtained by writing to Myra Davis, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727.

RCW 34.05.328 applies to this rule adoption. The proposed rule change meets the definition of a significant legislative rule. A determination of the probable costs and benefits is available from the persons listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-540 WAC

KIDNEY ((CENTERS)) DISEASE PROGRAM AND KIDNEY CENTER SERVICES

KIDNEY DISEASE PROGRAM (STATE FUNDED)

AMENDATORY SECTION (Amending WSR 00-01-088, filed 12/14/99, effective 1/14/00)

WAC 388-540-001 Purpose. ~~((The department administers state funds to assist eligible clients with medical care costs associated with end stage renal disease (ESRD)))~~ This section (WAC 388-540-001 through 388-540-065) contains rules for the state-funded kidney disease program (KDP). The kidney disease program is designed to help clients who have end-stage renal disease, but who do not meet the eligibility standards for Medicaid.

AMENDATORY SECTION (Amending WSR 00-01-088, filed 12/14/99, effective 1/14/00)

WAC 388-540-005 Definitions. The following definitions and those found in WAC 388-500-0005, ~~((Medical definitions:))~~ apply to this chapter ~~((Defined words and phrases are bolded in the text))~~ for the purpose of administering the kidney disease program.

"Adequate consideration" means that the reasonable value of goods or services received in exchange for transferred property approximates the reasonable value of the property transferred;

"Affiliate" means a facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to ESRD patients;

"Application for ~~((kidney disease program (KDP)))~~ eligibility" means the form provided by MAA, which the client completes and submits to the contracted kidney center to determine KDP eligibility;

"Application documentation" means either a "Medicaid medical determination" letter from the DSHS community services office, or a KDP "client recertification waiver" form.

"Assets" means income, resources, or any real or personal property that a person or the person's spouse owns and could convert to cash to be used for support or maintenance;

"Certification" means the kidney center has determined a client eligible for the KDP for a defined period of time;

"End-stage renal disease (ESRD)" means that stage of renal impairment which is irreversible and permanent, and requires dialysis or kidney ~~((transplantation))~~ transplant to ameliorate uremic symptoms and maintain life;

"KDP application period" means the time between the date ~~((of))~~ the client signed the completed application for eligibility and ~~((certification))~~ the date the client is certified for participation in the program;

"KDP client" means a resident of the state who has a diagnosis of ESRD and meets the financial and medical eligibility criteria ~~((to be))~~ as determined ~~((eligible by a contracted kidney center))~~ by a KDP contractor;

"KDP client recertification waiver for Medicaid review" means a KDP eligibility form that may in some circumstances be used in place of a "Medicaid medical assistance determination letter."

"KDP contract manual" ~~((is))~~ means a set of policies and procedures for ~~((contracting))~~ contracted kidney centers;

"KDP contractor" means a kidney center or other ESRD facility that has contracted with the Washington state department of social and health services (DSHS), kidney disease program to provide ESRD-related services to KDP clients.

"Kidney center" means a facility as defined and certified by the federal government to:

- (1) Provide ESRD services;
- (2) ~~((Provide the services specified in this chapter; and~~
- ~~((3)))~~ Promote and encourage home dialysis for a client when medically indicated; and

(3) For the purposes of WAC 388-540-032 through 388-540-060, it is a facility that has entered into a contract with Washington state department of social and health services (DSHS), kidney disease program to provide ESRD-related services.

"Kidney disease program (KDP)" ~~((is))~~ means a ~~((public))~~ state-funded program that ~~((helps))~~ provides financial assistance to eligible clients with the costs of ESRD-related medical care;

"Medicaid medical assistance determination letter" means a medical assistance client eligibility letter from the DSHS community services office.

~~(("Recertifying client" means a KDP client who was determined eligible the previous year for the KDP and will continue to qualify under this chapter;))~~

"Resident" means a person who lives in Washington state on more than a temporary basis.

"Substantial financial change" means~~((:~~

(1) The elimination of a client's required annual deductible amount; or

(2)) the increase or decrease of income or assets ~~((by fifteen hundred dollars))~~ that may affect eligibility.

NEW SECTION

WAC 388-540-015 Client eligibility for kidney disease program (KDP). Clients must meet the following criteria to be considered KDP eligible:

- (1) Be a Washington state resident;
- (2) Be diagnosed with end-stage renal disease (ESRD);
- (3) Be determined ineligible for Medicaid;
- (4) Exhaust or be ineligible for all other resources providing similar benefits;
- (5) Have countable income which is equal to or less than:
 - (a) Two hundred percent of the federal poverty level (FPL) or;
 - (b) Three hundred percent of the FPL with an annual deductible required equal to the income amount which is in excess of two hundred percent of the FPL.
- (6) Have countable resources that are either equal to or less than fifteen thousand dollars, or are exempt. Exempt resources are:
 - (a) A home, defined as real property owned by a client as principal place of residence together with surrounding and contiguous property, not to exceed five acres;
 - (b) Household furnishings; and
 - (c) An automobile.
- (7) The effective date of eligibility is the first day of the month the application for eligibility is signed by the client.

NEW SECTION

WAC 388-540-025 Kidney disease program (KDP) eligibility determination. The kidney center and client must comply with the following rules to determine KDP eligibility:

- (1) The KDP contractor must:
 - (a) Inform the client of the requirements for KDP eligibility as defined in this chapter and provide the client with necessary department forms and instructions;
 - (b) Determine client eligibility using department policies, rules, and instructions; and
 - (c) Forward the completed application for eligibility, and the application documentation to the KDP program manager at the medical assistance administration (MAA). (The KDP program manager may amend or terminate a client's certification period within thirty days of receipt if the application is incomplete or inaccurate.)
- (2) A person applying for KDP must:
 - (a) Complete the application for eligibility and submit any necessary documentation to the kidney center;

(b) Apply for Medicaid, obtain a written Medicaid medical assistance determination letter, submit a copy to the kidney center; and

(c) Apply for Medicare.

(3) A client reapplying for continued eligibility must:

(a) Complete the KDP application for eligibility and submit any documentation necessary to determine eligibility to the kidney center;

(b) Apply for Medicaid forty-five days before the end of the KDP certification period, obtain a written Medicaid eligibility determination, and submit a copy to the kidney center; or

(c) Have applied for Medicaid within the previous five years and continue to be ineligible.

(4) The KDP application period is:

(a) One hundred and twenty days for a new client; and

(b) Forty-five days prior to the end of a certification period for a client requesting recertification.

(5) The KDP contractor may request an extension of application time limits from MAA when extenuating circumstances prevent the client from completing the application or recertification process within the specified time limits.

(6) The KDP contractor certifies the client for no more than one year from the first day of the month of application, unless the client:

(a) Needs medical coverage for less than one year; or

(b) Has a substantial financial change, in which case the client must complete a new application for eligibility.

NEW SECTION

WAC 388-540-035 Kidney disease program (KDP)—Transfer of resources without adequate consideration. A person may be ineligible for the KDP if the person knowingly and willfully assigns or transfers nonexempt resources at less than fair market value within two years preceding the date of application, for the purpose of qualifying or continuing to qualify for the program.

NEW SECTION

WAC 388-540-045 Kidney disease program (KDP) provider requirements. (1) The KDP contractor must:

(a) Be a Medicare-certified end-stage renal disease (ESRD) facility; and

(b) Have a valid KDP client services contract with the department.

(2) The KDP contractor must provide, directly or through an affiliate:

(a) Professional consultation, personal instructions, medical treatment and care, drug products and all supplies necessary for carrying out a medically-sound end-stage renal disease (ESRD) treatment program;

(b) Dialysis for clients with ESRD when medically indicated;

(c) Kidney transplant treatment, either directly or by referral, when medically indicated;

(d) Treatment for conditions directly related to ESRD such as anemia or venous access infections; and

(e) Supplies and equipment for home dialysis.

(3) The provider must maintain adequate records for audit and review purposes, including:

(a) Medical charts and records that meet the requirements of WAC 388-502-0020; and

(b) Eligibility determination records.

(4) The contractor must meet other obligations as required by their contract with the KDP program.

NEW SECTION

WAC 388-540-055 Kidney disease program (KDP) covered services. The KDP program covers the cost of health care services essential to the treatment of end stage renal disease (ESRD) and its complications. Covered services include:

(1) Mandatory services that must be provided by the KDP contractor:

(a) Dialysis:

(i) Center dialysis—Covers the cost of dialysis and related services provided in a kidney center;

(ii) Home dialysis—Covers the cost of providing dialysis and related services in the home; and

(iii) Dialysis while hospitalized—Covers the cost of dialysis and related services while the client is confined to an acute care facility and is unable to dialyze at his/her regular site.

(b) Medication—As defined in the approved drug list in the KDP manual.

(2) Optional services that may be provided by the KDP contractor:

(a) Venous access surgery—Covers costs associated with surgically preparing the client for dialysis and medical complications related to the venous access site;

(b) Laboratory tests and x-rays considered to be part of the overall treatment plan for ESRD;

(c) Post-transplant visit to assess client's ESRD status; and

(d) Health insurance premiums including co-pays and deductibles, when found to be cost-effective.

NEW SECTION

WAC 388-540-065 Kidney disease program (KDP)—Reimbursement. (1) The medical assistance administration (MAA) reimburses KDP contractors:

(a) Within the limits of legislative funding for the program;

(b) According to the terms of each kidney center's contract with the department; and

(c) According to the provisions of the KDP contract manual.

(2) The KDP contractor must submit the following documentation to MAA:

(a) A description of the services for which reimbursement is requested; and

(b) Statement of client's financial eligibility for the KDP.

(3) MAA limits KDP reimbursement for out-of-state services to fourteen days per calendar year. Reimbursement is paid only to KDP contractors. Out-of-state dialysis providers must operate under sub-contract or agreement with an in-

state KDP contractor in order to receive reimbursement under this program.

KIDNEY CENTER SERVICES

NEW SECTION

WAC 388-540-101 Purpose and scope. This section describes the medical assistance administration (MAA) reimbursement rules for free-standing kidney centers providing dialysis and end-stage renal disease services to MAA clients.

NEW SECTION

WAC 388-540-105 Definitions. The following definitions and those found in WAC 388-500-0005, apply to this chapter.

"Acute dialysis" means dialysis given to patients who are not ESRD patients, but who require dialysis of temporary kidney failure due to a sudden trauma (e.g., traffic accident or ingestion of certain drugs, etc.).

"Affiliate" means a facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to ESRD patients.

"Agreement" means a written document executed between an ESRD facility and another facility in which the other facility agrees to assume responsibility for furnishing specified services to patients and for obtaining reimbursement for those services.

"Back-up dialysis" means dialysis given to a patient under special circumstances, in a situation other than the patient's usual dialysis environment. Examples are:

- (1) Dialysis of a home dialysis patient in a dialysis facility when patient's equipment fails;
- (2) Inhospital dialysis when the patient's illness requires more comprehensive care on an inpatient basis;
- (3) Pre- and post-operative dialysis provided to transplant patients.

"Composite rate" means a payment method in which all standard equipment, supplies, and services are calculated into a blended rate. All in-facility dialysis and all home dialysis treatments are billed under the composite rate system.

"Continuous ambulatory peritoneal dialysis (CAPD)" means a type of dialysis where the patient's peritoneal membrane is used as the dialyzer. The patient dialyzes at home, using special supplies, but without the need for a machine. (See "Peritoneal dialysis.")

"Continuous cycling peritoneal dialysis (CCPD)" means a type of peritoneal dialysis where the patient dialyzes at home and utilizes an automated peritoneal cyler for delivering dialysis.

"Dialysate" means an electrolyte solution, containing elements such as potassium, sodium chloride, etc., surrounding the membrane or fibers and allowing exchange of substances with the patient's blood in the dialyzer.

"Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane.

"Dialysis session" means the period of time beginning when the patient arrives at the facility and ending when the patient departs from the facility. In the case of home dialysis, the time period beginning when the patient prepares for dialysis and ending when the patient is disconnected from the machine.

"Dialyzer" means the synthetic porous membrane or fibers, contained in a supporting structure, through which blood flows for the purpose of eliminating harmful substances, and replacing them with useful ones.

"Drug-related supplies" means nonpharmaceutical items necessary for administration or delivery of a drug.

"Durable medical equipment (DME)" means equipment that:

- (1) Can withstand repeated use;
- (2) Is primarily and customarily used to serve a medical purpose;
- (3) Generally is not useful to a person in the absence of illness or injury; and
- (4) Is appropriate for use in the client's place of residence.

"End-stage renal disease (ESRD)" means the stage of renal impairment that is irreversible and permanent, and requires dialysis or kidney transplant to ameliorate uremic symptoms and maintain life.

"Epoetin alpha (EPO)" means the biologically engineered protein that stimulates the bone marrow to make new red blood cells. It is used in the treatment of anemia.

"Free-standing kidney center" means a limited care facility, not operated by a hospital, certified by the federal government to provide ESRD services.

"Hemodialysis" means a method of dialysis in which blood from a patient's body is circulated through an external device or machine and then returned to the patient's bloodstream. Hemodialysis is usually done in a kidney center or facility. It can be done at home with a trained dialysis helper.

"Home dialysis" means any dialysis performed at home.

"Home dialysis helper" means a person trained to assist the client in home dialysis.

"In-facility dialysis," for the purpose of this chapter only, in-facility dialysis means dialysis of any type performed on the premises of a kidney center or other free-standing ESRD facility.

"Intermittent peritoneal dialysis (IPD)" means a type of peritoneal dialysis in which dialysis solution is infused into the peritoneal cavity, allowed to remain there for a period of time, and then drained out. IPD is usually done in a kidney center or facility. It can be done at home with a trained home dialysis helper.

"Kidney center" means a facility as defined and certified by the federal government to:

- (1) Provide ESRD services;
- (2) Provide the services specified in this chapter; and
- (3) Promote and encourage home dialysis for a client when medically indicated.

"Maintenance dialysis" means the usual periodic dialysis treatments given to a client who has ESRD.

PROPOSED

"Peritoneal dialysis" means a procedure that introduces dialysate into the abdominal cavity to remove waste products through the peritoneum. Three forms of peritoneal dialysis are continuous ambulatory peritoneal dialysis, continuous cycling peritoneal dialysis, and intermittent peritoneal dialysis.

"Self-dialysis unit" means a unit in a free-standing kidney center where dialysis is performed by an ESRD client who has completed training in self-dialysis.

"Standard ESRD lab tests" means certain laboratory tests that the Centers for Medicare and Medicaid include in their composite rate calculations. These tests are identified in MAA's kidney center billing instructions.

"Take home drugs" means outpatient prescription drugs that are administered outside of a provider's office.

NEW SECTION

WAC 388-540-110 Eligibility. (1) To be eligible for the kidney center services described in this section, a client must be diagnosed with end-stage renal disease (ESRD) or acute renal failure and be covered under one of the following programs:

- (a) Categorically needy program (CNP);
 - (b) Children's health insurance program (CHIP);
 - (c) Medically indigent program (MI) (Emergency hospital and ambulance only);
 - (d) General assistance-unemployable (GAU);
 - (e) Limited casualty program—Medically needy program (MNP); or
 - (f) Qualified Medicare beneficiary (QMB)—(MAA pays only for Medicare premium, co-insurance and deductible);
- (2) Managed care enrollees must have dialysis services arranged directly through their designated plan.

NEW SECTION

WAC 388-540-120 Provider requirements. To receive reimbursement from the medical assistance administration (MAA) for providing care to MAA clients, a kidney center must:

- (1) Be a Medicare-certified end-stage renal disease (ESRD) facility and have a signed core provider agreement with MAA (see chapter 388-502 WAC);
- (2) Meet requirements found in chapter 388-502 WAC;
- (3) Provide only those services within the scope of their provider's license; and
- (4) Provide, either directly or through an affiliate, all physical facilities, professional consultation, personal instructions, medical treatment, care, and all supplies necessary for carrying out an medically-sound ESRD treatment program, including all of the following:
 - (a) Dialysis for ESRD clients;
 - (b) Kidney transplant treatment, either directly or by referral, for ESRD clients when medically indicated;
 - (c) Treatment for conditions directly related to ESRD;
 - (d) Training and supervision of supporting personnel and clients for home dialysis, medical care, and treatment; and
 - (e) Supplies and equipment for home dialysis.

NEW SECTION

WAC 388-540-130 Covered services. (1) The medical assistance administration (MAA) covers the following services and supplies subject to the restrictions and limitations in this section and other applicable published WAC:

- (a) In-facility dialysis;
- (b) Home dialysis;
- (c) Training for self-dialysis;
- (d) Home dialysis helpers;
- (e) Dialysis supplies;
- (f) Diagnostic lab work;
- (g) Treatment for anemia; and
- (h) Intravenous drugs.

(2) Covered services are subject to the limitations specified by MAA. Providers must obtain prior authorization (PA) or expedited prior authorization (EPA) before providing services that exceed specified limits in quantity, frequency or duration (refer to WAC 388-501-0165 for the PA process).

NEW SECTION

WAC 388-540-140 Noncovered services. (1) The medical assistance administration (MAA) does not reimburse kidney centers for the following:

- (a) Blood and blood products (refer to WAC 388-540-190);
- (b) Personal care items such as slippers, toothbrushes, etc.; or
- (c) Additional staff time or personnel costs. Staff time is paid through the composite rate. Home dialysis helpers are the only personnel cost paid outside the composite rate (refer to WAC 388-540-160).

(2) MAA reviews all initial requests for noncovered services based on WAC 388-501-0165.

NEW SECTION

WAC 388-540-150 Reimbursement—General. (1) Kidney center services described in this section are paid by one of two methods:

(a) **Composite rate payments**—This is a payment method in which all standard equipment, supplies and services are calculated into a blended rate.

(i) A single dialysis session and related services are reimbursed through a single composite rate payment (refer to WAC 388-540-160).

(ii) Composite rate payments for continuous ambulatory peritoneal dialysis (CAPD) or continuous cycling peritoneal dialysis (CCPD) are limited to thirty-one per month for an individual client.

(iii) Composite rate payments for all other types of dialysis sessions are limited to fourteen per month for an individual client.

(b) **Noncomposite rate payments**—End-stage renal disease (ESRD) services and items covered by the medical assistance administration (MAA) but not included in the composite rate are billed and paid separately (refer to WAC 388-540-170).

(2) **Limitation extension request**—MAA evaluates billings for covered services that are subject to limitations or other restrictions, and approves such services beyond those limitations or restrictions when medically necessary, under the standards of WAC 388-501-0165.

(3) **Take-home drugs**—MAA reimburses kidney centers for take-home drugs only when they meet the conditions described in WAC 388-540-170(1). Other drugs for at-home use must be billed by a pharmacy and be subject to MAA pharmacy rules.

(4) **Medical nutrition**—Medical nutrition products must be billed by a pharmacy or a durable medical equipment (DME) provider.

(5) **Medicare eligible clients**—MAA does not reimburse kidney centers as a primary payer for Medicare eligible clients.

NEW SECTION

WAC 388-540-160 Items and services included in the composite rate. (1) The following equipment, supplies, and services for in-facility and home dialysis are included in the composite rate:

- (a) Medically necessary dialysis equipment;
 - (b) All dialysis services furnished by the facility's staff;
 - (c) Standard end-stage renal disease laboratory tests (refer to WAC 388-540-180);
 - (d) Home dialysis support services including delivery, installation, and maintenance of equipment;
 - (e) Purchase and delivery of all necessary dialysis supplies;
 - (f) Declotting of shunts and any supplies used to declot shunts;
 - (g) Oxygen and the administration of oxygen;
 - (h) Staff time used to administer blood and nonroutine parenteral items;
 - (i) Noninvasive vascular studies; and
 - (j) Training for self-dialysis and home dialysis helpers.
- (2) The medical assistance administration (MAA) issues a composite rate payment only when all of the above items and services are furnished or available at each dialysis session.
- (3) If the facility fails to furnish or have available any of the above items, MAA does not pay for any part of the items and services that were furnished.

NEW SECTION

WAC 388-540-170 Items and services not included in the composite rate. The following items and services are not included in the composite rate and must be billed separately, subject to the restrictions or limitations in this section and other applicable published WAC:

- (1) Drugs related to treatment, including but not limited to epoetin alpha (EPO) and diazepam. The drug must:
 - (a) Be prescribed by a physician;
 - (b) Meet the rebate requirements described in WAC 388-530-1125; and

(c) Meet the requirements of WAC 246-905-020 when provided for home use.

(2) Supplies used to administer drugs and blood;

(3) Blood processing fees charged by the blood bank (refer to WAC 388-540-190); and

(4) Home dialysis helpers.

NEW SECTION

WAC 388-540-180 Laboratory services. (1) Laboratory services included in the composite rate, performed by either the facility or an independent laboratory, must not be billed separately except as provided for in (b) of this subsection:

(a) Standard end-stage renal disease (ESRD) lab tests are included in the composite rate when performed at recommended intervals (see billing instructions for current list).

(b) The standard ESRD lab tests referred to in (a) of this subsection can be reimbursed separately from the composite rate only when it is medically necessary to test more frequently:

(i) Proof of medical necessity must be documented in the client's medical record when billing for more frequent testing. A diagnosis of end-stage renal disease is not sufficient;

(ii) The claim must include information on the nature of the illness or injury (diagnosis, complaint or symptom) requiring the performance of the test(s); or

(iii) An ICD-9CM diagnosis code may be shown in lieu of a narrative description.

(2) All separately-billable, ESRD laboratory services must be billed by and reimbursed to the lab that performs the test.

NEW SECTION

WAC 388-540-190 Blood products and services. (1) The medical assistance administration (MAA) reimburses free-standing kidney centers for:

(a) Blood processing and other fees assessed by non-profit blood centers that do not charge for the blood or blood products themselves; and

(b) Costs incurred by the center to administer its in-house blood procurement program.

(2) MAA does not reimburse centers for blood or blood products (refer to WAC 388-550-6500).

(3) Staff time used to administer blood or blood products is reimbursed only through the composite rate (refer to WAC 388-540-150 and 388-540-160).

NEW SECTION

WAC 388-540-200 Epoetin alpha (EPO) therapy. The medical assistance administration (MAA) reimburses the kidney center for EPO therapy when:

(1) Administered in the kidney center to a client:

(a) With a hematocrit less than thirty-three percent or a hemoglobin less than eleven when therapy is initiated; or

(b) Continuing EPO therapy with a hematocrit between thirty and thirty-six percent.

(2) Provided to a home dialysis client:

(a) Under the same hematocrit/hemoglobin guidelines as stated in (1)(a) and (b) of this section; and

(b) When permitted by Washington Board of Pharmacy Rules. (Refer to WAC 246-905-020 Home dialysis program—Legend drugs.)

NEW SECTION

WAC 388-540-210 Injectable drugs given in the kidney center. Injectable drugs administered in the kidney center are reimbursed up to the medical assistance administration's (MAA) published maximum fees.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-540-010	Services.
WAC 388-540-020	Reimbursement.
WAC 388-540-030	KDP eligibility requirements.
WAC 388-540-040	Transfer of resources without adequate consideration.
WAC 388-540-050	Fiscal information.
WAC 388-540-060	KDP eligibility determination.

**WSR 03-15-015
PROPOSED RULES
WASHINGTON STATE
SCHOOL FOR THE DEAF**

[Filed July 7, 2003, 11:35 a.m.]

Original Notice.

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

Title of Rule: Chapter 148-280 WAC, Family Educational Rights and Privacy Act of 1974.

Purpose: To implement federal regulatory changes regarding educational records, resulting from amendments to the Family Educational Rights and Privacy Act, state laws, RCW 13.40.480 and 28A.225.330; and to revise school policy on disclosure of directory information.

Statutory Authority for Adoption: RCW 72.42.041.

Statute Being Implemented: 20 U.S.C. § 1232g, RCW 13.40.480 and 28A.225.330.

Summary: Changes are needed to comply with the federal regulatory changes related to the protection and disclosure of educational records as a result of the amendments to Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, its implementing regulations at 34 C.F.R. part 99; amendments to state laws related to school security and sharing of information in the juvenile justice system; and to revise school policy on disclosure of directory information.

Reasons Supporting Proposal: Required by federal and state law.

Name of Agency Personnel Responsible for Drafting: Bonnie Y. Terada, Attorney General's Office, 1220 Main Street, Suite 510, Vancouver, WA 98660, (360) 759-2100; Implementation: Dr. John Davis, Interim Superintendent, Washington School for the Deaf, 611 Grand Boulevard, Vancouver, WA 98661-4918, (360) 414-0400; and Enforcement: Superintendent, Washington School for the Deaf, 611 Grand Boulevard, Vancouver, WA 98661-4918, (360) 414-0400.

Name of Proponent: Washington State School for the Deaf, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new and revised rules implement the federal regulatory changes related to the protection and disclosure of educational records as a result of the amendments to Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and its implementing regulations at 34 C.F.R. part 99. Revisions and new rules are also necessary to implement state laws related to school security and sharing of personally identifiable information within and outside of the school, including other participants in the juvenile justice system. The school policy governing disclosure of directory information is being revised to allow disclosure of certain types of information in education records that is not generally considered harmful, and its release is not considered an invasion of a student's privacy. The revision of policy is consistent with FERPA regulations which require the school to provide public notice to parents and students of the types of personally identifiable information designated as directory information and the right to refuse disclosure of any or all of such information.

Proposal Changes the Following Existing Rules: As described above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule adoption. The rules are not considered significant legislative rules by the Washington State School for the Deaf.

Hearing Location: Washington State School for the Deaf, Administrative Conference Room, 611 Grand Boulevard, Vancouver, WA 98661, on September 3, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Judy Smith by August 29, 2003, TTY (360) 414-0401 or (360) 414-0401.

Submit Written Comments to: Bonnie Terada, Assistant Attorney General, Attorney General's Office, 1220 Main Street, Suite 510, Vancouver, WA 98660, fax (360) 696-6291, by August 29, 2003.

Date of Intended Adoption: September 3, 2003.

July 2, 2003

Dr. John Davis

Interim Superintendent

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-010 Confidentiality of student records. The Washington school for the deaf implements policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232(g) (FERPA), and the ((Education of the Handicapped Act)) Individuals with Disabilities Education Act (IDEA), 20 U.S.C. ((Secs. 1400 through 1420, this policy has been created:

(1) ~~To ensure that information contained in student education records is treated in a responsible manner with due regard for the personal nature of such information;~~

(2) ~~To ensure the accuracy of information contained in student education records by providing parents (or eligible students) with the opportunity to inspect the records; and~~

(3) ~~To ensure the continued confidentiality of such records by establishing procedures governing the release of information contained therein.))~~ § 1412 (a)(8). These laws establish that the education records of students attending or having attended the school are confidential and can be released only with written permission of the parent (or adult student). The primary rights of parents and adult students under FERPA are:

(1) To inspect and review education records;

(2) To request amendment of education records; and

(3) To have some control over the disclosure of information from education records.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-011 Definitions. As used in this chapter:

(1) "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, photograph, address, telephone listing, date and place of birth, ~~((major field of study,))~~ participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, ~~((degrees))~~ diplomas, honors, and awards received, and ((the most recent)) previous ((educational agency or institution)) school attended.

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(3) "Education records" means those records, files, documents, and other materials that are:

(a) Maintained by the school; and

(b) Directly related to a student.

The term "education records" does not include:

(i) Records of ~~((instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons))~~ school staff that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(ii) Records ~~((of the school security department that are kept apart from education records, maintained solely for law enforcement purposes, and are not available to persons other than law enforcement officials of the same jurisdiction))~~ created and maintained by school security or the law enforcement unit of the school;

(iii) ~~((In the case of persons who are employed by but do not attend the school,))~~ Records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and which are not available for ~~((use for))~~ any other purpose: Provided, That this exception ~~((from the definition of "education records"))~~ does not apply to records relating to an individual in attendance at the school who is employed as a result of his or her status as a student;

(iv) Records on a student who is eighteen years of age or older that are created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity and that are created, maintained, or used only in connection with the treatment of the student; and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice; and

(v) Records that contain only information relating to an individual after he or she is no longer a student at the school.

(4) ~~((Eligible))~~ Adult student means a student who has reached eighteen years of age. When a student becomes an ~~((eligible))~~ adult student, the rights accorded to, and the consent required of, parents under this chapter transfer from the parents to the student.

(5) "Legitimate educational interest" means the necessity to review educational records in order to fulfill professional responsibility, perform a function related to a student's education or discipline, or maintain safety and security.

(6) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

~~((6))~~ "Party" means an individual, agency, institution, or organization.

(7) "Personally identifiable information" includes, but is not limited to the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's Social Security number or student number; a list of personal characteristics that would make the student's identity easily traceable; or other information that would make the student's identity easily traceable.

(8) ~~((Student means any individual who is or has been in attendance at the school and regarding whom the school maintains education records.))~~ "School official" includes a person employed by the school as a teacher, administrator, supervisor, counselor, support staff member (including health or medical staff and law enforcement unit personnel), a person serving on the school board of trustees, a person with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist), or a parent or student serving on an official committee

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or assisting another school official in performing his or her tasks.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-015 Notice. The school shall provide parents ((ef)) and adult students ((for eligible students) currently in attendance)) with annual notice of their rights ((under this chapter. The notice shall inform parents (or eligible students) of their right to:

- (1) Inspect and review the student's education records;
- (2) Request amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (3) Consent to disclosure of personally identifiable information contained in the student's education records;
- (4) Obtain a copy of the school's policy on access to and disclosure of education records; and
- (5) File with the United States Department of Education a complaint concerning alleged failures to comply with the requirements of the Family Educational Rights and Privacy Act)) as defined by FERPA by publication in the parent/student handbook.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-020 Education records—((Parents' (or eligible students') right to inspect)) Access rights. (1) A parent, ((eligible)) adult student, or representative of the parent has the right to inspect and review the education records of the student.

(2) Where the education record or data includes information on more than one student, the parent(s) of those students (or the ((eligible)) adult students) shall have the right to inspect and review only the information relating to their child (or themselves) or to be informed of that specific information.

(3) The parent (or ((eligible)) adult student) has the right to obtain copies of the student's education records. Charges for the copies shall not exceed the cost normally charged by the school. However, if the fee effectively prevents the parent (or ((eligible)) adult student) from exercising the right to inspect and review the student's education records, the school may provide such copies free of charge.

(4) The school may presume that a parent has authority to inspect and review records relating to his/her child unless the school has been advised that ((the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and dissolution)) there is a court order, parenting plan, or legally binding document relating to such matters as dissolution, separation, guardianship, or custody that specifically revokes these rights.

(5) The parent (or adult student) has the right to a response from the school to reasonable requests for explanations and interpretations of the records.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-025 Education records—Access procedures. (1) A list of the types and locations of education records collected, maintained, or used by the school may be obtained by the parent (or adult student) at the superintendent's office.

(2) A request by a parent (or ((eligible)) adult student) ((for review of information)) to inspect and review education records should be made in writing to the ((individual or office having custody of the record)) supervising teacher K-12 (i.e., building principal).

(3) The ((custodian of the record)) supervising teacher K-12 or his/her designee shall respond to reasonable requests for inspection, explanation, and interpretation of education records within forty-five days from the date the request was received and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student. If the ((records custodian)) supervising teacher K-12 is unable to comply with a request within the above stated period, he or she shall inform the parent (or ((eligible)) adult student) of that fact and the reasons in writing.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-030 Education records—Amendment. (1)(a) A parent (or ((eligible)) adult student) who believes that information contained in the education record is inaccurate, misleading, or violates the privacy or other rights of the student, may request the school to amend the information.

(b) ((The right to challenge, under this chapter, shall not be used to contest grades which are correctly recorded.)) A parent (or adult student) shall not be permitted under this chapter to challenge the validity of grades which are accurately recorded.

(2) The school shall decide whether to amend the record as requested within a reasonable time after receipt of the request.

(3) If the school decides ((not to amend the record as requested)) to deny the request, it shall inform the parent (or ((eligible)) adult student) of the decision and of the right to a ((brief adjudicative proceeding under WAC 148-108-100.

(4) The school shall, on request, provide an opportunity for a brief adjudicative proceeding to challenge information in the education record on the grounds provided for in subsection (1) of this section.

(5) For the purpose of this chapter:

(a) The decision of the brief adjudicative proceeding must be based solely on the evidence presented at the brief adjudicative proceeding and must include a summary of the evidence and the reasons for the decision.

(b) The parent (or eligible student) may, at their own expense, be assisted or represented by one or more individuals of his or her choice, including an attorney. Where the parent (or eligible student) is represented by an attorney, the school may be represented by an assistant attorney general.

~~(6))~~ hearing. The hearing shall be a brief adjudicative proceeding.

(4) The school will conduct a hearing within a reasonable time after it has received the request for a hearing.

(a) Notice of the date, time and place shall be provided reasonably in advance of the hearing.

(b) The hearing will be conducted by a hearing officer who is a disinterested party. This hearing officer may be a school official. The parent (or adult student) shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend an education record. The parent (or adult student) may, at their own expense, be assisted at the hearing by one or more individuals, including an attorney.

(c) The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.

(5) If, as a result of the ~~((brief adjudicative proceeding))~~ hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent (or ~~((eligible))~~ adult student) in writing.

~~((7))~~ (6) If, as a result of the ~~((brief adjudicative proceeding))~~ hearing, the school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent (or ~~((eligible))~~ adult student) of the right to place in the record ~~((s it maintains on the student))~~ a statement commenting on the challenged information and/or ~~((setting forth any))~~ a statement of the parent's (or adult student's) reasons for disagreeing with the decision of the school ~~((, or both))~~.

~~((8))~~ (7) Any explanation placed in the records of the student under this section must:

(a) Be maintained by the school as part of the records of the student as long as the record or contested portion is maintained by the school; and

(b) Be included with any disclosure of the record or contested portion to which the explanation relates.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-040 Disclosure of personally identifiable information from education records. (1) The school shall not ~~((permit access to or the release of))~~ disclose information from education records ~~((or personally identifiable information contained there))~~ (other than "directory information") without the written consent of the parent (or ~~((eligible))~~ adult student) ~~((to any party other than the following))~~ except that records may be disclosed without consent when disclosure is to:

(a) School officials ~~((, including teachers, when the information is required for a legitimate educational interest within the performance of their responsibilities to the school, with the understanding that its use will be strictly limited to the performance of those responsibilities))~~ who have a legitimate educational interest in the records;

(b) Officials of another school, school system, or institution of postsecondary education ~~((who have requested the records and in which))~~ where the student seeks or intends to enroll ~~((, upon condition that:~~

~~((i) The parent (or eligible student) be notified of the transfer (unless the disclosure is initiated by the parent or eligible student);~~

~~((ii) The parent (or eligible student), upon request, receive a copy of the record that was disclosed; and~~

~~((iii) The parent (or eligible student), upon request, receive an opportunity for a brief adjudicative proceeding)).~~ Pursuant to RCW 28A.225.330, records disclosed under this subsection will include disciplinary action, violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. The school shall provide the parent (or adult student), upon request, with a copy of the records disclosed and an opportunity for a hearing to challenge the content of the record;

(c) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federal or state-supported education program, or in connection with the enforcement of or compliance with federal or state legal requirements which relate to such programs ~~((In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements))~~;

(d) Organizations conducting studies for, or on behalf of the school, for purposes of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction: Provided, That the study is conducted in such a manner that does not permit the personal identification of parents and students by persons other than representatives of such organizations, and such information is destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any person or entity designated by judicial order or ~~((lawfully issued))~~ lawfully issued subpoena: Provided, That the school shall make ~~((s))~~ a reasonable effort to notify the parent (or ~~((eligible))~~ adult student) ~~((of the order or subpoena))~~ in advance of compliance ~~((Any school employee receiving a subpoena or judicial order for education records should immediately notify the attorney general;~~

~~((g) Those individuals or agencies to which a release of information without consent is permitted by the rules that implement the Family Educational Rights and Privacy Act of 1974, 34 C.F.R. Secs. 99.31 through 99.37)), unless such notification and disclosure is specifically prohibited by an order of the court or other issuing agency or the order has been issued ex parte.~~

(i) If the school initiates legal action against a parent or student, the school may disclose to the court, without a court order or subpoena, the education records of the student that are relevant and necessary for the school to proceed with the legal action.

(ii) If a parent or student initiates legal action against the school, the school may disclose to the court, without a court order or subpoena, the student's education records that are relevant and necessary for the school's defense;

(g) State and local officials or authorities if specifically required by state law adopted before November 19, 1974, or if reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student prior to adjudication;

(h) Appropriate persons in connection with a health or safety emergency if knowledge of such information is necessary to protect the health or safety of a student or other individuals;

(i) Teachers and school officials in other schools and school districts, and teachers, security personnel and other personnel at the Washington school for the deaf who have a legitimate educational interest in the behavior of the student when the information concerns disciplinary action taken against the student for behavior that posed a significant risk to safety or well-being of that student, other students, or other members of the school community, or a history of violent behavior or behaviors listed in RCW 13.04.155. "Disciplinary action" means the investigation, adjudication or imposition of sanctions by the school for an infraction or violation of the student conduct code.

(2) Where the consent of a parent (or ~~((eligible))~~ adult student) is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

- (a) A specification of the records to be released;
- (b) The reasons for such release; and
- (c) The names of the parties to whom such records will be released.

(3) When a disclosure is made under subsection (2) of this section, if a parent (or ~~((eligible))~~ adult student) so requests, the school shall provide him or her with a copy of the records disclosed.

(4) Personally identifiable education records released to third parties, with or without parent (or ~~((eligible))~~ adult student) consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other party without the prior consent of the parent (or ~~((eligible))~~ adult student).

~~(5) ((Unless otherwise prohibited by law, information from education records may be released to appropriate persons in connection with an emergency if knowledge of such information is necessary to protect the health or safety of a student or other person(s).)) "Directory information" may be disclosed without the parent's (or adult student's) prior written consent, unless the parent (or adult student) notifies the school in writing by the tenth day of the academic year that he or she does not want any or all of the student's information to be designated as directory information.~~

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-055 Record of access. (1) The school shall maintain a record of each request for access to and each

disclosure of personally identifiable information from the education records of each student.

(2) The school shall maintain the record with the education records of the student as long as the records are maintained.

(3) For each request or disclosure the record must include:

(a) The name of the party who had requested or received information;

(b) The date access was given; and

(c) The legitimate interest or purpose ~~((for which the party is authorized to use the records))~~ the party has in requesting or obtaining the information.

(4) If the party receiving personally identifiable information makes further disclosures of the information on behalf of the school, the record must include:

(a) The names of additional parties to which the receiving party may disclose the information; and

(b) The legitimate interests under WAC 148-280-040 which each of the additional parties has in requesting or obtaining the information.

(5) Subsection (1) of this section does not apply if the request was from, or the disclosure was to:

(a) The parent or ~~((eligible))~~ adult student;

(b) A designated school official with a legitimate educational interest under WAC 148-280-040 (1)(a);

(c) A party with written consent from the parent or ~~((eligible))~~ adult student; ~~((or))~~

(d) A party seeking directory information; or

(e) A party seeking or receiving records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

AMENDATORY SECTION (Amending WSR 90-16-018, filed 7/19/90, effective 8/19/90)

WAC 148-280-060 Destruction of information. (1) Student education records may be destroyed in accordance with state laws and regulations: Provided, That the school shall not destroy any education records if there is an outstanding request to inspect and review the records under this chapter.

(2)(a) The school shall inform parents (or ~~((eligible))~~ adult students) when personally identifiable information is no longer needed to provide educational services to the student.

(b) At the request of a parent (or ~~((eligible))~~ adult student), the school shall destroy personally identifiable information. However, the school may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year of completion without time limitation.

(3) For the purpose of this section, "destruction" shall mean physical destruction or removal of personal identifiers.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 148-280-050 Safeguards.
WAC 148-280-070 Directory information.

Hearing Location: Skagit Valley College, Whidbey Campus, 1900 S.E. Pioneer Way, Oak Harbor, WA 98277, on September 9, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact DelRae Oderman by September 2, 2003, fax (360) 586-6440.

Submit Written Comments to: Jan Yoshiwara, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-0050, by September 2, 2003.

Date of Intended Adoption: September 9, 2003.

July 2, 2003

DelRae Oderman

Executive Assistant

Rules Coordinator

WSR 03-15-021**PROPOSED RULES****STATE BOARD FOR****COMMUNITY AND TECHNICAL COLLEGES**

[Filed July 8, 2003, 2:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-043.

Title of Rule: Tuition charges for certain ungraded courses.

Purpose: Rules need to be revised in the area of tuition charges for certain ungraded courses (parent education) as a result of changes in tuition structure.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: Section 603, chapter 371, Laws of 2002.

Summary: See Purpose above.

Reasons Supporting Proposal: Rules need to be revised as a result of changes in tuition structure.

Name of Agency Personnel Responsible for Drafting: Rebecca Rhodes, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4340; Implementation and Enforcement: Jan Yoshiwara, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4353.

Name of Proponent: State Board for Community and Technical Colleges, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The existing WAC was based upon the former community college tuition structure in which there were no additional tuition charges between the 10th and 18th credit hours. In its current form, WAC 131-28-026 is inconsistent with the new tuition structure adopted beginning fiscal year 2003.

In order to treat all students in the same manner, this modification establishes that students who attend a parent education course for credit hours between eleven and eighteen will pay the same per credit hour as other parent education students.

Proposal Changes the Following Existing Rules: Students who attend a parent education course for credit hours between eleven and eighteen will pay the same per credit hour as other parent education students.

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

RCW 34.05.328 does not apply to this rule adoption.

AMENDATORY SECTION (Amending WSR 98-22-062, filed 11/2/98, effective 12/3/98)

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025.

(2) Ungraded courses shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journey person training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: No charge.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard

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per credit tuition and services activities fee charge. (~~Parent education students taking eleven to eighteen credits shall not be charged for those credits.~~)

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices indentured with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: Two-thirds reduction from the standard per credit tuition and services and activities fee charge. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may not deduct the tuition owed from training contract with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15-031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

WSR 03-15-026

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 8, 2003, 4:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-07-042.

Title of Rule: WAC 388-452-0005 Do I have to be interviewed in order to get benefits?

Purpose: To update program language, clarify when an interview is required for cash or basic food benefits, and indicate when clients may have a telephone interview.

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: This rule explains when clients must have an interview when applying for benefits, completing an eligibility review, or completing a recertification.

Reasons Supporting Proposal: These changes are necessary to clarify when clients do not need an interview, when a phone interview is acceptable, and when they must have a face-to-face interview.

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 273.2(e).

Explanation of Rule, its Purpose, and Anticipated Effects: Rule: WAC 388-452-0005 Do I have to be interviewed in order to get benefits?

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 states 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 273.2(e), regarding when clients need to attend an interview for certification and recertification of benefit eligibility. 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 August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernax@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: No earlier than August 27, 2003.

July 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-14-023, filed 6/21/02, effective 7/1/02)

WAC 388-452-0005 Do I have to be interviewed in order to get benefits? (1) Unless you are applying for medical only (~~or meet certain hardship criteria listed in subsection (8) below~~), you or your authorized representative must have (~~a face-to-face~~) an interview with the department:

(a) At initial certification; and

(b) At least once every twelve months if your assistance unit (AU) is certified for twelve months or less.

(2) You (~~are not required~~) do not have to attend an interview (~~when your application or review is just for~~) if

you are applying for or recertifying medical benefits only. If we deny your application for cash or Basic Food (~~(assistance)~~) because you did not (~~(appear for)~~) have an interview, we continue to process your request for medical benefits(~~(:~~

(a) ~~If you are pregnant;~~
 (b) ~~If you are a child under the age of nineteen;~~
 (e) ~~If you have a family with children under the age of nineteen; or~~

(d) ~~If we have enough information to determine if you are eligible or can get the information by mail).~~

(3) You will have just one interview even (~~(when you apply)~~) if you are applying for or have a review for benefits from more than one (~~(assistance)~~) program.

(4) If (~~(you are)~~) we do not (~~(interviewed)~~) interview you on the same day that we get your application, we schedule an interview appointment for you. We schedule your appointment the day we get your application or on the next business day if we get your application outside of our scheduled business hours, on a holiday or a weekend.

(5) We schedule an interview so your AU has at least ten days after the interview to provide needed verification:

(a) Before the end of the thirty-day processing period for applications; or

(b) Before your certification period ends for eligibility reviews.

(6) If you miss your first interview and (~~(request)~~) ask for another interview within thirty days of the date (~~(of your application)~~) you applied for benefits, we schedule a second interview for you.

(7) (~~(You or another person)~~) If you must have an interview for benefits, you or someone who can give us the information we need about your AU must (~~(attend)~~) participate in the interview. You may bring (~~(another)~~) any person (~~(to the interview:)~~) you (~~(may)~~) choose (~~(another person to go)~~) to (~~(the)~~) your interview (~~(for you when:~~

(a) ~~You cannot come to the local office for us to decide if you are eligible for cash assistance; or~~

(b) ~~You have an authorized representative as described in WAC 388-460-0005 for food assistance).~~

(8) You may choose someone to take your place in your interview:

(a) For cash assistance if you cannot come to the local office for us to decide if you are eligible for benefits; or

(b) For Basic Food if the person is your authorized representative as described in WAC 388-460-0005.

(9) We usually have interviews at the local office. You can have a scheduled telephone interview (~~(or an interview in your home if attending)~~) if there is any reason you cannot attend an interview at the local office (~~(causes a hardship for you or your representative)~~). Examples of (~~(hardships)~~) reasons you may be unable to attend an interview include:

(a) (~~(If your entire assistance unit is elderly or mentally or physically disabled;~~

(b) ~~If you live in a remote area or have transportation problems;~~

(e) ~~Severe weather;~~

(d) ~~If someone in your AU is ill, or you have to stay home to care for an AU member;~~

(e)) Your work or training (~~(hours)~~) schedule make it (~~(difficult to come into the office)~~) inconvenient for you to attend an in-office interview during regular business hours;

(~~(f)~~) (b) You are unable to take time off of work to attend an in-office interview, because you would not get paid for this time or you fear you could lose your job;

(c) Someone in your AU is ill, or you have to stay home to care for an AU member;

(d) You are having transportation problems;

(e) You can't safely get to the office because of severe weather;

(f) You live in a remote area and can't easily get to the local office;

(g) All the people in your AU are elderly, mentally disabled, or physically disabled;

(h) Someone in your AU is affected by family violence such as physical or mental abuse, harassment, or stalking by the abuser; or

(~~(g)~~) (i) You have any other (~~(problem which would make)~~) situation that makes it difficult for you to come into the office for an interview.

WSR 03-15-027
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed July 8, 2003, 4:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-090.

Title of Rule: The Division of Child Support (DCS) is amending rules regarding the DCS license suspension program: WAC 388-14A-4500 What is the division of child support's license suspension program?, 388-14A-4505 The notice of noncompliance and intent to suspend licenses, 388-14A-4510 Who is subject to the DCS license suspension program?, 388-14A-4515 How do I avoid having my license suspended for failure to pay child support?, 388-14A-4520 Signing a repayment agreement may avoid certification for non-compliance, 388-14A-4525 How to obtain a release of certification for noncompliance, and 388-14A-4530 Administrative hearings regarding license suspension are limited in scope.

Purpose: DCS has reviewed and revised the rules regarding the license suspension program, especially to clarify who is subject to license suspension and to provide for a stay of certification after service of a notice of noncompliance on a noncustodial parent who is incarcerated or receiving public assistance.

Statutory Authority for Adoption: RCW 74.20A.320.

Statute Being Implemented: RCW 74.20A.320.

Summary: DCS is revising the rules regarding the license suspension program, to clarify who is subject to license suspension.

Reasons Supporting Proposal: The rules clarify procedures - see Purpose above.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: DCS is amending the rules regarding the DCS license suspension program, which are contained in WAC 388-14A-4500 through 388-14A-4530, authorized by RCW 74.20A.320. These amendments are to clarify who may be subject to license suspension, and to provide for a stay of certification after service of a notice of noncompliance on a non-custodial parent who is incarcerated or receiving public assistance.

Proposal Changes the Following Existing Rules: Amendments to WAC 388-14A-4500, 388-14A-4505, 388-14A-4510, 388-14A-4515, 388-14A-4520, 388-14A-4525, and 388-14A-4530. See Purpose above.

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

RCW 34.05.328 does not apply to this rule adoption. The rule does meet the definition of a significant legislative rule, but DSHS/DCS is not required to prepare a further analysis under RCW 34.05.328 (5)(b)(vii), which exempts rules concerning liability of care of dependents.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not earlier than August 27, 2003.

July 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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

WAC 388-14A-4500 What is the division of child support's license suspension program? (1) RCW 74.20A.320 provides that, in some circumstances, the division of child support (DCS) may certify for license suspension a noncustodial parent (NCP) who is not in compliance with a child support order. The statute calls the NCP the responsible parent.

(a) "Certify" means to ~~((establish))~~ notify the department of licensing or other state licensing entities that the NCP is not in compliance with a child support order and to ask ~~((the department of licensing and other state licensing entities))~~ them to take appropriate action against licenses held by the NCP. Before DCS can certify an NCP, DCS serves a notice on the NCP as described in WAC 388-14A-4505 and 388-14A-4510. This notice is called the notice of noncompliance and intent to suspend licenses, and is sometimes called the notice of noncompliance.

(b) "Responsible parent" is defined in 388-14A-1020. The responsible parent is also called the "noncustodial parent."

(2) "Noncompliance with a child support order" is defined in RCW 74.20A.020(18) and in WAC 388-14A-4510.

(3) When DCS certifies the NCP, the department of licensing or other licensing entities take action to deny, suspend, or refuse to renew the NCP's license, according to the terms of RCW 74.20A.320 (8) and (12).

(4) This section and sections WAC 388-14A-4505 through 388-14A-4530 cover the DCS license suspension program.

(5) DCS may certify an NCP who is not in compliance with a child support order to the department of licensing or any appropriate licensing entity. In determining which licensing entity receives the certification, DCS ~~((shall consider))~~ considers:

(a) The number and kind of licenses held by the parent; and

(b) The effect that suspension of a particular license will have in motivating the parent to pay support or to contact DCS to make appropriate arrangements for other relief.

(6) DCS may certify a parent to any licensing agency through which it believes the parent has obtained a license. DCS may certify a parent to as many licensing agencies as DCS feels necessary to accomplish the goals of the license suspension program.

(7) In certain circumstances spelled out in WAC 388-14A-4510 (2) and (3), DCS may serve the notice of noncompliance on a noncustodial parent but may stay the commencement of the twenty-day objection period in WAC 388-14A-4505 (4)(b).

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

WAC 388-14A-4505 The notice of noncompliance and intent to suspend licenses. (1) Before certifying a non-custodial parent (NCP) for noncompliance, the division of child support (DCS) must serve the NCP with a notice of noncompliance and intent to suspend licenses. This notice tells the NCP that DCS intends to submit the NCP's name to the department of licensing and any other appropriate licensing entity as a licensee who is not in compliance with a child support order.

(2) DCS must serve the notice by certified mail, return receipt requested. If DCS is unable to serve the notice by certified mail, DCS must serve the notice by personal service, as provided in RCW 4.28.080.

(3) The notice must include a copy of the NCP's child support order and must contain the address and phone number of the DCS office which issued the notice.

(4) The notice must contain the information required by RCW 74.20A.320(2), telling the NCP that:

(a) The NCP may request an administrative hearing, but that the hearing is limited in scope (see WAC 388-14A-4530);

(b) DCS will certify the NCP unless the NCP makes a request for hearing within twenty calendar days of the date of service of the notice, except when a longer period of time is given, as provided in WAC 388-14A-4510 (2) or (3);

(c) The NCP may avoid certification by agreeing to make timely payments of current support and agreeing to a reasonable payment schedule on the support debt;

(d) Certification by DCS will result in suspension or nonrenewal of the NCP's license by the licensing entity until DCS issues a release stating that the NCP is in compliance with the child support order;

(e) Suspension of a license may affect the NCP's insurance coverage, depending on the terms of any policy;

(f) Filing a petition to modify the support obligation may stay (or put a hold on) the certification process; and

(g) Even after certification, the NCP may obtain a release from certification by complying with the support order.

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

WAC 388-14A-4510 Who is subject to the DCS license suspension program? (1) The division of child support (DCS) may ~~((certify))~~ serve a notice of noncompliance on a noncustodial parent (NCP) who is not in compliance with a child support order when:

(a) The NCP is required to pay child support under a court order or administrative order;

(b) The NCP is at least six months in arrears; and

(c) ~~((The NCP is not:~~

(i) ~~In jail or prison, except if the NCP has other resources available;~~

(ii) ~~A recipient of temporary assistance for needy families (TANF), Supplemental Security Income (SSI) or other exempt public assistance program; or~~

(iii) ~~A WorkFirst participant who does not receive a cash grant.~~

~~((d))~~ The NCP is not currently making payments to the Washington state support registry under a wage withholding action issued by DCS.

(2) DCS may serve a notice of noncompliance on an NCP who meets the criteria of subsection (1) above, even if the NCP is in jail or prison. Unless the NCP has other resources available while in jail or prison, DCS stays the commencement of the twenty-day objection period in WAC 388-14A-4505 (4)(b) until the NCP has been out of jail or prison for thirty days.

(3) DCS may serve a notice of noncompliance on an NCP who meets the criteria of subsection (1) above, even if the NCP is a public assistance recipient. DCS stays the commencement of the twenty-day objection period in WAC 388-

14A-4505 (4)(b) until the thirty days after the NCP's cash assistance grant is terminated.

(4) "Noncompliance with a child support order" for the purposes of the license suspension program means a NCP has:

(a) Accumulated a support debt, also called an arrearage or arrears, totaling more than six months of child support payments;

(b) Failed to make payments under a written agreement with DCS towards a support debt in an amount that is more than six months' worth of payments; or

(c) Failed to make payments required by a ~~((superior))~~ court order or administrative order towards a support debt in an amount that is more than six months' worth of payments.

~~((3))~~ (5) There is no minimum dollar amount for the six months of arrears. The following are examples of when a NCP is at least six months in arrears:

(a) The child support order requires monthly payments of five hundred dollars. The NCP has not made a single payment since the order was entered seven months ago. This NCP is at least six months in arrears;

(b) The child support order requires monthly payments of one hundred dollars. The NCP has paid for the last few months, but owes a back debt of over six hundred dollars. This NCP is at least six months in arrears;

(c) The NCP owes a support debt according to a ~~((superior court))~~ judgment, which requires payments of one hundred dollars per month. The NCP has not made payment for eight months. This NCP is at least six months in arrears; or

(d) The child support order required monthly payments of two hundred dollars, but the child is over eighteen so no current support is owed. However, the NCP has a debt of over twelve hundred dollars. This NCP is at least six months in arrears.

~~((4))~~ (6) For the purposes of the license suspension program, a NCP is in compliance with the child support order when the amount owed in arrears is less than six months' worth of support.

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

WAC 388-14A-4515 How do I avoid having my license suspended for failure to pay child support? (1) After service of the notice of noncompliance, DCS stays certification action if the noncustodial parent (NCP) takes the following action within twenty days of service of the notice:

(a) Requests an administrative hearing under WAC 388-14A-4530; or

(b) Contacts DCS to negotiate a reasonable payment schedule on the arrears and agrees to make timely payments of current support.

(i) The stay for negotiation may last a maximum of thirty calendar days after the NCP contacts DCS; and

(ii) If no payment schedule has been agreed to in writing after thirty calendar days have passed, DCS may proceed with certification of noncompliance;

(iii) A reasonable payment schedule is described in WAC 388-14A-4520, below; and

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(iv) The NCP may request a conference board review under WAC 388-14A-6400 if the NCP feels that DCS has not negotiated in good faith.

(2) If the NCP files a court or administrative action to modify the child support obligation, DCS stays the certification action.

(3) The stay for modification action may not exceed six months unless DCS finds good cause to extend the stay.

(4) The NCP must notify DCS that a modification proceeding is pending and must provide a copy of the motion or request for modification to DCS.

(5) A stay of certification does not require DCS to withdraw the notice of noncompliance.

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

WAC 388-14A-4520 Signing a repayment agreement may avoid certification for noncompliance. (1) If a noncustodial parent (NCP) signs a repayment agreement, DCS stays the certification action. The NCP must agree to pay current support in a timely manner and make regular payments on the support debt.

(2) The repayment agreement must state that if the NCP fails to make payments under the terms of the agreement, DCS may resume certification action.

(3) The signing of a repayment agreement does not require DCS to withdraw the notice of noncompliance.

(4) In setting the repayment amount, DCS must take into account the financial situation of the NCP and the needs of all children who rely on the NCP for support. The NCP must supply sufficient financial information to allow DCS to analyze and document the NCP's financial situation and requirements, including normal living expenses and emergencies.

~~((4))~~ (5) A reasonable monthly arrear payment is defined as a percentage of the NCP's "adjusted net income," which is the NCP's net monthly income minus any current support obligation. The following table sets forth the suggested monthly payments on arrears:

Monthly adjusted net income (ANI)	Monthly arrear payment = Percentage of ANI
\$1,000 or less	2%
\$1,001 to \$1,200	3%
\$1,201 to \$1,500	4%
\$1,501 to \$1,900	5%
\$1,901 to \$2,400	6%
\$2,401 to \$3,000	7%
\$3,001 or more	8%

~~((5))~~ (6) Examples of how to calculate the arrear payment are as follows:

(a) Monthly net income	=	\$1,500
Current support	=	\$300
Adjusted net income	=	\$1,200
Arrears payment = 3% of ANI (\$1,200)	=	\$36

(b) Monthly net income	=	\$3,100
Current support	=	\$-0-
Adjusted net income	=	\$3,100
Arrears payment = 8% of ANI (\$3,100)	=	\$248

~~((6))~~ (7) The NCP must document any factors which make the NCP eligible for an arrear payment less than the amount shown in the table in subsection ~~((4))~~ (5). Such factors include, but are not limited to:

- (a) Special needs children, or
- (b) Uninsured medical expenses.

~~((7))~~ (8) The custodial parent and/or DCS must document any factors which make the NCP eligible for an arrear payment higher than the amount shown in the table in subsection ~~((4))~~ (5). Such factors include, but are not limited to the factors listed in RCW 26.19.075 for deviation from the standard calculation for child support obligations.

(9) If the NCP signs a repayment agreement under this section under the circumstances spelled out in WAC 388-14A-4510 (2) or (3), the NCP may make voluntary payments but DCS does not resume certification action until thirty days after NCP is released or stops receiving public assistance.

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

WAC 388-14A-4525 How to obtain a release of certification for noncompliance. (1) After DCS has certified a noncustodial parent (NCP) to a licensing entity, the NCP may obtain a release from DCS by taking the following actions:

- (a) Paying the support debt in full; or
- (b) Signing a repayment agreement under WAC 388-14A-4520 and paying the first installment due under the agreement. Signing a repayment agreement does not require DCS to withdraw the notice of noncompliance.

(2) DCS must provide a copy of the release to any licensing entity to which DCS has certified the NCP.

(3) The NCP must comply with any requirements of the licensing entity to get the license reinstated or reissued.

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

WAC 388-14A-4530 Administrative hearings regarding license suspension are limited in scope. (1) An administrative hearing on a notice of noncompliance under WAC 388-14A-4505 is limited to the following issues:

- (a) Whether the person named in the child support order is the noncustodial parent (NCP);
- (b) Whether the NCP is required to pay child support under a child support order; and
- (c) Whether the NCP is at least six months in arrears.

(2) The administrative law judge (ALJ) is not required to calculate the outstanding support debt beyond determining whether the NCP is at least six months in arrears. Any debt calculation shall not be binding on the department or the NCP beyond the determination that there is at least six months of arrears.

(3) If the NCP requests a hearing on the notice, DCS stays the certification process until the hearing results in a finding that the NCP is not in compliance with the order, or that DCS is authorized to certify the NCP.

(4) If the NCP requests a hearing on the notice of non-compliance under the circumstances spelled out in WAC 388-14A-4510 (2) and (3), DCS asks the office of administrative hearings to schedule a hearing. If the hearing results in a finding that the NCP is not in compliance with the order, or that DCS is authorized to certify the NCP, DCS stays the certification process until thirty days after the NCP is released or stops receiving cash public assistance.

WSR 03-15-029
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed July 9, 2003, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-055.

Title of Rule: WAC 139-05-200 Requirement of basic law enforcement training.

Purpose: The change would provide consistency in training requirements for fully commissioned officers to attend the Basic Law Enforcement Academy. Currently, officers who are fully commissioned but work only part time are not required to attend the basic academy; however, they exercise the same authority as fully commissioned, full-time officers.

Statutory Authority for Adoption: RCW 43.101.080.

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

Name of Agency Personnel Responsible for Drafting and Enforcement: Doug Blair, Burien, (206) 835-7309; 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: It is believed that the impact of this change will not be significant to the Washington State Criminal Justice Training Commission (WSCJTC). The exact number of officers, who are fully commissioned and employed as part-time officers, is unknown at this time. The WSCJTC will conduct a survey to determine the exact impact in the near future.

Proposal Changes the Following Existing Rules: The change would provide consistency in training requirements for fully commissioned officers to attend the Basic Law Enforcement Academy. Currently, officers who are fully commissioned but work only part time are not required to attend the basic academy; however, they exercise the same authority as fully commissioned, full-time officers.

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 September 10, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by September 8, 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 September 8, 2003.

Date of Intended Adoption: September 10, 2003.

June 16, 2003

Sharon M. Tolton
Deputy Director

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

WAC 139-05-200 Requirement of basic law enforcement training. (1) All ((full-time)) commissioned law enforcement employees of a city, county, or political subdivision of the state of Washington, except volunteers and reserve officers whether paid or unpaid and officers of the Washington state patrol, unless otherwise exempted by the Washington state criminal justice training commission, shall as a condition of continued employment successfully complete a basic law enforcement academy sponsored or conducted by the commission, or obtain a certificate of equivalent basic training from the commission. This requirement of basic law enforcement training shall be met within the initial six-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) of this section shall include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979;

(b) Auxiliary and reserve personnel; and

(c) Commissioned personnel.

(i) Who have been granted an administrative exemption by the commission, provided that the initial grant and continuing effect of such exemption shall be governed by the following:

(A) No police chief or sheriff of any agency with ten or fewer commissioned officers shall be eligible to receive such exemption;

(B) Any request for such exemption shall be submitted to the commission on an approved form with a criminal records check completed by the Washington state patrol and, in any instance wherein the requestor is a police chief, such request shall be cosigned by requestor's appointing authority;

(C) Any individual receiving such exemption may not engage in patrol or other general enforcement activity on a

usual or regular basis but shall limit such involvement to that required for supervision, agency management, or manpower replacement on an emergency or exigent basis;

(D) Any approved administrative exemption shall remain in effect for the duration of the exemptee's term of service within the position upon which such exemption is based or until the nature of exemptee's primary duties and responsibilities change from administrative to general enforcement; and

(E) Any approved administrative exemption may be revoked by the commission at any time upon its finding that the conditions of such exemption are not being met or the basis for such exemption no longer exists;

(ii) Whose initial date of full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978; or

(iii) Who have been certified in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four months duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, except the Washington state patrol, shall immediately notify the commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency. Such notification shall be maintained by the commission and shall be utilized by the commission for the subsequent scheduling, notification and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of noncompliance, by the commission, on approved form, to:

- (a) The individual in noncompliance;
- (b) The head of his/her agency;
- (c) The civil service commission having jurisdiction of such agency;
- (d) The judges and clerks of the municipal, district, and superior courts in which said agency is located;
- (e) The state auditor's office; and
- (f) Any other agency or individual, as determined by the commission.

WSR 03-15-030
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed July 9, 2003, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-056.

Title of Rule: WAC 139-05-925 Requirement of basic training for railroad police officers.

Purpose: The change is necessary for the recognition of railroad police officers whose duties are primarily adminis-

trative in nature; not enforcing the laws or apprehending criminal suspects.

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: Doug Blair, Burien, (206) 835-7309; 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: Impact is minimal. Per WAC 139-05-200 [(2)](c) (i), this process would allow an administrative exemption, at the request of the applicant, and after review and recommendation by the staff. Approval of such requests will be by the commission at the regularly scheduled commission meetings.

Proposal Changes the Following Existing Rules: The change is necessary for the recognition of railroad police officers whose duties are primarily administrative in nature; not enforcing the laws or apprehending criminal suspects.

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 September 10, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sonja Hirsch by September 8, 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 September 8, 2003.

Date of Intended Adoption: September 10, 2003.

June 16, 2003

Sharon M. Tolton

Deputy Director

AMENDATORY SECTION (Amending WSR 02-02-004, filed 12/20/01, effective 1/20/02)

WAC 139-05-925 Requirement of training for railroad police officers. (1) For the purpose of this regulation, the term "railroad police" means any individual appointed by the commission under the provisions of RCW 81.60.010 through 81.60.060.

(2) Effective January 1, 2002, as a precondition of any newly appointed railroad police officer to enforce the laws of this state, railroad police shall:

(a) Possess the commission's basic certificate, or in the alternative have successfully completed training and possess

a basic certification from another state. In the event certification and training are from another state, the newly appointed railroad police officer must satisfactorily complete the equivalency course approved by the commission, within the first six months of employment.

(b) The above requirements do not apply to railroad police officers appointed prior to January 1, 2002; however, they may, if qualified, attend the equivalency academy.

(c) Railroad police officers whose primary duties are those of administration of other railroad police officers may request an administrative exemption from the above training requirements. Administrative exemptions may be granted by the commission provided that the initial grant and continuing effect of such exemption shall be governed by the provisions of WAC 139-05-200 (2)(c)(i).

(3) It shall be the responsibility of the railroad police officer's employing agency to effect and ensure personnel compliance herein, and provide necessary records, proof of background check information upon request of the commission to which the employing agency shall be accountable for purposes of compliance.

(4) The corporation requesting appointment of a railroad police officer shall bear the full cost of training or any other expenses.

WSR 03-15-032
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 9, 2003, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-103 on March 20, 2002.

Title of Rule: Chapter 296-307 WAC, Cholinesterase monitoring.

Purpose: The Department of Labor and Industries (L&I) has begun this rule-making effort at the direction of the Washington State Supreme Court following a successful lawsuit by farm workers who were exposed to the hazard posed by organophosphate and N-methyl-carbamate cholinesterase-inhibiting pesticides. See *Rios v. Dep't of Labor and Indus.*, 145 Wn.2d 483, 39 P.3d 961 (2002). The proposed rule would apply to all agriculture employers and workers covered by chapter 296-307 WAC, which includes the pesticide worker protection standard, WAC 296-307-107. The department currently has a set of voluntary cholinesterase monitoring recommendations in place, since 1993. See WAC 296-307-14520.

Chapter 296-307 WAC, Part J-1 - Cholinesterase Monitoring.

- Create this part to include requirements relating to cholinesterase monitoring.

WAC 296-307-14520 What are the departments recommendations for cholinesterase monitoring? (Nonmandatory).

- Requirements relating to cholinesterase monitoring have been moved to WAC 296-307-148 through 296-307-14845.
- Repeal this section.

WAC 296-307-148 Scope and summary.

- Create this section explaining the scope of this part.
- Add a table of contents/summary page relating to cholinesterase monitoring.

WAC 296-307-14805 Maintain handling records for covered pesticides.

- Create this section requiring the maintenance of records for employees handling category I or II organophosphate or N-methyl-carbamate pesticides and retain those records for seven years.
- Ensure the records are readily accessible to employees and their designated representatives.

WAC 296-307-14810 Implement a medical monitoring program.

- Create this section relating to implementing a medical monitoring program for employees who handle class I or II organophosphate or N-methyl-carbamate pesticides according to the following schedule.
 - Effective January 15, 2004, monitoring is required for employees who handle organophosphate or N-methyl-carbamate pesticides for fifty hours or more in any consecutive thirty-day period.
 - Effective January 15, 2005, monitoring is required for employees who handle organophosphate or N-methyl-carbamate pesticides for thirty hours or more in any consecutive thirty-day period.
- Add language relating to the department may adjust the threshold for coverage of employees under this chapter on January 15, 2005, based on analysis of medical monitoring data collected during 2004.
- Add language indicating that nothing in this rule prohibits employers from providing cholinesterase monitoring to employees who handle organophosphate or N-methyl-carbamate pesticides for fewer hours than specified in Table 1.

WAC 296-307-14815 Identify a physician or other licensed health care professional.

- Create this section relating to identifying a physician or other licensed health care provider (LHCP) that will:
 - Provide baseline and periodic cholinesterase testing.
 - Interpret tests and make recommendations.
- Add language relating to making sure the physician is familiar with the requirements of this rule.
- Add language relating to posting the medical provider's information.
- Add language relating to employers are required to obtain copies of employees test results and written recommendations from the physician or LHCP, and these

records must be maintained according to the requirements of WAC 296-307-14830 of this chapter.

WAC 296-307-14820 Make cholinesterase testing available.

- Create this section relating to arranging for employees to receive medical monitoring (at no cost to employees and at a reasonable time and place) as follows:
 - Annual red blood cell (RBC) and plasma cholinesterase baseline tests that are taken at least thirty days after the employee last handled organophosphate or N-methyl-carbamate pesticides.
 - Periodic RBC and plasma cholinesterase testing conducted within three days after meeting the exposure levels in Table 1 or at least every thirty days during the pesticide application season.
- Include in this section two exemptions that read, "You do not need to provide baseline or periodic testing for those employees whose work exposure is limited to handling only N-methyl-carbamate pesticides." Also "You do not need to provide periodic testing beyond the baseline for those employees whose handling hours do not exceed the exposure thresholds in Table 1, if you do not count time spent mixing and loading using closed systems, as defined in WAC 296-307-13045 (4)(d)."
- Add language relating to previous baselines may be accepted for new employees if they are obtained according to this rule.
- Add language relating to the thirty consecutive day period begins on the first day handling of covered pesticides occurs after obtaining the baseline cholinesterase test.
- Add language relating to obtaining a "working baseline" for employees as soon as possible for employees who initially declined cholinesterase testing.
- Create this section relating to obtaining a signed declination form from the medical provider or LHCP if an employee declines cholinesterase testing.

WAC 296-307-14825 Respond to depressed cholinesterase levels.

- Create this section relating to responding to an employee's depressed cholinesterase levels by taking described actions and following the medical provider's occupational health recommendations.
- Add language relating to employees being restricted from handling or other work exposures to organophosphate or N-methyl-carbamate pesticides during the medical removal period.

WAC 296-307-14830 Provide medical removal protection benefits.

- Create this section relating to medical removal benefits being provided for a maximum of three months on each occasion an employee is temporarily removed from work or assigned to other duties due to depressed cholinesterase levels.

WAC 296-307-14835 Maintain medical monitoring records.

- Create this section relating to maintaining accurate medical records for all covered employees.
- Add language relating to maintaining medical monitoring records for seven years.
- Add language relating to ensuring that employee medical records being readily accessible.
- Add language relating to an employer may contract with the medical provider to maintain the records.

WAC 296-307-14840 Provide training.

- Create this section relating to training about possible hazards of organophosphate and N-methyl-carbamate pesticide exposure.
- Add language relating to providing training before employees receive medical monitoring.
- Add language relating to training required by this rule may be combined with other pesticide handler training.

WAC 296-307-14845 Implementation plan.

- Propose that the department will implement this rule by doing the following:
 - Organize a scientific team to oversee collection and analysis of data collected during 2004 and 2005.
 - Establish a cholinesterase stakeholder advisory committee to evaluate issues related to rule implementation and provide recommendations to the department.
 - Evaluate the data collected during 2004 and make modifications to the rule as appropriate.
 - Make efforts to defray the costs of medical testing during 2004.
 - Prepare and distribute provider guidelines.
 - Develop and make available a model employee training program.
 - Publish a list of providers and certified laboratories on the internet.
 - Coordinate record-keeping requirements with the Department of Agriculture.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, 49.17.240.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: L&I has begun this rule-making effort at the direction of the Washington State Supreme Court following a successful lawsuit by farm workers who were exposed to the hazard posed by organophosphate and N-methyl-carbamate pesticides. The proposed rule would apply to all agriculture employers and workers covered by the WISHA Safety standards for agriculture, chapter 296-307 WAC, and the pesticide worker protection standard, WAC 296-307-107.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of state court decision, *Rios v. Dep't of Labor and Indus.*, 145 Wn.2d 483, 39 P.3d 961 (2002) directed the agency to initiate rule making.

Explanation of Rule, its Purpose, and Anticipated Effects: L&I has begun this rule-making effort at the direction of the Washington State Supreme Court following a successful lawsuit by farm workers who were exposed to the hazard posed by organophosphate and N-methyl-carbamate pesticides. The proposed rule would apply to all agriculture employers and workers covered by the WISHA Safety standards for agriculture, chapter 296-307 WAC, and the pesticide worker protection standard, WAC 296-307-107. L&I has had a set of voluntary cholinesterase monitoring recommendations in place since 1993, WAC 296-307-14520.

Cholinesterase levels in the blood (red blood cell and plasma cholinesterase) are measured using a simple laboratory blood test. Periodic tests taken throughout the pesticide application season are compared to an individual's normal baseline cholinesterase levels. Baseline levels are determined annually before the pesticide application season begins.

Proposal Changes the Following Existing Rules: The purpose of this rule making is to:

- Protect the health and safety of pesticide handlers.
- Increase hazard awareness.
- Identify unsafe work practices and trigger interventions.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

EXECUTIVE SUMMARY

Background: If adopted, this proposed rule would require employers of agricultural pesticide handlers using toxicity category I or II organophosphate or N-methyl-carbamate cholinesterase-inhibiting pesticides ("covered pesticides" from this point forward) to take the following steps:

- To record the number of hours employees spend handling covered pesticides;
- To provide training regarding covered pesticides and medical monitoring to employees handling covered pesticides above a designated level;
- To make medical monitoring available to employees handling covered pesticides above a designated level;
- To make such monitoring and training available to employees handling covered pesticides more than fifty hours in any consecutive thirty day period the first year, and to employees handling such pesticides more than thirty hours beginning the second year;
- To investigate work practices when a handler's red blood cell (RBC) or plasma cholinesterase level drops more than 20% below the employee's personal baseline;
- To remove an employee handling covered pesticides from exposure when his or her RBC cholinesterase level drops more than 30% below the personal baseline or plasma cholinesterase level drops more than 40%

below the personal baseline (and until levels return to within 20% of the personal baseline);

- To protect an employee's wages and benefits for up to three months if an employee is removed from exposure.

The rule also specifically provides for a review of experience after the first year to determine whether the second-year thresholds should be adjusted, and a further review after the first year to determine whether any other adjustments should be made.

The Department of Labor and Industries (L&I) has initiated this rule making as required by the Supreme Court of the state of Washington in *Juan Rios and Juan Farias v. Washington Department of Labor & Industries, et al.*, 145 Wn.2d 483, 39 P.3d 961 (2002). In preparing this proposal, L&I worked with a stakeholder advisory group consisting of agriculture worker representatives, growers, other government agencies, and scientific community representatives. L&I also conducted public meetings around the state to gather information.

Overall Impact: Overall, L&I expects the record-keeping requirements of the rule to apply to an estimated 4800 handlers employed by 1700 businesses. Of these, the rule will require that medical monitoring be offered to an estimated 1100 handlers in the first year and an estimated 3000 handlers beginning in the second year. The department estimates a total cost of just over \$925 thousand for the first year and just over \$2 million beginning in the second year. After adjusting the costs for each year to reflect the current value of the money (the "net present value") to provide a consistent basis for comparison, the total two-year cost of the rule for all affected employers will be an estimated \$2.8 million.

Analysis for Disproportionate Impact on Small Business: To examine possible disproportionate impacts on small businesses affected by the proposed rule, L&I analyzed the rule's effect on employers who used the covered pesticides in three categories, identified using standard industrial classifications (SIC): Professional applicators (SIC 0721); orchardists (SIC 0175); and other growers (SIC 0111, 0115, 0119, 0134, 0139, 0161, 0171, 0172, 0811). In each case, L&I relied upon data from an employer survey and other available information to develop the most likely cost estimate, located centrally within a range of possible costs.

L&I then compared the estimated costs to small employers with the costs to the largest 10% of employers within each industry sector to identify any disproportionate economic impacts.¹ Table 1 summarizes the findings of the Small Business Economic Impact Statement, which is described in more detail below.

Table 1: Central Cost Estimates by Industry Sector

	First Year		Second Year	
	Per Firm	Per Handler	Per Firm	Per Handler
Professional Applicators				
Small Business	\$892	\$517	\$1218	\$706
Largest 10 Percent	\$4532	\$504	\$5511	\$612
Small+/- Larger		+2.6%		+15.4%
Orchardists				
Small Business	\$346	\$169	\$956	\$466

PROPOSED

Largest 10%	\$1786	\$205	\$4034	\$463
Small+/- Larger		-17.6%		+0.6%
Other Growers				
Small Business	\$217	\$165	\$315	\$239
Largest 10%	\$553	\$144	\$1023	\$267
Small+/- Larger		+14.6%		-10.5%

Based on this information, there appears to be a disproportionate impact on small business in the professional applicator sector, beginning in the second year (although the combined two-year net present value analysis of the impact is less conclusive, as discussed in more detail in the "Conclusions" section that begins below). In the other growers sector, there is a disproportionate impact in the first year alone, apparently because of a relatively small distribution of small businesses who are moderate users of the covered pesticides. However, from the second year forward, the relative impact is greater on large businesses in the other growers sector. In orchards, there does not appear to be a large enough variation to describe it as a disproportionate impact.

Because L&I recognized the possibility of a disproportionate impact in one or more sectors, the proposed rule contains several mitigations to reduce the impact of the rule on small businesses without compromising worker protection. In addition to the mitigations reflected by the rule proposal itself, L&I will take additional steps to further mitigate the impacts. Both sets of mitigations are outlined in the "Conclusions" section.

In two of the industry sectors (orchardists and other growers), the relative impact on small business would be substantially lower if the analysis reflected those businesses who do not use covered pesticides and therefore will not be affected by the rule in any way.

BACKGROUND INFORMATION

In the context of this analysis and unless clearly used otherwise, "pesticide" refers to toxicity category I or II organophosphate or N-methyl-carbamate cholinesterase-inhibiting pesticides and "handler" refers to any employee who is a pesticide handler as defined in WAC 296-307-11005 (the pesticide worker protection standard) and who is handling such pesticides.

Previous Regulatory and Legal Activity. In 1993, after evaluating the feasibility and benefits of cholinesterase monitoring coupled with the protections then being adopted as part of the pesticide worker protection standard (WAC 296-307-107, known as chapter 296-307 WAC, Part I), the Washington State Department of Labor and Industries (L&I) adopted a recommendation for cholinesterase monitoring in agriculture (WAC 296-307-14520). The recommendation included baseline and periodic red blood cell (RBC) and plasma cholinesterase testing for workers handling organophosphate or N-methyl-carbamate pesticides for thirty or more hours in any thirty-day period.

In 1997, L&I was asked to require cholinesterase monitoring. L&I declined to do so, leading to legal action to require L&I to act. In 2002, the Supreme Court of the state of Washington required L&I to initiate such rules in *Juan Rios and Juan Farias v. Washington Department of Labor &*

Industries, et al., 145 Wn.2d 483, 39 P.3d 961 (2002). This proposed rule is a result of that decision. To assist in the development of this proposal, L&I formed an advisory group consisting of agriculture worker representatives, growers, other government agencies, and scientific community representatives. L&I also conducted public data-gathering meetings around the state. Both the public meetings and the grower associations included on the advisory group included representatives of small businesses that would be affected by the proposed rule.

Cholinesterase-Inhibiting Pesticides. Organophosphate and N-methyl-carbamate pesticides act to inhibit the activity of the enzyme acetylcholinesterase (AChE). AChE aids in regulation of the nervous system by removing the neurotransmitter acetylcholine from neuronal junctions and target receptor sites (for example, a muscle or gland). Exposure to these pesticides can lead to an accumulation of acetylcholine that could result in the overstimulation of an individual's nervous system. Common symptoms of such cholinergic poisoning include increased sweating, blurred vision, diarrhea, tremors and malaise. Severe exposures may result in pulmonary edema, respiratory distress, seizures, loss of consciousness, and death.

Organophosphate and N-methyl-carbamate pesticides share a common mechanism of toxicity. Both bind with AChE and prevent destruction of acetylcholine. The major difference between organophosphate and N-methyl-carbamate pesticides is that the phosphate bond persists for days and may become permanent, while the carbamate bond may last for as little as thirty minutes to twenty-four hours. In general, regeneration (replacement) of permanently bound AChE is measured at the rate that AChE is synthesized in the blood stream (approximately 1% per day).

While the inhibition of AChE by organophosphate pesticides lasts much longer, the physiologic consequences of poisoning by organophosphate and N-methyl-carbamate pesticides are the same. Overlapping exposures to the two categories of pesticides can result in an accumulation of toxic effects. Symptoms of poisoning are often self-limited, with normal function returning as bound AChE regenerates and new enzyme is synthesized in the body.

Cholinesterase Monitoring. Cholinesterase monitoring most commonly involves measuring the activity of both red blood cell (RBC) and plasma cholinesterase. Both enzymes have been shown to act as surrogates for AChE activity in the nervous system. RBC cholinesterase is the same AChE found in the nervous system and is thought to better reflect effects on nervous system AChE than plasma cholinesterase. Monitoring both RBC and plasma cholinesterase enzymes provides a more complete clinical picture of exposure to covered pesticides.

Exposure to cholinesterase-inhibiting pesticides also can be evaluated by direct measurement of pesticide in the blood or by measuring pesticide metabolites in the urine. Both methods present problems that make them less desirable monitoring methods. Urine metabolites begin being secreted in the urine almost immediately and may disappear within forty-eight - seventy-two hours. Detection of pesticides in the blood requires specific laboratory assays for each pesti-

cide, thus requiring many different analytical methods. While both methods detect pesticide exposure, neither provides information on worker's physiologic response. Given the limitations of other monitoring methods, measurement of blood cholinesterase levels provides the most practical and efficient method for monitoring cholinesterase activity and identifying possible overexposures. However, the limitations of this method require that certain practical considerations be addressed.

Blood cholinesterase measurement is subject to intra- and interpersonal variability. Because of expected intrapersonal variability, the proposed rule does not require a response until a meaningful reduction has been identified. Because of interpersonal variability, there is no "normal" cholinesterase level. This means that effective monitoring depends upon a periodic comparison of an individual's cholinesterase levels to a personal baseline value established for that individual prior to exposure.

Several laboratory methods for measuring cholinesterase activity levels are available. Of these, the electrometric and colorimetric methods are most often used. Both methods are effective for RBC and plasma cholinesterase testing. Because these methods use different systems to report results it is difficult to compare tests between methodologies. Even though there are conversion equations available between different reporting systems, these equations are not always reliable. For this reason, the proposed rule addresses this issue by requiring that the same laboratory using the same method analyze each individual's baseline and periodic tests.

SUMMARY OF THE PROPOSED RULE

All analysis and conclusions contained in this small business economic impact statement are based on the following requirements of the proposed rule:

1. The employer will be required to keep records of all employee handling of covered pesticides, and retain those records for seven years.

2. Cholinesterase monitoring (RBC and plasma cholinesterase) will be required for employees who handle covered pesticides for fifty or more hours in any consecutive thirty-day period beginning January 15, 2004, and for thirty or more hours in any consecutive thirty-day period beginning January 15, 2005.

3. Employers will be required to ensure that employees requiring medical monitoring will receive training that includes at a minimum:

- The human health hazards associated with exposure to organophosphate and N-methyl-carbamate pesticides.
- The purpose and requirements of cholinesterase monitoring.

4. Employers will identify a medical provider to provide (at no cost to the employee, and at a reasonable time and place) baseline and periodic testing, interpretation of test results, and recommendations resulting from those test results.

5. Employees may choose to decline cholinesterase testing after receiving training and consulting with the medical provider.

6. Preexposure baseline testing will be conducted annually.

7. Employers whose employees handle only N-methyl-carbamate pesticides will be exempt from the requirement to offer those employees cholinesterase testing.

8. Hours spent mixing and loading using closed systems (as described in WAC 296-307-13045 (4)(d)) will not be counted as exposure hours for the purposes of periodic testing, but will be included for the purposes of baseline testing.

9. Periodic testing will be required within three days of meeting the designated exposure thresholds or at least every thirty days while exposure is expected to exceed thresholds.

10. Cholinesterase depressions will require the following employer actions:

- A depression of more than 20% from the employee's personal baseline will require the employer to conduct a work practice investigation.
- An RBC cholinesterase depression of more than 30% or more from the personal baseline or a plasma cholinesterase depression of more than 40% from the personal baseline will require the employee to be temporarily removed from organophosphate and N-methyl-carbamate exposure and the employer to conduct a work practice investigation.
- An employee removed from exposure will not be allowed to return to handling covered pesticides until his or her cholinesterase levels are within 20% of the personal baseline.

11. Medical removal protection, for up to three months, will be made available to employees removed from handling duties due to cholinesterase depression.

12. The employer must maintain (or contract with the provider to maintain) monitoring and related medical records for seven years.

The proposed rule would be part of the agriculture standard adopted under the Washington Industrial Safety and Health Act (WISHA)² and, as such, would apply to all agricultural activity in the state where covered pesticides are used.

EMPLOYER SURVEY

The department designed a survey instrument to help ascertain the probable impacts of the proposed rule. The Washington State Department of Agriculture (WSDA) was consulted to determine the types of crops where use of the pesticides in question was most prevalent in order to focus the survey on selectively targeted industry sectors. The firms in each sector were identified from L&I's workers' compensation database using a random sample in each of the affected industries. The industries targeted in the survey, with their associated standard industrial classification (SIC), are as follows:

- SIC 0134 All potatoes except yams.
- SIC 0139 Field crops: Hay, alfalfa, hops, mint, etc.
- SIC 0171 All berry crops.
- SIC 0172 Grapes.
- SIC 0175 Deciduous fruit trees.

- SIC 0711 Only professional pesticide applicators contacted.
- SIC 0721 Only soil fumigators in this SIC contacted.
- SIC 0811 Timber tracts, Christmas tree growing, tree farms.

The following sectors were among those not targeted in the survey because use of covered pesticides was expected to be minimal³:

- SIC 0111 Wheat.
- SIC 0115 Corn.
- SIC 0119 Grains not elsewhere classified.
- SIC 0161 Vegetables.

Due either to misclassification when the employer's original account was created or to a change in crop composition after the account was established, some firms in the above industries were included in the survey. Furthermore, some of those firms reported that they used covered pesticides at levels that would trigger monitoring by the rule. Based on the information provided, their SICs were corrected, and they were included in the analysis.

This survey data was organized into the following sectors for analysis:

- SIC 0721 (professional applicators) was analyzed separately because of its unique characteristic of contracting for other sectors.
- SIC 0175 (orchards) was analyzed separately because of its unique characteristics of being the heaviest user of pesticides in agriculture.
- SICs 0111, 0115, 0119, 0134, 0139, 0161, 0171, 0172, and 0811 (henceforth called 'other growers') were analyzed together as they were found to be less frequent users of pesticides than the orchard industry. Furthermore, due to the low number of respondents in these sectors, greater statistical reliability is achieved by aggregation.

The Gilmore Group, based in Seattle, Washington, conducted a phone survey in February and March 2003 using lists of large and small agricultural businesses by SIC provided by the department. The Gilmore Group randomly selected specified numbers of businesses in each subcategory. The *key* questions asked of the survey participants were as follows:

- 1) Do you use pesticides in your business?
- 2) What are the four main crops grown by your business and their associated acreages (growers only)?
- 3) In a typical growing season, how many handlers do you have that handle these pesticides?
- 4) What is the average hourly wage of these handlers?
- 5) Positive respondents to the question three were asked for the number of handlers handling pesticides for each month of the year at the following levels of exposure durations:
 - 30 to 60 hours
 - 61 to 100 hours
 - 101 or more hours
- 6) Do you currently conduct cholinesterase monitoring of your handlers that handle pesticides?
- 7) What were the results of the monitoring?

8) Are reassignment positions available for handlers removed from pesticide handling for up to sixty days?

9) How far is your business from the nearest medical clinic or facility that you use?

10) To determine the probable firm response to the proposed rule by changing work assignment or making other modifications to fall below the monitoring threshold, the survey asked the following question: If the rule requiring mandatory cholinesterase monitoring of handlers is eventually adopted, please select the response or a combination of the following responses for how you plan on complying with the rule. Please listen to all the choices before answering.

a. Discontinue the use of these pesticides altogether on my crops.

b. Have owners or family members apply the pesticides.

c. Contract with a professional pesticide applicator and let them deal with the monitoring requirements.

d. Use regular handlers to handle the pesticides but have them handle the pesticides for time periods below the threshold that would trigger the medical monitoring requirement.

e. Use regular handlers over time periods above the threshold that would trigger the medical monitoring requirement and follow the medical monitoring requirements of the rule.

f. Other, please specify _____.

COST ESTIMATES AND ASSUMPTIONS BY CATEGORY

For each set of employer costs resulting from the proposed rule, L&I calculated costs using the data available from the survey and from other sources (as noted in the text), which L&I believes represent the best available data. In developing these costs, L&I used a set of reasonable assumptions to generate a most probable central value. In each case, alternative assumptions that would provide both a low and a high estimate are also provided. These assumptions are described in detail below and summarized in Table 5 below.

Number of Employees Affected: In each set of costs, one of the important assumptions for both the first and second year costs involves the number of handlers affected by the medical monitoring requirements of the rule. A number of factors must be considered in this determination.

First-year Coverage: When the phone survey was designed and executed, the medical monitoring thresholds to be included in the proposed rule had not been determined. Therefore data on monthly exposures in the following ranges were queried in the survey:

- 30 to 60 hours;
- 61 to 100 hours;
- and over 100 hours.

In addition, the survey responses identify the number of employees who handle pesticides but never exceed the thirty-hour threshold.

The proposed rule covers employees at fifty or more hours exposure in the first year and thirty or more hours during the second year. While the survey provides information directly applicable to the second year threshold, the first year costs must be extrapolated from the survey results based on reasonable assumptions about the number of employees who handle pesticides more than fifty but fewer than sixty hours.

PROPOSED

L&I used the available data to develop statistical models (one each for small business and the largest 10% of businesses). This allowed L&I to estimate the distribution in each industry sector in ten-hour increments, providing a central value for the fifty to sixty hour range. The low estimate was calculated at 75% of the central value, while the high estimate was calculated at 125% of the central value. This assumption has no effect on costs from the second year forward.

Inconsistent Survey Responses: Slightly fewer than 10% of the respondents gave inconsistent responses to the questions: "In a typical growing season, how many handlers do you have that handle these pesticides?" and "Number of employees handling pesticides 30-60 hours (61-100 or 100+) during (each) month." For example, if a firm reported a total of two handlers, but then later said that two handlers worked at both the 30-60 and 61-100 exposure levels in July, this would result in a total of four handlers in July, twice the total number of handlers the firm reported overall. In this example, L&I developed the central value by excluding the two users at the 30 to 60-hour interval, leaving two handlers at the 61 to 100 level as the most likely number. The low value reflects the same assumption, while the high value assumes that the sum of the monthly count (in this example 4) is the correct number. The alternative to this would be to discard the inconsistent data, which is inappropriate given the correctable nature of the probable error and the effect discarding such data would have on the ability to evaluate relative costs in the Commercial Applicator sector (where one of the three larger employers responding to the survey gave inconsistent responses).

Impact of Reduced Need for "Periodic Testing": The rule provides reduced requirements when handlers are using only carbamates. It may also reduce requirements when handlers use closed systems to mix and load. In such cases, the need for periodic testing (beyond the baseline) could be reduced or eliminated. However, L&I does not have reliable data on the degree to which either situation occurs, and even less ability to determine the degree to which it will occur if and when the rule is in place. Therefore, the current analysis assumes that all handling hours will be covered by the periodic testing requirement, which is likely to overstate the cost of the rule to at least some degree.

Impact in Shift of Pesticide Application Practices: Similarly, one of the questions on the survey asked about shifts in behavior or work assignment that would reduce the number of handlers affected by the medical monitoring requirements in the proposed rule. Although such a shift was predicted by a meaningful number of respondents (see Table 2), this analysis does not reflect the resulting reduction in employer costs. Instead, it treats the cost of the shift as essentially identical to the cost of complying without any change in work assignments.

This clearly overstates employer costs. Employers would not be likely to change unless they believed that the net cost of such a change would be lower than the cost of complying without such changes. However, no data is available to allow L&I to estimate the cost of the alternatives chosen by the respondents, making the conservative approach described above appropriate.

Table 2: Reported Change in Pesticide Application Practices (Survey Response)*

	Discontinue Pesticide Use	Owner or Family Will Apply	Use Professional Applicator	Keep Hours Below Threshold	No Change
Professional Applicators					
Small Business	0%	52%	0%	62%	7%
Largest 10%	0%	0%	0%	100%	33%
Orchardists					
Small Business	0%	54%	0%	49%	5%
Largest 10%	0%	4%	0%	61%	21%
Other Growers					
Small Business	5%	5%	43%	33%	10%
Largest 10%	8%	0%	8%	75%	17%

*Totals may exceed 100% because respondents were allowed to select more than one response.

Calculations of the number of handlers affected by the medical monitoring thresholds each month are discussed in "key data concepts" below.

Cost of Wages and Benefits: At several points, estimated wage costs are used. Estimated handler wages were calculated using employer responses to the survey to generate average wage estimates, as shown in Table 3.

Table 3: Average Hourly Wage Estimates (without benefits) by Industry Sector

	Small Business	Larger 10%
Professional Applicators	\$12.86	\$12.25
Orchardists	\$8.73	\$8.37
Other Growers	\$9.10	\$10.20

Estimated wage costs for managers, supervisors, and administrative/clerical staff were used to develop costs of recordkeeping and training.

In all cases, wage calculations have been adjusted to reflect the following additions to the basic wage.⁴

Federal Social Security/Medicare	7.65%
State Unemployment Insurance	3.61%
Federal Unemployment Insurance	0.80%
State Workers Compensation	3.72%
Total Adjustment for Benefits	15.78%

Based on the information available and the nature of the employment relationships, the analysis assumes that there will be no additional benefit costs (for example, resulting from employer-provided medical insurance or pension benefits).

Record-keeping Costs: The central estimate for the recordkeeping cost per firm is the sum of three components:

(1) Initial record-keeping setup costs, using materials generated by L&I and estimated by L&I at twenty minutes of a field foreman's time per business;

(2) Costs of recording the hours for pesticide handlers each month, estimated at fifteen minutes per-handler month recorded; and

(3) Minimal costs for record-keeping materials supplies.

- In the central estimate, the wage for the field foreman or other senior employee keeping records was estimated at \$20 per hour, plus 15.78% in benefits.
- The low estimate assumes that a lower paid administrative or clerical employee keeps the records at an estimated wage of \$12 per hour, plus 15.78% in benefits.
- The high estimate assumes that the owner or a manager keeps the records, with an estimated hourly wage of \$30, plus 15.78% average cost of benefits (although some of these benefit costs would not necessarily be paid if the records were being kept by the business owner).

Training Costs: Training costs consist of the sum of four components:

- (1) The cost of the trainer setting up the training;
- (2) The cost of the trainer to conduct the training;

- (3) The cost of the handler's time; and
- (4) Costs for training materials.

The analysis assumes that the field foreman (or equivalent) will be the trainer, and that he or she will spend one hour setting up the training and one-half hour conducting it. The employees will spend one-half hour each attending the training (handler wages are based on responses to the survey and are reflected in Table 3). Training material costs are estimated at \$10 per employer.

- The central estimate assumes that at least half (50%) of these employees will return in the second year, based on consistent descriptions of these workers in stakeholder and public meetings as being "highly valued" and "stable" members of the employer's workforce. This will reduce second year training costs accordingly (and would also mean that costs in future years would be somewhat lower than those in the second year). It also assumes that an employer's handlers can typically be trained as a group.
- The low estimate assumes that 75% of employees will be returning in the second year.
- The high estimate assumes that only 25% of employees will return in the second year. In addition, it assumes that the field foreman must train each employee separately, increasing his or her time spent providing the training.

Baseline Testing Costs: The baseline testing costs are the sum of the following:

- (1) Initial identification and selection of the medical provider;
- (2) Clinical fees (including an initial fee for first clinic visit by each handler);
- (3) Laboratory analysis costs;
- (4) Cost of handler wages;
- (5) Mileage.

The costs will also be affected by the employee participation rate and the number of employees who return to the employer in the second year.

Employee Participation: A certain number of employees can be expected to decline participation in the medical monitoring after discussing it with the medical provider. Employees who do not participate will eliminate the laboratory costs and the costs of clinical evaluation of the test.

- The central estimate assumes that the employee participation rate will be 85%, based on consistent advice from stakeholders anticipating a relatively high non-participation rate.
- The low estimate assumes a 75% employee participation rate.
- The high estimate assumes a 95% employee participation rate.

Returning Employees: Many employees will return to the same employer in later years. Such employees will not repeat the initial clinic visit in the second year (or in subsequent years).

- The central cost estimate assumes that 50% of the employees who receive a baseline in the first year will return to the same employer (and medical provider) in the second year.

PROPOSED

- The low estimate assumes that 75% of handlers will return in the second year.
- The high estimate assumes that only 25% of handlers will return in the second year.

Provider Costs: Medical provider costs have been developed based on a determination of the time necessary to identify and select a provider, as well as the provider's clinical fees. Based on information from medical providers, the analysis includes an estimated \$112 initial clinic fee for the first clinic visit for each employee, and an estimated \$38 clinical evaluation fee for each test.

- The central estimate assumes one hour of a manager's time would be necessary to identify and establish the relationship with a medical provider.
- The low estimate assumes that employers will be able to select from a meaningful number of medical providers identified and trained by L&I, reducing the manager's time in initial selection to one-half hour.
- The high estimate assumes that selection will take one hour of a manager's time.

Laboratory Costs: Estimated initial baseline test costs have been developed from data the department has collected from clinics and from employer responses to the survey.

- The central estimate reflects a belief that L&I will be able to negotiate lower laboratory costs for the first year, establishing a new benchmark for future analyses (the costs of which would be likely to decrease due to volume in any case). For this reason, the average reported costs for RBC and plasma ChE tests of \$60 with a \$10 handling fee have been estimated at \$45 and \$10 for the first year and \$50 and \$10 for the second year.
- The low estimate assumes that the second year laboratory analysis rate will remain at the estimated \$45 with a \$10 handling fee.
- The high estimate assumes that laboratory analysis costs will reflect the average current reported costs (\$60 with a \$10 handling fee).

Wage and Travel Costs: Mileage reimbursement and employee wages for all three estimates are based on responses to the employer survey.

Periodic Testing Costs: The periodic testing costs are the sum of the following:

- (1) Clinical fees;
- (2) Laboratory analysis costs;
- (3) Cost of handler wages;
- (4) Mileage.

The costs also will be affected by employee participation rates.

Employee Participation: Employee participation assumptions are explained under the baseline testing, above. Employees who do not participate will eliminate the costs of periodic testing.

Provider Costs: An estimated \$38 clinical evaluation fee would apply for each test.

Laboratory Costs: Estimated periodic test laboratory costs are identical to those explained under baseline testing, above.

Wage and Travel Costs: Mileage reimbursement and employee wages for all three estimates are based on responses to the employer survey.

Frequency of Monitoring: In all cases, the frequency of periodic monitoring is based on the monthly data reported by the employer survey. As discussed above, it has not been adjusted to reflect the reported changes in behavior or work assignment by employers to reduce the number of handlers reaching the threshold level.

Work Practice Investigation: While the proposed rule requires work practice investigations for handlers that have certain depressed cholinesterase levels found by periodic monitoring, this would not impose more than minimal costs on businesses. Employers are already required to be aware of hazardous conditions in their workplaces, and the monitoring results will actually provide them better information to meet their current obligations to identify and correct hazards.

Therefore, the costs of the specific requirement to analyze work practices following an identified depression will be minimal and are not otherwise reflected here.

Medical Removal Costs: The cost of medical removal is based on the time the employee is reassigned or removed from work completely, multiplied by the average wage and benefits. In order to calculate the cost of medical removal, it is necessary to estimate how frequently depressions requiring such removal will occur. It is also necessary to determine how frequently employees will be removed rather than reassigned to new duties. In addition, it is necessary to determine the "cost" of reassignment (as opposed to removal from useful work). In each case, it is necessary to determine how long removal will last when it does occur.

Frequency of Medical Removal: The California's Department of Pesticide Regulation found that 4.8% of workers tested had ChE values below the threshold level (Ames, et al., Cholinesterase Activity Depression Among California Agricultural Pesticide Applicators, American Journal of Industrial Medicine, 1989). The removal thresholds used in California at that time were 10% lower than those in the proposed Washington rule. However, the group was not necessarily representative of the exposures addressed by this rule.

In contrast, the seven Washington growers and one Washington applicator who reported in the survey that they conduct voluntary ChE testing reported no depressed ChE levels. This could have provided a basis for an even lower estimate of removal frequency. However, the details of this monitoring were not reported (number of handlers monitored, testing procedures and exposure durations triggering monitoring). Therefore, this data, while suggestive, cannot be assumed to be fully representative of the populations monitored if the proposed rule is adopted.

L&I reviewed this information and considered stakeholder comments about the increased use of closed systems, reductions in the use of the most hazardous pesticides, the more stringent worker protection requirements in place today compared to 1989, and the employer incentive to avoid the cost of removal created by the medical removal protection requirement itself. Based on this review, L&I has concluded that the 4.8% removal rate is a high range and that the likely range can be expected to approach half that rate.

PROPOSED

PROPOSED

- The central estimate assumes a 3.0% removal rate.
- The low estimate assumes a 1.2% removal rate.
- The high estimate assumes a 4.8% removal rate.

Additional Medical Tests: In all scenarios, the analysis assumes that two additional periodic tests will be required before the employee is restored to full work status.

Wage Costs: Employee average wages are based on employer survey information, calculated against an estimated fifty-five hour work week, which is based on stakeholder information about the length of the work week during peak seasons. In addition, the employer survey provides an estimate of the availability of jobs into which employees can be reassigned.

- For the central estimate, L&I assumes that when reassignment occurs another employee will be assigned the duties of the pesticide handler. The estimate also assumes the reported reassignment jobs have full value to the employer, so that the cost to the employer will be accurately reflected by an estimated \$2 per hour in additional wages to pay another worker to take on the higher level duties normally performed by the pesticide handler.
The central estimate also assumes that employees for whom reassignment jobs are not readily available will be removed entirely, requiring employers to pay their wages and benefits without receiving any offsetting reduction in other costs.
- The low estimate makes the same assumptions about the cost of reassignment but also assumes that many employers who do not have reassignment jobs readily available will find reassignment jobs to avoid absorb-

ing the complete cost of medical removal. Based on this assumption, and recognizing that such jobs are not likely to have full value to the employer, the low estimate reduces the cost of removing those employees by 25%.

- The high estimate assumes that the reported reassignment jobs have only minimal value to the employer and therefore calculates 75% of the reassigned employee's wages and benefits as a cost of compliance with the rule. It also assumes that employees for whom reassignment jobs are not readily available will be removed entirely.

Duration of Removal: The only clear indication for the estimated length of time for a medical removal period that could be found in the medical literature is an average of 3.5 weeks reported by Lessenger & Fillmore.³

In this study the results of data on one hundred workers who had ongoing cholinesterase monitoring were evaluated. Twenty-four workers were temporarily removed from exposure due to cholinesterase depression of greater than or equal to 40% for plasma cholinesterase or greater than or equal to 30% for RBC cholinesterase. These workers were returned to handling duties when their cholinesterase levels returned to within 20% of the baseline. The shortest time an employee was removed from exposure was one day. The longest removal period was one hundred nineteen days. Removing these outliers from the calculation, it is reasonable to expect a twenty-two day average removal period. This twenty-two day removal has been used for all scenarios.

Table 4 summarizes the various assumptions described in the preceding pages.

Table 4: Summary of Parameters of High-Central-Low Estimates

	High	Central	Low
Recordkeeper Wage	\$30 plus 15.78%	\$20 plus 15.78%	\$12 plus 15.78%
Trainer Wage	\$30 plus 15.78%	\$20 plus 15.78%	\$20 plus 15.78%
Training Format (Group or Individual)	Individual	Group	Group
Handlers Returning in 2nd Year	25%	50%	75%
Handler Participation in Medical Tests	95%	85%	75%
Laboratory Costs (1st Year)	\$70	\$55	\$55
Laboratory Costs (2nd Year)	\$70	\$60	\$55
Manager Time to Select Provider	1 hour	1 hour	1/2 hour
Medical Removal Rate	4.8%	3.0%	1.2%
Medical Removal (w/o Reassignment)	Wages plus 15.78%	Wages plus 15.78%	75% of wages plus 15.78%
Medical Removal (with Reassignment)	75% of wages plus 15.78%	\$2 plus 15.78%	\$2 plus 15.78%
Discrepancy Between Handler Counts	Use Monthly	Use Annual	Use Annual
Handlers in 50- to 60-hour Group (1st Year)	125% of Central Estimate	Estimated Distribution	75% of Central Estimate

KEY DATA CONCEPTS

Average number of employee months of pesticide handling per month (or year) for handlers exceeding threshold durations. This statistic is determined by aggregating the number of handlers monitored during any month of the year. For example, if a firm has six handlers exposed at the thirty-hour level in one month, then this results in six employee months of monitoring. If this happens in each of three months then this results in eighteen employee months of exposure. This is calculated for 30-60 and 60+ levels of exposure for small and large firms and by sector. This statistic is used to calculate the number of periodic tests for average size firms and to estimate the number of medically removed handlers (the use of the 60+ data to estimate exposures at the 50+ threshold in the first year is described above.

Table 5 shows the results of this calculation for each of the groups being analyzed.

	First Year		Second Year	
	Small	Large	Small	Large
Professional Applicators	2.91	17.81	4.10	22.00
Orchardists	0.97	6.99	4.08	18.96
Other Growers	0.32	1.24	0.68	3.33

L&I does not have survey or other direct data showing pesticide handling on a monthly basis for those firms not expected to exceed the thirty-hour threshold (which is relevant in estimating the record-keeping costs. However, the analysis assumes a monthly distribution similar to that found in the thirty to sixty hour range.

Small Company Considerations: Small businesses are defined by the Regulatory Fairness Act⁶ as businesses with fewer than fifty employees (more precisely, this analysis calculates the number of "employees" using full-time equivalents, or 2000 worker hours, as the best indicator of relative employer size). Costs for these small employers are compared to the costs for the largest 10% of all employers in each industry sector. In each sector, however, the largest 10% of employers includes at least some small businesses; in such cases, the employers who could have been counted in both groups were included in the largest 10% and excluded from the small business calculations.

CONCLUSIONS

Potential for Disproportionate Impact: Using a per covered handler comparison (as the most reasonable basis), L&I has analyzed the potential disproportionate impact⁷ on small businesses in each of the three industry sectors. Table 6 (identical to Table 1 in the executive summary) summarizes the findings for the first and second years the rule would be in effect.

Table 6: Central Cost Estimates by Industry Sector

	First Year		Second Year	
	Per Firm	Per Handler	Per Firm	Per Handler
Professional Applicators				
Small Business	\$892	\$517	\$1218	\$706
Largest 10%	\$4532	\$504	\$5511	\$612
Small+/- Larger		+2.6%		+15.4%
Orchardists				
Small Business	\$346	\$169	\$956	\$466
Largest 10%	\$1786	\$205	\$4034	\$463
Small+/- Larger		-17.6%		+0.6%
Other Growers				
Small Business	\$217	\$165	\$315	\$239
Largest 10%	\$553	\$144	\$1023	\$267
Small+/- Larger		+14.6%		-10.5%

Based on this information, there appears to be a disproportionate impact on small business in the professional applicator sector, beginning in the second year (although the combined two-year net present value analysis of the impact is less conclusive, as discussed in more detail below). In the other growers sector, there is a disproportionate impact in the first year alone, apparently because of a relatively small distribution of small businesses who are moderate users of the covered pesticides. However, from the second year forward, the relative impact is greater on large businesses in the other growers sector. In orchards, there does not appear to be a large enough variation to describe it as a disproportionate impact.

In two of the industry sectors (orchardists and other growers), the relative impact on small business would be even lower if the analysis reflected those businesses who do not use covered pesticides and therefore will not be affected by the rule in any way.

Table 7: Percentage of Employers With Employees Using Covered Pesticides at Any Level

	Small Business	Largest 10 %
Professional Applicators	94%	100%
Orchardists	39%	97%
Other Growers	22%	48%

The central cost analysis is presented in a somewhat different way in Table 8, which reflects the "net present value"⁸ impact of the proposed rule for a two-year period.

Table 8: Two-Year Cost Using Net Present Value (Central Estimate)

	Small Business	Largest 10%	Small+/- Larger
	Professional Applicators		
Per Firm	\$2014	\$9595	
Per Handler	\$1168	\$1066	+9.6%
Orchardists			
Per Firm	\$1237	\$5536	
Per Handler	\$603	\$635	-5.0%

PROPOSED

PROPOSED

Other Growers			
Per Firm	\$508	\$1501	
Per Handler	\$385	\$392	-1.8%

This NPV analysis appears to confirm that there is no disproportionate impact in the orchardists and other growers sectors, using the 10% comparison threshold (and the conclusion would be unchanged even if a much lower comparison threshold was used). Although the central two-year NPV calculation for professional applicators also finds a variation of just under 10% between small and larger businesses, the second-year costs of the rule are more indicative of future costs of the rule as proposed than are the first-year costs, which are based on a higher initial medical monitoring threshold. In addition, the high and low NPV estimates found in Tables 9 and 10 confirm a disproportionate impact in the professional applicators sector. For these reasons, L&I believes it appropriate to attempt further mitigation. And L&I will apply such mitigations across all three sectors, regardless of whether a disproportionate impact has been found in each case.

Tables 9 and 10 reflect the High and Low NPV Estimates, respectively.

Table 9: Two-Year Cost Using Net Present Value (High Estimate)			
	Small Business	Largest 10%	Small+/- Larger
Professional Applicators			
Per Firm	\$3205	\$16,751	
Per Handler	\$1603	\$1396	+14.8%
Orchardists			
Per Firm	\$1890	\$9335	
Per Handler	\$898	\$968	-7.2%
Other Growers			
Per Firm	\$767	\$2224	
Per Handler	\$496	\$494	+0.4%

Table 10: Two-Year Cost Using Net Present Value (Low Estimate)			
	Small Business	Largest 10%	Small+/- Larger
Professional Applicators			
Per Firm	\$1467	\$6601	
Per Handler	\$851	\$733	+16.1%
Orchardists			
Per Firm	\$947	\$4521	
Per Handler	\$461	\$519	-11.2%
Other Growers			
Per Firm	\$408	\$1275	
Per Handler	\$310	\$333	-7.0%

Mitigations of Apparent Disproportionate Impact on Small Business: L&I recognized the possibility of a disproportionate impact, and the proposed rule contains several mitigations to reduce the immediate impact of the rule on small businesses without compromising worker protection. These mitigations include the following:

- L&I has proposed a phase-in of the lower medical monitoring threshold, which substantially reduce the first-year impacts on small businesses (and to a much

greater degree than they will reduce the impacts on larger businesses in two industry sectors, as reflected by the first-year numbers in Table 6).

- L&I will provide educational resources, including model employee training and related written materials, to reduce the administrative burden of the rule on small employers.
- L&I will work with the Washington State Department of Agriculture (WSDA) to develop record-keeping materials that can be used for the requirements of this rule and for existing worker protection standard record-keeping requirements.
- L&I will work with the Washington Department of Health (DOH), the University of Washington (UW) and others to identify medical providers interested in providing medical monitoring activities.
- L&I will provide training to such providers and make their names available to growers, enabling growers to select from among such providers with a minimum of effort and to be assured that the providers are aware of the requirements of the rule and their responsibilities under it.
- L&I will work with employer representatives (including representatives of small businesses) and others to analyze the results of the rule during the first year and to consider modifications in the rule as appropriate.

In addition, L&I plans to take the following additional steps (not otherwise reflected in the rule or in this SBEIS) to provide further mitigations of the rule's impact on small businesses, especially in the professional applicator sector.

- L&I will use its existing consultation resources in a targeted effort to provide direct on-site assistance to employers to determine the most efficient and effective ways to comply with the rule.
- L&I will work with employer associations and other organizations to identify opportunities for targeted outreach efforts to assist employers who do not wish to have an on-site consultation to identify the most efficient and effective ways to comply with the rule.
- L&I's penalty calculations result in substantial reductions in any penalties to small businesses for violations that are identified and cited under WISHA.
- L&I welcomes any suggestions for further mitigations of the rule's disproportionate impact that may be possible without compromising the protection of worker health and safety under whatever rule may be adopted. L&I will make a final decision on adoption of the rule, as well as any modifications to the proposal, after the public process and after further discussions with small business representatives and other stakeholders about the rule and its implementation.

Summary of Overall Impacts: Overall, L&I expects the record-keeping requirements of the rule to apply to an estimated 4800 handlers employed by 1700 businesses. Of these, the rule will require that medical monitoring be offered to an estimated 1100 handlers in the first year and an estimated 3000 handlers beginning in the second year. The department estimates a total cost of just over \$925 thousand for the first year and just over \$2 million beginning in the second year. After adjusting the costs for each year to reflect the

current value of the money (the "net present value") to provide a consistent basis for comparison, the total two-year cost of the rule for all affected employers will be an estimated \$2.8 million.

L&I has considered whether the rule's requirements will cause businesses to lose sales or revenue not otherwise reflected by the costs of the rule already discussed.⁹ There appears to be no basis for concluding that such losses will occur - the rule is not expected to degrade product quality, delay production, or otherwise affect the ability of affected employers to sell their products and services. In addition, the proposed rule's impacts, when compared to a 2001 annual crop value in the affected industry sectors of more than \$3.7 billion,¹⁰ are likely to be minimal.

¹ In each industry sector, some small businesses also fell within the largest 10%. In those cases, the business was excluded from the small employer group in order to avoid distorting the comparison by including the same business in both samples.

² Safety standards for agriculture, chapter 296-307 WAC.

³ In addition to the SIC codes mentioned here chapter 296-307 WAC also specifically applies to the following SIC codes, although use of the covered pesticides in these industrial sectors is likely to be either nonexistent or infrequent: 0133, 0173, 0179, 0181, 0182, 0191, 0211, 0212, 0213, 0214, 0219, 0241, 0251, 0252, 0253, 0254, 0259, 0271, 0272, 0273, 0279, 0291, 0711, 0722, 0751, 0761, 0831, 0851.

⁴ The estimate was not adjusted to reflect slight variations in occupation rates or modifications based on employer-specific experience.

⁵ Lessner and Fillmore, "A Cholinesterase Testing Program for Pesticide Applicators," *Journal of Occupational Medicine*, 1993.

⁶ "Small business" means 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." RCW 19.85.020(1)

⁷ The Regulatory Fairness Act does not provide a precise threshold for comparison. For the particular purposes of this analysis, a disproportionate impact on small business was considered to exist if the estimated cost per covered pesticide handler was more than 10% greater for small business than for the largest 10% of businesses in the same industry sector. However, this assumption did not have a meaningful effect on the conclusions of the analysis, since no central value comparative impacts above 1% were found other than those in the professional applicators. In addition, L&I mitigated impacts across all sectors, in spite of the absence of a disproportionate impact in some cases.

⁸ "Net present value," or NPV, allows comparison of current and future costs. For the purposes of this analysis, the net present values were calculated using a 3% discount rate to the summer of 2003. Effectively, this relatively conservative discount rate reduces first-year cost estimates by 2.91% and reduces second-year costs by 5.74%. This is not simply an adjustment to reflect expected inflation. Standard economic analysis requires the use of a discount rate for businesses in order to incorporate the time value of money and the associated opportunity costs, even though inflation in the associated costs to businesses may not increase over the time period in question. However, the NPV calculation has no effect on comparisons by business size within a given year, and it is unlikely it would have any effect on overall disproportionate impact determination except in extraordinary circumstances. In any case, the figures in Table 6 reflect the cost estimates before being adjusted to reflect NPV.

⁹ This is distinct from the possibility that a business may choose to discontinue activity or otherwise make changes in order to avoid the rule's costs - this impact is already reflected by the cost analysis described in the bulk of this document.

¹⁰ Data from the Washington Agriculture Statistics Service, 2002 Annual Bulletin.

A copy of the statement may be obtained by writing to Reinhold Groepler, Economic Analyst, Department of Labor and Industries, Legislative and Governmental Affairs, P.O. Box 44001, Olympia, WA 98504, phone (360) 902-6805, fax (360) 902-4202.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does apply to these rule changes.

Hearing Location: Best Western Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, on August 26, 2003, at 6:00 p.m.; at the Red Lion Hotel - Columbia Center, North 1101 Columbia Center Boulevard, Kennewick, WA 99336, on August 27, 2003, at 6:00 p.m.; at the Red Lion Hotel Yakima Gateway, 9 North 9th Street, Yakima, WA 98901, on August 28, 2003, at 6:00 p.m.; at the Wenatchee Convention Center, 221 North Wenatchee Avenue, Wenatchee, WA 98801, on September 2, 2003, at 6:00 p.m.; at the Winthrop Barn, 51 North Highway 20, Winthrop, WA 98862, on September 3, 2003, at 6:00 p.m.; at the Best Western Cottontree Inn, 2401 Riverside Drive, Mount Vernon, WA 98273, on September 4, 2003, at 6:00 p.m.; and at the Department of Labor and Industries, 7273 Linderson Way S.W., Auditorium, Tumwater, WA 98501, on September 8, 2003, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Sally Elliott by August 4, 2003, at (360) 902-5484 or yous235@lni.wa.gov.

Submit Written Comments to: Cindy Ireland, Project Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m. on September 12, 2003. In addition to written comments, the department will accept comments submitted to fax (360) 902-5529. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: November 1, 2003.

July 9, 2003

Paul Trause

Director

Part J-1

CHOLINESTERASE MONITORING

NEW SECTION

WAC 296-307-148 Scope and summary.

Your responsibility:

To implement a monitoring program for your employees who, as part of their job duties, **handle** category I or II organophosphate or N-methyl-carbamate pesticides with the words "DANGER" or "WARNING" on the label.

Definition:

The terms **handle** and **handler** refer to employees who are engaged in the job duties listed in the definition of "handler" contained in WAC 296-307-11005, Pesticides (worker protection standard).

Link: You will find a list of pesticide products covered by this section at the Washington state department of agriculture website (www.wa.gov/agr).

IMPORTANT:

Whenever there is reason to believe that an employee has been poisoned or injured by exposure to pesticides while on the job, you need to provide the medical services required by WAC 296-307-13055.

You must:

- Maintain handling records for covered pesticides
WAC 296-307-14805.
- Implement a medical monitoring program
WAC 296-307-14810.
- Identify a physician or licensed health care professional
WAC 296-307-14815.
- Make cholinesterase testing available
WAC 296-307-14820.
- Respond to depressed cholinesterase levels
WAC 296-307-14825.
- Provide medical removal protection benefits
WAC 296-307-14830.
- Maintain records
WAC 296-307-14835.
- Provide training
WAC 296-307-14840.
- Implementation plan
WAC 296-307-14845.

NEW SECTION

WAC 296-307-14805 Maintain handling records for covered pesticides.

You must:

- Maintain accurate records of all time that each employee spends handling category I or II organophosphate or N-methyl-carbamate pesticides (this includes employees who do not meet the handling hour thresholds in Table 1).
- Retain pesticide handling records for seven years.
- Make sure that pesticide-handling records are readily accessible to employees and their designated representatives.

Helpful tool:

(A sample documentation form will be provided.)

NEW SECTION

WAC 296-307-14810 Implement a medical monitoring program.

You must:

- Implement a medical monitoring program for your employees who handle or will be expected to handle category I or II organophosphate or N-methyl-carbamate pesticides according to the schedule in Table 1.

**Table 1
Implementation Schedule**

Provide medical monitoring for each employee who handles organophosphate or N-methyl-carbamate pesticides for:	Beginning
Fifty or more hours in any consecutive thirty-day period	January 15, 2004
Thirty or more hours in any consecutive thirty-day period	January 15, 2005

- Note:**
- The department will adjust the threshold for medical monitoring of employees under this rule on January 15, 2005, if the data collected during 2004 clearly demonstrates that the threshold should be either lower or higher than thirty hours.
 - There is nothing in this rule that prohibits employers from providing cholinesterase monitoring to employees who handle organophosphate or N-methyl-carbamate pesticides for fewer hours than specified in Table 1.

NEW SECTION

WAC 296-307-14815 Identify a physician or licensed health care professional.

You must:

- Identify a physician or other licensed health care provider (LHCP) who will:
 - Provide baseline and periodic cholinesterase testing through a laboratory approved by the department of labor and industries to provide cholinesterase testing.
 - Interpret tests and make recommendations regarding the employee's handling of organophosphate and N-methyl-carbamate pesticides.

Link: A listing of approved laboratories can be found at the department of labor and industries WISHA services website (www.lni.wa.gov/wisha).

You must:

- Make sure the physician or LHCP is familiar with the requirements of this rule (for example, by providing a copy of the rule or by confirming that the provider has attended training on the rule).
- Post the name, address, and telephone number of the medical provider you have identified at the locations where employees usually start their work day.
- Obtain copies of employee test results and written recommendations from the physician or LHCP. These records must be maintained according to the requirements in WAC 296-307-14830.

NEW SECTION

WAC 296-307-14820 Make cholinesterase testing available.

You must:

- Make medical monitoring available to employees who will meet the exposure thresholds in Table 1, at no cost and at a reasonable time and place, as follows:
 - Annual baseline red blood cell (RBC) and plasma cholinesterase tests that are taken at least thirty days after the employee last handled organophosphate or N-methyl-carbamate pesticides.
 - Periodic RBC and plasma cholinesterase testing according to one of the following schedules:
 - At least every thirty days for those handlers who may meet the handling levels in Table 1;
- OR**
- Within three days after meeting the levels in Table 1 (but no more often than every thirty days).
 - Arrange to obtain a "working baseline" as soon as possible for employees who initially decline cholinesterase testing and later choose to participate in testing.

PROPOSED

– Follow the recommendations of the physician or LHCP regarding continued employee pesticide handling or removal from handling until a thirty-day exposure free baseline can be established.

Exemption:

- You do not need to provide baseline or periodic testing for those employees whose work exposure is limited to handling only N-methyl-carbamate pesticides.
- You do not need to provide periodic testing beyond the baseline for those employees whose handling hours do not exceed the exposure thresholds in Table 1 if you do not count time spent mixing and loading using closed systems, as defined in WAC 296-307-13045 (4)(d).

Note:

- For new employees, the medical provider may accept previous baselines, if they are obtained according to this rule.
- The first thirty consecutive day period begins on the first day of handling organophosphate or N-methyl-carbamate pesticides after obtaining the baseline cholinesterase test.

You must:

- Obtain a written declination statement (Appendix A) from the physician or LHCP for employees who decline cholinesterase testing.

– Employees may decline cholinesterase testing only after they receive training about cholinesterase inhibiting pesticides and discuss the risks and benefits of participation with the physician or LHCP.

– An employee may change his or her mind and elect to participate or decline to continue participation in the program at any time.

- Make sure the employee receives a copy of the signed declination statement.

Note: If employers discourage participation in cholinesterase monitoring, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17-160, Discrimination against employee filing, instituting proceedings, or testifying prohibited—Procedure—Remedy.

NEW SECTION

WAC 296-307-14825 Respond to depressed cholinesterase levels.

You must:

- Respond to an employee's depressed cholinesterase levels by:

– Taking the actions required in Table 2;

AND

– Following any additional occupational health recommendations from the physician or LHCP.

Table 2

Required Responses to an Employee's Depressed Cholinesterase Levels

When:	Action to be taken:	Methods:
An employee's RBC or plasma cholinesterase levels fall more than twenty percent below the baseline	Investigate the employee's work practices	Review: <ul style="list-style-type: none"> • Personal protective equipment (PPE) and its condition • Employees' PPE usage

When:	Action to be taken:	Methods:
		<ul style="list-style-type: none"> • General sanitation practices and availability of decontamination facilities required by WAC 296-307-13050 • Pesticide handling practices
An employee's RBC cholinesterase level falls thirty percent or more from the baseline	Remove the employee from handling and other work exposures to organophosphate and N-methyl-carbamate pesticides such as thinning and harvesting in previously treated areas	<ul style="list-style-type: none"> • When available, provide the employee with other duties that do not include handling and other work exposures to organophosphate and N-methyl-carbamate pesticides • Provide medical monitoring and cholinesterase testing as recommended by the physician or LHCP
OR	AND	
An employee's plasma cholinesterase level falls forty percent or more from the baseline	Investigate the employee's work practices	
A removed employee's cholinesterase levels return to twenty percent or less below baseline	The employee may return to handling class I and II organophosphate and N-methyl-carbamate pesticides	Continue cholinesterase monitoring according to the schedule in WAC 296-307-14825

PROPOSED

NEW SECTION

WAC 296-307-14830 Provide medical removal protection benefits.

You must:

- Provide medical removal protection benefits for a maximum of three months on each occasion:

– An employee is temporarily removed from work due to depressed cholinesterase levels;

OR

– Assigned to other duties due to depressed cholinesterase levels.

- Provide medical removal protection benefits that include maintenance of the same pay, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to organophosphate or N-methyl-carbamate pesticides or otherwise limited.

NEW SECTION

WAC 296-307-14835 Maintain medical monitoring records.

You must:

- Maintain medical monitoring records that include:

– The name, address, and telephone number of the physician or LHCP.

– All employee cholinesterase test results and recommendations received from the physician or LHCP, including:

- The name and job classification of each employee.
- The date of any test or recommendation.
- Findings of all work practice investigations.
- Dates when employees were medically removed from their duties and dates when employees are returned to duties that include handling organophosphate or N-methyl-carbamate pesticides.

- Signed declination statements.
- Retain medical monitoring records for seven years.
- Make sure that medical monitoring records are readily accessible to the employee and his or her designated representative.

Note: You may arrange for the physician or LHCP to maintain records of cholinesterase test results.

NEW SECTION

WAC 296-307-14840 Provide training.

You must:

- Make sure employees have received training before initial medical monitoring. The training must include at least the following:

- The human health hazards and physical symptoms of overexposure to organophosphate and N-methyl-carbamate cholinesterase-inhibiting pesticides.
- The purpose and requirements for medical monitoring.

Helpful tool:

(A sample training curriculum will be provided.)

Note: Training required by this rule may be combined with other pesticide handler training as required by WAC 296-307-13025, Pesticide safety training—Standards for pesticide handlers.

NEW SECTION

WAC 296-307-14845 Implementation plan. The department will implement and complete an evaluation of this rule by doing the following:

- Organize a scientific team to oversee collection and analysis of data collected during 2004 and 2005. L&I will select representatives of the University of Washington, Washington State University, as well as other interested members of the academic and scientific communities, to participate on the team. The team will provide an initial analysis of testing data and any appropriate recommendations directly to L&I and to the cholinesterase monitoring advisory committee by November 1, 2004, and a further analysis and any appropriate recommendations by November 1, 2005. A final report and recommendations will be completed by September 30, 2006.

- Establish a cholinesterase stakeholder advisory committee to evaluate issues related to rule implementation and provide recommendations to the department regarding implementation of the rule and any possible modifications to it. L&I will invite representatives of growers, labor and other affected state agencies to participate on the advisory commit-

tee. The committee will have an opportunity to comment on the analysis completed by the scientific team and to make any appropriate recommendations before December 1, 2004, and again before December 1, 2005. In addition, the committee will review the scientific committee's final report and recommendations and provide advice to L&I prior to December 1, 2006.

- Review reports from the scientific team and stakeholder advisory committee, and other relevant information and make modifications to the rule as appropriate.

- Make efforts to defray the costs of medical testing during 2004.

- Prepare and distribute provider guidelines.

- Develop and make available a model employee training program.

- Publish a list of trained providers and certified laboratories on the internet.

- Coordinate recordkeeping requirements with the department of agriculture.

Appendix A

Cholinesterase Medical Monitoring Participation Statement (Available in both English and Spanish)

I understand that I may be at risk of pesticide poisoning because I work with and have the potential to be exposed to organophosphate and N-methyl-carbamate cholinesterase-inhibiting pesticides.

I have received training on and discussed with a physician or LHCP, the subject of cholinesterase-inhibiting pesticides and medical monitoring, and have been given the opportunity to participate in a cholinesterase-testing program.

I understand that periodic monitoring of cholinesterase exposure MAY help me to:

- Identify if I am over-exposed to these pesticides.
- Prevent further exposure, before I become ill.

However, I have decided **NOT** to participate in cholinesterase medical monitoring at this time. I am aware that at ANY time in the future:

I may change my mind and participate in a cholinesterase-testing program;

AND

Receive testing at no cost to me, as long as I continue to have occupational exposure to category I or II cholinesterase-inhibiting pesticides.

Employee name:

Employee signature:

Date:

Physician or LHCP name:

Physician or LHCP signature:

Date:

Address/telephone:

WSR 03-15-035

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed July 9, 2003, 11:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-130.

Title of Rule: The Division of Vocational Rehabilitation (DVR) is proposing new chapter 388-892 WAC, Purchase of services—Selection criteria—DVR Vocational rehabilitation service contractors.

Purpose: Repealing WAC 490-500-520 Purchase of services—Selection criteria—Community rehabilitation programs; and establishing new rules regarding DVR's contract purchase of vocational rehabilitation (VR) services from independent community-based VR service providers.

Statutory Authority for Adoption: RCW 74.29.020(8).

Statute Being Implemented: Chapter 74.29 RCW, RCW 74.29.020, 34 C.F.R., Part 361.51.

Summary: The proposed rules define the process by which DVR may purchase client vocational rehabilitation (VR) services through contracts with community-based providers of VR services. Outcomes include a quality assurance component for contract VR service providers and increased effectiveness and efficiencies in the expenditure of DVR case services dollars.

Reasons Supporting Proposal: Current rules have not been updated for more than fifteen years. Many do not meet current nationally recognized professional standards for community-based providers of VR services nor do they reflect current quality expectations of individuals, and their supporting family members, who receive DVR services.

The new rules will conform to state statutes requiring criminal background checks for providers of human services to vulnerable adults. Federal regulations require DVR to provide individuals receiving DVR services with information about the effectiveness, efficiency and customer satisfaction results of community-based service providers whom they may choose to receive services from. The new rules will enable individuals receiving DVR services to make more informed decisions regarding their service delivery options.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connee Bush, Ph.D., DVR Headquarters, 612 Woodland Square Loop S.E., Lacey, WA 98503, (360) 438-8013.

Name of Proponent: Department of Social and Health Services (DSHS), 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: Repeals WAC 490-500-520 and replaces it with new chapter 388-892 WAC, Purchase of services—Selection criteria—DVR Vocational rehabilitation service contractors. See Purpose, Summary, and Reasons Supporting Proposal above.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Summary of Proposed Rules: The Department of Social and Health Services (DSHS), Division of Vocational Rehabilitation (DVR) proposes to repeal WAC 490-500-520 Selection criteria—Community rehabilitation programs (CRPs) and replace it with new chapter 388-892 WAC, Purchase of services—Selection criteria—DVR Vocational rehabilitation (VR) service contractors.

DVR does not license VR service contractors. VR service contractors operate as independent businesses to offer direct client rehabilitation services for potential purchase by various private and public customers - including DVR. However, as DVR clients are defined as the state's most vulnerable persons, DVR's proposed WAC determines DVR's quality assurance process and expectations of VR service contractors so that DVR may, if needed, purchase direct client services from VR service contractors.

DVR's quality assurance process and expectations for VR service contractors has not been enhanced for many years. Doing so now is critical to meet the increased quality expectations by DVR clients, their supporting family members, the governor, the state legislature and various public groups advocating for improved quality of services for persons with the most significant disabilities.

DVR's proposed WAC continues DVR's current VR service contractor quality assurance expectations. The main changes involve background checks for VR service contractor personnel and the accreditation organization that DVR has chosen to recognize for accreditation of DVR VR services.

Small Business Economic Impact Statement (SBEIS): Chapter 19.85 RCW requires the economic impact of proposed rules be analyzed in relation to small businesses. An SBEIS is required when a proposed rule may impose more than minor costs that are disproportionate to small businesses as compared to 10% of large businesses affected by the rule.

By definition, small businesses employ fifty or fewer people, are independently owned and established for the purpose of making a profit. Large businesses employ more than fifty people and are also organized to make a profit.

DVR has analyzed potential impacts of its proposed rule on small businesses as defined. The potential impact will be no more than a *minor* increase in the overall cost of doing business with DVR and will not be disproportionate to small businesses. Regardless, DVR has chosen to complete an SBEIS.

Industry Analysis: DVR maintains a data base of some one hundred fifty-nine VR service contractors that DVR purchases direct client services from. Approximately seventy-five meet the "small business" definition.

Involvement of Small Businesses: Throughout calendar year 2002 and 2003, DVR held twenty-seven public meetings and trainings to provide VR service contractors, including those defined as "small businesses," with information and an opportunity to provide input regarding DVR's

PROPOSED

proposed rule changes. The meetings included explanations of the potential financial impacts of the proposed rule changes on small businesses. Multiple mailings of the proposed rule changes, and an invitation to provide input regarding the proposed changes and their potential costs, were also sent to all VR service contractors - including "small businesses." The meetings and trainings were well attended. Many responses were positive and suggestions were incorporated into the proposed changes.

Cost of Conformance: DVR's rules have historically required DVR's quality assurance expectations to be met in order for a VR service contractor's services to be considered for potential purchase, if needed, by DVR. The main changes are background checks for VR service contractor personnel, and the accrediting organization that DVR now recognizes for VR services requiring accredited status.

Background Checks: By law, DVR must perform background checks of service provider personnel providing direct services for DVR clients who are considered vulnerable due to their significant physical and/or mental disabilities.

Many VR service contractors already complete personnel background checks because their other public agency customers require this to be done as a condition of purchasing their services. These VR service contractors will be deemed as meeting DVR's quality assurance expectations on this matter.

VR service contractors that do not currently perform personnel background checks and want their services to be considered for potential purchase by DVR will need to meet this DVR quality assurance expectation.

DVR will pay the DSHS Background Check Unit to perform background checks for VR service contractors that do not already do so. Therefore, there will be no additional cost to CRPs in meeting this DVR quality assurance expectation.

Accreditation: DVR's rules have always required accreditation by an "accreditation body as the division shall deem appropriate" if a VR service contractor, irrespective of "size" or tax status, wants their direct client services to be considered for potential purchase by DVR.

Following the authority of its current WAC, DVR now recognizes CARF - the Rehabilitation Accreditation Commission as its chosen accreditation body. Accreditation is a VR service contractor's principal cost in meeting DVR's quality assurance expectations. Some VR service contractors may realize a minor increase (approximately \$37 to \$277 per year) in accreditation fees as charged by CARF. Others may realize a savings of approximately \$123 to \$983 per year.

Disproportionate Economic Impact Analysis: DVR purchases direct client services from approximately seventy-five VR service contractors that meet the definition of a "small business" - *employing fifty or fewer people and organized for profit*. Conversely, large businesses are those that employ more than fifty people and organize for profit.

DVR looked at the possible disproportionate financial impact of its proposed rules on small businesses as compared to 10% of large businesses affected by the rule. There are no VR service contractors that meet the definition of a large business, as defined, so such a comparison was not possible.

Mitigating CARF Accreditation Fees: As mentioned previously, accreditation has always been a rule for VR service contractors and is not a new cost. Some VR service contractors will, however, realize a savings and other a minor increase in the accreditation fee charged by CARF.

Regardless of the minor size of the increase and to be fair to all VR service contractors, irrespective of "size" or tax status, DVR will implement the following mitigation measures to offset any potential increases in accreditation fees:

- DVR recognizes that accreditation fees are a legitimate cost for a VR service contractor to do business with DVR. DVR has historically supported VR service contractors in recovering their accreditation fees by actively encouraging them to factor these costs into the fees they in turn charge DVR for potential purchase of their services.
- DVR will continue to assure that its fees for purchase of VR services are sufficient to fairly allow a VR service contractor to recover their direct and indirect costs of conforming to DVR's VR service contractor quality assurance standards (including CARF accreditation) and delivery of DVR client services.
- DVR will require CARF accreditation *only* for those VR services which require accredited status.
- CARF accreditation will not be required for services that are unique to VR service contractor's other customers, i.e. DSHS Division of Developmental Disabilities.
- DVR will provide all VR service contractors with a minimum of two years to obtain CARF accreditation. During this two-year period:
 - VR service contractors that are not presently accredited by CARF will be free to continue their typical sales transactions with DVR without change or penalty in any form.
 - DVR will pay for, provide and maintain all VR service contractors with current CARF Standards Manuals and CARF Survey Preparation Guides until they have gained CARF accreditation.
 - DVR will pay for and host CARF accreditation training for all VR service contractors. The curriculum will be repeated on multiple dates and held at different sites throughout the state to maximize scheduling and travel efficiencies for VR service contractors. Training will be conducted by CARF staff members or peer CARF surveyors. VR service contractors may send as many staff members as they please to any or all of these trainings.
 - Upon request, DVR will provide VR service contractors with direct technical assistance regarding interpretation and implementation of the CARF standards. Additional coaching may include preparation for a contractor's first CARF survey - including a "mock" survey. Technical assistance will be provided by consultants having current professional knowledge and experience in all aspects regarding interpre-

tation and implementation of the CARF accreditation standards and CARF quality survey process.

Conclusion: DVR carefully considered the potential financial impact of its proposed rules on small businesses. In accordance with the Regulatory Fairness Act, DVR has analyzed the potential impact and determined that it will be no more than a minor increase in a contractor's overall cost of doing business with DVR and is not disproportionate to small businesses. Regardless, DVR will act to offset this minor impact through full implementation of its planned mitigation measures.

A copy of the statement may be obtained by writing to Connee Bush, Ph.D., DVR Chief of Operations, DSHS/DVR, P.O. Box 45340, Olympia, WA 98504-5340.

RCW 34.05.328 applies to this rule adoption. A cost-benefit analysis of the proposed rules has been prepared, and a copy may be obtained by writing to Connee Bush, Ph.D., DVR Chief of Operations, DSHS/DVR, P.O. Box 45340, Olympia, WA 98504-5340.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: No earlier than August 27, 2003.

June 30, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Chapter 388-892 WAC

PURCHASE OF SERVICES—SELECTION CRITERIA—DVR VOCATIONAL REHABILITATION SERVICE CONTRACTS

VOCATIONAL REHABILITATION SERVICES DVR PURCHASES BY CONTRACT

NEW SECTION

WAC 388-892-0100 What vocational rehabilitation (VR) services does DVR purchase by contract? DVR purchases the following VR services by contract:

- (1) Vocational evaluation services,
- (2) Job placement/retention services,
- (3) Transitional employment services.

NEW SECTION

WAC 388-892-0110 What are vocational evaluation services? There are three types of vocational evaluation services:

(1) "Brief" vocational assessment services are:

- (a) Paper and pencil tests, such as psychometric testing, personality testing, preference and interest inventories that identify an individual's work interests and abilities; and
- (b) Typically completed in one day or less.

(2) Comprehensive vocational evaluation services:

(a) Consist of tests and/or assessment methods designed to measure and document an individual's interests, values, work related-behaviors, aptitudes, skills, physical capacities, learning styles and training needs;

(b) Are performed using a variety of techniques, i.e., assessment of functional/occupational performance in real or simulated environments, work samples, psychometric testing, preference and interest inventories, personality testing, personal interviews and analysis of prior work experience and transferable skills;

(c) Identify at least three employment options that the individual could successfully perform either with or without training and long-term employment supports; and

(d) Are completed in three days or less.

(3) Situational assessment services are:

(a) Experiences in which individuals perform work in an actual paid employment setting or other realistic work setting to identify an individual's unique work interests and abilities;

(b) Conducted over a negotiated period of time depending on the individual's needs.

NEW SECTION

WAC 388-892-0120 What are job placement/retention services? (1) Job placement/retention services mean referral of an individual to a specific job that results in a competitive employment job placement, training activities that enable an individual to adequately perform essential job functions and provision of services after job placement and training to enable an individual to retain their job for a minimum of ninety calendar days.

(2) There are two types of job placement/retention services—"general" and "specialized."

(a) General job placement/retention services are provided for individuals who need job placement assistance without additional on-the-job supports.

Individuals requiring general job placement/retention services may include, but are not limited to, those who meet one or more of the following conditions:

- (i) Graduated from high school or attained a GED;
- (ii) Successfully completed some post high school training, such as vocational/technical school or college academic program;
- (iii) Have a recent and/or stable work history;
- (iv) Were employed at the time of application for DVR services; or
- (v) Have a high level of gross motor skills and/or cognitive functioning.

(b) Specialized job placement/retention services are provided for individuals who, as determined by DVR, require a high level of support prior to or during the initial phases of job placement and/or additional supports after job placement to achieve satisfactory job performance and retain the job.

Individuals requiring specialized job placement/retention services may include, but not limited to, those who meet one or more of the following conditions:

- (i) Have received SSI/SSDI or other types of public assistance;
- (ii) Have received special education services;
- (iii) Did not graduate from high school or attain a GED;
- (iv) Have little or no work history;
- (v) Have not worked in the previous two years;
- (vi) Experience significant cognitive or sensory impairments; or
- (vii) Have a criminal history and/or are subject to a community protection order.

NEW SECTION

WAC 388-892-0130 What levels of support are available under specialized job placement/retention services? Specialized job placement/retention services include two levels - Level 1 and level 2:

(1) Level 1 services are provided for individuals who, as determined by DVR, may require a high level of support prior to or during the initial phases of job placement but do not require ongoing supported employment services to maintain their job after DVR closes the case.

(2) Level 2 services are provided for individuals who, as determined by DVR, require ongoing supported employment services to maintain their job after DVR closes the case.

NEW SECTION

WAC 388-892-0140 What are transitional employment (TE) services? Transitional employment services:

- (1) Meet the vocational rehabilitation needs of individuals with severe and persistent mental illness.
- (2) Assess and build an individual's skills and abilities in a real work setting.
- (3) Utilize the clubhouse programs model/international center for club house development (ICCD).

DVR VOCATIONAL REHABILITATION SERVICE CONTRACT PROCUREMENT

NEW SECTION

WAC 388-892-0200 How does DVR procure vocational evaluation, job placement/retention and transitional employment services? (1) DVR contracts with qualified service providers for the provision of vocational evaluation, job placement/retention and transitional employment services through a request for qualifications (RFQ) contract procurement process that is administered by DVR.

(2) A qualified provider is one that meets all DVR qualifications for a VR service contract as outlined in the RFQ.

NEW SECTION

WAC 388-892-0210 How does an RFQ work? (1) RFQs are issued on a periodic cycle to be determined by DVR; for example, every two years. The duration of the VR service contracts resulting from the RFQ will be announced in the RFQ. DVR reserves the right to extend the contracts by offering up to three one-year extensions.

(2) DVR may advertise the RFQ in a variety of ways, including but not limited to the DVR website, newspapers, and notices sent to potentially interested contractors.

(3) The scope of work, fee to be paid, and contractor qualifications are defined in a separate RFQ and contract for each specific type of VR service:

- (a) Brief vocational assessment,
- (b) Comprehensive vocational evaluation,
- (c) Situational assessment,
- (d) General job placement/retention,
- (e) Specialized job placement/retention Level 1,
- (f) Specialized job placement/retention Level 2, and
- (g) Transitional employment.

(4) Service providers, that are interested in obtaining a VR service contract as outlined in the RFQ, are instructed to submit their qualifications.

(5) First time respondents that demonstrate full conformance to the uniform VR service contract qualifications, as outlined in this chapter, may be granted an initial VR service contract.

(6) DVR may limit the number of VR service contracts it issues in a service delivery area as a result of an RFQ.

INITIAL DVR VOCATIONAL REHABILITATION SERVICE CONTRACTS

NEW SECTION

WAC 388-892-0300 What are the uniform qualifications for an initial VR service contract? A VR service contractor must meet all of the following uniform qualifications, as specifically detailed in the DVR RFQ for VR service contracts, to obtain any/all specific types of initial VR service contracts. Such qualifications shall include but not be limited to, qualifications regarding conformance to:

- (1) Federal, state and local laws and DSHS regulations and policies;
- (2) Accessibility;
- (3) Safety and health;
- (4) Liability insurance coverage;
- (5) Having a system in place to report the effectiveness and efficiency of the provider's DVR services;
- (6) Having a system in place to gather and report DVR customer satisfaction;
- (7) DVR code of ethics and standards of practice;
- (8) Having a complaint and dispute resolution process in place for DVR customers;
- (9) Having current background checks in place for personnel serving DVR customers.

NEW SECTION

WAC 388-892-0310 How long does an initial VR service contract last? An initial VR service contract may be granted for a period of up to two years or for a duration as announced in the RFQ.

NEW SECTION

WAC 388-892-0320 Can an initial VR service contract be granted between RFQs? DVR may add VR service contractors between RFQs if DVR determines the contract is needed and the contractor meets all uniform VR service contract qualifications outlined in this chapter.

SUBSEQUENT DVR VOCATIONAL REHABILITATION SERVICE CONTRACTSNEW SECTION

WAC 388-892-0400 How does a contractor receive a subsequent VR service contract after completing their initial VR service contract? (1) To receive subsequent VR service contracts, a contractor must respond to each RFQ by submitting a proposal showing that they:

- (a) Continue to meet all uniform VR service contract qualifications;
- (b) Have met DVR's performance standards established in the prior VR service contract; and
- (c) Meet the additional qualifications for each VR service to be offered.

(2) Contractors that have been granted an initial VR service contract between RFQs have two years from the effective date of their initial VR service contract to meet the additional qualifications outlined in this chapter. If the contractor fails to provide documentation of conformance to the additional qualifications within two years from the effective date of the initial contract, DVR may terminate the existing VR service contract with ten days notice to the contractor.

NEW SECTION

WAC 388-892-0410 What are the additional qualifications for VR service contracts? (1) In addition to the uniform VR service contract qualifications, additional contractor qualifications apply to each specific type of VR service contract.

(2) A separate RFQ is published for each specific type of VR service contract that outlines the additional contractor qualifications that are pertinent to that service.

NEW SECTION

WAC 388-892-0420 What are the additional qualifications for vocational evaluation services contracts? (1) Individuals or organizations providing brief vocational assessment and/or comprehensive vocational evaluation services must maintain conformance to all uniform VR service contract qualifications and be:

(a) Qualified as a certified vocational evaluator (CVE) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES); or

(b) Accredited in Comprehensive Vocational Evaluation Services by CARF - The Rehabilitation Accreditation Commission.

(2) Individuals or organizations providing situational assessment services must maintain conformance to all uniform VR service contract qualifications, and be:

(a) Qualified as a Certified Vocational Evaluator (CVE) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES); or

(b) Accredited in employment planning services by CARF - The Rehabilitation Accreditation Commission; or

(c) Licensed in employment services by the department of social and health services (DSHS)/mental health division (MHD); or

(d) Certified by the International Center for Clubhouse Development (ICCD).

NEW SECTION

WAC 388-892-0430 What are the additional qualifications for job placement/retention services contracts?

(1) Organizations that provide any job placement/retention service must maintain conformance to all uniform VR service contract qualifications.

(2) There are no additional qualifications for organizations that provide general job placement/retention services.

(3) Organizations that provide Levels 1 or 2 specialized job placement/retention services must also be:

(a) Accredited in community employment services by CARF - The Rehabilitation Accreditation Commission; or

(b) Licensed in employment services by the department of social and health services (DSHS)/mental health division (MHD); or

(c) Certified by the International Center for Clubhouse Development (ICCD).

NEW SECTION

WAC 388-892-0440 What are the additional qualifications for a transitional employment services contract? Organizations that provide transitional employment services contracts must:

(1) Maintain conformance to all uniform VR service contract qualifications; and

(2) Be certified by the International Center for Clubhouse Development (ICCD).

NEW SECTION

WAC 388-892-0450 How long does a subsequent VR service contract last? All DVR VR service contracts may be granted for a period of up to two years or for a duration as announced in the RFQ.

**DVR VOCATIONAL REHABILITATION SERVICE
CONTRACTS—GENERAL OPERATIONS**

**WSR 03-15-041
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION**

[Filed July 10, 2003, 1:07 p.m.]

NEW SECTION

WAC 388-892-0500 What is DVR's payment system for VR service contracts? DVR establishes fixed fees for VR contract services as follows:

(1) DVR identifies geographic VR service delivery areas based on economic cost of living data.

(2) Every two years or on an interval as announced in the contract RFQ, with input received from the service providers, DVR will establish and publish a scheduled of fixed payment fee for each contracted VR service.

(3) All VR service contractors, within each geographic VR service delivery area, are paid the fixed payment fee for each contracted VR service.

NEW SECTION

WAC 388-892-0510 Can VR service contracts be denied or terminated? (1) DVR may decide not to accept a bid or an offer by a person or organization seeking to provide contracted VR services if the bid or offer does not meet minimum RFQ requirements. The DSHS bid protest procedures set forth in the request for qualifications shall be the exclusive administrative remedy for refusal to accept a bid or offer.

(2) VR service contracts may be terminated for cause or convenience at any time by DVR or the contractor in accordance with the terms of the contract. The contractor's administrative remedies shall be limited to those specified in the contract.

(3) Additionally, DVR may terminate all DVR individual case service delivery plans that are open with the contractor at the time their VR service contract is terminated. Termination provisions are outlined in the VR service contracts.

NEW SECTION

WAC 388-892-0520 What exceptions does DVR have to contract for vocational evaluation, job placement/retention and/or transitional employment services outside of these rules? DVR may define and contract for the purchase of any vocational rehabilitation services outside of these rules if necessary to meet the vocational rehabilitation needs of any individual or group of DVR customers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 490-500-520

Purchase of services—Selection criteria—Community rehabilitation programs.

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-075.

Title of Rule: WAC 468-38-265 Emergency operation of tow trucks.

Purpose: A rule change is necessary to provide a process for making approved emergency moves by tow trucks after business hours.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: RCW 46.44.015.

Summary: The current rule provides a process for emergency moves that involves the 24/7 operation of the ports of entry. Effective July 1, 2003, the ports of entry will not be available for this service. An alternate process has been developed that incorporates the WSDOT traffic management centers, which are available 24/7. The process, in short, logs overweight emergent move requests, reviews and approves routes, and provides a mechanism for an after-the-fact acquisition of a permit.

Reasons Supporting Proposal: The revision maintains a system for making overweight emergent moves while a better legislative solution is working through the 2004 legislature. The rule has been adopted on an emergency basis.

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

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule is intended to implement RCW 46.44.015 Tow truck exemptions. The law exempts tow trucks from specific oversize and overweight criteria, however, it still requires that a permit be obtained, and the availability of the permit be 24/7. The rule provides for this availability by using the Washington State Patrol (WSP) staffed ports of entry as contact points during after-hour periods. Effective July 1, 2003, the WSP staff will no longer be performing this function. An alternate rule is developed that will still provide the route overview and approval needed for overweight moves on state infrastructure, and obtain a permit, albeit after the fact. This is intended to be an interim solution while a better solution is worked through the 2004 legislature.

Proposal Changes the Following Existing Rules: The revision replaces the ports of entry as contact points with the WSDOT transportation management centers (TMC). The TMCs will log requests, review routes, provide authorization, and notify the WSDOT motor carrier services office. Permits will be acquired on the next business day, after-the-fact.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Department of Transportation, Commission Board Room, 310 Maple Park Avenue S.E., Olympia, WA 98501, on September 3, 2003, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (800) 833-6388.

Submit Written Comments to: Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 704-6350, by August 1, 2003.

Date of Intended Adoption: September 3, 2003.

July 7, 2003

John F. Conrad

Assistant Secretary

Engineering and Regional Operations

AMENDATORY SECTION (Amending WSR 95-24-074, filed 12/4/95, effective 1/4/96)

WAC 468-38-265 Emergency operation of tow trucks. The permitting of overweight tow trucks that respond to emergencies shall be governed by the following procedures:

(1) ~~(Emergency situations are limited to those instances in which a vehicle is disabled on the public streets or highways)~~ An emergent tow is defined as the movement of a disabled vehicle(s) from any public roadway, including ramps and shoulder, and due to the necessity for an immediate response (referred to as the "initial tow truck service" in RCW 46.44.015), the appropriate overweight permit cannot be determined until the operator arrives at the disabled vehicle.

(2) When a tow truck operator/dispatcher has been called to respond to an emergent situation, the operator/dispatcher will telephone the ~~((Ridgefield Port of Entry))~~ nearest traffic management center (TMC) and ~~((request a permit))~~ be logged in to clear the obstacle. The ~~((commercial vehicle enforcement officer))~~ TMC employee on duty shall consult the map "*Washington State Highways Tow Truck Restrictions: For Emergency Use Only*" (as last revised)." Bridges that may be crossed by tandem axle loadings estimated by the tow truck operator may be approved for the emergency move.

(3) ~~((In requesting the permit))~~ To log in with the TMC, the tow truck operator/dispatcher shall ~~((state))~~ provide the following: Name of company, name of individual making request, telephone number, tow vehicle license, excess weight needed, ((list)) the origin and destination, the state route numbers ((required)) to be used during the tow and ((an estimate of miles to be traveled. The operator will advise the officer of his credit card number to which the permit fee can be charged and be issued)) description of vehicle being towed. The TMC employee on duty, after verifying the requested route with the map, will issue an identification or clearance number for the ((trip being permitted)) tow. This approval is for state routes only and gives no authorization for movement on county roads or city streets.

(4) If the map showing tow truck restrictions does not indicate that the routes can safely tolerate the weight being requested, the tow truck operator is limited to moving the vehicle off the road to the nearest place of safety. When the

weight is too heavy to be moved on some bridges or highways, a request during regular working hours for a permit and a bridge analysis will be required before the load may be transported.

(5) The tow truck operator/dispatcher shall apply for and acquire the appropriate permit on the next business day from the department's motor carrier services office.

(6) Permits for routine movements other than emergency tow truck moves shall be requested through available DOT permits offices, agents or facsimile services.

WSR 03-15-066
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed July 15, 2003, 9:47 a.m.]

WAC 388-561-0100, proposed by the Department of Social and Health Services in WSR 03-02-055 appearing in issue 03-02 of the State Register, which was distributed on January 15, 2003, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 03-15-069
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed July 15, 2003, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-125.

Title of Rule: WAC 246-976-021 EMS and trauma training course requirements.

Purpose: The purpose of the rule change is to eliminate incorrect references, redundant language, unnecessary lessons, and provide more clear and concise rule language.

Statutory Authority for Adoption: RCW 18.71.205, 18.73.081, 70.168.060.

Statute Being Implemented: Same.

Summary: The proposed changes will properly identify the EMT training course curriculum within the WAC, remove unnecessary lessons from the IV technician and airway technician curriculums, which are not pertinent to those levels of care, and remove excess verbiage in describing training course requirements, which is redundant and can become confusing to providers.

Reasons Supporting Proposal: The proposed rule change will eliminate incorrect references, unnecessary lessons, and provide more and clear and concise rule language. In addition it will reduce costs for IV technician and airway technician training.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dane Kessler, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2842.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is proposing making three house-keeping changes. These changes will 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 246-976-021, remove unnecessary lessons from IV technician and airway technician curriculums, and remove excess verbiage in describing training course requirements. These changes will eliminate incorrect references, unnecessary lessons, and provide more clear and concise rule language for all EMS personnel affected.

Proposal Changes the Following Existing Rules: The proposal makes three changes to WAC 246-976-021:

(1) The current EMT course curriculum is misidentified in WAC 246-976-021 (3)(b) as "The emergency medical technician—Basic training course published 1994, amended by the department February 1999." That curriculum is properly entitled "The emergency medical technician—Basic training course published 1994, amended by the department September 1996." This typographical error needs to be corrected so the correct course curriculum will be properly identified within the WAC.

(2) Eliminate the requirements of lessons, 3-2, 3-3, 4-1, and 4-2 for IV technicians and airway technicians. In addition, eliminate all listing of specific lesson plans that are already detailed in reference to the IV technician course curriculum in subsection (3)(c) and airway technician course curriculum in subsection (3)(d).

(3) Eliminate the listing of specific lesson plans that are already detailed in reference to the ILS technician course curriculum in subsection (3)(e).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has reviewed and analyzed this proposal and has determined that no small business economic impact statement (SBEIS) is required. The Regulatory Fairness Act, under RCW 19.85.030 requires agencies to conduct an SBEIS if a rule imposes more than minor costs on businesses within an industry. This proposal reduces costs to businesses by eliminating unnecessary lessons from the IV technician and airway technician course curriculums within WAC 246-976-021. Since this proposal does not impose costs to businesses the department has not completed an SBEIS on this proposal.

RCW 34.05.328 applies to this rule adoption. The proposed rule changes set criteria that are necessary for an individual to comply with in order to obtain certification.

Hearing Location: Department of Health, Point Plaza East, 310 Israel Road S.E., Room 139, Tumwater, WA 98501, on August 27, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Tami Schweppe, (360) 236-2859, fax (360) 236-2829, by August 13, 2003, TDD (800) 833-6388 or (360) 236-2829.

Submit Written Comments to: Tami Schweppe, P.O. Box 47853, Olympia, WA 98504-7853, fax (360) 236-2829, by August 27, 2003.

Date of Intended Adoption: August 28, 2003.

July 14, 2003

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 00-08-102, filed 4/5/00, effective 5/6/00)

WAC 246-976-021 Training course requirements. (1)

Department responsibilities: The department will publish procedures for agencies to conduct EMS training courses, including:

- (a) The registration process;
- (b) Requirements, functions, and responsibilities of course instructional and administrative personnel;
- (c) Necessary information and administrative forms to conduct the course;

(2) **Training agency responsibilities:**

(a) **General.** Agencies providing initial training of certified EMS personnel at all levels (except advanced first aid) must:

- (i) Have MPD approval for the course content;
- (ii) Have MPD approval for all instructional personnel, who must be experienced and qualified in the area of training;
- (iii) Have local EMS/TC council recommendation for each course;
- (iv) Have written approval from the department to conduct each course;
- (v) Approve or deny applicants for training consistent with the prerequisites for applicants in WAC 246-976-041 and 246-976-141.

(b) **Basic life support** (first responder, EMT). Agencies providing initial training of basic life support personnel must identify a senior EMS instructor to be responsible for the quality of instruction and the conduct of the course.

(c) **Intermediate life support** (IV, airway and ILS technicians). Agencies providing initial training of intermediate life support personnel must:

- (i) Have a written agreement with the clinical facility, if it is separate from the academic facility;
- (ii) Ensure that clinical facilities provide departments or sections, personnel, and policies, including:
 - (A) Written program approval from the administrator and chief of staff;
 - (B) A written agreement to participate in continuing education;
 - (C) Supervised clinical experience for students during the clinical portion of the program;
 - (D) An orientation program.

(d) **Paramedics.** Agencies training paramedics must be accredited by a national accrediting organization approved by the department.

(3) **Course curriculum.** The department recognizes the following National Standard EMS training courses published by the United States Department of Transportation as amended by the department:

(a) First responder: The first responder training course published 1996, amended by the department March 1998;

(b) EMT: The emergency medical technician — Basic training course published 1994, amended by the department ((February 1999)) September 1996;

(c) IV technician: Those ((parts of)) sections and lessons identified in the emergency medical technician — Intermediate course published 1999 ((which relate to intravenous therapy lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-6, 2-7, 3-2, 3-3, 4-1, and 4-2;)), amended by the department ((February 1999)) April 2000;

(d) Airway technician: Those ((parts of)) sections and lessons identified in the emergency medical technician — Intermediate course published 1999 ((which relate to airway management lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-5, 3-2, 3-3, 4-1, and 4-2;)), amended by the department ((February 1999)) April 2000;

(e) ILS technician: Those ((parts of)) sections and lessons identified in the emergency medical technician — Intermediate course published 1999 ((which relate to IV therapy and intraosseous infusion, the use of multi-lumen airway adjuncts, and)), amended by the department April 2000 which includes the following medications:

(i) Epinephrine for anaphylaxis administered by a commercially preloaded measured-dose device;

(ii) Albuterol administered by inhalation;

(iii) Dextrose 50% and 25%;

(iv) Nitroglycerine, sublingual and/or spray;

(v) Naloxone;

(vi) Aspirin PO (oral), for suspected myocardial infarction ((lessons 1-1, 1-2, 1-3, 2-1, 2-2, 2-3, 2-4, 2-6, 2-7, 3-1, 3-2, 3-3, 4-1, and 4-2; amended by the department February 1999));

(f) Paramedic: The emergency medical technician — Paramedic training course published 1999, as amended by the department January 2000.

(4) Initial training for first responders and EMTs must also include approved infectious disease training that meets the requirements of chapter 70.24 RCW.

(5) Specialized training. The department, in conjunction with the advice and assistance of the L&C committee, may approve specialized training for certified EMS personnel to use skills, techniques, or equipment that is not included in standard course curricula. Agencies providing specialized training must have MPD and department approval of:

(a) Course curriculum;

(b) Lesson plans;

(c) Course instructional personnel, who must be experienced and qualified in the area of training;

(d) Student selection criteria;

(e) Criteria for satisfactory completion of the course, including student evaluations and/or examinations;

(f) Prehospital patient care protocols that address the specialized skills.

(6) Local government agencies: The department recognizes county agencies established by ordinance and approved by the MPD to coordinate EMS training. These agencies must comply with the requirements of this section.

WSR 03-15-090

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 18, 2003, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-12-086.

Title of Rule: WAC 16-237-170 Emergency storage situation.

Purpose: The department's proposed rule amendments implement chapter 13, Laws of 2003 (HB 1101), which amended RCW 22.09.660. The proposed amendments to WAC 16-237-170:

- Extend the time period from thirty to one hundred twenty days that grain covered by negotiable receipts can be forwarded during emergency storage situations without canceling or reissuing the negotiable receipt. The one hundred twenty day time period aligns the department's rule with the United States Department of Agriculture (USDA) requirements under the Uniform Grain and Rice Storage Agreement.
- Allow for possible extensions of the one hundred twenty day time period. Again, this aligns the department rule with the USDA requirements.
- Require written permission from the depositor and/or the holder of the warehouse receipt before the grain is shipped.
- Rewrite WAC 16-237-170 according to clear rule-writing principles that comply with the "clarity" criteria in Executive Order 97-02.

Statutory Authority for Adoption: Chapter 13, Laws of 2003 (HB 1101), RCW 22.09.020(13), and chapter 34.05 RCW.

Statute Being Implemented: Chapter 13, Laws of 2003 (HB 1101) and RCW 22.09.020(13).

Summary: See Purpose above.

Reasons Supporting Proposal: Amendments to WAC 16-237-170 are necessary in order to implement chapter 13, Laws of 2003 (HB 1101), which directs the department to establish, by rule, the period of time that grain, during emergency storage situations, can be forwarded for storage without canceling or reissuing the negotiable receipt. In addition to complying with HB 1101, the department's proposed amendments will align state requirements with the provisions of the Commodity Credit Corporation's Uniform Grain and Rice Storage Agreement. Also, the department believes that the proposed amendments may:

- Help warehouse operators rotate inventories to maintain quality and condition,
- Prevent grain from being piled on the ground outside of storage facilities, and
- Reduce potential risk of loss to producers and depositors who store commodities in public licensed warehouses.

Finally, the proposed clearly written amendments will increase industry's ability to comply with the rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Don Michelbook, Spokane, Washington, (509) 533-2488.

PROPOSED

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: See Purpose and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The proposed amendments to WAC 16-237-170 do not impose any new costs on businesses regulated by the rule. In fact, the department believes that the proposed amendments, especially the extension of the time period from thirty to one hundred twenty days, may enable regulated entities to operate more efficiently and, thereby, reduce their operating costs. For these reasons, an SBEIS is not required and has not been prepared.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Spokane Agricultural Center, 222 North Havana, Conference Room "B," Spokane, WA, on August 28, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by August 20, 2003, TDD (360) 902-1996 or (360) 902-1976.

Submit Written Comments to: George Huffman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, by 5:00 p.m. on August 28, 2003.

Date of Intended Adoption: September 5, 2003.

July 18, 2003
Robert W. Gore
Assistant Director

AMENDATORY SECTION (Amending WSR 00-21-043, filed 10/13/00, effective 11/13/00)

WAC 16-237-170 Emergency storage situation. If the director determines that an emergency storage situation exists, a warehouse operator may forward warehouse receipted grain to other licensed warehouses for storage without canceling the depositor's warehouse receipt under the following conditions:

(1) The warehouse operator must ~~((notify the department prior to shipment:~~

~~(2) The warehouse operator must obtain a warehouse receipt in his/her name from the receiving warehouse.~~

~~(3) The warehouse operator be back in compliance with the requirements described in RCW 22.09.250 within thirty days):~~

(a) Obtain written permission from the depositor and/or the holder of the warehouse receipt before the grain is shipped.

(b) Notify the department before the grain is shipped.

(c) Have a warehouse receipt issued in his/her name from the receiving warehouse.

(d) Be back in compliance with the requirements described in RCW 22.09.250 within one hundred twenty days from the date of the first grain shipment.

(2) An extension of the one hundred twenty-day requirement in subsection (1)(d) of this section may be granted for government owned commodities.

WSR 03-15-098
PROPOSED RULES
SOUTHWEST
CLEAN AIR AGENCY
[Filed July 21, 2003, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-19-054.

Title of Rule: See Purpose below.

Purpose: SWCAA 400-030 Definitions, the purpose of this section is to provide definitions for commonly used words or phrases in the rest of the regulation.

SWCAA 400-040 General Standards for Maximum Emissions, the purpose of this section is to establish a minimum set of air emission standards for all sources.

SWCAA 400-045 Permit Application for Nonroad Engines, the purpose of this section is to identify requirements for the submittal of permit applications for nonroad engine projects.

SWCAA 400-046 Application Review Process for Nonroad Engines, the purpose of this section is to identify requirements for the processing of permit applications for nonroad engine projects.

SWCAA 400-050 Emission Standards for Combustion and Incineration Units, the purpose of this section is to establish a minimum set of air emission standards for all combustion and incineration units. Additional requirements are provided for specific categories of combustion and incineration units.

SWCAA 400-052 Stack Sampling of Large Combustion Sources, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from major combustion sources.

SWCAA 400-060 Emission Standards for General Process Units, the purpose of this section is to provide a minimum set of air emission standards for general process units.

SWCAA 400-070 Emission Standards for Certain Source Categories, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from certain defined source categories and activities.

SWCAA 400-075 Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants, the purpose of this section is to adopt by reference the federal standards relating to hazardous air pollutant standards referred to generally as the MACT standards.

SWCAA 400-076 Emission Standards for Stationary Sources Emitting Toxic Air Pollutants, the purpose of this

section is to provide a reference to the toxic air pollutant rule and describe the permitting process.

SWCAA 400-081 Startup and Shutdown, the purpose of this section is to identify allowances for startup and shutdown conditions in technology based emission standards and control technology determinations.

SWCAA 400-091 Voluntary Limits on Emissions, the purpose of this section is to provide a mechanism and process for sources to request a voluntary limit on potential emissions from their facilities.

SWCAA 400-100 Registration Requirements, the purpose of this section is to identify requirements for registration and inspection of air contaminant sources.

SWCAA 400-101 Emission Units Exempt from Registration Requirements, the purpose of this section is to identify those sources that are exempt from the registration and new source review requirements of SWCAA 400-100 and 400-110.

SWCAA 400-103 Operating Permit Fees, the purpose of this section is to identify a mechanism for calculating and assessing fees for operating permit sources.

SWCAA 400-105 Records, Monitoring and Reporting, the purpose of this section is to identify requirements for sources to conduct monitoring, perform emission sampling and reporting, and submit an emission inventory.

SWCAA 400-106 Emission Testing and Monitoring at Air Contaminant Sources, the purpose of this section is to provide a minimum set of standards for emission testing and monitoring at air contaminant sources.

SWCAA 400-107 Excess Emissions, the purpose of this section is to identify requirements for the reporting of excess emissions, and provide penalty relief in the case of unavoidable excess emissions.

SWCAA 400-109 Air Discharge Permit Applications, the purpose of this section is to identify requirements for submittal and a description of the process for submitting a notice of construction application.

SWCAA 400-110 Application Review Process for Stationary Sources (New Source Review), the purpose of this section is to identify requirements for the processing of permit applications for new sources.

SWCAA 400-111 Requirements for New Sources in a Maintenance Plan Area, the purpose of this section is to identify the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWCAA 400-112 Requirements for New Sources in Nonattainment Areas, the purpose of this section is to identify the requirements for new or modified sources in nonattainment areas for permitting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWCAA 400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas, the purpose of this section is to identify the requirements for new or modified sources in attainment areas for permitting purposes.

SWCAA 400-114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an

Existing Stationary Source, the purpose of this section is to identify the requirements for projects involving replacement or alteration of existing emission control technology.

SWCAA 400-115 Standards of Performance for New Sources, the purpose of this section is to adopt by reference the new source performance standards (NSPS) contained in 40 C.F.R. 60 for certain sources categories.

SWCAA 400-116 Maintenance of Equipment, the purpose of this section is to identify requirements for the maintenance of process and emission control equipment.

SWCAA 400-130 Use of Emission Reduction Credits, the purpose of this section is to identify the requirements and procedures for use of emission reduction credits.

SWCAA 400-131 Deposit of Emission Reduction Credits Into Bank, the purpose of this section is to identify the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWCAA.

SWCAA 400-136 Maintenance of Emission Reduction Credits in Bank, the purpose of this section is to identify the requirements for SWCAA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWCAA 400-140 Protection of Ambient Air Increments, the purpose of this section is to identify criteria for all sources that serve to prevent significant deterioration of air quality by protecting ambient air increments.

SWCAA 400-141 Prevention of Significant Deterioration (PSD), the purpose of this section is to identify the requirements for those sources subject to federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWCAA 400-151 Retrofit Requirements for Visibility Protection, the purpose of this section is to identify the retrofit requirements for visibility protection as they apply to "existing stationary sources."

SWCAA 400-171 Public Involvement, the purpose of this section is to identify the mechanism by which SWCAA provides an opportunity for public involvement on permitting actions. This section also identifies agency actions that are subject to a mandatory public comment period.

SWCAA 400-180 Variance, the purpose of this section is to identify the requirements and procedures for obtaining a variance from the SWCAA board of directors for an existing permit or the established regulations.

SWCAA 400-190 Requirements for Nonattainment Areas, the purpose of this section is to require consultation with local governments and public involvement when developing requirements for nonattainment areas.

SWCAA 400-230 Regulatory Actions and Civil Penalties, the purpose of this section is to identify the different types of common regulatory orders issued by SWCAA and identify the enforcement and civil penalty authorities of SWCAA.

SWCAA 400-250 Appeals, the purpose of this section is to identify the mechanism by which regulatory orders or other agency actions may be appealed.

SWCAA 400-270 Confidentiality of Records and Information, the purpose of this section is to identify SWCAA's

policy regarding the submittal and handling of confidential information.

SWCAA 400, Appendix A SWCAA Method 9/Visual Opacity Determination Method, the purpose of this section is to establish a test method for observing opacity.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWCAA 400-030, this section is the placeholder for definitions of words and phrases used throughout SWCAA 400. Most definitions are identical to the federal definitions.

SWCAA 400-040, this section contains the visible emission standard of 20% opacity, and other limits for fallout, fugitive emissions, odors, emissions detrimental to persons or property, sulfur dioxide, concealment and masking and fugitive dust sources.

SWCAA 400-045, this section identifies requirements for permit applications for nonroad engine projects.

SWCAA 400-046, this section identifies requirements for the processing and approval of permit applications for nonroad engine projects.

SWCAA 400-050, this section identifies emission standards and requirements for combustion and incineration units.

SWCAA 400-052, this section contains requirements for stack sampling of major combustion sources every two years to assist with preparation of the annual emission inventory that is submitted to EPA by SWCAA.

SWCAA 400-060, this section identifies the maximum emission standard of 0.1 grains per dry standard cubic feet of exhaust gas for any general process operation.

SWCAA 400-070, this section contains emission standards and requirements for certain source categories including wigwam burners, hog fuel boilers, orchard heaters, wood waste burners, perc dry cleaners, catalytic cracking units, sulfuric acid plants, gasoline dispensing facilities, dry cleaning facilities, oil heaters, coffee roasters, and abrasive blasting operations.

SWCAA 400-075, this section adopts the federal standards for sources emitting hazardous air pollutants contained in 40 C.F.R. part 61 and part 63 by reference (MACT standards) as requirements for sources in SWCAA jurisdiction for local implementation and enforcement.

SWCAA 400-076, this section describes general requirements for toxic pollutant emission sources and provides a reference to the toxics rule, chapter 173-460 WAC which is adopted by reference by SWCAA under separate rule making.

SWCAA 400-081, this section describes the basis upon which a source may be allowed to exceed technology based emission standards during startup and/or shutdown.

SWCAA 400-091, this section provides the authority and describes the process for a source to request a voluntary limit on emissions. This section provides the ability to have a federally enforceable emission limit to keep out of the Title 5 operating permit program.

SWCAA 400-100, this section establishes a system of registration for air contaminant sources within SWCAA jurisdiction.

SWCAA 400-101, this section identifies those sources that are exempt from the registration and new source review requirements of SWCAA 400-100 and 400-110.

SWCAA 400-103, this section identifies the method by which permit fees for operating permit sources are calculated, and establishes a mechanism for fee assessment.

SWCAA 400-105, this section identifies the requirements for sources to submit an emission inventory, conduct monitoring and perform emission sampling.

SWCAA 400-106, this section provides a minimum set of standards for sampling and reporting emissions from all sources.

SWCAA 400-107, this section identifies requirements for the reporting of excess emissions at registered sources. The section also includes provisions for penalty relief in the case of unavoidable excess emissions.

SWCAA 400-109, this section identifies requirements for submittal of a notice of construction and a description of the process for submitting a notice of construction application.

SWCAA 400-110, this section defines the procedure used by SWCAA to process permit applications for new sources, and identifies general requirements that must be met during new source review.

SWCAA 400-111, this section identifies the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWCAA 400-112, this section identifies the requirements for new or modified sources in nonattainment areas for permitting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWCAA 400-113, this section identifies the new source review requirements for new or modified sources in attainment areas.

SWCAA 400-114, this section identifies the requirements for control technology replacement or alteration projects that are not reviewable under SWCAA 400-110.

SWCAA 400-115, this section adopts by reference the new source performance standards (NSPS) contained in 40 C.F.R. 60 for identified sources categories.

SWCAA 400-116, this section identifies requirements for the maintenance and operation of process and emission control equipment. The section also contains provisions for operation and maintenance (O&M) plans.

SWCAA 400-130, this section identifies the requirements and procedures for use of emission reduction credits once they have been deposited in the emission reduction credit bank maintained by SWCAA.

SWCAA 400-131, this section describes the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWCAA.

SWCAA 400-136, this section identifies the requirements for SWCAA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWCAA 400-140, this section identifies criteria for the protection of ambient air increments that are applicable to all sources within SWCAA jurisdiction.

SWCAA 400-141, this section describes the requirements for those sources that would be subject to the federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWCAA 400-151, this section contains procedures by which SWCAA will identify and determine emission requirements for any "existing stationary source" that causes or contributes to visibility impairment in any mandatory federal Class 1 area.

SWCAA 400-171, this section identifies the requirements for public notice of agency actions, and the process by which public involvement is to be administered. This section also identifies those documents that are subject to a formal public notice and those that are not subject to a formal public notice.

SWCAA 400-180, this section describes the requirements and procedures for obtaining a variance from the SWCAA board of directors for an existing permit or the established regulations.

SWCAA 400-190, this section requires SWCAA to consult local governments and provide for public involvement when developing requirements for nonattainment areas.

SWCAA 400-230, this section identifies the different types of common regulatory orders issued by SWCAA and identifies the enforcement and civil penalty authorities of SWCAA.

SWCAA 400-250, this section identifies the pollution control hearings board as the proper authority for appealing regulatory orders issued by SWCAA or other agency actions pursuant to chapter 371-08 WAC.

SWCAA 400-270, this section identifies what type of information may be considered confidential and the manner in which such information will be handled by SWCAA.

SWCAA 400, Appendix A, this section contains a test protocol for conducting field observations of opacity.

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

Name of Agency Personnel Responsible for Drafting: Wess Safford, 1308 N.E. 134th Street, Vancouver, WA 98685, (360) 574-3058; Implementation: Paul Mairose, 1308 N.E. 134th Street, Vancouver, WA 98685, (360) 574-3058; and Enforcement: Robert D. Elliott, 1308 N.E. 134th Street, Vancouver, WA 98685, (360) 574-3058.

Name of Proponent: Southwest Clean Air Agency (SWCAA), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SWCAA 400-030, this is an existing section. Proposed revisions to this section incorporate recent changes made in WAC 173-400-030, and the addition of new definitions that do not appear in the current version of SWCAA 400-030.

SWCAA 400-040, this is an existing section. The proposed changes consist of minor administrative editing.

SWCAA 400-045, this is a new section. The proposed section is intended to provide a mechanism for the submittal

of permit applications for projects involving units that meet the federal definition of "nonroad engine."

SWCAA 400-046, this is a new section. The proposed section is intended to provide a mechanism for the review and approval of projects involving units that meet the federal definition of "nonroad engine."

SWCAA 400-050, this is an existing section. The proposed changes incorporate new standards for "commercial and industrial solid waste incineration units" and "small municipal waste combustion units." The proposed standards are consistent with requirements adopted by ecology in 2001.

SWCAA 400-052, this is an existing section. The proposed changes are intended to clarify the requirements of the section. The intent and meaning of the section remain unchanged with no significant changes in testing frequency or methodology.

SWCAA 400-060, this is an existing section. The date of the EPA test method reference contained in the section (40 C.F.R. 60, Appendix A) is being updated. No other changes are proposed.

SWCAA 400-070, this is an existing section. The proposed changes incorporate requirements for source categories recently added to WAC 173-400-070, and the addition of new emission standards for source categories not currently included in WAC 173-400-070.

SWCAA 400-075, this is an existing section. The proposed changes update adoption reference dates and incorporate new federal regulations contained in 40 C.F.R. Parts 63 and 65.

SWCAA 400-076, this is an existing section. The proposed changes update the definitions, cross sectional references, and sectional titles found in the text of SWCAA 400-076, and make minor corrections to maintain consistency with other sections of SWCAA 400.

SWCAA 400-081, this is an existing section. The proposed changes consist of minor administrative editing and small changes made in response to EPA comments. The proposed revision does not contain any substantive changes.

SWCAA 400-091, this is an existing section. The proposed changes consist of minor changes in terminology to maintain consistency with other sections of SWCAA 400.

SWCAA 400-100, this is an existing section. The proposed changes correct outdated text and remove the operating permit program fee schedule (SWCAA 400-100(4)) from the section. The operating permit fee schedule is being moved to a new section because operating permit sources are not subject to the registration program, and the current format can be confusing to the public and affected sources.

SWCAA 400-101, this is an existing section. The proposed changes clarify the applicability language of the section and remove a number of exemption categories.

SWCAA 400-103, this a new section. The proposed section makes the fee schedule for operating permit sources into a self-contained rule section. The fee schedule is currently contained within the text of SWCAA 400-100 "Registration Requirements and Operating Permit Fees" along with requirements for SWCAA's registration program. This format is confusing and inappropriate because operating permit sources are not subject to any element of the registration program.

SWCAA 400-105, this is an existing section. The proposed changes update references to the Code of Federal Regulations and make administrative corrections.

SWCAA 400-106, this is an existing section. The proposed changes incorporate new monitoring requirements for combustion sources. The new requirements are equivalent to the emission monitoring requirements currently implemented on a case-by-case basis in approval orders for combustion sources.

SWCAA 400-107, this is an existing section. The proposed changes expand the existing section to include notification and reporting requirements for all excess emissions. The proposed language provides more detailed requirements for reporting excess emissions than found in the existing section.

SWCAA 400-109, this is an existing section. The proposed changes incorporate new terminology, addition of the existing permit application fee table from SWCAA 400-110, and minor administrative changes.

SWCAA 400-110, this is an existing section. The proposed changes incorporate new terminology, removal of the notice of construction application fee schedule, new requirements consistent with SWCAA 400-117, clarification of portable source applicability under SWCAA 400-110(6), approval criteria for modification of approval conditions, and minor administrative changes.

SWCAA 400-111, this is an existing section. The proposed changes incorporate administrative editing and minor text changes intended to improve consistency with the format of SWCAA 400-112 and 400-113.

SWCAA 400-112, this is an existing section. The proposed changes incorporate administrative changes, previously uncited requirements from 40 C.F.R. 51, Appendix S, new requirements consistent with WAC 173-400-117, changes in terminology, and correction of outdated references and requirements.

SWCAA 400-113, this is an existing section. The proposed changes incorporate minor text changes intended to improve consistency with the format of SWCAA 400-111 and 400-112, new requirements consistent with WAC 173-400-117, and administrative editing.

SWCAA 400-114, this is an existing section. The proposed changes incorporate new terminology and minor administrative editing.

SWCAA 400-115, this is an existing section. The proposed changes incorporate updated adoption references and minor format changes intended to improve consistency with the corresponding sections of the WAC.

SWCAA 400-116, this is an existing section. The proposed changes incorporate new terminology and clarification of requirements.

SWCAA 400-130, this is an existing section. The proposed changes correct outdated references in the text of the section.

SWCAA 400-131, this is an existing section. The proposed changes incorporate administrative changes and a modification of the processing timeline for ERC applications.

SWCAA 400-136, this is an existing section. The proposed changes incorporate minor clarifications and administrative changes.

SWCAA 400-140, this is a new section. The proposed section creates a mechanism for protection of ambient air increments pursuant to 40 C.F.R. 51.166 et seq.

SWCAA 400-141, this is an existing section. The proposed changes update the section to match the format and meaning of WAC 173-400-141 as currently adopted.

SWCAA 400-151, this is an existing section. The proposed changes update the section to match the format and meaning of WAC 173-400-151 as currently adopted.

SWCAA 400-171, this is an existing section. The proposed changes revise the public involvement requirements for agency permitting and other proposed actions. These changes incorporate public notice via the internet, and correct a number of identified deficiencies in the current public involvement provisions of SWCAA 400-171.

SWCAA 400-180, this is an existing section. The proposed changes incorporate an updated reference to EPA.

SWCAA 400-190, this is an existing section. The proposed changes incorporate new terminology.

SWCAA 400-230, this is an existing section. The proposed changes incorporate new terminology and administrative editing.

SWCAA 400-250, this is an existing section. The proposed changes revise existing provisions to improve consistency with applicable state regulations.

SWCAA 400-270, this is an existing section. The proposed changes are intended to make the definition of confidential information more consistent with applicable state regulations and clarify how SWCAA uses and handles such information.

SWCAA 400, Appendix A, this is an existing section. The proposed changes incorporate minor administrative editing and an updated federal regulation reference.

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by SWCAA are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available from SWCAA.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. SWCAA is not voluntarily invoking section 201, chapter 403, Laws of 1995 for this action.

Hearing Location: Office of SWCAA, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682, on October 2, 2003, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 26, 2003, TDD (360) 574-3058.

Submit Written Comments to: Wess Safford, SWCAA, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 23, 2003.

Date of Intended Adoption: October 2, 2003.

July 17, 2003

Robert D. Elliott
Executive Director

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 03-17 issue of the Register.

WSR 03-15-104
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed July 21, 2003, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-016.

Title of Rule: WAC 246-247-075, 246-247-110, 246-247-120, and 246-247-130, Radiation protection—Air emissions.

Purpose: The purpose of this rule is to implement an independent statewide program to monitor radioactive air emissions from sources within the state.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: This proposed rule updates references to the national standards for sampling and monitoring releases of airborne radioactive substances from nuclear facilities consistent with EPA rules adopted in October 2002. This proposal also updates references to guidance documents regarding quality assurance plans for consistency with EPA practices. The EPA rule and guidance documents apply only to federal facilities. The proposed rule expands applicability of the rules to include nonfederal facilities.

Reasons Supporting Proposal: This rule change is necessary for consistency between federal and state regulations and as a primacy condition between the state Department of Ecology and the EPA.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Roy Evans, Tumwater, (360) 236-3265.

Name of Proponent: Washington State Department of Health, governmental.

Rule is necessary because of federal law, 40 C.F.R. Part 61.

Explanation of Rule, its Purpose, and Anticipated Effects: The intent of the underlying statute is to protect public health by implementing an independent statewide program to monitor ionizing radiation emissions to the air from radiation sources within the state. The proposed rule meets this intent by adopting the most current standards and guidance and applying them to both federal and nonfederal facilities within the state.

Proposal Changes the Following Existing Rules: The proposed change updates the existing reference to the American National Standard Institute/Health Physics Society national standards for sampling and monitoring releases of airborne radioactive substances from the stacks and ducts of nuclear facilities (ANSI/HPS N13.1-1999) as well as refer-

ences to EPA guidance pertaining to quality assurance program and project plans.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared because there are no small businesses within the regulated industry required to comply with the proposed rule and thus there is no disproportionate impact on small businesses.

RCW 34.05.328 applies to this rule adoption. RCW 34.05.328 applies to this rule adoption because the proposal amends potential conditions of licensure for certain facilities regulated by the Department of Health.

Hearing Location: Department of Health, Point Plaza East, Room 153, 310 S.E. Israel Road, Tumwater, WA 98504, on August 29, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Joy Redman by August 22, 2003, TDD (800) 833-6388.

Submit Written Comments to: Roy Evans, Radiation Protection, P.O. Box 47827, Olympia, WA 98504-7827, fax (360) 236-2256, by August 29, 2003.

Date of Intended Adoption: September 12, 2003.

July 19, 2003

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-075 Monitoring, testing and quality assurance. (1) All radioactive air emissions monitoring, testing, and quality assurance requirements of 40 CFR 61, Subparts H and I published in the *Federal Register* on December 15, 1989, are adopted by reference, as applicable as specified by the referenced subparts.

(2) Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, as applicable, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 CFR Part 60, Appendix A, 40 CFR Part 52, Appendix E, and any other methods approved by the department.

(3) The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 CFR 61 Appendix D, or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department.

(4) The department may allow a facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement.

(5) The following types of facilities shall determine radionuclide emissions in accordance with either a methodology referenced in subsections (1) through (4) of this section or the respective document referenced below:

(a) Nuclear power reactors licensed by the NRC: Offsite Dose Calculation Manual;

(b) Fuel fabrication plants licensed by the NRC: NRC's Regulatory Guide 4.16, dated December 1985;

(c) Uranium mills that are processing material: NRC's Regulatory Guide 4.14, dated April 1980.

(6) Licensed facilities shall conduct and document a quality assurance program. Except for those types of facilities specified in subsection (5) of this section, the quality assurance program shall be compatible with applicable national standards such as ANSI/ASME NQA-1-1988, ANSI/ASME NQA-2-1986, ((QAMS-004)) QA/R-2, and ((QAMS-005)) QA/R-5.

(7) Those types of facilities specified in subsection (5) of this section shall conduct and document a quality assurance program compatible with either the applicable national standards referenced in subsection (6) of this section or the NRC's Regulatory Guide 4.15, dated February 1979.

(8) Facilities shall monitor nonpoint and fugitive emissions of radioactive material.

(9) The department may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. The department may require the operator of any emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in WAC 246-247-040.

(10) The department may require the owner or operator of an emission unit to make provision, at existing emission unit sampling stations, for the department to take split or collocated samples of the emissions.

(11) The planning for any proposed new construction or significant modification of the emission unit must address accidental releases with a probability of occurrence during the expected life of the emission unit of greater than one percent.

(12) All facilities must be able to demonstrate that appropriate supervisors and workers are adequately trained in the use and maintenance of emission control and monitoring systems, and in the performance of associated test and emergency response procedures.

(13) All facilities must be able to demonstrate the reliability and accuracy of the radioactive air emissions monitoring data.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-110 Appendix A—Application information requirements. (1) Name and address of the facility, and location (latitude and longitude) of the emission unit(s).

(2) Name, title, address, and phone number of the responsible manager.

(3) Identify the type of proposed action for which this application is submitted:

(a) Construction of new emission unit(s);

(b) Modification of existing emission unit(s); identify whether this is a significant modification;

(c) Modification of existing unit(s), unregistered.

(4) If this project is subject to the requirements of the State Environmental Policy Act (SEPA) contained in chapter

197-11 WAC, provide the name of the lead agency, lead agency contact person, and their phone number.

(5) Describe the chemical and physical processes upstream of the emission unit(s).

(6) Describe the existing and proposed (as applicable) abatement technology. Describe the basis for the use of the proposed system. Include expected efficiency of each control device, and the annual average volumetric flow rate(s) in meters³/sec for the emission unit(s).

(7) Provide conceptual drawings showing all applicable control technology components from the point of entry of radionuclides into the vapor space to release to the environment.

(8) Identify each radionuclide that could contribute greater than ten percent of the potential-to-emit TEDE to the MEI, or greater than 0.1 mrem/yr potential-to-emit TEDE to the MEI.

(9) Describe the effluent monitoring system for the proposed control system. Describe each piece of monitoring equipment and its monitoring capability, including detection limits, for each radionuclide that could contribute greater than ten percent of the potential-to-emit TEDE to the MEI, or greater than 0.1 mrem/yr potential-to-emit TEDE to the MEI, or greater than twenty-five percent of the TEDE to the MEI, after controls. Describe the method for monitoring or calculating those radionuclide emissions. Describe the method with detail sufficient to demonstrate compliance with the applicable requirements.

(10) Indicate the annual possession quantity for each radionuclide.

(11) Indicate the physical form of each radionuclide in inventory: Solid, particulate solids, liquid, or gas.

(12) Indicate the release form of each radionuclide in inventory: Particulate solids, vapor, or gas. Give the chemical form and ICRP 30 solubility class, if known.

(13) Release rates.

(a) New emission unit(s): Give predicted release rates without any emissions control equipment (the potential-to-emit) and with the proposed control equipment using the efficiencies described in subsection (6) of this section.

(b) Modified emission unit(s): Give predicted release rates without any emissions control equipment (the potential-to-emit) and with the existing and proposed control equipment using the efficiencies described in subsection (6) of this section. Provide the latest year's emissions data or emissions estimates.

In all cases, indicate whether the emission unit is operating in a batch or continuous mode.

(14) Identify the MEI by distance and direction from the emission unit(s). The MEI is determined by considering distance, windrose data, presence of vegetable gardens, and meat or milk producing animals at unrestricted areas surrounding the emission unit.

(15) Calculate the TEDE to the MEI using an approved procedure (see WAC 246-247-085). For each radionuclide identified in subsection (8) of this section, determine the TEDE to the MEI for existing and proposed emission controls, and without any emission controls (the potential-to-emit) using the release rates from subsection (13) of this section. Provide all input data used in the calculations.

(16) Provide cost factors for construction, operation, and maintenance of the proposed control technology components and system, if a BARCT or ALARACT demonstration is not submitted with the NOC.

(17) Provide an estimate of the lifetime for the facility process with the emission rates provided in this application.

(18) Indicate which of the following control technology standards have been considered and will be complied with in the design and operation of the emission unit(s) described in this application:

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

((ANSI N13.1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities)) ANSI/HPS N13.1-1999, Sampling and Monitoring Releases of Airborne Radioactive Substances From the Stacks and Ducts of Nuclear Facilities

For each standard not so indicated, give reason(s) to support adequacy of the design and operation of the emission unit(s) as proposed.

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-120 Appendix B—BARCT compliance demonstration. Purpose. A BARCT demonstration is used to choose control technologies for the mitigation of emissions of radioactive material from new emission units or significant modifications to emission units. The bases for the BARCT demonstration requirements are the BARCT standard given in WAC 246-247-040, and the definition of BARCT given in WAC 246-247-030. This procedure incorporates certain implementing criteria that enable the department to evaluate a facility's compliance with the BARCT standard. It is the applicant's responsibility to demonstrate the effectiveness of their BARCT determination to the department. The facility should contact the department at the conceptual design phase for guidance on the BARCT demonstration requirements. The department may adjust this demonstration procedure on a case-by-case basis, as needed, to ensure compliance with the substantive standard.

Scope. The BARCT demonstration includes the abatement technology and indication devices that demonstrate the effectiveness of the abatement technology from entry of radionuclides into the ventilated vapor space to release to the environment. The applicant shall evaluate all available control technologies that can reduce the level of radionuclide emissions.

Technology Standards. The BARCT demonstration and the emission unit design and construction must meet, as applicable, the technology standards shown below if the

unit's potential-to-emit exceeds 0.1 mrem/yr TEDE to the MEI. If the potential-to-emit is below this value, the standards must be met only to the extent justified by a cost/benefit evaluation.

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

((ANSI N13.1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities)) ANSI/HPS N13.1-1999, Sampling and Monitoring Releases of Airborne Radioactive Substances From the Stacks and Ducts of Nuclear Facilities

The following standards and references are recommended as guidance only:

ANSI/ASME NQA-2, Quality Assurance Requirements for Nuclear Facilities

ANSI N42.18, Specification and Performance of On-Site Instrumentation for Continuously Monitoring Radioactivity in Effluents

ERDA 76-21, Nuclear Air Cleaning Handbook

ACGIH 1988, Industrial Ventilation, A Manual of Recommended Practice, 20th ed., American Conference of Governmental Industrial Hygienists

BARCT Demonstration Procedure.

Step 1. Define facility process variables. Describe the physical and chemical process. Include the potential radionuclide release rates (by isotope, in units of curies/year), process variables (such as flow rate, temperature, humidity, chemical composition), and other technical considerations. Base the radionuclide release rate on the potential-to-emit.

Radionuclides selected for consideration in the BARCT demonstration shall include those which contribute more than ten percent of the potential TEDE to the MEI or more than 0.1 mrem/yr, and any others which the department determines are necessary.

Step 2. Gather information on all available control technologies. Search for all available technologies that can reduce the emissions levels for the radionuclides selected in Step 1. Sources of information shall include previous BARCT demonstrations, regulatory authorities, industry or regulatory agency data bases, literature searches, information from technology vendors, research and development reports, and any other means necessary to identify all available technologies. "Available technology" includes any technology that is commercially available. Recently completed searches may be used with department approval.

Step 3. Determine technical feasibility. Determine technical feasibility by evaluating vendor specifications for available control technologies identified in Step 2 with respect to the process variables identified in Step 1. Evaluate

combinations of abatement technology and control devices by component, and the system as a whole.

If a control technology has poor safety, reliability, or control effectiveness as achieved in practice under the proposed process conditions, or the technology is not applicable to the emission unit under consideration, the technology may be eliminated with supporting documentation of the technical infeasibility.

Step 4. List all feasible control technologies in order of effectiveness. Evaluate feasible control technologies for efficiency (effectiveness) in reducing the TEDE to the MEI. List them in order, with the most effective first. If the most effective feasible technology is proposed as BARCT, the demonstration is complete at this step.

Step 5. Evaluate the environmental, energy, and economic impacts. Evaluate each control technology in succession, beginning with the most effective. Present an objective evaluation considering both beneficial and adverse impacts. Quantify the data where possible. Impact cost and effectiveness evaluations are incremental and include only that portion of the facility which comes under the authority of this chapter. Evaluate at least the following impacts:

Environmental impact - Determine the incremental environmental impact, both beneficial and adverse. Evaluate the beneficial impact of reduction in the TEDE to the surrounding population or, at a minimum, to the MEI due to the abatement of radioactive air emissions. Consider the adverse impacts from waste generation (radioactive and nonradioactive, air and nonair), disposal and stabilization, construction of control equipment, and the health and safety to both radiation workers and the general public.

Energy impact - Determine the incremental energy impact. Include the impact of any resulting need for new services such as energy distribution systems.

Economic impact - Determine the incremental economic impact. Determine capital and expense costs including design, development, procurement, construction, operation, maintenance, taxes, waste disposal, and any other applicable financial components. Base all costs on the expected lifetime of the emission unit and reduce to an annualized cost for evaluation and comparison.

The adverse economic impact compared to the beneficial impact, including reduction in TEDE to the surrounding population or the MEI, is a measure of the cost versus benefit for the control technology evaluated.

The most effective technology may be eliminated from consideration if the applicant can demonstrate to the department's satisfaction that the technology has unacceptable impacts. State clearly the basis for this conclusion and proceed to the next most effective control technology. If the next most effective technology is proposed as BARCT, the demonstration is complete; otherwise, evaluate the control technology for impacts in accordance with this step.

If the control technology cannot be eliminated on the basis of its impacts, it is proposed as BARCT.

Reporting. Prepare a BARCT compliance demonstration report for department review. Provide sufficient information such that the department can validate essential results. If no control technology is feasible, and/or emissions are

unacceptable, the department reserves the right to prohibit the construction and operation of the emission unit(s).

AMENDATORY SECTION (Amending WSR 94-07-010, filed 3/4/94, effective 4/4/94)

WAC 246-247-130 Appendix C—ALARACT compliance demonstration. Purpose. An ALARACT demonstration is used for inspection or audit purposes, and to demonstrate compliance with the substantive ALARACT technology standard as required by this chapter. An ALARACT demonstration is used to evaluate the adequacy of control technology on existing emission units and to choose control technologies for proposed nonsignificant modifications of emission units. The bases for the ALARACT demonstration requirements are the ALARACT standards given in WAC 246-247-040 and the definition of ALARACT given in WAC 246-247-030. It is the applicant's responsibility to demonstrate the effectiveness of their ALARACT determination to the department. The department may adjust this demonstration procedure on a case-by-case basis, as needed, to ensure compliance with the substantive standard.

Scope. The ALARACT demonstration includes the abatement technology and indication devices, from entry of radionuclides into the ventilated vapor space to release to the environment. The facility shall evaluate the existing control system in relation to applicable technology standards, and other control technologies that have been successfully operated for similar applications.

Technology Standards. The ALARACT demonstration and the emission unit design and construction must meet, as applicable, the technology standards shown below if the unit's potential-to-emit exceeds 0.1 mrem/yr TEDE to the MEI. If the potential-to-emit is below this value, the standards must be met only to the extent justified by a cost/benefit evaluation.

ASME/ANSI AG-1, Code on Nuclear Air and Gas Treatment (where there are conflicts in standards with the other listed references, this standard shall take precedence)

ASME/ANSI N509, Nuclear Power Plant Air-Cleaning Units and Components

ASME/ANSI N510, Testing of Nuclear Air Treatment Systems

ANSI/ASME NQA-1, Quality Assurance Program Requirements for Nuclear Facilities

40 CFR 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17

((ANSI N13-1, Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities)) **ANSI/HPS N13.1-1999**, Sampling and Monitoring Releases of Airborne Radioactive Substances From the Stacks and Ducts of Nuclear Facilities

The following standards and references are recommended as guidance only:

ANSI/ASME NQA-2, Quality Assurance Requirements for Nuclear Facilities

ANSI N42.18, Specification and Performance of On-Site Instrumentation for Continuously Monitoring Radioactivity in Effluents

ERDA 76-21, Nuclear Air Cleaning Handbook

ACGIH 1988, Industrial Ventilation, A Manual of Recommended Practice, 20th ed., American Conference of Governmental Industrial Hygienists

ALARA References. "Health Physics Manual of Good Practice for Reducing Radiation Exposure to Levels that are As Low As Reasonably Achievable (ALARA)", PNL-6577, June, 1988; prepared for the USDOE by Pacific Northwest Laboratories (Battelle Memorial Institute).

"A Guide to Reducing Radiation Exposure to As Low As Reasonably Achievable (ALARA)", DOE/EV/1830-T5, April, 1980, R.L. Kathren and J.M. Selby; prepared for the USDOE by Pacific Northwest Laboratories (Battelle Memorial Institute).

"A Practical Method of Performing Cost-Benefit Analysis of Occupational and Environmental Protective Measures", WHC-SA-0484-FP, March, 1989, G.F. Boothe and D.E. Webb; prepared for the USDOE by Westinghouse Hanford Company.

WSR 03-15-105
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed July 21, 2003, 11:24 a.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 02-09-042.

Title of Rule: WAC 246-12-040 How to return to active status when a credential has expired.

Purpose: To allow expanded opportunity for credential holders to renew in person at the Department of Health.

Other Identifying Information: This proposal was originally filed using the expedited adoption process (WSR 02-09-042, April 12, 2002). However, since the department received an objection, the process is continuing through the regular proposal process, per RCW 34.95.353(8).

Statutory Authority for Adoption: RCW 43.70.280.

Statute Being Implemented: RCW 43.70.280.

Summary: The proposed change would allow the late penalty fee for health professionals to be waived if payment is made on the first business day after the expiration date, if the expiration date falls on a day the Department of Health is closed.

Reasons Supporting Proposal: This rule change will benefit those we credential by allowing greater opportunity for persons to renew their credentials in person without a penalty.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Dale, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4985.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed change would allow the late penalty fee for health professionals to be waived if payment is made on the first business day after the expiration date, when the

expiration date falls on a day the Department of Health is closed. The purpose of the rule is to allow expanded opportunity for credential holders to renew in person at the Department of Health. This change will benefit those we credential by allowing greater opportunity for persons to renew their credentials in person without a penalty.

Proposal Changes the Following Existing Rules: The proposed change would allow the late penalty fee to be waived if payment is made on the first business day after the expiration date, if the expiration date falls on a day the Department of Health is closed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 requires agencies to prepare a small business economic impact statement (SBEIS) if a proposed rule imposes more than minor costs on small businesses. This proposal imposes no costs on small businesses; therefore no SBEIS is required.

Small Business Economic Impact Statement

I. What does the rule or rule amendment require?

This rule amendment allows the penalty for late payment of renewals for health professional credentials to be waived if it expires on a day the department is closed for business, and is received in the Department of Health (DOH), Health Professions Quality Assurance main office on the next business day.

II. What industries (4 digit table here) are affected?, 8011 Offices and Clinics of Doctors of Medicine, 8021 Offices and Clinics of Dentists, 8031 Offices and Clinics of Doctors of Osteopathy, 8041 Offices and Clinics of Chiropractors, 8042 Offices and Clinics of Optometrists, 8043 Offices and Clinics of Podiatrists, 8049 Offices and Clinics of Health Practitioners, not elsewhere classified, 8051 Skilled Nursing Care Facilities, 8052 Intermediate Care Facilities, 8059 Nursing and Personal Care Facilities, not elsewhere classified, 8062 General Medical and Surgical Hospitals, 8063 Psychiatric Hospitals, 8069 Specialty Hospitals, except psychiatric, 8071 Medical Laboratories, 8072 Dental Laboratories, 8082 Home Health Care Services, 8092 Kidney Dialysis Centers, 8093 Specialty Outpatient Facilities, not elsewhere classified, 8099 Health and Allied Services, not elsewhere classified.

III. List the RCW that says DOH is not required to do an SBEIS because:

A. Were the rule costs minor? Waiving the penalty fee in certain circumstances will not create any costs to businesses. RCW 19.85.030 (1)(a) requires an SBEIS if there are more than minor costs to small businesses.

B. Does it only affect government operations? There will be a minor cost to government operations by waiving the late fee.

IV. Explanation of why:

a. If the rule costs were minor list them and explain why they were minor. There are no costs to small businesses therefore no SBEIS is required.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendment is exempt under RCW 34.05.328 (5), as it is a procedural rule.

Hearing Location: Department of Health, 310 Israel Road, Room 139, Tumwater, WA 98501, on August 28, 2003, at 10:00.

Assistance for Persons with Disabilities: Contact Mary Dale by August 21, 2003, TDD (800) 833-6388.

Submit Written Comments to: Mary Dale, P.O. Box 47860, Olympia, WA 98504-7860, fax (360) 236-4626, by August 21, 2003.

Date of Intended Adoption: August 28, 2003.

July 19, 2003
M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-12-040 How to return to active status when a credential has expired. (1) The credential status is **expired** if the practitioner does not renew on or before the expiration date. The practitioner must not practice until the credential is returned to active status.

(2) Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a **late renewal penalty fee**. ~~The ((practitioner must not practice until the credential is returned to active status))~~ late penalty fee will be waived if:

(a) The credential expires on a day the department is closed for business; and

(b) Payment is received at the department of health, health professions quality assurance main office on the next business day.

~~((2))~~ (3) A credential is returned to active status by complying with the following:

(a) Expired for one renewal cycle or less:

(i) Pay the late renewal penalty fee;

(ii) Pay the current renewal fee;

(iii) Pay the current substance abuse monitoring surcharge, if required by the profession;

(iv) Provide written declarations or documentation, if required for the profession; and

(v) Comply with current continuing education or continuing competency requirements if required by the profession.

(b) Expired for more than one renewal cycle but less than three years:

(i) Complete an abbreviated application form;

(ii) Pay the late renewal penalty fee;

(iii) Pay the current renewal fee;

(iv) Pay the current substance abuse monitoring surcharge, if required by the profession;

(v) Pay the expired credential reissuance fee;

(vi) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(vii) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(viii) Provide a written declaration that continuing education and competency requirements for the two most recent years have been met, if required for the profession to maintain an active credential; and

(ix) Provide other written declarations or documentation, if required for the profession.

(c) Expired for over three years:

(i) Complete an abbreviated application form;

(ii) Pay the late renewal penalty fee;

(iii) Pay the current renewal fee;

(iv) Pay the current substance abuse monitoring surcharge, if required by the profession;

(v) Pay the expired credential reissuance fee;

(vi) Satisfy other competency requirements of the regulatory entity, if required;

(vii) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(viii) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(ix) Provide a written declaration that continuing education or competency requirements for the two most recent years have been met, if required for the profession to maintain an active credential;

(x) Provide other written declarations or documentation, if required for the profession; and

(xi) If not previously provided, provide proof of AIDS education as required for the profession and in Part 8 of this chapter.

WSR 03-15-106
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed July 21, 2003, 11:26 a.m.]

Original Notice.

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

Title of Rule: Chapter 246-828 WAC, Hearing and speech.

Purpose: Housekeeping amendments are necessary to implement 2002 legislation creating mandatory licensure for audiologists and speech-language pathologists and the elimination of the permit and apprenticeship requirement for hearing instrument fitter/dispensers.

Other Identifying Information: This proposal is the result of chapter 310, Laws of 2002 which passed during the 2002 legislative session.

Statutory Authority for Adoption: RCW 18.35.161.

Statute Being Implemented: Chapter 18.35 RCW.

Summary: The proposed amendments will change references from certificate to license for audiologists and speech language pathologists, the word hearing "aid" to "instrument," references to the "Board on fitting and dispensing of hearing aids" to the "Board of Hearing and Speech," removes

duplicate listing of fees, and repeals rules specifically relating to the eliminated apprenticeship requirement.

Reasons Supporting Proposal: Changes are needed to implement new legislative requirements.

Name of Agency Personnel Responsible for Drafting and Implementation: Diane Young, 310 Israel Road S.E., P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4950; and Enforcement: Katherine Slater, 310 Israel Road S.E., P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4950.

Name of Proponent: Board of Hearing and Speech, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments will change references to "certification" to "licensure," eliminate references to the hearing instrument fitter/dispenser permit and apprenticeship requirement. These changes are intended to bring the rules into compliance with the statute and to provide clarification regarding the credentialing requirements for audiologists, speech-language pathologists and hearing instrument fitter/dispensers.

Proposal Changes the Following Existing Rules: WAC 246-828-045, 246-828-095 and 246-828-105, replaces the word "certified" with the word "licensed"; WAC 246-828-075, replaces the words "certified and certificate holder" with the words "licensed and licensee"; WAC 246-828-090, replaces the words "certificate holder" with the word "licensee"; WAC 246-828-100, adds "or audiologist" to the section requiring the licensee to afford the prospective hearing instrument user the opportunity to sign a statement regarding that they have been advised that their best health interest would be served if they had a medical evaluation before purchasing hearing instruments; WAC 246-828-220 and 246-828-500, replaces the word "aid" with the word "instrument"; WAC 246-828-270, replaces the words "certificate holder and certificate" with the words "licensee and license"; WAC 246-828-290, 246-828-320, 246-828-330 and 246-828-350, replaces the word "certificate holder" with the word "licensee"; WAC 246-828-550, replaces the words "on fitting and dispensing of hearing aids" with "of hearing and speech"; and WAC 246-828-990, removes duplicate listing of fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) indicates that a small business economic impact statement is not necessary for rules identified under RCW 34.05.310(4). Specifically, these rules adopt or incorporate by reference, without material change, Washington state statutes, and only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments are not significant and are exempt under RCW 34.05.328 (5)(b)(v). The content of the rule is explicitly and specifically dictated by statute.

Hearing Location: 310 Israel Road S.E., Room 139, Tumwater, WA 98501, on October 3, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Ericka Brown by September 15, 2003, TDD (800) 833-6388 or (360) 236-4925.

Submit Written Comments to: Diane Young, Board of Hearing and Speech, 310 Israel Road S.E., P.O. Box 47869, Olympia, WA 98504-7869, fax (360) 236-2406, by September 15, 2003.

Date of Intended Adoption: October 3, 2003.

July 10, 2003

Robert Nicoloff
Executive Director

AMENDATORY SECTION (Amending WSR 99-08-102, filed 4/6/99, effective 5/7/99)

WAC 246-828-045 Interim permit. Interim permit requirements.

(1) The department will issue an interim permit to any applicant who has shown to the satisfaction of the department that the applicant:

(a) Is supervised by a speech-language pathologist or audiologist (~~certified~~) licensed under chapter 18.35 RCW, in good standing for at least two years unless otherwise approved by the board.

~~((i) Supervision includes the personal and direct involvement of the supervisor. The supervisor must directly observe diagnostic and therapeutic procedures.~~

~~((ii) All purchase agreements for the sale of hearing instruments must be signed by the supervisor and the permit holder.~~

~~((iii) No certified audiologist or speech-language pathologist under chapter 18.35 RCW may assume the responsibility for more than one permit holder.~~

~~((iv) The supervisor is responsible for all acts of the interim permit holder in connection with audiology or speech-language pathology services during the duration of the permit.)~~

(b) Has paid the application and permit fee.

(c) Has not committed unprofessional conduct as specified by the Uniform Disciplinary Act or chapter 18.35 RCW.

(2) The provisions of RCW 18.35.030, 18.35.110, 18.35.120 (~~shall~~) apply to (~~any person issued an interim~~) permit holders. A person issued an audiology interim permit may engage in the fitting and dispensing of hearing instruments.

(3) The interim permit shall contain the name and title of the (~~certified~~) supervisor licensed under chapter 18.35 RCW (~~who is supervising the permit holder. The supervisor shall execute and submit to the department acknowledgment of responsibility for all acts of the permit holder in connection with audiology or speech-language pathology services~~).

Interim permit period.

(4) The interim permit period is divided into three equal segments. The supervisor must complete a minimum of:

(a) (~~No less than~~) At least thirty-six supervisory activities spaced uniformly throughout the year.

(b) At least eighteen on-site observations (one hour equals one on-site observation). At least six on-site observations must be accrued during each segment (up to six hours may be accrued in one day).

(c) Eighteen other monitoring activities, at least six per segment.

(d) Upon the completion of each segment the supervisor must submit documentation of completion to the department on a form provided by the department.

(e) A review of all purchase agreements in the fitting and dispensing of hearing instruments prior to signing. All purchase agreements ~~((will))~~ must be signed by the supervisor.

(5) The interim permit is valid for one year or for the duration of the postgraduate experience. The interim permit ~~((will))~~ expires one year from the date ~~((of its issuance))~~ it is issued. The board may extend the permit an additional six months.

Supervisor delegation.

(6) Portions of the supervisory activities including the supervision in hearing instrument fitting and dispensing may be obtained in another facility and may be under the supervision of another ~~((certified))~~ licensed speech-language pathologist or audiologist as delegated by the supervisor of record.

(a) The audiologist supervisor of record may delegate the supervision of hearing instrument fitting and dispensing to a licensed hearing instrument fitter/dispenser who has been licensed in good standing for at least two years.

(b) Delegation of the responsibility of supervision must be approved by the department.

(7) The department may approve transfer of a permit holder to another eligible supervisor upon the written request of either the supervisor or the permit holder.

(8) ~~((It is the responsibility of))~~ The permit holder ((to)) must immediately report the termination of the supervisor to the department in writing, by certified mail.

(9) The supervisor of a permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing, by certified mail, of the termination. The supervisor is responsible for the permit holder until ~~((such time as))~~ the notification of termination to the department is deposited in the United States mail.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-075 Student supervisors—Scope and definitions. ~~((1))~~ Students enrolled in an accredited education or training program may perform the duties of a hearing instrument fitter/dispenser in the course of their training if under the supervision of a Washington state licensed hearing instrument fitter/dispenser or ~~((certified))~~ audiologist.

(1) Supervision ((shall)) means ((that)) the licensee~~((/certificate holder))~~ is physically present on the premises at all times.

(a) Supervision includes the personal and direct involvement of the supervisor. The supervisor must:

(i) Directly observe diagnostic and therapeutic procedures; and

(ii) Cosign all purchase agreements for the sale of hearing instruments.

(b) A licensed audiologist or speech-language pathologist under chapter 18.35 RCW may not assume the responsibility for more than one permit holder.

(c) The supervisor is responsible for all acts of the permit holder in connection with audiology or speech-language

pathology services through the duration of the permit. The supervisor shall execute and submit to the department acknowledgment of responsibility for all acts of the permit holder in connection with audiology or speech-language pathology services.

(2) An accredited education or training program ~~((shall be defined as))~~ means any course of study in the field of fitting and dispensing hearing instruments that is offered by a school or program recognized by the state of Washington.

(3) The student shall at all times wear an identification badge readily visible to the public ~~((which))~~ that identifies him or her as a student.

~~((4) The licensed/certified supervisor shall be responsible for all acts of the student.))~~

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-090 Standards for equipment calibration. (1) All electronic equipment utilized by licensees~~((/certificate holders))~~ for the determination of audiometric thresholds for pure tones and for speech shall conform to all current standards of the American National Standards Institute. Licensees~~((/certificate holders))~~ shall insure that all such audiometric equipment has been evaluated electrically and acoustically at least once each year, adjusted or repaired if necessary, and that conformity with such standards was determined at that time. Licensees must maintain calibration records ((of such calibration shall be)) permanently ((maintained by licensees/certificate holders)) and licensees shall ((be)) make the records available for inspection by the department at any time ((by the department)). No licensee~~((/certificate holder shall be permitted to))~~ may certify ~~((as to))~~ the calibration of his or her own equipment unless authorized to do so by the department. In addition, all licensees~~((/certificate holders shall utilize))~~ must use routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than on a daily basis, to generally determine that it is in normal working order.

(2) Hearing instruments, assistive listening devices, and electronic equipment used for assessment and/or monitoring of auditory and vestibular function ~~((shall))~~ must be maintained according to manufacturer's specifications.

(3) All instrumental technology used to diagnose and/or treat disorders of communication, swallowing and hearing shall be maintained in proper working order and be properly calibrated according to accepted standards.

AMENDATORY SECTION (Amending WSR 98-14-055, filed 6/26/98, effective 7/27/98)

WAC 246-828-095 Audiology minimum standards of practice. ~~((Certified))~~ Licensed audiologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habitation/rehabilitation and prevention of auditory and vestibular impairments.

Audiologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Audiologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private

practice and other settings in which audiological services are relevant. Audiologists provide services to individuals of all ages.

Audiologists must engage in and supervise only those aspects of the profession that are within the scope of their education, training and experience.

Standard procedures for providing audiology services may include one or more of the following:

(1) Case history (~~(to include)~~) including:

(a) Documentation of referrals.

(b) Historical review of the nature, onset, progression and stability of the hearing problem, and associated otic and/or vestibular symptoms.

(c) Review of communication difficulties.

(d) Review of medical, pharmacology, vocational, social and family history pertinent to the etiology, assessment and management of the underlying hearing disorder.

(2) Physical examination of the external ear (~~(includes)~~) including:

(a) Otoscopic examination of the external auditory canal to detect:

(i) Congenital or traumatic abnormalities of the external canal or tympanic membrane.

(ii) Inflammation or irritation of the external canal or tympanic membrane.

(iii) Perforation of the tympanic membrane and/or discharge from the external canal.

(iv) A foreign body or impacted cerumen in the external canal.

(b) Cerumen management to clean the external canal and to remove excess cerumen for the preservation of hearing.

(c) Referral for otologic evaluation and/or treatment when (~~(indicated)~~) necessary.

(3) Identification of audiometry:

(a) Hearing screening administered as needed, requested, or mandated for those persons who may be identified as at risk for hearing impairment.

(b) Referral of persons who fail the screening for rescreening, audiologic assessment and/or for medical or other examination and services.

(c) Audiologists may perform speech and language screening measures for initial identification and referral.

(4) Assessment of auditory function (~~(includes)~~) including:

(a) The administration of behavioral and/or objective measures of the peripheral and central auditory system to determine the presence, degree and nature of hearing loss or central auditory impairment, the effect of the hearing impairment on communication, and/or the site of the lesion within the auditory system. Assessment may also include procedures to detect and quantify nonorganic hearing loss.

(i) When traditional audiometric techniques cannot be employed as in infants, children or multiple impaired clients, developmentally appropriate behavioral and/or objective measures may be employed.

(ii) Assessment and intervention of central auditory processing disorders in which there is evidence of communication disorders may be provided in collaboration with other professionals.

(b) Interpretation of measurement recommendations for habilitative/rehabilitative management and/or referral for further evaluation and the counseling of the client and family.

(5) Assessment of vestibular function (~~(includes)~~) including administration and interpretation of behavioral and objective measures of equilibrium to detect pathology within the vestibular system, to determine the site of lesion, to monitor changes in balance and to determine the contribution of visual, vestibular and proprioceptive systems to balance.

(6) Habilitation/rehabilitation of auditory and vestibular disorders (~~(may include)~~) including:

(a) Aural rehabilitation therapy.

(b) Fitting and dispensing of hearing instruments and assistive listening devices.

(c) Habilitative and rehabilitative nonmedical management of disorders of equilibrium.

(7) Industrial and community hearing conservation programs.

(8) Intraoperative neurophysiologic monitoring.

(9) Standardized and nonstandardized procedures may be employed for assessment, habilitation/rehabilitation of auditory and vestibular disorders. When standardized procedures are employed they must be conducted according to the standardized procedure or exception documented. Nonstandardized measures must be conducted according to established principles and procedures of the profession.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-100 Hearing instrument fitting dispensing—Minimal standards of practice. Minimum procedures in the fitting and dispensing of hearing instruments (~~(shall)~~) include:

(1) (~~(Obtain)~~) Obtaining case history (~~(to include the following)~~) including:

(a) As required by WAC 246-828-280, documentation of referrals, or as otherwise required by this chapter.

(b) Historical evaluation (~~(to include)~~) including inquiry regarding hearing loss, onset of loss, and any associated symptoms including significant noise in the ears, vertigo, acute or chronic dizziness, nausea, earaches, or other such discomfort which may indicate the presence of medical illness. Specific inquiry should be made to determine if hearing loss has been sudden or rapidly progressive in the past ninety days, if there has been any active drainage or infection in ears during the past ninety days, and if there are any specific physical problems (~~(which)~~) that may relate to the use of a hearing instrument.

(2) (~~(Examination of)~~) Examining the ears (~~(should be done)~~) to reasonably determine if any of the following conditions exist:

(a) Impacted ear wax.

(b) Foreign body within the ear canal.

(c) Discharge in the ear canal.

(d) Presence of inflammation or irritation of the ear canal.

(e) Perforation of the ear drum.

(f) Any other abnormality.

(3) Hearing testing (~~shall be performed~~) to include the following:

(a) Hearing loss, or residual hearing, shall be established for each ear using pure tone threshold audiometry by air and bone conduction with effective masking as required.

(b) Appropriate live voice or recorded speech audiometry by ear phones to determine the following: Speech reception threshold, most comfortable level, uncomfortable level, and the speech discrimination percent.

(c) Hearing testing shall be conducted in the appropriate environment as required by WAC 246-828-080, minimum standards of equipment, or as otherwise required by this chapter.

(d) When pure tone audiometry indicates an air-bone gap of 15db or more, 500, 1000, and 2000 Hz, the presence of unilateral hearing loss, or any inconsistent audiometric findings, the client shall be advised of the potential help available through medical treatment. (~~Should~~) If the client declines (to consider such methods, or if the client has previously) medical treatment, has been appropriately treated previously, or has been advised against (such procedures,) medical treatment, the licensee shall make an appropriate notation (shall be made) in the client's record.

(e) In the event a client is referred to a licensee by an M.A. audiologist, otologist, otolaryngologist, or by a fitter/dispenser duly licensed under chapter 18.35 RCW, and the audiometric results obtained within the previous six months are provided to the licensee as a part of this referral, the applicable provisions of WAC 246-828-100 shall not be required. However, a confirmatory audiometric examination is recommended.

(4) Medical evaluation requirements:

(a) If the prospective hearing instrument user is eighteen years of age or older, the hearing instrument dispenser may afford the prospective user an opportunity to waive the medical evaluation requirements of (b) of this subsection (~~provided that~~) if the hearing instrument dispenser:

(i) Informs the prospective user that the exercise of the waiver is not in the user's best health interest;

(ii) Does not in any way actively encourage the prospective user to waive (~~such a~~) the medical evaluation;

(iii) (~~Affords~~) Offers the prospective user the opportunity to sign the following statement:

I have been advised by (hearing instrument fitter/dispenser or audiologist name) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument; and

(iv) Provides the prospective user with a copy of the signed waiver statement.

(b) Except as provided in (a) of this subsection, a hearing instrument dispenser shall not sell a hearing instrument unless the prospective user has presented to the hearing instrument dispenser a written statement signed by a licensed physician that states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing instrument. The medical evaluation must have taken place within the preceding six months.

(5) Selection and fitting of the hearing instrument (~~shall include the following~~) includes providing the client:

(a) (~~Provide~~) Information regarding the selection of the most appropriate method and model for amplification for the needs of the client.

(b) (~~Provide the user with~~) The cost of the recommended instruments and services.

(c) (~~Provide for or have available~~) An appropriate custom made ear mold.

(d) (~~Provide~~) Final fitting of the hearing instrument to ensure physical and operational comfort.

(e) (~~Provide~~) Adequate instructions and appropriate post-fitting adjustments to ensure the most successful use of the hearing instrument.

(6) Keeping records on every client to whom the licensee/certificate holder renders service in connection with the dispensing of a hearing instrument. (~~Such~~) These records (~~shall~~) must be preserved for at least three years after the dispensing of the first hearing instrument to the client. If other hearing instruments are subsequently dispensed to that client, cumulative records must be maintained for at least three years after the (~~latest~~) most recent dispensing of an instrument to that client. The records must be available for the department inspection and (~~will~~) must include:

(a) Client's case history.

(b) Source of referral and appropriate documents.

(c) Medical clearance for the hearing instrument user or the waiver set forth in subsection (4)(a)(iii) of this section which has been signed after being fully informed that it is in the best health interest to seek medical evaluation.

(d) Copies of any contracts and receipts executed in connection with the fitting and dispensing of each hearing instrument provided.

(e) A complete record of tests, test results, and services provided except for minor services.

(f) All correspondence specifically related to the service given the client or the hearing instrument or instruments dispensed to the client.

AMENDATORY SECTION (Amending WSR 99-19-058, filed 9/15/99, effective 10/16/99)

WAC 246-828-105 Speech-language pathology—Minimum standards of practice. (~~Certified~~) Licensed speech-language pathologists are independent practitioners who provide a comprehensive array of services related to the identification, assessment, habilitation/rehabilitation, of communication disorders and dysphagia. Speech-language pathologists serve in a number of roles including but not limited to clinician, therapist, teacher, consultant, researcher, and administrator. Speech-language pathologists provide services in hospitals, clinics, schools, nursing facilities, care centers, private practice, and other settings in which speech-language pathology services are relevant. Speech-language pathologists provide services to individuals of all ages.

Services must be provided and products dispensed only when benefit can reasonably be expected. All services provided and products dispensed must be evaluated for effectiveness. A certified speech-language pathologist must engage in and supervise only those aspects of the profession that are within the scope of their education, training, and experience. Speech-language pathologists must provide ser-

vices appropriate to each individual in his or her care, which may include one or more of the following standard procedures:

- (1) Case history, ~~((to include the following))~~ including:
 - (a) Documentation of referral.
 - (b) Review of the communication, cognitive and/or swallowing problem.
 - (c) Review of pertinent medical, pharmacological, social and educational status.
 - (2) Examination of the oral mechanism for the purposes of determining adequacy for speech communication and swallowing.
 - (3) Screening to include: Speech and language.
 - (a) Hearing screening, limited to pure-tone air conduction and screening tympanometry.
 - (b) Swallowing screening. Children under the age of three years who are considered at risk are assessed, not screened;
 - (4) Assessment may include the following:
 - (a) Language may include parameters of phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic and manual modalities;
 - (b) Speech may include articulation, fluency, and voice (including respiration, phonation and resonance). Treatment shall address appropriate areas;
 - (c) Swallowing;
 - (d) Cognitive aspects of communication may include communication disability and other functional disabilities associated with cognitive impairment;
 - (e) Central auditory processing disorders in collaboration with other qualified professionals;
 - (f) Social aspects of communication may include challenging behaviors, ineffective social skills, lack of communication opportunities;
 - (g) Augmentative and alternative communication include the development of techniques and strategies that include selecting, and dispensing of aids and devices (excluding hearing instruments) and providing training to individuals, their families, and other communication partners in their use.
 - (5) Habilitation/rehabilitation of communication and swallowing ~~((to include the following))~~ including:
 - (a) Treatment of speech disorders including articulation, fluency and voice.
 - (b) Treatment of language disorders including phonology, morphology, syntax, semantics, and pragmatics; and include receptive and expressive communication in oral, written, graphic and manual modalities.
 - (c) Treatment of swallowing disorders.
 - (d) Treatment of the cognitive aspects of communication.
 - (e) Treatment of central auditory processing disorders in which there is evidence of speech, language, and/or other cognitive communication disorders.
 - (f) Treatment of individuals with hearing loss, including aural rehabilitation and related counseling.
 - (g) Treatment of social aspects of communication, including challenging behaviors, ineffective social skills, and lack of communication opportunities.

(6) All services must be provided with referral to other qualified resources when appropriate.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-220 Unfair or deceptive practices, unethical conduct and unfair methods of competition—Used or rebuilt products. (1) A licensee may not represent, directly or indirectly, that any industry product or part thereof is new, unused, or rebuilt, ~~((when such))~~ if it is not ~~((the fact))~~.

(2) In the marketing of a hearing ~~((aid))~~ instrument which has been used, or which contains used parts, a licensee ~~((shall make full and nondeceptive disclosure of such fact))~~ must fully and nondeceptively disclose that the product or its parts are used in all advertising and promotional literature relating to the product, on the container, box or package in which ~~((such))~~ the product is packed or enclosed and, if the product has the appearance of being new, on the product itself. The required disclosure may be made by use of ~~((such))~~ words such as "used," "secondhand," "repaired," or "rebuilt," whichever most accurately describes the product involved.

(3) A licensee shall not misrepresent the identity of the rebuilder of a hearing ~~((aid))~~ instrument. If the rebuilding of a hearing ~~((aid))~~ instrument was done by other than the original manufacturer, a licensee shall disclose ~~((such))~~ this fact wherever the original manufacturer is identified.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-270 Personal disclosure. A licensee ~~((certificate holder))~~ who contacts a prospective purchaser away from the licensee's ~~((certificate holder's))~~ place of business must:

(1) When the contact is in person, present the prospective purchaser with written notice of:

(a) His or her name, the name of his or her business firm, his or her business address and telephone number;

(b) The number of his or her license ~~((certificate))~~.

(2) Telephone contact with prospective purchasers must disclose the name of the licensee ~~((certificate holder))~~, name and location of his or her principal establishment and purpose of call.

(3) When the contact is through a direct mail piece or other advertising initiated by the licensee ~~((certificate holder))~~, clearly show on all promotional items the business/establishment name, the principal establishment address and telephone number, not just the address or telephone number where he/she will be on given days.

(4) A principal establishment is one which is bonded ~~((pursuant to))~~ under RCW 18.35.240.

AMENDATORY SECTION (Amending WSR 02-14-052, filed 6/27/02, effective 7/28/02)

WAC 246-828-290 Purchaser recision rights. In addition to the receipt and disclosure information required by

PROPOSED

RCW 18.35.030, 18.35.185, 63.14.040 and 63.14.120, every retail agreement for the sale of hearing instruments shall contain or have attached the following notice to buyer in twelve point type or larger. The language in part 1 under "Notice to Buyer" is intended to have the same legal effect as the notices required in RCW 63.14.040(2) and 63.14.120(3) and may be substituted for those notices.

The rights summarized in the "Notice to Buyer" must be made known to the purchaser before the contract is executed. The licensee (~~or certificate holder~~) must provide this "Notice to Buyer" in writing to the purchaser. The purchaser must demonstrate knowledge of these rights by initialing each numbered section of the "Notice to Buyer" and by signing his or her name in the appropriate space following the "Notice to Buyer."

Notice to Buyer

Do not sign this agreement before you read it or if any spaces intended for the agreed terms are blank.

You are entitled to receive a copy of this agreement at the time you sign it.

The seller's business address must be shown on the agreement.

Section 1 CANCELLATION - WITHIN THREE DAYS

Purchaser's Initial

You may cancel this agreement within three days, without explaining your reasons, if the seller solicited it in person and you signed it at a place other than the seller's business address.

To cancel this agreement without explaining your reasons, you must notify the seller in writing that you are canceling the agreement. You may deliver the written notice to the seller at the seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be mailed or delivered by midnight of the third business day after you signed this agreement.

Any merchandise you received under this agreement must be in its original condition. You must return it to the seller or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement.

You will incur no additional liability for canceling the agreement.

Section 2 RESCISSION - WITHIN THIRTY DAYS

Purchaser's Initial

You may rescind (or terminate) the agreement within thirty days, for reasonable cause. This thirty-day period is called the "rescission period."

To rescind this agreement, you must notify the seller in writing that you are rescinding the agreement for reasonable cause pursuant to RCW 18.35.185(1). (Reasonable cause does not include cosmetic concerns or a mere change of mind.) You may deliver the written notice to the seller at the

seller's business address. Alternatively, you may send the written notice by certified mail, return receipt requested, to the seller at the seller's business address.

Your written notice must be mailed or delivered by midnight of the thirtieth day after delivery of the hearing instrument.

Any merchandise you received under this agreement must be in its original condition, except for normal wear and tear. You must return it to the seller or make it available to the seller at the same place it was delivered to you.

The seller must refund to you all deposits, including any down payment, and must return to you all goods traded in as part of the agreement. However, for each hearing instrument you return, the seller may keep either one hundred fifty dollars or fifteen percent of the total purchase price, whichever is less. The seller also may deduct any costs incurred in making traded-in goods ready for resale.

The seller must refund your money and return your traded goods, or have them postmarked and in the mail to you, within ten business days after receiving your notice of rescission.

You will incur no additional liability for rescinding the agreement.

Section 3 EXTENSION OF RESCISSION PERIOD

Purchaser's Initial

If you notify the seller within the thirty-day rescission period that your hearing instrument has developed a problem that constitutes reasonable cause to rescind the agreement or that prevents you from evaluating your hearing instrument, the seller must extend the rescission period. The rescission period stops running on the date you notify the seller of the problem and starts running again on the date the seller notifies you that your hearing instrument is ready for redelivery.

You and the seller may agree to a rescission period longer than thirty days.

Whenever the rescission period is extended, the seller must provide you written notice of the last date upon which you may demand a refund and return of traded goods.

_____ Signature of Purchaser	_____ Date
_____ Signature of Seller	_____ Date
_____ Delivery Acknowledgment - Signature of Purchaser	_____ Date

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-320 Minimum standards for fitting and dispensing locations. (1) The hours of business of each hearing instrument establishment shall be prominently and continuously displayed and visible to the public at each regular place or places of business owned or operated by that establishment.

(2) (~~All such~~) Any regular place or places of business or any activities (~~emanating therefrom shall~~) resulting from

these locations must meet the minimum standards for facilities and equipment essential for the testing of hearing and the fitting and dispensing of hearing instruments ~~((as set forth))~~ in WAC 246-828-080.

(3) The term "place or places of business" means a location where a licensee ~~((certificate holder))~~ engages or intends to engage in the fitting and dispensing of hearing instruments at a permanent address(es) open to the public on a regular basis.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-330 Notice of availability and location of follow-up services. Every licensee ~~((certificate holder))~~ shall provide to a hearing instrument purchaser, in writing prior to the signing of the contract, notice of availability of services. The notice shall include the specific location of the follow-up service, including date and time if applicable.

AMENDATORY SECTION (Amending WSR 98-06-079, filed 3/3/98, effective 4/3/98)

WAC 246-828-350 Reasonable cause for rescision. RCW 18.35.190(2) allows the purchaser of the hearing instrument(s) ~~((may))~~ to rescind the purchase and recover moneys ~~((in accordance with RCW 18.35.190(2)))~~ for reasonable cause. The term "reasonable cause" ~~((is defined to include the following))~~ includes:

(1) Any material misstatement of fact or misrepresentation by the licensee ~~((certificate holder))~~ regarding the hearing instrument(s) or fitting and dispensing services to be provided which the purchaser relied on or which induced the purchaser into making the agreement;

(2) Failure by the licensee ~~((certificate holder))~~ to provide the purchaser with the hearing instrument(s) and fitting and dispensing services which conform to those specified in the purchase agreement between the parties;

(3) Diagnosis of a medical condition unknown to the purchaser at the time of purchase, which precludes the purchaser from using the hearing instrument(s);

(4) Failure by the licensee ~~((certificate holder))~~ to remedy a significant material defect of the hearing instrument(s) within a reasonable period of time in accordance with RCW 18.35.190 (2)(c);

(5) The hearing instrument(s) and/or fitting and dispensing services would not be in accordance with accepted practices of the industry; and

(6) Failure by the licensee ~~((certificate holder fails))~~ to meet any standard of conduct prescribed in the laws regarding the fitting and dispensing of hearing instruments and this failure adversely affects in any way the transaction which the purchaser seeks to rescind.

AMENDATORY SECTION (Amending Order 342B, filed 3/5/93, effective 4/5/93)

WAC 246-828-500 Citation and purpose. The purpose of these rules is to require licensed hearing ~~((aid))~~ instrument fitters and dispensers to continue their professional education

as a condition of maintaining a license to practice the fitting and dispensing of hearing ~~((aid))~~ instruments in this state.

AMENDATORY SECTION (Amending WSR 95-19-017, filed 9/7/95, effective 10/8/95)

WAC 246-828-550 Programs approved by the board ~~((on fitting and dispensing of hearing aids))~~ of hearing and speech. Completion of the following ~~((are deemed to))~~ qualify an individual for continuing education credit:

(1) Attendance at a continuing education program having a featured speaker(s) or panel which has been approved by an industry-recognized local, state, national, or international organization.

(2) Participation as a speaker or panel member in a continuing education program which has been approved by an industry-recognized local, state, national, or international organization. A maximum of two hours of such participation may be applied towards the total ten hours required.

(3) Completion as a student, of a written, video, or audio continuing education program which has been approved by an industry-recognized local, state, national, or international organization. Only ~~((such))~~ programs ~~((which))~~ that have accompanying required comprehension tests ~~((of comprehension))~~ upon completion ~~((and))~~ that are independently graded ~~((shall))~~ may be accepted.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-828-990 Hearing ~~((aid))~~ instrument fitter/dispenser, audiologist and speech language pathologists fees and renewal cycle. (1) Licenses ~~((and certificates))~~ must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Licenses must pay the following nonrefundable fees ~~((will be charged for fitter/dispensers))~~:

Title of Fee	Fee
((Fitter/dispenser:))	
License application	\$125.00
Initial license	100.00
<u>Interim permit</u>	<u>100.00</u>
Renewal	200.00
((Written Exam	100.00
Practical Exam	200.00
Apprentice permit	85.00))
Inactive license	75.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Expired inactive license reissuance	50.00
License verification	15.00
Wall certificate	15.00
Duplicate license	15.00

PROPOSED

WSR 03-15-117
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed July 22, 2003, 9:51 a.m.]

PROPOSED

Title of Fee	Fee
((3) The following nonrefundable fees will be charged for audiologists:	
Certificate application	125.00
Initial certificate	100.00
Renewal	200.00
Written Examination	100.00
Practical Examination	200.00
Interim permit	100.00
Inactive certificate	75.00
Late renewal penalty	100.00
Expired certificate reissuance	100.00
Expired inactive certificate reissuance	50.00
Certificate verification	15.00
Wall certificate	15.00
Duplicate certificate	15.00
(4) The following nonrefundable fees will be charged for speech/language pathologist:	
Certificate application	125.00
Initial certificate	100.00
Renewal	200.00
Written Examination	100.00
Practical Examination	200.00
Interim permit	100.00
Inactive certificate	75.00
Late renewal penalty	100.00
Expired certificate reissuance	100.00
Expired inactive certificate reissuance	50.00
Certificate verification	15.00
Wall certificate	15.00
Duplicate certificate	15.00

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-828-030	Reexaminations.
WAC 246-828-055	Apprenticeship program—Definitions.
WAC 246-828-061	Requirements for apprenticeship training waiver.
WAC 246-828-070	Apprenticeship program—Minimum training requirements.

Original Notice.
 Preproposal statement of inquiry was filed as WSR 01-13-097.

Title of Rule: Contractor certificate of registration renewals—Security—Insurance, chapter 296-200A WAC.

Purpose: The purpose of this rule making is to:

- Make changes to these rules in response to the passage of chapter 159, Laws of 2001 (SSB 5101) from the 2001 legislative session.
- Increase fees by 3.20% (rounded down to the nearest tenth of a dollar) based on the fiscal growth factor (maximum allowable rate established by the Office of Financial Management).
- Add a new fee for refund processing services provided by the department.
- Add penalties associated with violations of RCW 18.27.110.
- Increase penalties for violations of the contractor registration laws.
- Make necessary changes to reflect current department practice.
- Incorporate policy into rule.
- Make housekeeping changes.
- Make substantive and clarifying changes based on the requests of stakeholders.

A summary of the proposed changes is as follows:

NEW SECTIONS:

WAC 296-200A-030 How much are the surety bond or savings account amounts?

This section was created in order to establish bonding requirements based on 2001 legislative changes.

WAC 296-200A-065 What procedures must be followed when surety bonds and/or other securities approved by the department become impaired?

This section was created in order to:

- Establish the requirements in rule associated with when surety bonds or other securities become impaired.
- Make changes based on the 2001 legislative changes.
- Make changes based on current department practice.

AMENDATORY SECTIONS:

WAC 296-200A-015 What terms do I need to know to understand this chapter?

This section was amended in order to modify and add new definitions necessary for use with this chapter.

WAC 296-200A-025 How does a contractor register ~~((or)),~~ renew, reregister, or reinstate its registration?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.

- Make clarification changes associated with the requirements for registration, renewal, reregistration, and reinstatement requirements.
- Require that a policy number be included with the insurance information required to be provided to the department.
- Make changes based on the 2001 legislative changes.
- Require that a copy of the certificate or document (when required) by the Secretary of State for the contractor to do business in the state of Washington be provided to ensure compliance with chapter 18.27 RCW and this chapter.

WAC 296-200A-035 How long is a contractor's registration period?

This section was amended in order to change the registration period based on 2001 legislative changes.

WAC 296-200A-040 (~~How does a contractor's registration become suspended~~) What can cause the suspension of a contractor's registration?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Clarify the actions associated with the suspension of a contractor's registration.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-060 What procedures (~~should~~) must be followed when surety bonds and/or insurance policies are canceled?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Make clarification changes.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-070 When will the department (~~refund~~) release a security deposit?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Make clarification changes.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-080 How is a suit filed against a contractor?

This section was amended in order to:

- Make clarification changes.
- Establish provisions relating to assignment of accounts.
- Make changes based on the 2001 legislative changes.
- Add the specific location where the notice that a suit has been filed (summons and/or complaint) must be delivered.

WAC 296-200A-090 How are judgments against contractors paid?

This section was amended in order to:

- Make clarification changes.
- Establish provisions relating to assignment of accounts.
- Make changes based on the 2001 legislative changes.
- Reduce the number of copies that the claimant supplies the department from three to one for the unpaid final court judgment.

WAC 296-200A-111 How does a city, town, or county verify a contractor's registration?

This section was amended in order to:

- Make clarification changes.
- Identify other means by which a city, town, or county may verify registration.
- Add a note to inform cities, towns, and counties that although the contractor registration card states that the contractor has an active status the contractor may have since been suspended.

WAC 296-200A-112 Who is liable when a city, town, or county fails to verify a contractor's registration?

This section was amended in order to:

- Increase penalties for violations of this section.
- Correct a reference to RCW 18.27.110(1).

WAC 296-200A-300 What violations of chapter 18.27 RCW can result in the issuance of a notice of infraction?

This section was amended in order to:

- Make clarification changes.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-305 How does the department notify registered contractors regarding any unregistered subcontractors they may employ?

This section was amended in order to:

- Make clarification changes.
- Specify that if, after receiving the "notice of unregistered subcontractor," the general contractor continues to employ the subcontractor in question, it will be liable for an infraction under RCW 18.27.200.

WAC 296-200A-310 What information must be included in a notice of infraction?

This section was amended in order to:

- Make clarification changes.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-320 (~~Who can be issued a notice of infraction~~) How can a notice of infraction be served?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Make clarification changes.

WAC 296-200A-330 (~~If a notice of infraction is served on an employee, how is the contractor notified~~) How are notices of infraction issued?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Make clarification changes.
- Specify that a notice of infraction may be issued personally to the contractor named in the notice by the compliance inspector issuing it or the notice may be sent to the contractor by certified mail.

WAC 296-200A-340 How does a contractor appeal a notice of infraction?

This section was amended in order to:

- Remove the requirement that two copies of the appeal notice need to be filed.
- Make clarification changes.
- Make changes based on the 2001 legislative changes.

WAC 296-200A-360 Who ((will)) may represent the contractor and the department at the appeal hearing?

This section was amended in order to:

- Change the title for purposes of clarity.
- Make clarification changes to identify who is allowed to represent the contractor and the department at the appeal hearing.

WAC 296-200A-370 How is the appeal hearing conducted?

This section was amended in order to clarify that all appeals of the administrative law judge's decision shall be to the superior court according to chapter 34.05 RCW.

WAC 296-200A-380 What evidence is admissible in an appeal hearing?

This section was amended in order to clarify that the admission of evidence is subject to chapter 34.05 RCW, Administrative Procedure Act.

WAC 296-200A-390 What does the department do with the appeal notices that they receive?

This section was amended in order to specify the process that shall be used for appeal notices.

WAC 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.100, 18.27.110, 18.27.114 or 18.27.200?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Add penalties for violations of RCW 18.27.110.
- Clarify the provisions associated with second or additional violations.
- Make clarification changes.
- Increase the penalties associated with violations of chapter 18.27 RCW and this chapter.
- Specify the process and requirements associated with situations when the director may waive a penalty col-

lection from a contractor in exchange for a payment of restitution to a damaged consumer.

- Make changes based on the 2001 legislative changes.

WAC 296-200A-405 When must a contractor pay assessed monetary penalties?

This section was amended in order to make clarification changes and to remove the requirement that infractions must be paid by only check or money order.

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?

This section was amended in order to:

- Change the title to clearly reflect what this section pertains to.
- Increase fees by 3.20% (rounded down to the nearest tenth of a dollar) based on the fiscal growth factor (maximum allowable rate established by the Office of Financial Management).
- Add a new fee for refund processing services provided by the department.

REPEALED SECTIONS:

WAC 296-200A-500 Is the department required to monitor unregistered contractors who become registered?

This section was repealed as the requirements associated with this section have expired.

WAC 296-200A-510 Is the department required to report contractor compliance activities to the legislature?

This section was repealed as the requirements associated with this section are located in chapter 18.27 RCW.

Statutory Authority for Adoption: RCW 18.27.040, 18.27.070, 18.27.075, 18.27.125 and chapter 159, Laws of 2001 (SSB 5101).

Statute Being Implemented: Chapter 18.27 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. 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 and/or they 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: Department of Labor and Industries Building, S 118 and S 119, 7273 Linderson Way S.W., Tumwater, WA, on August 26, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by August 22, 2003, at (360) 902-6411 or swaj235@LNI.wa.gov.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lmi.wa.gov, fax (360) 902-5292, by August 27, 2003. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: August 28, 2003.

July 22, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-015 What terms do I need to know to understand this chapter? For the purposes of this chapter, the following terms and definitions are important:

"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 (~~RCW 18.27.100, 18.27.114 or 18.27.200~~) chapter 18.27 RCW and this chapter.

"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.

"Applicant" is any person, firm, corporation or other entity applying to become a registered contractor according to chapter 18.27 RCW and this chapter. Applicant includes all principal officer(s), members, partners of a partnership, firm, corporation, or other entity named on the application.

"Citation" means the same as "infraction."

"Compliance inspector" refers to the departmental staff responsible for investigating potential violations of chapter 18.27 RCW and this chapter.

"Contractor compliance chief" refers to the person designated by the director to address all policy and technical issues related to chapter 18.27 RCW and (~~chapter 296-200A WAC~~) this chapter.

"Department" refers to the department of labor and industries.

"Director" refers to the director of the department of labor and industries or the director's designee acting in the place of the director.

"Final judgment" means any money that is owed to a claimant as a result of court action against a contractor's bond or assigned savings account with the department or any

money that is owed the department as a result of a contractor's unsuccessful appeal of an infraction. Final judgment also includes any penalties assessed against the contractor and owed the department as a result of an unappealed infraction or any outstanding fees due under this chapter.

"Infraction" means a violation of (~~RCW 18.27.100, 18.27.114 or 18.27.200~~) chapter 18.27 RCW and this chapter as cited by the chief contractor compliance inspector or the department's construction compliance inspectors.

"Renewal" or "renewed" means the renewal of a contractor's registration before it expires.

"Reinstatement" or "reinstated" means the reinstatement of a contractor's registration after the registration has expired, been suspended, or been revoked.

"Reregistration" or "reregister" means an update to a contractor's registration because of business structure change.

"Secured contractor" is a contractor who has complied with RCW 18.27.040 by assigning(~~(:)~~) to the department(~~(:)~~) a savings account held in a Washington state bank, (~~depositing cash with the department~~) or (~~obtaining~~) by filing with the department a surety bond.

"Security" is a savings account held in a Washington state bank and assigned to the department(~~(: cash deposited with the department or)~~) in lieu of a surety bond.

"Unregistered contractor" means a person, firm, (~~(or)~~) corporation or other entity working as a contractor without being registered in compliance with chapter 18.27 RCW and (~~chapter 296-200A WAC~~) this chapter.

"Unsatisfied final judgment" means a judgment that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-025 How does a contractor register (~~(or)~~), renew, reregister or reinstate its registration? (1) A contractor may register/renew/reregister/reinstate if it:

(a) Completes an application for contractor registration and submits it to the department as required by RCW 18.27.030;

(b) Satisfies one of the following:

(i) Obtains a continuous surety bond in the total amount specified in WAC 296-200A-030 and submits the original bond with bond number to the department (see RCW 18.27.040); or

(ii) Assigns, to the department, a security deposit in the form of a savings account held in a Washington state(~~(: or~~ (iii) Deposits cash with the department) bank as specified in WAC 296-200A-030;

(c) Obtains public liability and property damage insurance and submits the original insurance certificate with policy number to the department (see RCW 18.27.050); and

(d) Pays the issuance/renewal/reregistration/reinstatement fee shown in WAC 296-200A-900.

(2) A contractor may renew its registration if it submits, to the department, a completed contractor registration renewal notice and the material required in subsection (1)(b)

PROPOSED

and (c) of this section and pays the renewal fee shown in WAC 296-200A-900. ~~((At least))~~ No more than forty-five days before the contractor's registration expires, the department must send a renewal notice to the contractor's last recorded address. It is the responsibility of the contractor to notify the department **in writing** of a change in address.

(3) The contractor must:

(a) Submit all required ~~((materials))~~ documents to the department in ~~((one package))~~ a manner approved by the department as set forth in subsections (3)(b), (c), (d), and (4) of this section:

(b) Include, on each ~~((material, its))~~ document, the name exactly as it appears on the contractor registration application or renewal notice~~((-))~~;

(c) Include, if renewing a registration, the contractor's registration number on each of the ~~((materials))~~ documents; and

(d) Include a copy of the certificate or document (when required) by the secretary of state for the contractor to do business in the state of Washington.

(4) The department will not register ~~((or)),~~ renew, or reinstate the registration of a contractor if:

(a) Any of the required ~~((materials))~~ documents are missing;

(b) The ~~((materials))~~ documents do not ~~((properly))~~ have the proper name of the contractor;

(c) ~~((The materials,))~~ In the case of a renewal, the documents do not include the registration number; or

(d) The applicant ~~((has been previously registered as a contractor and))~~ or person pursuant to RCW 18.27.030 has an unsatisfied final judgment based on work which is subject to chapter 18.27 RCW and this chapter.

(5) The contractor may request, in a letter filed with the application or renewal materials, that the registration period end on a particular day. However, the registration period cannot exceed ~~((one))~~ two years.

NEW SECTION

WAC 296-200A-030 How much are the surety bond or savings account amounts? (1) The continuous surety bond or savings account amounts for applicants of contractors with five or fewer final judgments involving a residential single-family dwelling on two or more different structures in the previous five years are as follows:

(a) Twelve thousand dollars per calendar year for general contractors.

(b) Six thousand dollars per calendar year for specialty contractors.

(2) The surety bond or savings account amounts for applicants of contractors with six or more final judgments involving a residential single-family dwelling on two or more different structures in the previous five years will be based upon (a) and (b) of this subsection. (a) and (b) of this subsection do not apply to final judgments rendered before July 22, 2001.

(a) General contractors.

Number of Final Judgments	Bond or Savings Account Amount per Calendar Year
6	\$18,000.00
7	\$24,000.00
8	\$30,000.00
9 or more	\$36,000.00

(b) Specialty contractors.

Number of Final Judgments	Bond or Savings Account Amount per Calendar Year
6	\$ 8,000.00
7	\$12,000.00
8	\$16,000.00
9 or more	\$18,000.00

(3) At the time of reregistration, renewal or reinstatement the department shall only consider final judgments from the previous five years which will be used to determine the bond or savings account amount according to subsection (2)(a) and (b) of this section. Final judgments rendered before July 22, 2001, will not be considered toward the required bond or savings account amount.

(4) For purposes of this section, final judgment does not include infractions.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-035 How long is a contractor's registration period? ~~((1))~~ A registration period ~~((cannot exceed one))~~ is for two years per RCW 18.27.060(1).

~~((2))~~ If a contractor's insurance policy will expire in less than one year after the day the registration begins, the registration period ends on the day the insurance expires.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-040 ~~((How does a contractor's registration become suspended?))~~ What can cause the suspension of a contractor's registration? (1) A contractor's registration will be suspended if ~~((it does not comply with WAC 296-200A-025, specifically, if))~~ the following impairments, cancellations, noncompliance, or errors occur:

(a) A surety bond or other security ~~((is))~~ has an unsatisfied final judgment against it or becomes otherwise impaired.

(b) A surety bond is canceled.

(c) An insurance policy is expired, canceled, revoked or the insurer is withdrawn from the insurance policy.

(d) The contractor has an unsatisfied final judgment against it under chapter 18.27 RCW and this chapter.

(e) The department has notice that the contractor is a sole proprietor or a principal or officer of a registered contractor

that has an unsatisfied final judgment against it for work within the scope of chapter 18.27 RCW and this chapter.

(f) The department is notified that the contractor has been certified by the department of social and health services as a person who is not in compliance with a support order as provided in RCW 74.20A.320.

(g) The department finds that the contractor has provided false information or has otherwise been registered in error.

(h) The contractor fails to comply with a penalty payment plan agreement.

(i) The contractor has been certified by a leading agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service conditional scholarship.

(j) The contractor does not maintain a valid unified business identifier number, if required by the department of revenue.

(2) The contractor's registration will be automatically suspended on the effective date of the impairment or cancellation. The department must mail a notice of the suspension to the contractor's address on the certificate of registration by certified mail and first class mail within ~~((forty-eight hours))~~ two days after suspension.

(3) A contractor must not advertise, offer to do work, submit a bid, or perform any work as a contractor while its registration is suspended. To continue to operate as a contractor while its registration is suspended is a violation of chapter 18.27 RCW and subject to infractions.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-060 What procedures ~~((should))~~ must be followed when surety bonds and/or insurance policies are canceled? (1) Insurance and bonding companies ~~((should))~~ must send cancellation notices to the department ~~((by certified or registered mail)).~~

(2) Cancellation notices must contain the following information ~~((in the order shown))~~:

(a) The name of the contractor exactly as it appears in the contractor's registration file;

(b) The contractor's registration number;

(c) The contractor's business address;

(d) The names of the owners, partners, or officers of the contractor;

(e) The bond or insurance policy number; and

(f) The effective date of the bond or insurance policy.

(3) The cancellation of a surety bond or insurance policy shall be considered effective ~~((thirty days))~~ immediately after the department receives a cancellation notice unless a later specific date is provided.

NEW SECTION

WAC 296-200A-065 What procedures must be followed when surety bonds and/or other securities approved by the department become impaired? (1) Once the department has been notified that the surety bond or other securities approved by the department has been impaired by a

final judgment or reduced by payment to an amount less than is required by WAC 296-200A-030, the contractor's registration will automatically be suspended and the department will send a letter to the contractor by certified mail.

(2) Once the unsatisfied final judgment has been satisfied, the contractor may reapply according to the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-070 When will the department ~~((refund))~~ release a security deposit? (1) The department will release a security deposit ~~((one))~~ two years after the contractor's last registration has expired unless there is an unsatisfied final ~~((court))~~ judgment or on-going claim against the contractor.

(2) The department will release a security deposit in less than ~~((one))~~ two years after the contractor's last registration has expired if the contractor provides a surety bond covering **both the previous and current registration periods.**

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-200A-080 How is a suit filed against a contractor? (1) A civil suit against a contractor must be filed in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. Unless the suit is filed in a superior court, the department will not be able to direct payment on an unsatisfied final judgment against a secured contractor.

(2) Notice that a suit has been filed (a summons and complaint) against a contractor, the contractor's bond, and/or the contractor's deposit must be exclusively delivered to the department by ~~((any delivery requiring notice of receipt))~~ registered or certified mail to: P.O. Box 44450, Olympia, Washington 98504-4450 or by any delivery requiring notice of receipt to: 7273 Linderson Way S.W., Tumwater, WA 98501. The notice must be addressed to the department and must include three copies of the summons and complaint filed against the contractor, the contractor's bond and/or the contractor's deposit. The person filing the suit must pay a twenty-dollar service fee to the department. ~~((See RCW 18.27.040(3).))~~

(3) The summons and complaint against a contractor ~~((should))~~ must include the following information:

(a) The name of the contractor exactly as it appears in the contractor's registration file;

(b) The contractor's business address;

(c) The names of the owners, partners or officers of the contractor if known; and

(d) The contractor's registration number.

(4) If the suit joins a bonding company, the summons and complaint should also include:

(a) The name of the bonding company that issued the contractor's bond;

(b) The bond number; and

(c) The effective date of the bond.

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(5) If the suit is against a contractor using an assigned account in lieu of a bond, the complaint must also include:

(a) The name of the institution where the assigned account is held;

(b) The account number; and

(c) The date the assigned account was opened.

(6) Service is not considered complete until the department receives the documents in Tumwater with the twenty-dollar fee and three copies of the summons and complaint.

((6)) (7) Within two days of receiving a summons and complaint, the department must transmit a copy of the summons and complaint to the registrant at the address listed on the registrant's application or at their last known address provided to the department and to the registrant's surety.

((7)) (8) The department will return a summons and complaint without it being served, if the department cannot readily identify either the contractor or bonding company being sued, if the action did not arise under chapter 18.27 RCW, or if the fee and three copies of the summons and complaint are not received.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-090 How are judgments against contractors paid? (1) The department can only ((pay)) release or order release of payment for a superior court final judgment. ((It)) The department cannot ((pay)) release or order the release of payment to a district court or to satisfy other types of judgments.

(2) Payment of a final judgment by bond. If a contractor is bonded, the department can neither pay a final court judgment against a contractor nor force the contractor or its bonding company to pay. Only the claimant can pursue payment from the contractor or its bonding company.

(3) Payment of a final judgment by assignment of account.

(a) If a contractor's security is held by the department ((can)) it must be used to pay a superior court final judgment against a secured contractor.

((3)) The department must pay a superior court final judgment against a secured contractor if the claimant supplies the department with ((three)) one certified ((copies)) copy of the unpaid final court judgment. The ((three)) certified ((copies)) copy must be delivered by registered or certified mail within one year of the date the final judgment was officially entered into the court record.

((4)) (b) Assignment of account payments under subsection (2) of this section will be paid out in the order the final judgment is received by the department.

(c) For the department to pay a superior court final judgment, the claimant must include the following information with the ((copies)) copy of the judgment:

((a)) (i) The name of the contractor exactly as it appears on the contractor's registration file;

((b)) (ii) The contractor's business address;

((c)) (iii) The names of the owners, partners, or officers of the contractor;

((d)) (iv) The contractor's registration number; and

((e)) (v) The exact amount of the judgment, including court costs, attorneys' fees and interest.

If the department does not receive enough information to pay the judgment, it ((must)) will inform the claimant.

((5) ~~If a contractor is bonded, the department can neither pay a final court judgment against a contractor nor force the contractor or its bonding company to pay. Only the claimant can pursue payment from the contractor or its bonding company.~~) The department shall have no liability for payment in excess of the amount of the secured account.

(4) Payment of a final judgment by the contractor. The contractor may pay a superior court final judgment in lieu of the department releasing or ordering the release of a bond or the assignment of account funds to satisfy the final judgment. The contractor must provide the department with a "full satisfaction of judgment" from the superior court that the final judgment has been satisfied.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-111 How does a city, town, or county verify a contractor's registration? (1) A city, town, or county may verify((:

(1)) an original contractor registration by receiving and duplicating a current contractor registration card, by checking the department's contractor registration ((data-base)) Internet website, checking the computer disk (CD) circulated by the department, or by calling the department to confirm that the contractor is registered.

(2) ~~((A nonoriginal contractor registration by either accepting a))~~ The contractor's registration is valid if the contractor provides a notarized copy of the original contractor registration card ((if that copy has been attested to by the person who applied for that original card)) or ((by accepting)) a facsimile verification from the department.

Note: Although the contractor registration card states that the contractor has an active status, the contractor may have since been suspended.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-112 Who is liable when a city, town, or county fails to verify a contractor's registration? The city, county, or town that issues a building permit without verifying the contractor's registration may be liable for a maximum penalty amount of ((five)) ten thousand dollars. See RCW ((18.27.100(7)(a))) 18.27.110(1).

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-300 What violations of chapter 18.27 RCW can result in the issuance of a notice of infraction? (1) Under RCW 18.27.100, the department can issue a notice of infraction to a contractor and assess a penalty up to ten thousand dollars for:

(a) Using an unregistered name while ((acting)) advertising as a contractor;

(b) Using an unregistered name and address in advertising, correspondence, signs, documents, etc.;

(c) Using a false or expired registration number in advertisements where a contractor's registration number is required;

(d) Using the bond and insurance requirements of chapter 18.27 RCW to advertise as a bonded and insured contractor;

(e) Using a false registration number to either solicit business or pose as a contractor;

(f) Failing to include the contractor's current registration number in all advertising that shows the contractor's name or address. This registration number may be omitted in an alphabetized listing of registered contractors stating only the name, address, and telephone number. See RCW 18.27.100(3).

~~(2) ((Under RCW 18.27.114,))~~ For violations of chapter 18.27 RCW, the department may issue penalties for violations and notices of infractions containing an order of correction to a person holding a registration, an applicant for registration, or a person acting in the capacity of a contractor, who is not otherwise exempted from chapter 18.27 RCW, that has violated chapter 18.27 RCW or this chapter. Such order shall require the violator to cease the unlawful advertising.

~~(3) The department ((can))~~ may issue a notice of infraction to a contractor for failing to provide a residential or commercial customer with a proper disclosure statement before beginning a repair, alterations or construction project. See RCW 18.27.114(1) for both the project dollar cost limits affecting this requirement and a sample disclosure statement.

This requirement does not apply to either contracts authorized under chapter 39.04 RCW or to contractors contracting with other contractors.

~~((3))~~ (4) Under RCW 18.27.200, the department must issue a notice of infraction to a contractor for:

(a) Advertising, offering to work, submitting a bid, or performing any ~~((contractor))~~ contracting work without being registered or when ~~((it's))~~ the contractor's registration is suspended or revoked; or

(b) Transferring a valid contractor registration to an unregistered contractor; or

(c) Allowing an unregistered contractor to work under a registration issued to another contractor.

Each day that a contractor works without being registered, works while the registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. A cited contractor who continues to work while unregistered, or while their registration is suspended or revoked, or under a registration issued to another contractor is guilty of a separate misdemeanor for each day worked.

Each worksite at which a contractor works without being registered, works while the registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. A cited contractor who continues to work while unregistered, or while their registration is suspended or revoked, or under a registration issued to another contractor is guilty of a separate misdemeanor for each worksite on which a violation occurs.

~~((4))~~ (5) See WAC 296-200A-400 for the specific monetary penalties associated with each of the violations discussed in this section.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-305 How does the department notify registered contractors regarding any unregistered subcontractors they may employ? (1) Unless a general contractor or its representative has been given written notification by the department that a subcontractor they have employed, who was registered when employed, has subsequently become unregistered, it is not ~~((illegal))~~ unlawful for the general contractor to employ that subcontractor. (See RCW 18.27.020(3).)

(2) To comply with RCW 18.27.020(3), the department, when ~~((appropriate))~~ feasible, will issue a written "notice of unregistered subcontractors" to a general contractor or its representative.

(3) A "notice of unregistered subcontractor" issued under this section must be personally served on the general contractor named in the notice by the department's compliance inspectors or must be served by certified mail directed to the general contractor named in the notice.

(4) If the general contractor named in the notice is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If the notice is personally served upon an employee and the department is able to obtain the general contractor's address, the department must send a copy of the notice by certified mail to the general contractor within four days of service.

(5) A "notice of unregistered subcontractor" **is not** a notice of infraction.

(6) If, after receiving the "notice of unregistered subcontractor," the general contractor continues to employ the subcontractor in question, it will be liable for an infraction under RCW 18.27.200.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-310 What information must be included in a notice of infraction? When a contractor violates ~~((RCW 18.27.100, 18.27.114 or 18.27.200))~~ chapter 18.27 RCW, the department may issue a notice of infraction which ~~((must))~~ contains the following:

(1) Notification that an infraction has been committed and shall be final unless contested;

(2) Notification that an infraction is a noncriminal offense and is not punishable by imprisonment;

(3) The specific violation(s) leading to the issuance of the infraction;

(4) The amount of penalty owed if the infraction is established;

(5) Notification of a right to a hearing (chapter 34.05 RCW) if requested within twenty days of ~~((receipt))~~ service of the infraction;

(6) A reminder that the burden of proof in a hearing rests upon the state;

(7) Notification of a right to subpoena witnesses, including the inspector (~~that~~) who issued the infraction;

(8) A reminder that a contractor is legally required to sign a notice of infraction and, by doing so, promises to respond to it;

(9) A reminder that a refusal to sign a notice of infraction is a misdemeanor and may be punishable by fine or imprisonment; and

(10) A reminder that a failure to respond to a notice of infraction is a misdemeanor and may be punishable by a fine or imprisonment.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-320 (~~Who can be issued a notice of infraction?~~) **How can a notice of infraction be served?** (1) A notice of infraction (~~can be~~) is served when the notice of infraction is issued personally to the contractor named in the notice by the compliance inspector issuing it or (~~the notice can be delivered to the contractor by certified mail~~) when the notice of infraction is sent by certified mail to the contractor.

(2) Any employee of a contractor can be (~~issued~~) served a notice of infraction at a job site. When the notice is signed by the employee, it is binding upon the contractor. To avoid confusion, the department must have the employee sign the "name of the contractor, by name of the employee." The signature will appear as:

Jane Doe Construction Co.

(by) Richard Roe, Employee.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-330 (~~If a notice of infraction is served on an employee, how is the contractor notified?~~) **How are notices of infraction issued?** (1) A notice of infraction may be issued personally to the contractor named in the notice by the compliance inspector issuing it or the notice may be sent to the contractor by certified mail.

(2) When the (~~department issues~~) department's compliance inspector serves a notice of infraction (~~to~~) upon a contractor's employee (~~and it knows the contractor's name and address~~), the department (~~has~~) shall within four days (~~to deliver~~) send a copy of the notice to the contractor by certified mail if the department is able to obtain the contractor's address. To ensure that the contractor receives this notice, the department (~~must~~) will mail a second copy of the infraction by first class mail.

(~~(2)~~) (3) If the department does not know the contractor's name and address, it does not need to mail a copy of the infraction to the contractor, however, the notice remains in force.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-340 **How does a contractor appeal a notice of infraction?** The contractor 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 notice of appeal (notice) with the department within twenty days (of) after the earlier of service of the infraction on-site or service of the infraction mailed to the contractor. These time frames apply to the issuance of the infraction for all violations of chapter 18.27 RCW.~~

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-360 **Who (~~will~~) may represent the contractor and the department at the appeal hearing?** (~~Contractors may either represent themselves or be represented by an attorney.~~) (1) Contractors may be represented by themselves or be represented by:

(a) An attorney at law qualified to practice in the state of Washington; or

(b) An authorized representative(s) of the contractor.

(2) The department shall be represented by the office of attorney general.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-370 **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~~) administrative law judge's decision shall be to the superior court according to chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-380 **What evidence is admissible in an appeal hearing?** (~~All relevant evidence must be admitted in appeals hearings convened according to RCW 18.27.100, 18.27.114 and 18.27.200.~~) The admission of evidence is (~~further~~) subject to chapter 34.05 RCW, Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-390 **What does the department do with the appeal notices that they receive?** (~~The department must record and forward all appeal notices to the office of administrative hearings.~~) (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.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-400 What monetary penalties will be assessed for an infraction issued for violations of RCW 18.27.100, 18.27.110, 18.27.114 or 18.27.200? (1) Each day that a violation occurs will be a separate offense.

(2) Once a violation of chapter 18.27 RCW or this chapter 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 tables that follow.

(3) Second or additional offenses subject to increased penalties also include individuals or entities.

(4) A person, firm, corporation, or other entity who violates a provision of chapter 18.27 RCW and this chapter is liable for a civil penalty based upon the following schedule.

(a)(i) Monetary penalties that may be assessed for a violation of RCW 18.27.100 (1), (2), (3), and (4) are:

(RCW 18.27.100) Monetary Penalties	Dollar Amount
First Final Violation	\$ (100.00) 250.00*
Second Final Violation	\$ (200.00) 500.00
Third Final Violation	\$ (400.00) 1,000.00
Fourth Final Violation	\$ (800.00) 2,000.00
Fifth Final Violation	\$ (1,600.00) 4,000.00
Sixth Final Violation	\$ (3,200.00) 8,000.00
Each Additional Final Violation	\$ (5,000.00) 10,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.100 (1), (2), (3), and (4) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above ((table)).

(ii) Monetary penalties that may be assessed for a violation of RCW 18.27.100(5) are:

Monetary Penalties	Dollar Amount
First Final Violation	\$ 1,000.00*
Second Final Violation	\$ 2,000.00
Third Final Violation	\$ 4,000.00
Fourth Final Violation	\$ 8,000.00
Each Additional Final Violation	\$10,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.100(5) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(iii) Monetary penalties that may be assessed for a violation of RCW 18.27.100(6) are:

Monetary Penalties	Dollar Amount
First Final Violation	\$ 1,000.00*
Second Final Violation	\$ 2,000.00
Third Final Violation	\$ 4,000.00
Each Additional Final Violation	\$ 5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.100(6) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

(b) Monetary penalties that may be assessed for a violation of RCW 18.27.110 are:

Monetary Penalties	Dollar Amount
First Final Violation	\$ 250.00*
Second Final Violation	\$ 500.00
Third Final Violation	\$ 1,000.00
Fourth Final Violation	\$ 2,000.00
Fifth Final Violation	\$ 4,000.00
Sixth Final Violation	\$ 8,000.00
Each Additional Final Violation	\$10,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.110 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above.

((2)) (c) Monetary penalties that may be assessed for a violation of RCW 18.27.114 are:

(RCW 18.27.114) Monetary Penalties	Dollar Amount
First Final Violation	\$ (200.00) 500.00*
Second Final Violation	\$ (400.00) 1,000.00
Third Final Violation	\$ (800.00) 2,000.00
Fourth Final Violation	\$ (1,600.00) 4,000.00
(Fifth Final Violation)	\$3,200.00)
Each Additional Final Violation	\$5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.114 becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the table above ((table)).

((3)) (d) Monetary penalties that may be assessed for a violation of RCW 18.27.200 according to RCW 18.27.340 (1) and (3) are:

((a)) (i)

(RCW 18.27.340(1)) Monetary Penalties	Dollar Amount
First Final Violation	\$ (200.00) 500.00*
Second Final Violation	\$ (400.00) 1,000.00
Third Final Violation	\$ (800.00) 2,000.00
Fourth Final Violation	\$ (1,600.00) 4,000.00
(Fifth Final Violation)	\$3,200.00)
Each Additional Final Violation	\$ 5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.340(1) becomes a final judgment, any additional violation

PROPOSED

is subject to an increased penalty as set forth in the table above ~~((table))~~.

~~((b))~~ (ii)

RCW 18.27.340(3) Monetary Penalties	Dollar Amount
First Final Violation	\$1,000.00*
Second Final Violation	\$2,000.00
Third Final Violation	\$4,000.00
Each Additional Final Violation	\$5,000.00

* Minimum penalty per violation. Once a violation of RCW 18.27.340(3) becomes a final judgment, any additional violation is subject to an increased penalty as set forth in the above table. However, if the unregistered contractor becomes registered within ten days of receiving the notice of infraction and the notice is the contractor's first offense, the director may reduce the penalty. In no case can the director reduce the penalty below five hundred dollars.

~~((e))~~ (4) For violations of RCW 18.27.200, the director may waive a penalty collection from a contractor in exchange for a payment of restitution to a damaged consumer in an amount at least equal to the ~~((amount of the))~~ assessed penalty. Prior to the infraction becoming final, the contractor must provide to the department a notarized release from the damaged consumer stating that he or she paid the damaged consumer in an amount at least equal to the assessed penalty.

(5)(a) The department shall deny an application for registration if:

(i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment;

(ii) The applicant was a principal or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; or

(iii) The applicant does not have a valid unified business identifier number, if required by the department of revenue.

(b) The department shall suspend an active registration if the department has notice that the registrant is a sole proprietor or a principal or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter.

AMENDATORY SECTION (Amending WSR 97-24-071, filed 12/2/97, effective 1/5/98)

WAC 296-200A-405 When must a contractor pay assessed monetary penalties? (1) If a contractor named in a notice of infraction does not choose to appeal the notice, then the contractor must pay the department the amount of the penalty prescribed for the infraction. ~~((Payment must be by check or money order.))~~

(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. Failure to do so is a misdemeanor and ~~((shall))~~ may be prosecuted in the county where the infraction occurred.

(3) A contractor who has exhausted all appeal opportunities and fails to pay an assessed monetary penalty within thirty days after exhausting those opportunities shall be guilty of a misdemeanor and may be prosecuted in the county where the infraction occurred.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration? ~~((1))~~ For the purposes of this chapter:

~~(a) A contractor's registration is renewed before or after it expires.~~

~~(b) A contractor's registration is reinstated after the registration:~~

~~(i) Has been suspended because the contractor's insurance has expired or been canceled; or~~

~~(ii) Has been suspended because the contractor's bond or assignment of account has been canceled or impaired.~~

~~(c) A contractor reregisters when his or her business structure changes.~~

~~(2))~~ The department charges the following fees:

~~((a) \$100.00))~~ (1) \$103.20 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.

~~((b) \$47.40))~~ (2) \$48.90 for the reinstatement of a certificate of registration.

~~((c) \$11.30))~~ (3) \$11.60 for providing a duplicate certificate of registration.

~~((d) \$22.70))~~ (4) \$23.40 for each requested certified letter prepared by the department.

~~((e))~~ (5) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be ~~((26.40))~~ \$27.20.

~~((f))~~ (6) \$20.00 is required to cover the costs for the service of process in an action against ~~((the))~~ a contractor, the contractor's bond, or the deposit under RCW 18.27.040.

(7) \$25.00 is required to cover the costs for the service of processing refunds.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-200A-500 Is the department required to monitor unregistered contractors who become registered?

WAC 296-200A-510 Is the department required to report contractor compliance activities to the legislature?

PROPOSED

WSR 03-15-126
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed July 22, 2003, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-089.

Title of Rule: Social services for adults, WAC 388-71-05923 Who is required to complete basic training, and when?

Purpose: Clarify the start date for tracking completion of the basic training requirement for in-home agency providers and individual providers.

Statutory Authority for Adoption: RCW 74.39A.050 (12).

Statute Being Implemented: RCW 74.39A.050.

Summary: This amendment changes wording to clarify when the one hundred twenty days allowed for basic training starts. It removes the references to the "first DSHS client" for which there is no tracking mechanism. It allows the one hundred twenty day clock to start again with a new client, if the provider has not completed basic training, so the provider is not penalized when there is a break in providing service to clients before they complete the basic training.

Reasons Supporting Proposal: There are times when an IP or agency provider who has not completed basic training has a break in service to their client(s). It is important that the one hundred twenty days allowed for training can start again when they start working again. If the IP or agency provider works continuously for one or more clients, then the one hundred twenty days runs continuously. The intent of the requirement is to have trained providers for DSHS clients.

Name of Agency Personnel Responsible for Drafting: Dotti Wilke, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2539; Implementation and Enforcement: Marta Acedo, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2549.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule specifies the requirement for individual providers and home care agency providers to take basic training, and the timeline for completion. The purpose is to have trained workers for DSHS clients. The anticipated effects are to create more consistency in interpretation of the requirements and have requirements that staff are able to track accurately.

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 changes to this WAC allow more flexibility in meeting the requirement for agency and individual providers to complete their basic training within one hundred twenty days. The requirement for training is not changed, so there is no change in fiscal impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule does not meet the definition of a "significant legislative rule" in RCW 34.05.328 (5)(c)(iv). The rule only clarifies existing training requirements for agency and individual providers without changing the effect of the rule.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov by 5:00 p.m., August 25, 2003.

Date of Intended Adoption: Not earlier than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-10-117, filed 4/30/02, effective 5/31/02)

WAC 388-71-05923 Who is required to complete basic training, and when? Individual providers and home care agency providers must complete ~~((department developed))~~ basic training developed by the department and demonstrate competency within one hundred twenty days after ((beginning to work with their first DSHS client)) being authorized to provide department-paid in-home services for a client. A certificate of successful completion of basic training, using a curriculum developed or approved by the department, meets this requirement.

WSR 03-15-127
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed July 22, 2003, 3:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086 and 03-12-054.

Title of Rule: **Part 1 of 4, chapter 388-535 WAC, Dental services**, amending WAC 388-535-1050 Definitions, 388-535-1060 Clients who are eligible for dental-related services and 388-535-1070 Dental-related services provider information; and new section WAC 388-535-1065 Coverage limits for dental-related services provided under state-only funded programs.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant (P.L. 104-191)

by October 16, 2003. To comply with requirements of the 2003-2005 State Omnibus Operating Budget (ESSB 5404), the department is incorporating into rule the 25% reduction in adult dental benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530; ESSB 5404 (chapter 25, Laws of 2003 1st sp.s.).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Gini Egan, P.O. Box 45506, Olympia, WA 98504, (360) 725-1580.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

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

The purpose is to meet federal and state requirements, to incorporate rule changes to reflect the 25% reduction in dental-[related] services for adults, and to incorporate changes required by HIPAA.

The anticipated effect is compliance with federal and state requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: Proposal incorporates state legislative changes in adult dental-related services and the changes required by HIPAA. The rules change and add to existing definitions, amend sections in and add new sections to chapter 388-535 WAC. WAC 388-535-1120 will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the rule will not place more than a minor economic impact on small businesses.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rule meets the definition of a "significant legislative rule." The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs and has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the CBA memo is available from Gini Egan, Division of Medical Management, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1580.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 3003 [2003], phone (360) 664-6094, TTY (360) 664-6178, e-mail fernanaax@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850,

deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

GENERAL

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1050 Dental-related definitions. The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. The medical assistance administration (MAA) also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT((-3))) and the American Medical Association's Physician's Current Procedural Terminology ((2002)) (CPT((TM-2002))). Where there is any discrepancy between the CDT-2 or CPT 2002 and this section, this section prevails. (CPT((TM)) is a trademark of the American Medical Association.)

"**Access to baby and child dentistry (ABCD)**" is a program to increase access to dental services in targeted areas for Medicaid eligible infants, toddlers, and preschoolers up through the age of five. See WAC 388-535-1300 for specific information.

"American Dental Association (ADA)" is a national organization for dental professionals and dental societies.

"**Adult**" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty-one years of age or older (MAA's payment structure changes at age nineteen, which affects specific program services provided to adults or children).

"**Anterior**" means teeth and tissue in the front of the mouth.

(1) "**((Lower)) Mandibular anterior((s)) teeth**" - incisors and canines: teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven; and

(2) "**((Upper)) Maxillary anterior((s)) teeth**" - incisors and canines: teeth six, seven, eight, nine, ten, and eleven.

"**Asymptomatic**" means having or producing no symptoms.

"**Base metal**" means dental alloy containing little or no precious metals.

"**Behavior management**" means managing the behavior of a developmentally disabled client ((during treatment using)) or a client age eighteen or younger to facilitate the delivery of dental treatment with the assistance of one additional dental professional staff((-and professionally accepted restraints or sedative agent, to protect the client from self-injury)).

"**By report**" - a method of ((payment for a covered service, supply, or equipment which:

(1) Has no maximum allowable established by MAA,

~~(2) Is a variation on a standard practice, or~~

~~(3) Is rarely provided))~~ reimbursement in which MAA determines the amount it will pay for a service when the rate for that service is not included in MAA's published fee schedules. Upon request the provider must submit a "report" which describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means tooth decay through the enamel or decay of the root surface.

"Child" for the general purposes of the medical assistance administration's (MAA) dental program, means a client twenty years of age or younger. (MAA's payment structure changes at age nineteen, which affects specific program services provided to children or adults.)

"Comprehensive oral evaluation" means a thorough evaluation and recording of ((the hard and soft tissues in and around the mouth, including the evaluation and recording of the client's dental and medical history and a general health assessment)) a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" is a drug-induced depression of consciousness during which clients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.

"Coronal" is the portion of a tooth that is covered by enamel, and is separated from the root or roots by a slightly constricted region, known as the cemento-enamel junction.

"Coronal polishing" is a procedure limited to the removal of plaque and stain from exposed tooth surfaces.

"Crown ((artificial))" means a restoration covering or replacing the major part, or the whole of, the clinical crown of a tooth.

"Current dental terminology (CDT)((~~third edition (CDT-3)~~))" a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology ((~~2002 (CPT 2002)~~)) (CPT)" means a description of medical procedures and is available from the American Medical Association of Chicago, Illinois.

"Decay" is a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" is a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" ((means the use of agents to induce loss of feeling or sensation, a controlled state of unconsciousness, in order to allow dental services to be rendered to the client.)) See "general anesthesia."

"Dentures" ((are a set of artificial teeth, including over-dentures. See WAC 388-535-1240 for specific information)) means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Endodontic" means ((a)) disease and injuries to the pulp requiring root canal ((treatment)) therapy and related follow-up.

"EPSDT" means the department's early and periodic screening, diagnosis, and treatment program for clients twenty years of age and younger as described in chapter 388-534 WAC.

"Extraction" See "simple extraction" and "surgical extraction."

"Flowable composite resin" is a light-cured, low viscosity composite resin that is used in cervical lesions and other small, low stress bearing restorations.

"Fluoride varnish or gel" means a substance containing dental fluoride, applied to teeth.

"General anesthesia" is a drug-induced loss of consciousness during which clients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"High noble metal" means a dental alloy containing at least sixty percent pure gold.

"Limited oral evaluation" means an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Major bone grafts" means a transplant of solid bone tissue(s).

"Medically necessary" see WAC 388-500-0005.

"Minor bone grafts" means a transplant of nonsolid bone tissue(s), such as powdered bone, buttons, or plugs.

"Noble metal" means a dental alloy containing at least twenty-five percent but less than sixty percent pure gold.

"Oral evaluation" ((is a comprehensive oral health and developmental history; an assessment of physical and oral health development and nutritional status; and health education, including anticipatory guidance.)) See "comprehensive oral evaluation."

((("Oral health assessment or screening" means a screening of the hard and soft tissues in the mouth.))

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

((("Oral health status" refers to the client's risk or susceptibility to dental disease at the time an oral evaluation or assessment is done by a dental practitioner. This risk is designated as low, moderate or high based on the presence or absence of certain indicators.))

"Oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes removal of calculus, soft deposits, plaque and stains.

PROPOSED

"Partials" or "partial dentures" means a removable appliance replacing one or more missing teeth in one ((jaw)) arch, and receiving its support and retention from both the underlying tissues and some or all of the remaining teeth. ((See WAC 388-535-1240 for specific information.))

"Periodic oral evaluation" means an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation. This includes a periodontal charting at least once per year.

"Periodontal maintenance" means a procedure for clients who have previously been treated for periodontal disease and starts after completion of active (surgical or nonsurgical) periodontal therapy. It includes removal of the supra and subgingival microbial flora and calculus.

"Periodontal scaling and root planing" means instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus, microbial flora, and bacterial toxins.

"Posterior" means teeth and tissue towards the back of the mouth. ((Specifically, only these permanent))

(1) **"Mandibular posterior teeth"** - distal to the canines: teeth((s)) one, two, three, four, five, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two.

(2) **"Maxillary posterior teeth"** - distal to the canines: premolars four, five, twelve, thirteen, and molars one, two, three, fourteen, fifteen, and sixteen.

"Proximal" means the surface of the tooth near or next to the adjacent tooth.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" is a portion of the pulp cavity inside the root of a tooth and the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" is the treatment of disease and injuries of the pulp and associated periradicular conditions.

"Root planing" is a procedure ((designed)) to remove microbial flora, bacterial toxins, calculus, and diseased cementum or dentin ((from the teeth's)) on the root surfaces and pockets.

"Scaling" ((means the removal of calcareous material from the exposed tooth surfaces and that part of the teeth covered by the marginal gingiva)) is a procedure to remove plaque, calculus, and stain deposits from tooth surfaces.

"Sealant" is a material applied to teeth to prevent dental caries.

"Simple extraction" means routine removal of tooth structure.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" means removal of tooth structure with cutting of gingiva and bone, including soft tissue extractions, partial boney extractions, and complete boney extractions.

"Symptomatic" means having symptoms (e.g., pain, swelling, and infection).

"Temporomandibular joint dysfunction (TMD/JMD)" means an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges non-Medicaid customers for the same service or item. This is the maximum amount that the provider may bill MAA.

"Wisdom teeth" means teeth one, sixteen, seventeen, and thirty-two.

"Xerostomia" means a dryness of the mouth.

((COVERAGE))

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1060 Clients who are eligible for dental-related services. ((1) Subject to the specific limitations described in WAC 388-535-1080, Covered services,) The following clients who receive services under the ((following)) medical assistance programs listed in this section are eligible for ((the)) covered dental-related services ((described in this chapter)), subject to the restrictions and specific limitations described in this chapter and other applicable WAC:

(1) Children eligible for the:

- (a) Categorically needy program (CN or CNP);
- (b) Children's health insurance program (CNP-CHIP);

and

- (c) ((Qualified Medicare beneficiary (CNP-QMB);
- (d)) Limited casualty program((s)) - medically needy program (LCP-MNP)((s));

(e) Medically needy program - qualified Medicare beneficiary (MNP-QMB);

(f) Children's health (the state funded only program) through September 30, 2002 only; and

(g) Pregnant undocumented aliens.

(2) Clients who receive services under the following state funded only programs are covered as described in WAC 388-535-1120:

(a) General assistance unemployable (GAU); and

(b) Alcohol and drug abuse treatment and support act (ADATSA).

(3) Clients who receive services under the medically indigent (MI) program are covered for only those medical conditions that are acute and emergent and treated in a hospital.

((4)).

(2) Adults eligible for the:

(a) Categorically needy program (CN or CNP); and

(b) Limited casualty program - medically needy program (LCP-MNP).

(3) Clients eligible for medical case services under the following state-funded only programs are eligible only for

the limited dental-related services described in WAC 388-535-1065:

- (a) General assistance - Unemployable (GA-U); and
- (b) General assistance - Alcohol and Drug Abuse Treatment and Support Act (ADATSA) (GA-W).
- (4) Clients who are enrolled in a managed care plan are eligible for medical assistance administration (MAA)-covered dental services that are not covered by their plan, under fee-for-service, subject to the provisions of chapter 388-535 WAC and other applicable WAC.

NEW SECTION

WAC 388-535-1065 Coverage limits for dental-related services provided under state-only funded programs. (1) Clients who receive medical care services under the following state-funded only programs receive only the limited coverage described in subsection (2) of this section:

- (a) General assistance unemployable (GA-U); and
- (b) Alcohol and drug abuse treatment and support act (ADATSA) (GA-W).
- (2) The medical assistance administration (MAA) covers the dental-related services described and limited in this chapter for clients eligible for GA-U or GA-W only when those services are provided as part of a medical treatment for apical abscess verified by clinical examination, and treated by:
 - (a) Open and drain palliative treatment;
 - (b) Tooth extraction; or
 - (c) Root canal therapy for anterior teeth only.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1070 Dental-related services provider information. (1) The following providers are eligible to enroll with the medical assistance administration (MAA) to furnish and bill for dental-related services provided to eligible clients:

- (a) Persons currently licensed by the state of Washington to:
 - (i) Practice dentistry or specialties of dentistry((:)).
 - (ii) ((Practice medicine and osteopathy for:
 - (A) Oral surgery procedures; or
 - (B) Providing fluoride varnish under EPSDT;
 - (iii) Practice as dental hygienists((:;
 - (iv) Provide denture services;
 - (v) Practice anesthesia or
 - (vi) Provide)).
 - (iii) Practice as denturists.
 - (iv) Practice anesthesia by:

(A) Providing conscious sedation((, when certified by the department of health and when providing that service in dental offices for dental treatments)) with parental or multiple oral agents, deep sedation, or general anesthesia as an anesthesiologist or dental anesthesiologist;

(B) Providing conscious sedation with parental or multiple oral agents, deep sedation, or general anesthesia as a Certified Registered Nurse Anesthetist (CRNA), when the performing dentist has the appropriate conscious sedation permit

or general anesthesia permit from the department of health (DOH); or

(C) Providing conscious sedation with parenteral or multiple oral agents, deep sedation, or general anesthesia as a dentist, when the dentist has a conscious sedation permit or general anesthesia permit from DOH.

- (v) Practice medicine and osteopathy for:
 - (A) Oral surgery procedures; or
 - (B) Providing fluoride varnish under EPSDT.
- (b) Facilities that are:
 - (i) Hospitals currently licensed by the department of health;
 - (ii) Federally-qualified health centers (FQHCs);
 - (iii) Medicare-certified ambulatory surgical centers (ASCs);
 - (iv) Medicare-certified rural health clinics (RHCs); or
 - (v) Community health centers.
- (c) Participating local health jurisdictions((+and)).
- (d) Border area or out-of-state providers of dental-related services who are qualified in their states to provide these services.

(2) Subject to the restrictions and limitations in this section and other applicable WAC, MAA pays licensed providers participating in the MAA dental program for only those services that are within their scope of practice.

(3) See WAC 388-502-0020 for provider documentation and record retention requirements. MAA ~~((may require))~~ requires additional dental documentation under specific sections in this chapter and as required by chapter 246-817 WAC.

(4) See WAC 388-502-0100 and 388-502-0150 for provider billing and payment requirements.

(5) See WAC 388-502-0160 for regulations concerning charges billed to clients.

(6) See WAC 388-502-0230 for provider review and appeal.

(7) See WAC 388-502-0240 for provider audits and the audit appeal process.

WSR 03-15-128
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed July 22, 2003, 3:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086 and 03-12-054.

Title of Rule: **Part 2 of 4, chapter 388-535 WAC, Dental services**, amending WAC 388-535-1080 Covered dental-related services—Children, 388-535-1100 Dental-related services not covered—Children, 388-535-1200 Dental services requiring prior authorization, 388-535-1220 Obtaining prior authorization for dental services, and 388-535-1230 Crowns.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant (P.L. 104-191)

by October 16, 2003. To comply with requirements of the 2003-2005 State Omnibus Operating Budget (ESSB 5404), the department is incorporating into rule the 25% reduction in adult dental benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530; ESSB 5404 (chapter 25, Laws of 2003 1st sp.s.).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Gini Egan, P.O. Box 45506, Olympia, WA 98504, (360) 725-1580.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

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

The purpose is to meet federal and state requirements, to incorporate rule changes to reflect the 25% reduction in dental-[related] services for adults, and to incorporate changes required by HIPAA.

The anticipated effect is compliance with federal and state requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: Proposal incorporates state legislative changes in adult dental-related services and the changes required by HIPAA. The rules change and add to existing definitions, amend sections in and add new sections to chapter 388-535 WAC. WAC 388-535-1120 will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the rule will not place more than a minor economic impact on small businesses.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rule meets the definition of a "significant legislative rule." The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs and has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the CBA memo is available from Gini Egan, Division of Medical Management, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1580.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 3003 [2003], phone (360) 664-6094, TTY (360) 664-6178, e-mail fernanaax@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850,

deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernnaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1080 Covered dental-related services—Children. (1) The medical assistance administration (MAA) pays for covered dental and dental-related services for children listed in this section only when they are:

- (a) Within the scope of an eligible client's medical care program;
- (b) Medically necessary; and
- (c) Within accepted dental or medical practice standards and are:
 - (i) Consistent with a diagnosis of dental disease or condition; and
 - (ii) Reasonable in amount and duration of care, treatment, or service.

(2) MAA covers the following dental-related services for eligible children:

(a) Medically necessary services for the identification of dental problems or the prevention of dental disease, subject to the limitations of this chapter;

(b) Oral health evaluations and assessments, which must be documented in the client's file according to WAC 388-502-0020, as follows:

- (i) MAA allows a comprehensive oral evaluation once per provider as an initial examination, and it must include:
 - (A) An oral health and developmental history;
 - (B) An assessment of physical and oral health status; and
 - (C) Health education, including anticipatory guidance.
- (ii) MAA allows a periodic oral ((~~evaluations~~)) evaluation once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.

(iii) MAA allows a limited oral ((~~evaluations~~)) evaluation only when the provider performing the limited oral evaluation is not providing pre-scheduled dental services for the client. The limited oral evaluation must be:

- (A) To provide limited or emergent services for a specific dental problem; or
 - (B) To provide an evaluation for a referral.
- (c) Radiographs (((~~X-rays~~) for children and adults,)) as follows:

- (i) Intraoral (complete series, including bitewings) ((-)), allowed once in a three-year period;
- (ii) Bitewings ((-)), total of four allowed every twelve months; and
- (iii) Panoramic, for oral surgical purposes only, as follows:
 - (A) Not allowed with an intraoral complete series; and

(B) Allowed once in a three-year period, except for preoperative or postoperative surgery cases. Preoperative (~~(X-rays)~~) radiographs must be provided within fourteen days prior to surgery, and postoperative (~~(X-rays)~~) radiographs must be provided within thirty days after surgery.

(d) Fluoride treatment (either gel or varnish, but not both) as follows for clients through age eighteen (additional applications require prior authorization):

(i) (~~(For children through age eighteen,))~~ Topical application of(:

(A)) fluoride gel, once every six months; or

((B)) (ii) Topical application of fluoride varnish, up to three times in a twelve-month period(:

(ii) ~~For adults age nineteen through sixty-four, topical application of fluoride gel or varnish for xerostomia only; this requires prior authorization.))~~;

(iii) See subsection (3) of this section for clients of the division of developmental disabilities(:

(iii) ~~For adults age sixty-five and older, topical application of fluoride gel or varnish for only:~~

(A) Rampant root surface decay; or

(B) Xerostomia).

(e) Sealants for children only, once per tooth in a three-year period for:

(i) The occlusal surfaces of:

(A) Permanent teeth two, three, fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one only; and

(B) Primary teeth A, B, I, J, K, L, S, and T only.

(ii) The lingual pits of teeth seven and ten; and

(iii) Teeth with no decay.

(f) Prophylaxis treatment, which is allowed:

(i) (~~Once every twelve months for adults age nineteen and older, including nursing facility clients;~~

(ii)) Once every six months for children age eight through eighteen;

((iii)) (ii) Only as a component of oral hygiene instruction for children through age seven; and

((iv)) (iii) For clients of the division of developmental disabilities, see subsection (3) of this section.

(g) Space maintainers, for children through age eighteen only, as follows:

(i) Fixed (unilateral type), one per quadrant;

(ii) Fixed (bilateral type), one per arch; and

(iii) Recementation of space maintainer, once per quadrant or arch.

(h) Amalgam or composite restorations, as follows:

(i) Once in a two-year period; and

(ii) For the same surface of the same tooth.

(i) Crowns as described in WAC 388-535-1230, Crowns;
(j) Restoration of teeth and maintenance of dental health, subject to limitations of WAC 388-535-1100 and as follows:

(i) Multiple restorations involving the proximal and occlusal surfaces of the same tooth are considered to be a multisurface restoration, and are reimbursed as such; and

(ii) Proximal restorations that do not involve the incisal angle in the anterior tooth are considered to be a two-surface restoration, and are reimbursed as such;

(k) Endodontic (root canal) therapies for permanent teeth except for wisdom teeth;

(l) Therapeutic pulpotomies, once per tooth, on primary teeth only;

(m) Pulp vitality test, as follows:

(i) Once per day (not per tooth);

(ii) For diagnosis of emergency conditions only; and

(iii) Not allowed when performed on the same date as any other procedure, with the exception of an emergency examination or palliative treatment.

(n) Periodontal scaling and root planing as follows:

(i) (~~(For clients age nineteen and older only.))~~ See subsection (3) of this section for clients of the division of developmental disabilities;

(ii) Only when the client has radiographic (X ray) evidence of periodontal disease. There must be supporting documentation, including complete periodontal charting and a definitive periodontal diagnosis;

(iii) Once per quadrant in a twenty-four month period; and

(iv) Not allowed when performed on the same date of service as (~~adult~~) prophylaxis, gingivectomy, or gingivoplasty.

(o) Subject to WAC 388-535-1240 and as follows, complete and partial dentures, and necessary modifications, repairs, rebasing, relining, and adjustments of dentures (includes partial payment in certain situations for laboratory and professional fees for dentures and partials as specified in WAC 388-535-1240(5)). MAA covers:

(i) One set of dentures per client in a ten-year period, with the exception of replacement dentures which may be allowed as specified in WAC 388-535-1240(4); and

(ii) Partial dentures as specified in WAC 388-535-1240(2), once every five years.

(p) Complex orthodontic treatment for severe handicapping dental needs as specified in chapter 388-535A WAC, Orthodontic services;

(q) Occlusal orthotic appliance for temporomandibular joint disorder (TMJ/TMD) or bruxism, one in a two-year period;

(r) Medically necessary oral surgery when coordinated with the client's managed care plan (if any);

(s) Dental services or treatment necessary for the relief of pain and infections, including removal of symptomatic wisdom teeth. MAA does not cover routine removal of asymptomatic wisdom teeth without justifiable medical indications;

(t) Behavior management for (~~(children))~~ clients through age eighteen only, whose documented behavior requires the assistance of more than one additional dental professional staff to protect the client from self-injury during treatment. See subsection (3) of this section for clients of the division of developmental disabilities.

(u) Nitrous oxide for children through age eighteen only, when medically necessary. See subsection (3) of this section for clients of the division of developmental disabilities.

(v) Professional visits, as follows:

(i) Bedside call at a nursing facility or residence, at the physician's request, allowed - one per day (see subsection (7) of this section).

(ii) Hospital call, including emergency care (~~(-)~~), allowed one per day.

- (w) Emergency palliative treatment, as follows:
- (i) Allowed only when no other definitive treatment is performed on the same day; and
 - (ii) Documentation must include tooth designation and a brief description of the service.
- (3) For clients of the division of developmental disabilities, MAA allows services as follows:
- (a) Fluoride application, either varnish or gel(~~(, but not both-)~~), allowed three times per calendar year;
 - (b) Periodontal scaling and root planing (~~(-)~~), allowed once every six months;
 - (c) Prophylaxis (~~(-)~~), allowed three times per calendar year;
 - (d) Nitrous oxide;
 - (e) Behavior management that requires the assistance of more than one additional dental professional staff and the use of advanced behavior techniques; and
 - (f) Panoramic radiographs, with documentation that behavior management is required.
- (4) MAA covers medically necessary services provided in a hospital under the direction of a physician or dentist for:
- (a) The care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization; and
 - (b) Short stays when the procedure cannot be done in an office setting. See WAC 388-550-1100(6), Hospital coverage.
- (5) MAA covers anesthesia for medically necessary services as follows:
- (a) The anesthesia must be administered by:
 - (i) An oral surgeon;
 - (ii) An anesthesiologist;
 - (iii) A dental anesthesiologist;
 - (iv) A Certified Registered Nurse Anesthetist (CRNA);
 or
 - (~~(iv)~~) (v) A general dentist who has a current conscious sedation permit from the department of health (DOH).
 - (b) MAA (~~(reimburses)~~) pays for anesthesia services (~~(per)~~) according to WAC 388-535-1350.
 - (6) For clients residing in nursing facilities or group homes:
 - (a) Dental services must be requested by the client or a referral for services made by the attending physician, the director of nursing or the nursing facility supervisor, or the client's legal guardian;
 - (b) Mass screening for dental services of clients residing in a facility is not permitted; and
 - (c) Nursing facilities must provide dental-related necessary services (~~(per)~~) according to WAC 388-97-012, Nursing facility care.
 - (7) A request to exceed stated limitations or other restrictions on covered services is called a limitation extension (LE), which is a form of prior authorization. MAA evaluates and approves requests for LE for dental-related services when medically necessary, under the provisions of WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1100 Dental-related services not covered—Children. (1) The medical assistance administration (MAA) does not cover children's dental-related services described in subsection (2) of this section unless the services are:

- (a) Required by a physician as a result of an EPSDT screen as provided under chapter 388-534 WAC; or
- (b) Included in an MAA waived program(~~(-or~~
- (e) ~~Part of one of the Medicare programs for qualified Medicare beneficiaries (QMB) except for QMB-only, which is not covered).~~

(2) MAA does not cover the following services for children:

- (a) Any service specifically excluded by statute;
- (b) More costly services when less costly, equally effective services as determined by the department are available;
- (c) Services, procedures, treatment, devices, drugs, or application of associated services which the department or the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)) consider investigative or experimental on the date the services were provided;

(d) Routine fluoride treatments (gel or varnish) (~~(for adults)~~) for clients age eighteen through twenty, unless the clients are:

- (i) Clients of the division of developmental disabilities;
- or
- (ii) Diagnosed with xerostomia, in which case the provider must request prior authorization(~~(-or~~
 - (iii) ~~High risk adults sixty five and over. High risk means the client has at least one of the following:~~

- (A) ~~Rampant root surface decay; or~~
- (B) ~~Xerostomia).~~
- (e) Crowns, as follows:
 - (i) For wisdom and peg teeth;
 - (ii) Laboratory processed crowns for posterior teeth;
 - (iii) Temporary crowns, including stainless steel crowns placed as temporary crowns; and
 - (iv) Post and core for crowns.
- (f) Root canal services for primary or wisdom teeth;
- (g) Root planing (~~(for children)~~), unless they are clients of the division of developmental disabilities;

- (h) Bridges;
- (i) Transitional or treatment dentures;
- (j) Teeth implants, including follow up and maintenance;
- (k) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness;

(l) Porcelain margin extensions (also known as crown lengthening), due to receding gums;

(m) Extraction of asymptomatic teeth;

(n) Minor bone grafts;

(o) Nonemergent oral surgery (~~(for adults)~~) performed in an inpatient hospital setting, except for the following:

- (i) For clients of the division of developmental disabilities, or for children eighteen years of age or younger whose surgeries cannot be performed in an office setting. This

requires written prior authorization for the inpatient hospitalization; or

- (ii) As provided in WAC 388-535-1080(4).
 - (p) Dental supplies such as toothbrushes (manual, automatic, or electric), toothpaste, floss, or whiteners;
 - (q) Dentist's time writing prescriptions or calling in prescriptions or prescription refills to a pharmacy;
 - (r) Educational supplies;
 - (s) Missed or canceled appointments;
 - (t) Nonmedical equipment, supplies, personal or comfort items or services;
 - (u) Provider mileage or travel costs;
 - (v) Service charges or delinquent payment fees;
 - (w) Supplies used in conjunction with an office visit;
 - (x) Take-home drugs;
 - (y) Teeth whitening; or
 - (z) Restorations for anterior or posterior wear with no evidence of decay.
- (3) MAA evaluates a request for any service that is listed as noncovered under the provisions of WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1200 Dental-related services requiring prior authorization—Children. The following services for children require prior authorization:

- (1) Nonemergent inpatient hospital dental admissions as described under WAC 388-535-1100 (2)(o) and 388-550-1100(1);
- (2) Crowns as described in WAC 388-535-1230;
- (3) Dentures as described in WAC 388-535-1240; and
- (4) ~~((Routine fluoride treatment (gel or varnish) for adults age nineteen through sixty-four who are diagnosed with xerostomia; and~~
- ~~(5))~~ Selected procedures identified by the medical assistance administration (MAA) and published in its current dental billing instructions ~~((which are available from MAA in Olympia, Washington)).~~

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1220 Obtaining prior authorization for dental-related services—Children. When the medical assistance administration (MAA) authorizes a dental-related service for children, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(1) MAA requires a dental provider who is requesting prior authorization to submit sufficient objective clinical information to establish medical necessity. The request must be submitted in writing on an American Dental Association (ADA) claim form, which may be obtained by writing to the American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611. The request must include at least all of the following:

- (a) Physiological description of the disease, injury, impairment, or other ailment;

- (b) ~~((X-ray(s)))~~ Radiographs;
 - (c) Treatment plan;
 - (d) Study model, if requested; and
 - (e) Photographs, if requested.
- (2) MAA authorizes requested services that meet the criteria in WAC 388-535-1080.
- (3) MAA denies a request for dental services when the requested service is:
- (a) Not medically necessary; or
 - (b) A service, procedure, treatment, device, drug, or application of associated service which the department or the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)) consider investigative or experimental on the date the service is provided.
- (4) MAA may require second opinions and/or consultations before authorizing any procedure.
- (5) Authorization is valid only if the client is eligible for covered services on the date of service.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1230 Crowns for children. (1) Subject to the limitations in WAC 388-535-1100, the medical assistance administration (MAA) covers the following crowns for children without prior authorization:

- (a) Stainless steel. MAA considers these as permanent crowns, and does not cover them as temporary crowns; and
 - (b) Nonlaboratory resin for primary anterior teeth.
- (2) MAA does not cover laboratory-processed crowns for posterior teeth.
- (3) MAA requires prior authorization for the following crowns, which are limited to single restorations for permanent anterior ~~((upper and lower)))~~ maxillary and mandibular teeth seven, eight, nine, ten, eleven, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven:
- (a) Resin (laboratory);
 - (b) Porcelain with ceramic ~~((substate))~~ substrate;
 - (c) Porcelain fused to high noble metal;
 - (d) Porcelain fused to predominantly base metal; and
 - (e) Porcelain fused to noble metal.
- (4) Criteria for covered crowns as described in subsections (1) and (3) of this section:
- (a) Crowns may be authorized when the crown is medically necessary.
 - (b) Coverage is based upon a supportable five-year prognosis that the client will retain the tooth if the tooth is crowned. The provider must submit the following client information:
 - (i) The overall condition of the mouth;
 - (ii) Oral health status;
 - (iii) Client maintenance of good oral health status;
 - (iv) Arch integrity; and
 - (v) Prognosis of remaining teeth (that is, no more involved than periodontal case type II).
 - (c) Anterior teeth must show traumatic or pathological destruction to loss of at least one incisal angle.

(5) The laboratory processed crowns described in subsection (3) are covered:

(a) Only when a lesser service will not suffice because of extensive coronal destruction, and treatment is beyond intra-coronal restoration;

(b) Only once per permanent tooth in a five-year period;

(c) For endodontically treated anterior teeth only after satisfactory completion of the root canal therapy. Post-endodontic treatment (~~(X-rays)~~) radiographs must be submitted for prior authorization of these crowns.

(6) MAA reimburses only for covered crowns as described in subsections (1) and (3) of this section. The reimbursement is full payment; all of the following are included in the reimbursement and must not be billed separately:

(a) Tooth and soft tissue preparation;

(b) Amalgam or acrylic build-ups;

(c) Temporary restoration;

(d) Cement bases;

(e) Insulating bases;

(f) Impressions;

(g) Seating; and

(h) Local anesthesia.

WSR 03-15-129

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 22, 2003, 3:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086 and 03-12-054.

Title of Rule: **Part 3 of 4, chapter 388-535 WAC, Dental services**, amending WAC 388-535-1240 Dentures, partial dentures, and overdentures; and new sections WAC 388-535-1255 Covered dental-related services—Adults and 388-535-1265 Dental-related services not covered—Adults.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant (P.L. 104-191) by October 16, 2003. To comply with requirements of the 2003-2005 State Omnibus Operating Budget (ESSB 5404), the department is incorporating into rule the 25% reduction in adult dental benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530; ESSB 5404 (chapter 25, Laws of 2003 1st sp.s.).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Gini Egan, P.O. Box 45506, Olympia, WA 98504, (360) 725-1580.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

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

The purpose is to meet federal and state requirements, to incorporate rule changes to reflect the 25% reduction in dental-[related] services for adults, and to incorporate changes required by HIPAA.

The anticipated effect is compliance with federal and state requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: Proposal incorporates state legislative changes in adult dental-related services and the changes required by HIPAA. The rules change and add to existing definitions, amend sections in and add new sections to chapter 388-535 WAC. WAC 388-535-1120 will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the rule will not place more than a minor economic impact on small businesses.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rule meets the definition of a "significant legislative rule." The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs and has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the CBA memo is available from Gini Egan, Division of Medical Management, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1580.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 3003 [2003], phone (360) 664-6094, TTY (360) 664-6178, e-mail fernanaax@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernanaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1240 Dentures, (~~(partial)~~) partial dentures, and overdentures for children. (1) Subject to the limitations in WAC 388-535-1100, the medical assistance administration (MAA) covers for children only one (~~set of~~

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~~dentures~~) maxillary denture and one mandibular denture per client in a ten-year period, and considers that set to be the first set. The exception to this is replacement dentures, which may be allowed as specified in subsection (4) of this section. Except as described in subsection (5) of this section, MAA does not require prior authorization for the first set of dentures. The first set of dentures may be any of the following:

(a) An immediate set (constructed prior to removal of the teeth);

(b) An initial set (constructed after the client has been without teeth for a period of time); or

(c) A final set (constructed after the client has received immediate or initial dentures).

(2) The first ~~(set of dentures)~~ maxillary denture and the first mandibular denture must be of the structure and quality to be considered the primary set. MAA does not cover transitional or treatment dentures.

(3) MAA covers partials (resin and cast base) once every five years, except as noted in subsection (4) of this section, and subject to the following limits:

(a) Cast base partials only when replacing three or more teeth per arch excluding wisdom teeth; and

(b) No partials are covered when they replace wisdom teeth only.

(4) Except as stated below, MAA does not require prior authorization for replacement dentures or partials when:

(a) The client's existing dentures or partials meet any of the following conditions. MAA requires prior authorization for replacement dentures or partials requested within one year of the seat date. The dentures or partials must be:

(i) No longer serviceable and cannot be relined or rebased; or

(ii) Damaged beyond repair.

(b) The client's health would be adversely affected by absence of dentures;

(c) The client has been able to wear dentures successfully;

(d) The dentures or partials meet the criteria of medically necessary; and

(e) The dentures are replacing a lost ~~(dentures)~~ maxillary denture and/or a mandibular denture, and the replacement set does not exceed MAA's limit of one set in a ten-year period as stated in subsection (1) of this section.

(5) MAA does not reimburse separately for laboratory and professional fees for dentures and partials. However, MAA may partially reimburse for these fees when the provider obtains prior authorization and the client:

(a) Dies;

(b) Moves from the state;

(c) Cannot be located; or

(d) Does not participate in completing the dentures.

(6) The provider must document in the client's medical or dental record:

(a) Justification for replacement of dentures;

(b) Charts of missing teeth, for replacement of partials; and

(c) Receipts for laboratory costs or laboratory records and notes.

(7) For billing purposes, the provider may use the impression date as the service date for dentures, including partials, only when:

(a) Related dental services including laboratory services were provided during a client's eligible period; and

(b) The client is not eligible at the time of delivery.

(8) For billing purposes, the provider may use the delivery date as the service date when the client is using the first set of dentures in lieu of noncovered transitional or treatment dentures after oral surgery.

(9) MAA includes the cost of relines and adjustments that are done within six months of the seat date in the reimbursement for the dentures.

(10) MAA covers one rebase in a five-year period; the dentures must be at least three years old.

(11) The requirements in this section also apply to overdentures.

ADULTS' DENTAL-RELATED SERVICES

NEW SECTION

WAC 388-535-1255 Covered dental-related services—Adults. (1) The medical assistance administration (MAA) pays for covered dental and dental-related services for adults listed in this section only when they are:

(a) Within the scope of an eligible client's medical care program;

(b) Medically necessary; and

(c) Within accepted dental or medical practice standards and are:

(i) Consistent with a diagnosis of dental disease or condition; and

(ii) Reasonable in amount and duration of care, treatment, or service.

(2) MAA covers the following dental-related services for eligible adults, subject to the restrictions and limitations in this section and other applicable WAC:

(a) Medically necessary services for the identification of dental problems or the prevention of dental disease, subject to the limitations of this chapter.

(b) A comprehensive oral evaluation once per provider as an initial examination, that must include:

(i) A complete dental and medical history and a general health assessment;

(ii) A complete thorough evaluation of extra-oral and intra-oral hard and soft tissue; and

(iii) The evaluation and recording of dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

(c) Periodic oral evaluations once every six months to include a periodontal screening/charting at least once per year. There must be six months between the comprehensive oral evaluation and the first periodic oral evaluation.

(d) Limited oral evaluations only when the provider is not providing pre-scheduled dental services for the client. The limited oral evaluation must be:

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(i) To provide limited or emergent services for a specific dental problem; and/or

(ii) To provide an evaluation for a referral.

(e) Radiographs, as follows:

(i) Intraoral, complete series (including bitewings), allowed only once in a three-year period;

(ii) Panoramic film, allowed only once in a three-year period and only for oral surgical purposes (see subsection (3) of this section for clients of the division of developmental disabilities);

(iii) Periapical radiographs as needed (periapical radiographs and bitewings taken on the same date of service cannot exceed MAA's fee for a complete intraoral series); and

(iv) Bitewings, up to four allowed every twelve months.

(f) Fluoride treatment as follows (see subsection (3) of this section for clients of the division of developmental disabilities):

(i) Topical application of fluoride gel or fluoride varnish for adults age nineteen through sixty-four with xerostomia (requires prior authorization); and

(ii) Topical application of fluoride gel or fluoride varnish for adults age sixty-five and older for:

(A) Rampant root surface decay; or

(B) Xerostomia.

(g) Oral prophylaxis treatment, which is:

(i) Allowed once every twelve months for adults age nineteen and older, including nursing facility clients, and for clients of the division of developmental disabilities as provided in subsection (3) of this section; and

(ii) Not allowed when oral prophylaxis treatment is performed on the same date of service as periodontal scaling and root planing, periodontal maintenance, gingivectomy, or gingivoplasty.

(h) Restoration of teeth and maintenance of dental health, subject to the limitations in WAC 388-535-1265 and as follows:

(i) Amalgam and composite restorations are allowed once for the same surface of the same tooth per client, per provider, subject to the following:

(A) Multiple restorations involving the proximal and occlusal surfaces of the same tooth are considered to be a single multisurface restoration. Payment is limited to that of a single multisurface restoration.

(B) Proximal restorations that do not involve the incisal angle in the anterior teeth are considered to be a two-surface restoration. Payment is limited to a two-surface restoration.

(C) Proximal restorations that involve the incisal angle are considered to be either a three- or four-surface restoration. All surfaces must be listed on the claim for payment.

(D) MAA pays for a maximum of six surfaces for a posterior tooth, which is allowed once per client, per provider, in a two-year period.

(E) MAA pays for a maximum of six surfaces for an anterior tooth, which is allowed once per client, per provider, in a two-year period.

(F) MAA pays for flowable composites as a restoration only when used:

(I) With a cavity preparation for a carious lesion that penetrates through the enamel;

(II) As a small Class I (occlusal) restoration;

(III) As a Class V (buccal or lingual) restoration.

(j) Endodontic (root canal) therapy for permanent anterior teeth only.

(k) Periodontal scaling and root planing, which is:

(i) Allowed for clients of the division of developmental disabilities as provided in subsection (3) of this section;

(ii) Allowed for clients age nineteen and older;

(iii) Allowed only when the client has radiographic evidence of periodontal disease. There must be supporting documentation in the client's record, including complete periodontal charting and a definitive periodontal diagnosis;

(iv) Allowed once per quadrant in a twenty-four month period;

(v) Allowed only when the client's clinical condition meets existing periodontal guidelines; and

(vi) Not allowed when performed on the same date of service as oral prophylaxis, periodontal maintenance, gingivectomy or gingivoplasty.

(l) Periodontal maintenance, which is:

(i) Allowed for clients of the division of developmental disabilities as provided in subsection (3) of this section;

(ii) Allowed for clients age nineteen and older;

(iii) Allowed only when the client has been previously treated for periodontal disease, including surgical or nonsurgical periodontal therapy;

(iv) Allowed when supporting documentation in the client's record includes a definitive periodontal diagnosis and complete periodontal charting;

(v) Allowed when the client's clinical condition meets existing periodontal guidelines;

(vi) Allowed when periodontal maintenance starts at least six months after completion of periodontal scaling and root planing or surgical treatment and paid only at six month intervals; and

(vii) Not allowed when the periodontal maintenance is performed on the same date of service as oral prophylaxis or periodontal scaling and root planing, gingivectomy, or gingivoplasty.

(m) Dentures and partial dentures according to WAC 388-535-1290.

(n) Simple extractions (includes local anesthesia, suturing, and routine postoperative care).

(o) Surgical extractions, subject to the following:

(i) Includes local anesthesia, suturing, and routine postoperative care; and

(ii) Requires documentation in the client's file to support soft tissue, partially bony, or completely bony extractions.

(p) Medically necessary oral surgery when coordinated with the client's managed care plan (if any).

(q) Palliative (emergency) treatment of dental pain, minor procedures, which is:

(i) Allowed once per client, per day.

(ii) Allowed only when performed on a different date from:

(A) Any other definitive treatment necessary to diagnose the emergency condition; and

(B) Root canal therapy.

(iii) Allowed only when a description of the service is included in the client's record.

(r) Behavior management that requires the assistance of one additional dental professional staff for clients of the division of developmental disabilities. See subsection (3) of this section.

(3) For clients of the division of developmental disabilities, MAA allows services as follows:

(a) Fluoride application, either varnish or gel, three times per calendar year;

(b) Prophylaxis or periodontal maintenance, three times per calendar year;

(c) Periodontal scaling and root planing, once every six months;

(d) Nitrous oxide;

(e) Behavior management that requires the assistance of one additional dental professional staff. A description of behavior management must be documented in the client's record;

(f) Panoramic radiographs; and

(g) General anesthesia or conscious sedation with parenteral or multiple oral agents when medically necessary for providing treatment.

(4) MAA covers dental services that are medically necessary and provided in a hospital under the direction of a physician or dentist for:

(a) The care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization;

(b) Short stays when the procedure cannot be done in an office setting. See WAC 388-550-1100(6); and

(c) A hospital call, including emergency care, allowed one per day, per client, per provider.

(5) MAA covers general anesthesia and conscious sedation with parenteral or multiple oral agents for medically necessary dental services as follows:

(a) For treatment of clients who are eligible under the division of developmental disabilities.

(b) For oral surgery procedures.

(c) When justification for administering the general anesthesia instead of a lesser type of sedation is clearly documented in the client's record.

(d) When the anesthesia is administered by:

(i) An oral surgeon;

(ii) An anesthesiologist;

(iii) A dental anesthesiologist;

(iv) A Certified Registered Nurse Anesthetist (CRNA), if the performing dentist has a current conscious sedation permit or a current general anesthesia permit from the department of health (DOH); or

(v) A dentist who has a current conscious sedation permit or a current general anesthesia permit from DOH.

(e) When the provider meets the prevailing standard of care and at least the requirements in WAC 246-817-760, Conscious sedations with parenteral or multiple oral agents and WAC 246-817-770, General anesthesia.

(6) MAA pays for anesthesia services according to WAC 388-535-1350.

(7) MAA covers dental-related services for clients residing in nursing facilities or group homes as follows:

(a) Dental services must be requested by the client or the client's surrogate decision maker as defined in WAC 388-97-

055, or a referral for services must be made by the attending physician, the director of nursing, or the nursing facility supervisor;

(b) Nursing facilities must provide dental-related necessary services according to WAC 388-97-012, Nursing facility care; and

(c) A bedside call at a nursing facility or group home is allowed once per day (not per client and not per facility), per provider. The bedside call must be requested by the client's physician.

NEW SECTION

WAC 388-535-1265 Dental-related services not covered—Adults. (1) The medical assistance administration (MAA) does not cover dental-related services for adults described in subsection (2) of this section unless the services are included in an MAA waived program.

(2) MAA does not cover the following dental-related services for adults:

(a) Any service specifically excluded by statute.

(b) More costly services when less costly, equally effective services as determined by the department are available.

(c) Services, procedures, treatment, devices, drugs, or application of associated services which the department or the Centers for Medicare and Medicaid Services (CMS) consider investigative or experimental on the date the services were provided.

(d) Coronal polishing.

(e) Fluoride treatments (gel or varnish) for adults, unless the clients are:

(i) Clients of the division of developmental disabilities;

(ii) Diagnosed with xerostomia, in which case the provider must request prior authorization; or

(iii) High-risk adults sixty-five and older. High-risk means the client has at least one of the following:

(A) Rampant root surface decay; or

(B) Xerostomia.

(f) Restorations for wear on any surface of any tooth without evidence of decay through the enamel or on the root surface.

(g) Flowable composites for interproximal or incisal restorations.

(h) Any permanent crowns, temporary crowns, or crown post and cores.

(i) Bridges, including abutment teeth and pontics.

(j) Root canal services for primary teeth.

(k) Root canal services for permanent teeth other than teeth six, seven, eight, nine, ten, eleven, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven.

(l) Pulpotomy services for permanent teeth.

(m) Transitional or treatment dentures.

(n) Overdentures.

(o) Replacements for:

(i) Immediate maxillary or mandibular dentures;

(ii) Maxillary or mandibular partial dentures (resin); or

(iii) Complete maxillary or mandibular dentures in excess of one replacement in a ten-year period; or

(iv) Cast metal framework maxillary or mandibular partial dentures in excess of one replacement in a ten-year period.

(p) Rebasing, or adjustments of complete dentures and partial dentures.

(q) Tooth implants, including insertion, post-insertion, maintenance, and implant removal.

(r) Periodontal bone grafts or oral soft tissue grafts.

(s) Gingivectomy, gingivoplasty, or frenectomy/frenoplasty and other periodontal surgical procedures.

(t) Crown lengthening procedures.

(u) Orthotic appliances, including but not limited to, night guards, temporomandibular joint dysfunction (TMJ/TMD) appliances, and all other mouth guards.

(v) Any treatment of TMJ/TMD.

(w) Extraction of:

(i) Asymptomatic teeth;

(ii) Asymptomatic wisdom teeth; and

(iii) Surgical extraction of anterior teeth seven, eight, nine, ten, twenty-three, twenty-four, twenty-five, or twenty-six, which are considered simple extractions and paid as such.

(x) Alveoloplasty, alveolotomy or troil/exostosis removal.

(y) Debridement of granuloma/cyst associated with tooth extraction.

(z) Cosmetic treatment or surgery, except as prior authorized by the department for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness.

(aa) Nonemergent oral surgery for adults performed in an inpatient hospital setting, except:

(i) Nonemergent oral surgery is covered in an inpatient hospital setting for clients of the division of developmental disabilities when written prior authorization is obtained for the inpatient hospitalization; or

(ii) As provided in WAC 388-535-1080(4).

(bb) Dental supplies such as toothbrushes (manual, automatic, or electric), toothpaste, floss, or whiteners.

(cc) Dentist's time writing and calling in prescriptions or prescription refills.

(dd) Educational supplies.

(ee) Missed or canceled appointments.

(ff) Nonmedical equipment, supplies, personal or comfort items or services.

(gg) Provider mileage or travel costs.

(hh) Service charges or delinquent payment fees.

(ii) Supplies used in conjunction with an office visit.

(jj) Take-home drugs.

(kk) Teeth whitening.

WSR 03-15-130
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 22, 2003, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-050.

Title of Rule: Part 1 of 3, chapter 388-550 WAC, Hospital services, amending WAC 388-550-1300 Revenue code categories and subcategories and 388-550-6000 Payment—Outpatient hospital services; and new section WAC 388-550-1350 Revenue code categories and subcategories—CPT and HCPCS reporting requirements for outpatient hospitals.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant by October 16, 2003.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-057, and 74.08.090.

Summary: The department is amending the rules to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Also, the rules are being revised to ensure the department's administrative code reflects current policy and practice.

Reasons Supporting Proposal: Complies with the HIPAA requirements and avoids federal penalties by amending rules to be HIPAA-compliant by October 16, 2003. Updates rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; **Implementation and Enforcement:** Cynthia Smith, P.O. Box 45510, Olympia, WA 98504, (360) 725-1839.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules meet HIPAA-specific standards that all states must meet in regards to electronic health information transactions and the privacy of client health information. In addition, the proposed rules update rule content and create a new section to update revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims. Also, the proposed rules clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual and add language to state that MAA requires a hospital provider to report and bill hospital services under the appropriate revenue codes published in the UB-92 manual.

The purpose of the rules is to ensure department rules are HIPAA-compliant by October 16, 2003, and to adopt into permanent rule clarifying language to reflect current department policy and business practices.

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The anticipated effects are: (1) The state will meet HIPAA-specific standards which all states are required to meet in regards to electronic health information transactions and the privacy of client health information. (2) MAA rules will be HIPAA-compliant by October 16, 2003, thereby avoiding federal penalties. (3) MAA's revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims will be updated.

Proposal Changes the Following Existing Rules: The department is amending language to comply with HIPAA requirements. In addition, the department has added language to clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual. The new rules also add language regarding MAA reporting and billing requirements for hospital services under the appropriate revenue codes published in the UB-92 manual.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the memo can be obtained from Cynthia Smith, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1839, e-mail smithch@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaa@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-1300 Revenue code categories and subcategories. (1) ~~(For reimbursement and audit purposes, hospitals shall report and bill all services provided to a medical care client under the appropriate cost centers or revenue codes, except the following services which are subject to current procedural terminology codes and rates when provided in an outpatient setting:~~

- (a) Laboratory/pathology;

- ~~(b) Radiology, diagnostic and therapeutic;~~
- ~~(c) Nuclear medicine;~~
- ~~(d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;~~
- ~~(e) Physical therapy;~~
- ~~(f) Occupational therapy;~~
- ~~(g) Speech/language therapy; and~~
- ~~(h) Other hospital services as identified and published by the department.~~

(2) Revenue code categories and subcategories listed in this chapter ((shall be as listed in the state of Washington's UB-92 procedure manual, implemented October 1, 1993, which was patterned after the national uniform billing data element specifications adopted by the national uniform billing committee)) are published in the UB-92 National Uniform Billing Data Element Specifications Manual.

(2) The medical assistance administration (MAA) requires a hospital provider to report and bill all hospital services provided to medical assistance clients using the appropriate revenue codes published in the manual referenced in subsection (1) of this section.

NEW SECTION

WAC 388-550-1350 Revenue code categories and subcategories—CPT and HCPCS reporting requirements for outpatient hospitals. (1) The medical assistance administration (MAA) requires an outpatient hospital provider to report the appropriate Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes in addition to the required revenue codes on an outpatient claim line with any of the following revenue code categories and subcategories:

- (a) "IV therapy," only subcategory "infusion pump";
- (b) "Medical/surgical supplies and devices," only subcategory "prosthetic/orthotic devices";
- (c) "Laboratory";
- (d) "Laboratory pathological";
- (e) "Radiology - diagnostic";
- (f) "Radiology - therapeutic";
- (g) "Nuclear medicine";
- (h) "CT Scan";
- (i) "Operating room services," only subcategories "general classification" and "minor surgery";
- (j) "Blood and blood component administration, processing and storage," only subcategory "administration (e.g., transfusions)";
- (k) "Other imaging services";
- (l) "Respiratory services";
- (m) "Physical therapy";
- (n) "Occupational therapy";
- (o) "Speech - language pathology";
- (p) "Emergency room," only subcategories "general classification" and "urgent care";
- (q) "Pulmonary function";
- (r) "Audiology";
- (s) "Cardiology";
- (t) "Ambulatory surgical care";
- (u) "Outpatient services";

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(v) "Clinic," only subcategories "general classification," "dental clinic," and "other clinic";

(w) "Magnetic Resonance Technology (MRT)";

(x) "Medical/surgical supplies - extension";

(y) "Pharmacy - extension";

(z) "Labor room/delivery," only subcategories "delivery" and "birthing center";

(aa) "EKG/ECG (electrocardiogram)";

(bb) "EEG (electroencephalogram)";

(cc) "Gastro-intestinal services";

(dd) "Treatment/observation room";

(ee) "Lithotripsy";

(ff) "Acquisition of body components," only subcategories "living donor" and "cadaver donor";

(gg) "Hemodialysis - outpatient or home," only subcategory "general classification";

(hh) "Peritoneal dialysis - outpatient or home," only subcategory "general classification";

(ii) "Continuous ambulatory peritoneal dialysis (CAPD) - outpatient or home," only subcategory "general classification";

(jj) "Continuous cycling peritoneal dialysis (CCPD) - outpatient or home," only subcategory "general classification";

(kk) "Miscellaneous dialysis," only subcategories "general classification" and "ultrafiltration";

(ll) "Psychiatric/psychological treatments," only subcategory "electroshock therapy";

(mm) "Other diagnostic services";

(nn) "Other therapeutic services," only subcategory "other therapeutic service"; and

(oo) Other revenue code categories and subcategories identified and published by the department.

(2) For an outpatient claim line requiring a CPT or HCPCS code(s), the department denies payment if the required code is not reported on the line.

AMENDATORY SECTION (Amending WSR 02-21-019, filed 10/8/02, effective 11/8/02)

WAC 388-550-6000 Payment—Outpatient hospital services. ~~((1) Excluding nonallowable revenue codes and the services specified in subsection (2) of this section, MAA determines payment and reimburses for outpatient hospital services by multiplying a hospital's outpatient rate by the allowed charges on the hospital's outpatient claim. MAA's rate setting method for a hospital outpatient rate is described in WAC 388-550-4500.~~

~~(2) MAA excludes the following outpatient services from the outpatient rate reimbursement method described in subsection (1) of this section and reimburses for these services the lesser of the hospital billed charges or MAA's maximum allowable fees:~~

~~(a) Laboratory/pathology;~~

~~(b) Radiology, diagnostic and therapeutic;~~

~~(c) Nuclear medicine;~~

~~(d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;~~

~~(e) Physical therapy;~~

~~(f) Occupational therapy;~~

~~(g) Speech/language therapy;~~

~~(h) Sleep studies;~~

~~(i) Synagis; and~~

~~(j) Other hospital services as identified and listed in MAA's published fee schedule.~~

~~(3) For outpatient observation room, the department reimburses the lesser of the:~~

~~(a) Allowed charges multiplied by the hospital outpatient rate; or~~

~~(b) Administrative day rate described in WAC 388-550-4500 (8)(a).~~

(4)) The medical assistance administration (MAA) pays outpatient hospital providers for providing covered outpatient hospital services to medical assistance clients using the maximum allowable fee schedule and/or the hospital outpatient rate.

(1) Maximum allowable fee schedule:

(a) MAA uses the maximum allowable fee schedule to pay for services listed in the outpatient hospital fee schedule and published in MAA's billing instructions.

(b) Outpatient hospital services are included in the outpatient hospital fee schedule when:

(i) A technical component has been established in the Medicare Fee Schedule Data Base (MFSDB); or

(ii) MAA specifically identifies certain services for payment using the maximum allowable fee schedule.

(c) Outpatient hospital services paid using MAA's maximum allowable fee schedule include:

(i) Laboratory services;

(ii) Imaging services;

(iii) EKG/ECG/EEG and other diagnostics;

(iv) Physical therapy;

(v) Occupational therapy;

(vi) Speech/language therapy;

(vii) Synagis;

(viii) Sleep studies; and

(ix) Other hospital services as identified and published by the department.

(d) MAA's payment for covered services included in the outpatient hospital fee schedule is the lesser of:

(i) The hospital's billed amount; or

(ii) MAA's maximum allowable.

(e) Certain services or supplies listed in the outpatient hospital fee schedule are identified and designated by MAA to be paid by acquisition cost or by report. See subsection (7) of this section for MAA's requirement for submitting invoices.

(2) Outpatient rate:

(a) MAA uses the outpatient rate to pay hospitals for covered services reported on a hospital claim that are not listed in the outpatient hospital fee schedule.

(b) The outpatient rate is a hospital-specific rate that uses the hospital's ratio of costs-to-charges (RCC) rate as its base. MAA's rate-setting method for an outpatient rate is described in WAC 388-500-4500.

(3) The department considers hospital stays of twenty-four hours or less outpatient short stays and uses the outpatient payment ((method to reimburse)) methods in subsections (1) and (2) of this section to pay a hospital for these ((stays)) services. However, when an outpatient short stay

involves one of the following situations, the department uses inpatient payment methods to ~~((reimburse))~~ pay a hospital for covered services:

- (a) Death of a client;
- (b) Obstetrical delivery;
- (c) Initial care of a newborn; or
- (d) Transfer of a client to another acute care hospital.

~~((5)) Under WAC 246-976-935, MAA may:~~

~~(a) Enhance payments for trauma care provided to a client eligible under the medically indigent (MI) program or a Title XIX Medicaid program when the trauma:~~

- ~~(i) Qualifies under the trauma program; and~~
- ~~(ii) Care is provided in a nongovernmental hospital designated by the department of health (DOH) as a trauma services center.~~

~~(b) Provide an annual grant for trauma services to:~~

~~(i) A governmental hospital certified by DOH as a trauma services center; and~~

~~(ii) An MAA approved critical access hospital (CAH).~~

~~((6)) (4) The department uses the outpatient payment ((method to reimburse)) methods in subsections (1) and (2) of this section to pay for covered inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are not related to the admission. Inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are related to the admission are paid according to WAC 388-550-2900(12).~~

~~((7)) (5) For a client enrolled in an MAA-contracted ((Healthy Options)) managed care plan, the plan is responsible to ((reimburse)) pay a hospital provider for hospital services that the plan covers. MAA ((reimburses)) pays for a service not covered by the managed care plan only when:~~

~~(a) The service is included in the scope of coverage under the client's medical assistance program;~~

~~(b) The service is medically necessary as defined in WAC 388-550-1050; and~~

~~(c) The provider has a current core provider agreement with MAA and meets applicable MAA program requirements in other published WACs.~~

~~((8)) (6) The department does not ((reimburse)) pay for:~~

~~(a) Room and ancillary services charges beyond the twenty-four hour period for outpatient short stays; or~~

~~(b) Emergency room, labor room, observation room, and other room charges in combination when billing periods for these charges overlap.~~

~~((9)) (7) In order to be paid for covered outpatient hospital services listed in the outpatient hospital fee schedule as a paid at acquisition cost or by report, MAA requires the hospital provider to submit an invoice for billed amounts of five hundred or more.~~

~~(8) In order to be ((reimbursed)) paid for covered outpatient hospital services, hospitals must bill MAA according to the conditions of payment under WAC 388-502-0100, time limits under WAC 388-502-0150, and other applicable published issuances. In addition, MAA requires hospitals to bill outpatient claims using the line item date of service and the appropriate revenue codes, ((GPT)) admit and discharge hour, Current Procedural Terminology (CPT) codes, Health-care Common Procedural Coding System (HCPCS) codes,~~

and modifiers listed in MAA's published outpatient hospital fee schedule. A hospital's bill to the department must show the admitting, principal, and secondary diagnoses and include the attending physician's name and MAA-assigned provider number.

WSR 03-15-131
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed July 22, 2003, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-050.

Title of Rule: **Part 2 of 3, chapter 388-550 WAC, Hospital services**, amending WAC 388-550-1400 Covered revenue codes for hospital services.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant by October 16, 2003.

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

Statute Being Implemented: RCW 74.04.050, 74.04-057, and 74.08.090.

Summary: The department is amending the rules to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Also, the rules are being revised to ensure the department's administrative code reflects current policy and practice.

Reasons Supporting Proposal: Complies with the HIPAA requirements and avoids federal penalties by amending rules to be HIPAA-compliant by October 16, 2003. Updates rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Cynthia Smith, P.O. Box 45510, Olympia, WA 98504, (360) 725-1839.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules meet HIPAA-specific standards that all states must meet in regards to electronic health information transactions and the privacy of client health information. In addition, the proposed rules update rule content and create a new section to update revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims. Also, the proposed rules clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual and add language to state that MAA requires a hospital provider to report and bill hospital services under the appropriate revenue codes published in the UB-92 manual.

The purpose of the rules is to ensure department rules are HIPAA-compliant by October 16, 2003, and to adopt into permanent rule clarifying language to reflect current department policy and business practices.

The anticipated effects are: (1) The state will meet HIPAA-specific standards which all states are required to meet in regards to electronic health information transactions and the privacy of client health information. (2) MAA rules will be HIPAA-compliant by October 16, 2003, thereby avoiding federal penalties. (3) MAA's revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims will be updated.

Proposal Changes the Following Existing Rules: The department is amending language to comply with HIPAA requirements. In addition, the department has added language to clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual. The new rules also add language regarding MAA reporting and billing requirements for hospital services under the appropriate revenue codes published in the UB-92 manual.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the memo can be obtained from Cynthia Smith, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1839, e-mail smithch@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-02-075, filed 12/29/00, effective 1/29/01)

WAC 388-550-1400 Covered and noncovered revenue codes categories and subcategories for inpatient hospital services. ((1) The department shall cover the following

revenue code categories for both inpatient and outpatient hospitalizations:

- (a) "Pharmacy," except that:
 - (i) Subcategories "take home drugs," "experimental drugs," and "other pharmacy" are not covered; and
 - (ii) Subcategory "nonprescription" is covered for inpatients only;
 - (b) "Intravenous (IV) therapy," except subcategory "other IV therapy";
 - (c) "Medical/surgical supplies and devices," except for the following subcategories:
 - (i) "Take home supplies";
 - (ii) "Prosthetic devices";
 - (iii) "Oxygen take home"; and
 - (iv) "Other supplies/devices."
 - (d) "Oncology," except subcategory "other oncology";
 - (e) "Respiratory services," except subcategory "other respiratory services";
 - (f) Subcategories "general classification" and "minor surgery" under the "operating room services" category;
 - (g) "Anesthesia," except subcategories "acupuncture" and "other anesthesia";
 - (h) "Blood storage and processing," except subcategory "other blood storage and processing";
 - (i) "Other imaging services," except subcategory "other image services";
 - (j) "Emergency room," except subcategory "other emergency room";
 - (k) "Pulmonary function," except subcategory "other pulmonary function";
 - (l) "Cardiology," except subcategory "other cardiology";
 - (m) "Magnetic resonance imaging (MRI)," except subcategory "other MRI";
 - (n) "Cast room," except subcategory "other cast room";
 - (o) "Recovery room," except subcategory "other recovery room";
 - (p) "Labor room/delivery," except for subcategories "circumcision" and "other labor room/delivery";
 - (q) "EKG/ECG (electrocardiogram)," except subcategory "other EKG/ECG";
 - (r) "EEG (electroencephalogram)," except subcategory "other EEG";
 - (s) "Gastrointestinal services," except subcategory "other gastroenteritis";
 - (t) "Treatment or observation room," except subcategory "other treatment room";
 - (u) "Lithotripsy," except subcategory "other lithotripsy";
- and
- (v) "Organ acquisition," except for subcategories "unknown donor" and "other organ."
- (2) Except for certain services, such as inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories and/or subcategories for inpatient hospitalizations only:
- (a) "Room and board—private, medical, or general," except subcategory "hospice";
 - (b) "Semi-private room and board" (two to four beds), except subcategory "hospice";
 - (c) "Nursery for newborns and premature babies";
 - (d) "Intensive care," except subcategory "post ICU";

- (e) "Coronary care," except subcategory "post-CCU";
- (f) "Laboratory," except subcategory "renal-patient (home)";
- (g) "Laboratory-pathological";
- (h) "Radiology," both "diagnostic" and "therapeutic";
- (i) "Nuclear medicine";
- (j) "Physical therapy," "occupational therapy," and "speech language therapy";
- (k) "CT (computed tomographic) scans";
- (l) "Operating room services," subcategories "organ transplant other than kidney" and "kidney transplant only";
- (m) "Clinic," subcategory "chronic pain center" only;
- (n) "Ambulance," subcategory "neonatal ambulance services (support crews)" only;
- (o) "Other donor bank" category, except that subcategories "peripheral blood stem cell harvesting" and "reinfusion" are limited only to facilities approved by the medical assistance administration (MAA).

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(3) Except for certain services, such as inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories for outpatient hospital services only:

- (a) "Ambulatory surgical care";
- (b) "Outpatient services";
- (c) Subcategories "general classification" and "dental clinic," under "clinic";
- (d) Subcategory "rural health clinic," under "free standing clinic";
- (e) "Drugs requiring specific identification," except covered only for certified kidney centers;
- (f) "Hospice services";
- (g) "Respite care";
- (h) "Inpatient renal dialysis";
- (i) "Hemodialysis—outpatient or home";
- (j) "Peritoneal dialysis—outpatient or home";
- (k) "Continuous ambulatory peritoneal dialysis—outpatient or home";
- (l) "Continuous cycling peritoneal dialysis—outpatient or home";
- (m) "Miscellaneous dialysis";
- (n) Subcategories "education/training" and "weight loss," under the "other therapeutic services" category, except limited to facilities approved by MAA.

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(4) The department shall cover the following revenue code categories and/or subcategories subject to the following specific limitations:

- (a) The "private (deluxe)" and "room and board—ward" categories shall be reimbursed at the semi-private hospital room rates;
- (b) All inpatient psychiatric services shall be subject to the policies and procedures of the mental health division, and reimbursed only to department approved psychiatric facilities. See chapter 246-318 WAC. Inpatient psychiatric revenue codes include, but are not limited to:
 - (i) The subcategory "psychiatric" under all "room and board" categories;

(ii) The subcategory "psychiatric" under the "intensive care" category;

(iii) The "psychiatric/psychological treatments" category; and

(iv) The "psychiatric/psychological services" category.

(c) The department shall reimburse the subcategory "detoxification" under all room and board categories only to detoxification facilities approved by the division of alcohol and substance abuse.

(d) The subcategory "rehabilitation" under all "room and board" categories shall be reimbursed only to MAA-approved rehabilitation facilities.

(e) Only the subcategories "chemical using pregnant women" and "administrative days" shall be covered in the "other room and board" category.

(f) Subcategory "nonprescription drugs" under the category "pharmacy" shall be covered for inpatient hospitalizations only. See WAC 388-550-1400 (1)(a)(ii). Certain exemptions apply for pregnant women as described in WAC 388-530-1150 (1)(d)(ii). For coverage of nonprescription drugs, see WAC 388-530-110 and 388-530-1150.

(g) The subcategories "renal patient (home)" and "non-routine dialysis" under category "laboratory" shall be reimbursed in the outpatient setting only to Medicare-certified kidney centers.

(h) Subcategory "chronic pain center" under the "clinic" category shall be reimbursed only to MAA-approved chronic pain treatment facilities.

(i) Only the subcategory "neonatal ambulance services (support crews)" under the "ambulance" category shall be covered, and only for inpatient hospitalizations.

(j) The category "drugs requiring specific identification" shall be reimbursed only for outpatients and only to Medicare-approved kidney centers.

(k) Subcategories "education/training" and "weight loss," under the "other therapeutic service" category, shall be reimbursed only to MAA-approved facilities)) Subject to the limitations and restrictions listed, this section identifies covered and noncovered revenue code categories and subcategories for inpatient hospital services.

(1) The department covers the following revenue code categories and subcategories for inpatient hospital services when the hospital provider accurately bills:

(a) "Room & board - private," only subcategories "general classification," "medical/surgical/gyn," "OB," "pediatric," and "oncology";

(b) "Room & board - semi-private two bed," only subcategories "general classification," "medical/surgical/gyn," "OB," "pediatric," and "oncology";

(c) "Room & board - semi-private - three and four beds," only subcategories "general classification," "medical/surgical/gyn," "OB," "pediatric," and "oncology";

(d) "Room & board - private (deluxe)," only subcategories "general classification," "medical/surgical/gyn," "OB," "pediatric," and "oncology";

(e) "Nursery," only subcategories "general classification," "newborn - level I," "newborn - level II," "newborn - level III," and "newborn - level IV";

(f) "Intensive care," only subcategories "general classification," "surgical," "medical," "pediatric," "intermediate ICU," "burn care," and "trauma";

(g) "Coronary care," only subcategories "general classification," "myocardial infarction," "pulmonary care," and "intermediate CCU";

(h) "Pharmacy," only subcategories "general classification," "generic drugs," "nongeneric drugs," "drugs incident to other diagnostic services," "drugs incident to radiology," "nonprescription," and "IV solutions";

(i) "IV therapy," only subcategories "general classification," "infusion pump," "IV therapy/pharmacy services," "IV therapy/drug/supply delivery" and "IV therapy/supplies";

(j) "Medical/surgical supplies and devices," only subcategories "general classification," "nonsterile supply," "sterile supply," "pacemaker," "intraocular lens," and "other implant";

(k) "Oncology," only subcategory "general classification";

(l) "Laboratory," only subcategories "general classification," "chemistry," "immunology," "nonroutine dialysis," "hematology," "bacteriology & microbiology," and "urology";

(m) "Laboratory pathological," only subcategories "general classification," "cytology," "histology," and "biopsy";

(n) "Radiology - diagnostic," only subcategories "general classification," "angiocardiology," "arthrography," "arteriography," and "chest x-ray";

(o) "Radiology - therapeutic," only subcategories "general classification," "chemotherapy - injected," "chemotherapy - oral," "radiation therapy," and "chemotherapy - IV";

(p) "Nuclear medicine," only subcategories "general classification," "diagnostic," and "therapeutic";

(q) "CT Scan," only subcategories "general classification," "head scan," and "body scan";

(r) "Operating room services," only subcategories "general classification" and "minor surgery";

(s) "Anesthesia," only subcategories "general classification," "anesthesia incident to radiology," and "anesthesia incident to other diagnostic services";

(t) "Blood and blood component administration, processing and storage," only subcategories "general classification" and "administration (e.g., transfusions);

(u) "Other imaging services," only subcategories "general classification," "diagnostic mammography," "ultrasound," and "positron emission tomography";

(v) "Respiratory services," only subcategories "general classification," "inhalation services" and "hyper baric oxygen therapy";

(w) "Physical therapy," only subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation";

(x) "Speech-language pathology," only subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation";

(y) "Emergency room," only subcategories "general classification" and "urgent care";

(z) "Pulmonary function," only subcategory "general classification";

(aa) "Cardiology," only subcategories "general classification," "cardiac cath lab," "stress test," and "echocardiology";

(bb) "Ambulatory surgical care," only subcategory "general classification";

(cc) "Outpatient services," only subcategory "general classification";

(dd) "Magnetic resonance technology (MRT)," only subcategories "general classification," "MRI - brain (including brainstem)," "MRI - spinal cord (including spine)," "MRI - other," "MRA - head and neck," and "MRA - lower extremities";

(ee) "Medical/surgical supplies - extension," only subcategories "supplies incident to radiology," "supplies incident to other diagnostic services," and "surgical dressings";

(ff) "Pharmacy-extension," only subcategories "single source drug," "multiple source drug," "restrictive prescription," "erythropoietin (EPO) less than ten thousand units," "erythropoietin (EPO) ten thousand or more units," "drugs requiring detailed coding," and "self-administrable drugs";

(gg) "Cast room," only subcategory "general classification";

(hh) "Recovery room," only subcategory "general classification";

(ii) "Labor room/delivery," only subcategory "general classification," "labor," "delivery," and "birthing center";

(jj) "EKG/ECG (Electrocardiogram)," only subcategories "general classification," "holter monitor," and "telemetry";

(kk) "EEG (Electroencephalogram)," only subcategory "general classification";

(ll) "Gastro-intestinal services," only subcategory "general classification";

(mm) "Treatment/observation room," only subcategories "general classification," "treatment room," and "observation room";

(nn) "Lithotripsy," only subcategory "general classification";

(oo) "Inpatient renal dialysis," only subcategories "general classification," "inpatient hemodialysis," "inpatient peritoneal (non-CAPD)," "inpatient continuous ambulatory peritoneal dialysis (CAPD)," and "inpatient continuous cycling peritoneal dialysis (CCPD);

(pp) "Acquisition of body components," only subcategories "general classification," "living donor," and "cadaver donor";

(qq) "Miscellaneous dialysis," only subcategory "ultra filtration," and

(rr) "Other diagnostic services," only subcategories "peripheral vascularlab," "electromyogram," and "pregnancy test.";

(2) The department covers the following revenue code subcategories for inpatient hospital services only when the hospital provider is approved by the department to provide the specific service(s):

(a) "All inclusive rate," only subcategory "all-inclusive room & board plus ancillary";

(b) "Room & board - private," only subcategory "psychiatric";

(c) "Room & board - semi-private two," only subcategories "psychiatric," "detoxification," "rehabilitation," and "other";

(d) "Room & board - semi-private three and four beds," only subcategories "psychiatric" and "detoxification";

(e) "Room & board - private (deluxe)," only subcategory "psychiatric";

(f) "Room & board - ward," only subcategories "general classification" and "detoxification";

(g) "Room & board - other," only subcategories "general classification" and "other";

(h) "Intensive care," only subcategory "psychiatric";

(i) "Coronary care," only subcategory "heart transplant";

(j) "Operating room services," only subcategories "organ transplant-other than kidney" and "kidney transplant";

(k) "Occupational therapy," only subcategories "general classification," "visit charge," "hourly charge," "group rate" and "evaluation or re-evaluation";

(l) "Clinic," only subcategory "chronic pain clinic";

(m) "Ambulance," only subcategory "neonatal ambulance services";

(n) "Psychiatric/psychological treatments," only subcategory "electroshock treatment"; and

(o) "Psychiatric/psychological services," only subcategory "rehabilitation."

(3) The department covers revenue code category "occupational therapy," subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation" when:

(a) A client is in an acute PM&R facility;

(b) A client is age twenty or younger; or

(c) The diagnosis code is listed in the medical assistance administration's (MAA's) published billing instructions.

(4) The department does not cover the following revenue code categories and subcategories for inpatient hospital services:

(a) "All inclusive rate," subcategory "all-inclusive room and board";

(b) "Room & board - private" subcategories "hospice," "detoxification," "rehabilitation," and "other";

(c) "Room & board - semi-private two bed," subcategory "hospice";

(d) "Room & board - semi-private - three and four beds," subcategories "hospice," "rehabilitation," and "other";

(e) "Room & board - private (deluxe)," subcategories "hospice," "rehabilitation," and "other";

(f) "Room & board - ward," subcategories "medical/surgical/gyn," "OB," "pediatric" "hospice," "oncology," "rehabilitation," and "other";

(g) "Room & board - other," subcategories "sterile environment," and "self care";

(h) "Nursery," subcategory "other nursery";

(i) "Leave of absence";

(j) "Subacute Care";

(k) "Intensive care," subcategory "other intensive care";

(l) "Coronary care," subcategory "other coronary care";

(m) "Special charges";

(n) "Incremental nursing charge rate";

(o) "All inclusive ancillary";

(p) "Pharmacy," subcategories "take home drugs," "experimental drugs," and "other pharmacy";

(q) "IV therapy," subcategory "other IV therapy";

(r) "Medical/surgical supplies and devices," subcategories "take home supplies," "prosthetic/orthotics devices," "oxygen -take home," and "other supplies/devices";

(s) "Oncology," subcategory "other oncology";

(t) "Durable medical equipment (other than renal);

(u) "Laboratory," subcategories "renal patient (home)," and "other laboratory";

(v) "Laboratory pathological," subcategory "other laboratory - pathological";

(w) "Radiology - diagnostic," subcategory "other radiology - diagnostic";

(x) "Radiology - therapeutic," subcategory "other radiology - therapeutic";

(y) "Nuclear medicine," subcategory "other nuclear medicine";

(z) "CT Scan," subcategory "other CT scan";

(aa) "Operating room services," subcategory "other operating room services";

(bb) "Anesthesia," subcategories "acupuncture," and "other anesthesia";

(cc) "Blood";

(dd) "Blood and blood component administration, processing and storage," subcategory "other processing and storage";

(ee) "Other imaging services," subcategories "screening mammography," and "other imaging services";

(ff) "Respiratory services," subcategory "other respiratory services";

(gg) "Physical therapy," subcategory "other physical therapy";

(hh) "Occupational therapy," subcategory "other occupational therapy";

(ii) "Speech-language pathology," subcategory "other speech-language pathology";

(jj) "Emergency room," subcategories "EMTALA emergency medical screening services," "ER beyond EMTALA screening," and "other emergency room";

(kk) "Pulmonary function," subcategory "other pulmonary function";

(ll) "Audiology";

(mm) "Cardiology," subcategory "other cardiology";

(nn) "Ambulatory surgical care," subcategory "other ambulatory surgical care";

(oo) "Outpatient services," subcategory "other outpatient service";

(pp) "Clinic," subcategories "general classification," "dental clinic," "psychiatric clinic," "OB-gyn clinic," "pediatric clinic," "urgent care clinic," "family practice clinic," and "other clinic";

(qq) "Free-standing clinic";

(rr) "Osteopathic services";

(ss) "Ambulance," subcategories "general classification," "supplies," "medical transport," "heart mobile," "oxygen," "air ambulance," "pharmacy," "telephone transmission EKG," and "other ambulance";

(tt) "Skilled nursing";

(uu) "Medical social services";

(vv) "Home health - home health aide";
(ww) "Home health - other visits";
(xx) "Home health - units of service";
(yy) "Home health - oxygen";
(zz) "Magnetic resonance technology (MRT)," subcategories "MRA-other" and "other MRT";
(aaa) "Medical" "medical/surgical supplies - extension," subcategory "FDA investigational devices";
(bbb) "Home IV therapy services";
(ccc) "Hospice services";
(ddd) "Respite care";
(eee) "Outpatient residence charges";
(fff) "Trauma response";
(ggg) "Cast room," subcategory "other cast room";
(hhh) "Recovery room," subcategory "other recovery room";
(iii) "Labor room/delivery," subcategories "circumcision" and "other labor room/delivery";
(jii) "EKG/ECG (Electrocardiogram)," subcategory "other EKG/ECG";
(kkk) "EEG (Electroencephalogram)," subcategory "other EEG";
(lll) "Gastro-intestinal services," subcategory "other gastro-intestinal";
(mmm) "Treatment/observation room," subcategory "other treatment/observation room";
(nnn) "Preventive care services";
(ooo) "Telemedicine";
(ppp) "Lithotripsy," subcategory "other lithotripsy";
(qqq) "Inpatient renal dialysis," subcategory "other inpatient dialysis";
(rrr) "Acquisition of body components," subcategories "unknown donor," "unsuccessful organ search - donor bank charges," and "other donor";
(sss) "Hemodialysis - outpatient or home";
(ttt) "Peritoneal dialysis - outpatient or home";
(uuu) "Continuous ambulatory peritoneal dialysis (CAPD) - outpatient or home";
(vvv) "Continuous cycling peritoneal dialysis (CCPD) - outpatient or home";
(www) "Miscellaneous dialysis," subcategories "general classification," "home dialysis aid visit," and "other miscellaneous dialysis";
(xxx) "Psychiatric/psychological treatments," subcategories "general classification," "milieu therapy," "play therapy," "activity therapy," and "other psychiatric/psychological treatment";
(yyy) "Psychiatric/psychological services," subcategories "general classification," "partial hospitalization - less intensive," "partial hospitalization - intensive," "individual therapy," "group therapy," "family therapy," "bio feedback," "testing," and "other psychiatric/psychological service";
(zzz) "Other diagnostic services," subcategories "general classification," "pap smear," "allergy test," and "other diagnostic service";
(aaaa) "Medical rehabilitation day program";
(bbbb) "Other therapeutic services";
(cccc) "Professional fees";
(dddd) "Patient convenience items"; and

(eeee) Revenue code categories and subcategories that are not identified in this section.

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

WSR 03-15-132
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed July 22, 2003, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-050.

Title of Rule: **Part 3 of 3, chapter 388-550 WAC, Hospital services,** amending WAC 388-550-1500 Noncovered revenue codes.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant by October 16, 2003.

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

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

Summary: The department is amending the rules to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Also, the rules are being revised to ensure the department's administrative code reflects current policy and practice.

Reasons Supporting Proposal: Complies with the HIPAA requirements and avoids federal penalties by amending rules to be HIPAA-compliant by October 16, 2003. Updates rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Cynthia Smith, P.O. Box 45510, Olympia, WA 98504, (360) 725-1839.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules meet HIPAA-specific standards that all states must meet in regards to electronic health information transactions and the privacy of client health information. In addition, the proposed rules update rule content and create a new section to update revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims. Also, the proposed rules clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual and add language to state that MAA requires a

hospital provider to report and bill hospital services under the appropriate revenue codes published in the UB-92 manual.

The purpose of the rules is to ensure department rules are HIPAA-compliant by October 16, 2003, and to adopt into permanent rule clarifying language to reflect current department policy and business practices.

The anticipated effects are: (1) The state will meet HIPAA-specific standards which all states are required to meet in regards to electronic health information transactions and the privacy of client health information. (2) MAA rules will be HIPAA-compliant by October 16, 2003, thereby avoiding federal penalties. (3) MAA's revenue code categories and subcategories and reporting requirements for inpatient and outpatient claims will be updated.

Proposal Changes the Following Existing Rules: The department is amending language to comply with HIPAA requirements. In addition, the department has added language to clarify that revenue code categories and subcategories are published in the UB-92 National Uniform Billing Data Element Specifications Manual. The new rules also add language regarding MAA reporting and billing requirements for hospital services under the appropriate revenue codes published in the UB-92 manual.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the memo can be obtained from Cynthia Smith, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1839, e-mail smithch@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 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, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

WAC 388-550-1500 Covered and noncovered revenue (codes) code categories and subcategories for outpa-

tient hospital services. (1) (~~Revenue code subcategories titled "other" shall not be covered by the medical assistance administration (MAA), unless otherwise specified.~~

(2) ~~The department shall not cover the following revenue code categories in either an inpatient or outpatient setting:~~

(a) ~~"All inclusive rate";~~

(b) ~~"Other room and board," except as indicated in WAC 388-550-1400(4)(e);~~

(c) ~~"Leave of absence";~~

(d) ~~"Not assigned" (all such categories);~~

(e) ~~"Special charges";~~

(f) ~~"Incremental nursing charge rate";~~

(g) ~~"All inclusive ancillary";~~

(h) ~~"Pharmacy" subcategories for "take home" and "experimental drugs";~~

(i) ~~"Durable medical equipment (other than renal)";~~

(j) ~~"Blood" (and blood products);~~

(k) ~~"Audiology";~~

(l) ~~"Clinic," except as specified in WAC 388-550-1400(3)(e);~~

(m) ~~"Free standing clinic," except as specified in WAC 388-550-1400(3)(d);~~

(n) ~~"Osteopathic services";~~

(o) ~~"Ambulance," except as specified in WAC 388-550-1400(4)(i);~~

(p) ~~"Skilled nursing";~~

(q) ~~"Medical social services";~~

(r) ~~"Home health aide (home health)" and "other visits (home health)";~~

(s) ~~"Units of service (home health)";~~

(t) ~~"Oxygen (home health)";~~

(u) ~~"Medicare/surgical supplies";~~

(v) ~~"Home IV therapy services";~~

(w) ~~"Preventive care services";~~

(x) ~~"Other diagnostic services";~~

(y) ~~"Professional fees" (all such categories); and~~

(z) ~~"Patient convenience items."~~

(3) ~~The department shall not cover the following subcategories in the "other therapeutic service" category:~~

(a) ~~"General classification";~~

(b) ~~"Recreational therapy";~~

(c) ~~"Cardiac rehabilitation";~~

(d) ~~"Drug rehabilitation," except under the chemically-using pregnant (CUP) women program;~~

(e) ~~"Alcohol rehabilitation," except under the CUP program; and~~

(f) ~~"Air fluidized support beds."~~

(4) ~~The department shall not cover the following subcategories under the "free standing clinic" category:~~

(a) ~~"General classification";~~

(b) ~~"Rural health home";~~

(c) ~~"Family practice"; and~~

(d) ~~"Other clinic.")~~

The department covers the following revenue code categories and subcategories for outpatient hospital services when the hospital provider accurately bills (see subsection (2) of this section for revenue code subcategories covered only when the department approves the hospital provider to provide the specific service(s)):

(a) "Pharmacy," only subcategories "general classification," "generic drugs," "nongeneric drugs," "drugs incident to other diagnostic services," "drugs incident to radiology," "nonprescription," and "IV solutions";

(b) "IV therapy," only subcategories "general classification," "infusion pump," "IV therapy/pharmacy services," "IV therapy/drug/supply delivery," and "IV therapy/supplies";

(c) "Medical/surgical supplies and devices," only subcategories "general classification," "nonsterile supply," "sterile supply," "pacemaker," "intraocular lens," and "other implant";

(d) "Oncology," only subcategory "general classification";

(e) "Laboratory," only subcategories "general classification," "chemistry," "immunology," "renal patient (home)," "nonroutine dialysis," "hematology," "bacteriology and microbiology," and "urology";

(f) "Laboratory pathological," only subcategories "general classification," "cytology," "histology," and "biopsy";

(g) "Radiology - diagnostic," only subcategories "general classification," "angiocardiography," "arthrography," "arteriography," and "chest x-ray";

(h) "Radiology - therapeutic," only subcategories "general classification," "chemotherapy - injected," "chemotherapy - oral," "radiation therapy," and "chemotherapy - IV";

(i) "Nuclear medicine," only subcategories "general classification," "diagnostic," and "therapeutic";

(j) "CT Scan," only subcategories "general classification," "head scan," and "body scan";

(k) "Operating room services," only subcategories "general classification" and "minor surgery";

(l) "Anesthesia," only subcategories "general classification," "anesthesia incident to radiology," and "anesthesia incident to other diagnostic services";

(m) "Blood and blood component administration, processing and storage," only subcategories "general classification" and "administration (e.g., transfusions)";

(n) "Other imaging," only subcategories "general classification," "diagnostic mammography," "ultrasound," "screening mammography," and "positron emission tomography";

(o) "Respiratory services," only subcategories "general classification," "inhalation services," and "hyper baric oxygen therapy";

(p) "Physical therapy," only subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation";

(q) "Occupational therapy," only subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation";

(r) "Speech-language pathology," only subcategories "general classification," "visit charge," "hourly charge," "group rate," and "evaluation or re-evaluation";

(s) "Emergency room," only subcategories "general classification" and "urgent care";

(t) "Pulmonary function," only subcategory "general classification";

(u) "Audiology," only subcategories "general classification," "diagnostic," and "treatment";

(v) "Cardiology," only subcategories "general classification," "cardiac cath lab," "stress test," and "echocardiology";

(w) "Ambulatory surgical care," only subcategory "general classification";

(x) "Outpatient services," only subcategory "general classification";

(y) "Magnetic resonance technology (MRT)," only subcategories "general classification," "MRI - brain (including brainstem)," "MRI - spinal cord (including spine)," "MRI - other," "MRA - head and neck," and "MRA - lower extremities";

(z) "Medical/surgical supplies - extension," only subcategories "supplies incident to radiology," "supplies incident to other diagnostic services," and "surgical dressings";

(aa) "Pharmacy - extension," only subcategories "single source drug," "multiple source drug," "restrictive prescription," "erythropoietin (EPO) less than ten thousand units," "erythropoietin (EPO) ten thousand or more units," "drugs requiring detailed coding," and "self-administrable drugs";

(bb) "Cast room," only subcategory "general classification";

(cc) "Recovery room," only subcategory "general classification";

(dd) "Labor room/delivery," only subcategories "general classification," "labor," "delivery," and "birthing center";

(ee) "EKG/ECG (Electrocardiogram)," only subcategories "general classification," "holter monitor," and "telemetry";

(ff) "EEG (Electroencephalogram)," only subcategory "general classification";

(gg) "Gastro-intestinal services," only subcategory "general classification";

(hh) "Treatment/observation room," only subcategories "general classification," "treatment room," and "observation room";

(ii) "Lithotripsy," only subcategory "general classification";

(jj) "Acquisition of body components," only subcategories "general classification," "living donor," and "cadaver donor";

(kk) "Hemodialysis - outpatient or home," only subcategory "general classification";

(ll) "Peritoneal dialysis - outpatient or home," only subcategory "general classification";

(mm) "Continuous ambulatory peritoneal dialysis (CAPD) - outpatient or home," only subcategory "general classification";

(nn) "Continuous cycling peritoneal dialysis (CCPD) - outpatient or home," only subcategory "general classification";

(oo) "Miscellaneous dialysis," only subcategories "general classification," and "ultra filtration";

(pp) "Psychiatric/psychological treatments," only subcategory "electroshock treatment"; and

(qq) "Other diagnostic services," only subcategories "peripheral vascular lab," "electromyogram," "pap smear," "allergy test," and "pregnancy test."

(2) The department covers the following revenue code subcategories only when the outpatient hospital provider is approved by the department to provide the specific service(s):

(a) "Clinic," subcategories "general classification," "dental clinic," and "other clinic"; and

(b) "Other therapeutic services - extension," subcategories "education/training" and "other therapeutic service."

(3) The department does not cover the following revenue code categories and subcategories for outpatient hospital services:

(a) "All inclusive rate";

(b) "Room & board - private";

(c) "Room & board - semi-private two bed";

(d) "Room & board - semi-private three and four beds";

(e) "Room & board - private (deluxe)";

(f) "Room & board - ward";

(g) "Room & board - other";

(h) "Nursery";

(i) "Leave of absence";

(j) "Subacute care";

(k) "Intensive care";

(l) "Coronary care";

(m) "Special charges";

(n) "Incremental nursing charge rate";

(o) "All inclusive ancillary";

(p) "Pharmacy," subcategories "take home drugs," "experimental drugs," and "other pharmacy";

(q) "IV therapy," subcategory "other IV therapy";

(r) "Medical/surgical supplies and devices," subcategories "take home supplies," "prosthetic/orthotic devices," "oxygen- take home," and "other supplies/devices";

(s) "Oncology," subcategory "other oncology";

(t) "Durable medical equipment (other than renal)";

(u) "Laboratory," subcategory "other laboratory";

(v) "Laboratory pathological," subcategory "other laboratory pathological";

(w) "Radiology - diagnostic," subcategory "other radiology-diagnostic";

(x) "Radiology - therapeutic," subcategory "other radiology-therapeutic";

(y) "Nuclear medicine," subcategory "other nuclear medicine";

(z) "CT Scan," subcategory "other CT scan";

(aa) "Operating room services," subcategories "organ transplant - other than kidney," "kidney transplant," and "other operating room services";

(bb) "Anesthesia," subcategories "acupuncture" and "other anesthesia";

(cc) "Blood";

(dd) "Blood and blood component administration, processing and storage," subcategory "other processing and storage";

(ee) "Other imaging," subcategory "other imaging service";

(ff) "Respiratory services," subcategory "other respiratory services";

(gg) "Physical therapy services," subcategory "other physical therapy";

(hh) "Occupational therapy services," subcategory "other occupational therapy";

(ii) "Speech-language pathology," subcategory "other speech-language pathology";

(jj) "Emergency room," subcategories "EMTALA emergency medical screening services," "ER beyond EMTALA screening" and "other emergency room";

(kk) "Pulmonary function," subcategory "other pulmonary function";

(ll) "Audiology," subcategory "other audiology";

(mm) "Cardiology," subcategory "other cardiology";

(nn) "Ambulatory surgical care," subcategory "other ambulatory surgical care";

(oo) "Outpatient Services," subcategory "other outpatient service";

(pp) "Clinic," subcategories "chronic pain center," "psychiatric clinic," "OB-GYN clinic," "pediatric clinic," "urgent care clinic," and "family practice clinic";

(qq) "Free-standing clinic";

(rr) "Osteopathic services";

(ss) "Ambulance";

(tt) "Skilled nursing";

(uu) "Medical social services";

(vv) "Home health - home health aide";

(ww) "Home health - other visits";

(xx) "Home health - units of service";

(yy) "Home health - oxygen";

(zz) "Magnetic resonance technology(MRT)," subcategories "MRA - other" and "other MRT";

(aaa) "Medical/surgical supplies - extension," only subcategory "FDA investigational devices";

(bbb) "Home IV therapy services";

(ccc) "Hospice services";

(ddd) "Respite care";

(eee) "Outpatient special residence charges";

(fff) "Trauma response";

(ggg) "Cast room," subcategory "other cast room";
(hhh) "Recovery room," subcategory "other recovery room";

(iii) "Labor room/delivery," subcategories "circumcision" and "other labor room/delivery";

(jii) "EKG/ECG (Electrocardiogram)," subcategory "other EKG/ECG";

(kkk) "EEG (Electroencephalogram)," subcategory "other EEG";

(lii) "Gastro-intestinal services," subcategory "other gastro-intestinal";

(mmm) "Treatment/observation room," subcategory "other treatment/observation room";

(nnn) "Preventive care services";

(ooo) "Telemedicine";

(ppp) "Lithotripsy," subcategory "other lithotripsy";

(qqq) "Inpatient renal dialysis";

(rrr) "Acquisition of body components," subcategories "unknown donor," "unsuccessful organ search - donor bank charges," and "other donor";

(sss) "Hemodialysis - outpatient or home," subcategories "hemodialysis/composite or other rate," "home supplies," "home equipment," "maintenance one hundred percent," "support services," and "other outpatient hemodialysis";

(ttt) "Peritoneal dialysis - outpatient or home," subcategories "peritoneal/composite or other rate," "home supplies," "home equipment," "maintenance one hundred percent" "support services," and "other outpatient peritoneal dialysis";

(uuu) "Continuous ambulatory peritoneal dialysis (CAPD) - outpatient or home," subcategories "CAPD/composite or other rate," "home supplies," "home equipment," "maintenance one hundred percent" "support services," and "other outpatient CAPD";

(vvv) "Continuous cycling peritoneal dialysis (CCPD) - outpatient or home," subcategories "CCPD/composite or other rate," "home supplies," "home equipment," "maintenance one hundred percent," "support services," and "other outpatient CCPD";

(www) "Miscellaneous dialysis," subcategories "home dialysis aid visit" and "other miscellaneous dialysis";

(xxx) "Psychiatric/psychological treatments," subcategories "general classification," "milieu therapy," "play therapy," "activity therapy," and "other psychiatric/psychological treatment";

(yyy) "Psychiatric/psychological services";

(zzz) "Other diagnostic services," subcategories "general classification" and "other diagnostic services";

(aaaa) "Medical rehabilitation day program";

(bbbb) "Other therapeutic services - extension," subcategories "general classification," "recreational therapy," "cardiac rehabilitation," "drug rehabilitation," "alcohol rehabilitation," "complex medical equipment - routine," "complex medical equipment - ancillary," "athletic training," and "kinesiotherapy";

(cccc) "Professional fees";

(dddd) "Patient convenience items"; and

(eeee) Revenue code categories and subcategories that are not identified in this section.

WSR 03-15-138
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed July 23, 2003, 8:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086 and 03-12-054.

Title of Rule: **Part 4 of 4, chapter 388-535 WAC, Dental services**, new sections WAC 388-535-1270 Dental-related services requiring prior authorization—Adults, 388-535-1280 Obtaining prior authorization for dental-related services—Adults and 388-535-1290 Dentures and partial dentures for adults; amending WAC 388-535-1350 Payment methodology for dental-related services, 388-535-1400 Payment for dental-related services and 388-535-1450 Payment for denture laboratory services; and repealing WAC 388-535-1120 Coverage limits for dental-related services provided under state-only funded programs.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant (P.L. 104-191) by October 16, 2003. To comply with requirements of the 2003-2005 State Omnibus Operating Budget (ESSB 5404), the department is incorporating into rule the 25% reduction in adult dental benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Statute Being Implemented: RCW 74.04.050, 74.04-057, 74.08.090, and 74.09.530; ESSB 5404 (chapter 25, Laws of 2003 1st sp.s.).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Gini Egan, P.O. Box 45506, Olympia, WA 98504, (360) 725-1580.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

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

The purpose is to meet federal and state requirements, to incorporate rule changes to reflect the 25% reduction in dental-[related] services for adults, and to incorporate changes required by HIPAA.

The anticipated effect is compliance with federal and state requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: Proposal incorporates state legislative changes in adult dental-related services and the changes required by HIPAA. The rules change and add to existing definitions, amend sections in and add new sections to chapter 388-535 WAC. WAC 388-535-1120 will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the rule will not place more than a minor economic impact on small businesses.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rule meets the definition of a "significant legislative rule." The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs and has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the CBA memo is available from Gini Egan, Division of Medical Management, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1580.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 3003 [2003], phone (360) 664-6094, TTY (360) 664-6178, e-mail fernanaax@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernanaax@dshs.wa.gov by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

July 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-535-1270 Dental-related services requiring prior authorization—Adults. The following dental-related services for adults require prior authorization:

(1) Nonemergent inpatient hospital dental admissions as described under WAC 388-535-1100 (2)(o) and 388-550-1100(1);

(2) Dentures and partial dentures as described in WAC 388-550-1290;

(3) Fluoride treatment (gel or varnish) for clients age nineteen through sixty-four who are diagnosed with xerostomia; and

(4) Selected procedures identified by the medical assistance administration (MAA) and published in its current dental billing instructions.

(5) See WAC 388-535-1280 for obtaining prior authorization for dental-related services for adults.

NEW SECTION

WAC 388-535-1280 Obtaining prior authorization for dental-related services—Adults. When the medical assistance administration (MAA) authorizes dental-related services for adults, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(1) MAA requires a dental provider who is requesting prior authorization to submit sufficient objective clinical information to establish medical necessity. The request must be submitted in writing on an American Dental Association (ADA) claim form, which may be obtained by writing to the American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611. The request must include at least all of the following:

- (a) The client's patient identification code (PIC);
- (b) The client's name and address;
- (c) The provider's name and address;
- (d) The provider's telephone and fax number (including area code);
- (e) The provider's MAA-assigned seven-digit provider number;
- (f) The physiological description of the disease, injury, impairment, or other ailment;
- (g) The most recent and relevant radiographs that are identified with client name, provider name, and date the radiograph was taken;
- (h) The treatment plan;
- (i) Periodontal charting and diagnosis;
- (j) Study model, if requested; and
- (k) Photographs, if requested.

(2) MAA considers requests for services according to WAC 388-535-1270.

(3) MAA denies a request for dental services when the requested service is:

(a) Not listed in chapter 388-535 WAC as a covered service;

(b) Not medically necessary;

(c) A service, procedure, treatment, device, drug, or application of associated service that the department or the Centers for Medicare and Medicaid Services (CMS) consider investigative or experimental on the date the service is provided; or

(d) Covered under another department program or by an agency outside the department.

(4) MAA may require second opinions and/or consultations before authorizing any procedure.

(5) Authorization is valid only if the client is eligible for covered services on the date of service.

NEW SECTION

WAC 388-535-1290 Dentures and partial dentures for adults. (1) The medical assistance administration (MAA) requires prior authorization for the dentures, replacement dentures, partial dentures, and replacement partial dentures that are described in this section.

(2) Subject to the criteria in this section and other applicable WAC, MAA covers the following for eligible adults:

(a) Dentures, subject to the following limitations:

(i) Only one complete maxillary denture and one complete mandibular denture allowed per client in a ten-year period, when constructed after the client has been without teeth for a period of time; or

(ii) Only one immediate maxillary denture and one immediate mandibular denture allowed per client, per lifetime, and only when constructed prior to the removal of the client's teeth.

(b) Replacement dentures, subject to the following limitations:

(i) Only one replacement of a complete maxillary denture and one replacement of a complete mandibular denture allowed per client in a ten-year period; and

(ii) Allowed only when the applicable criteria in subsection (5) of this section are met.

(c) Partial dentures, subject to the following limitations:

(i) Only one maxillary partial denture (resin) and one mandibular partial denture (resin) to replace one, two, or three missing anterior teeth per arch, allowed per client in a ten-year period; or

(ii) Only one maxillary partial denture (cast metal framework) and one mandibular partial denture (cast metal framework) allowed per client in a ten-year period to replace:

(A) Any combination of at least six anterior and posterior missing teeth per arch, excluding wisdom teeth; or

(B) At least four anterior missing teeth per arch.

(d) Replacement partial dentures, subject to the following limitations:

(i) Only one replacement of a maxillary partial denture (cast metal framework) and a mandibular partial denture (cast metal framework) allowed per client in a ten-year period; and

PROPOSED

(ii) Allowed only when the applicable criteria in subsection (5) of this section are met.

(3) Dentures must be of an acceptable structure and quality to meet the standard of care.

(4) MAA covers complete denture and partial denture relines only once in a five-year period.

(5) In addition to the prior authorization requirement and other limitations in this section, all replacement dentures and partial dentures are allowed once in a ten-year period and must:

(a) Replace a complete maxillary denture, a complete mandibular denture, a maxillary partial denture (cast metal framework) or a mandibular partial denture (cast metal framework) (see subsection (2) of this section);

(b) Replace dentures or partial dentures that are no longer serviceable and are unable to be relined;

(c) Replace dentures or partial dentures that are damaged beyond repair;

(d) Replace dentures or partial dentures that a client has been able to wear successfully; and

(e) Be medically necessary, as defined in WAC 388-500-0005.

(6) For billing purposes, a provider must:

(a) Use the delivery date as the service date for the dentures and partial dentures; and

(b) Use the impression date as the service date for dentures and partial dentures only when:

(i) Related dental services, including laboratory services, were provided during a client's eligible period; and

(ii) The client is not eligible at the time of delivery; or

(iii) The client does not return to obtain the dentures or partial dentures.

(7) A provider must retain in a client's record:

(a) Written laboratory prescriptions;

(b) Receipts for laboratory fees;

(c) Charts of missing teeth for partial dentures; and

(d) Documentation that justifies the placement or replacement of dentures or partial dentures.

(8) MAA does not pay separately for laboratory and professional fees for dentures and partial dentures. However, MAA may partially reimburse for these fees when the provider obtains prior authorization and the client:

(a) Dies;

(b) Moves from the state;

(c) Cannot be located; or

(d) Does not participate in completing the dentures.

(9) MAA does not pay separately for relines that are done within six months of the seat date. These procedures are included in the reimbursement for the dentures and partial dentures.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1350 Payment methodology for dental-related services. The medical assistance administration (MAA) uses the description of dental services described in the American Dental Association's Current Dental Terminology (~~(-third edition (CDT-3))~~), and the American Medical Association's Physician's Current (~~(Procedure)~~) Procedural

Terminology (~~(2002)~~) (CPT (~~(2002)~~)). (~~(MAA uses state assigned procedure codes to identify services not fully described in the CDT-3 or CPT 2002 descriptions. (CPT is a trademark of the American Medical Association.))~~)

(1) For covered dental-related services provided to eligible clients, MAA pays dentists and (~~(related))~~ other eligible providers on a fee-for-service or contractual basis, subject to the exceptions and restrictions listed under WAC 388-535-1100 and 388-535-1400.

(2) MAA sets maximum allowable fees for dental services provided to children as follows:

(a) MAA's historical reimbursement rates for various procedures are compared to usual and customary charges.

(b) MAA consults with representatives of the provider community to identify program areas and concerns that need to be addressed.

(c) MAA consults with dental experts and public health professionals to identify and prioritize dental services and procedures for their effectiveness in improving or promoting children's dental health.

(d) Legislatively authorized vendor rate increases and/or earmarked appropriations for children's dental services are allocated to specific procedures based on the priorities identified in (c) of this subsection and considerations of access to services.

(e) Larger percentage increases may be given to those procedures which have been identified as most effective in improving or promoting children's dental health.

(f) Budget-neutral rate adjustments are made as appropriate based on the department's evaluation of utilization trends, effectiveness of interventions, and access issues.

(3) MAA reimburses dental general anesthesia services for eligible clients on the basis of base anesthesia units plus time. Payment for dental general anesthesia is calculated as follows:

(a) Dental procedures are assigned an anesthesia base unit of five;

(b) Fifteen minutes constitute one unit of time. When a dental procedure requiring dental general anesthesia results in multiple time units and a remainder (less than fifteen minutes), the remainder or fraction is considered as one time unit;

(c) Time units are added to the anesthesia base unit of five and multiplied by the anesthesia conversion factor;

(d) The formula for determining payment for dental general anesthesia is: (5.0 base anesthesia units + time units) x conversion factor = payment.

(4) When billing for anesthesia, the provider must show the actual beginning and ending times on the claim. Anesthesia time begins when the provider starts to physically prepare the client for the induction of anesthesia in the operating room area (or its equivalent), and ends when the provider is no longer in constant attendance (i.e., when the client can be safely placed under post-operative supervision).

(5) MAA (~~(may pay anesthesiologists for general dental anesthesia provided in dental offices. Only anesthesiologists specially contracted by the department are paid an additional fee for that service))~~ pays eligible providers listed in WAC 388-535-1070 for conscious sedation with parenteral and multiple oral agents, or for general anesthesia when the pro-

vider meets the criteria in this chapter and other applicable WAC.

(6) Dental hygienists who have a contract with MAA are paid at the same rate as dentists who have a contract with MAA, for services allowed under The Dental Hygienist Practice Act(~~(, which is available from the department of health, Olympia, Washington)~~).

(7) Licensed denturists who have a contract with MAA are paid at the same rate as dentists who have a contract with MAA, for providing dentures and partials.

(8) MAA makes fee schedule changes whenever the legislature authorizes vendor rate increases or decreases.

(9) MAA may adjust maximum allowable fees to reflect changes in services or procedure code descriptions.

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1400 Payment for dental-related services. (1) The medical assistance administration (MAA) considers that a provider who furnishes covered dental services to an eligible client has accepted MAA's rules and fees.

(2) Participating providers must bill MAA their usual and customary fees.

(3) Payment for dental services is based on MAA's schedule of maximum allowances. Fees listed in the MAA fee schedule are the maximum allowable fees.

(4) MAA pays the provider the lesser of the billed charge (usual and customary fee) or MAA's maximum allowable fee.

(5) MAA pays "by report" on a case-by-case basis, for a covered service that does not have a set fee.

(6) Participating providers must bill a client according to WAC 388-502-0160, unless otherwise specified in this chapter.

(7) If the client's eligibility for dental services ends before the conclusion of the dental treatment, payment for any remaining treatment is the client's responsibility. The exception to this is dentures and ((partials as stated)) **partial dentures as described** in WAC 388-535-1240 and 388-535-1290.

~~((7) The client is responsible for payment of any dental treatment or service received during any period of ineligibility with the exception described in WAC 388-535-1240(4) even if the treatment was started when the client was eligible.))~~

AMENDATORY SECTION (Amending WSR 02-13-074, filed 6/14/02, effective 7/15/02)

WAC 388-535-1450 Payment for denture laboratory services. The medical assistance administration (MAA) does not directly reimburse denture laboratories. MAA's reimbursement for complete dentures, ~~((partials))~~ immediate dentures, partial dentures, and overdentures includes laboratory fees. The provider is responsible to pay a denture laboratory for services furnished ~~((to))~~ at the request of the provider.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-535-1120	Coverage limits for dental-related services provided under state-only funded programs.
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WSR 03-15-139
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed July 23, 2003, 8:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-12-020.

Title of Rule: WAC 16-54-155 Exotic Newcastle Disease (END) quarantine.

Purpose: To prevent the introduction or spread of Exotic Newcastle Disease (END) into Washington state.

Statutory Authority for Adoption: Chapter 16.36 RCW.
Statute Being Implemented: RCW 16.36.010 - [16.36.] - 100.

Summary: The virus that causes the disease is highly contagious and is readily spread by contact with infected birds and material contaminated with the causative virus.

Reasons Supporting Proposal: The disease was first diagnosed in backyard poultry in California on October 1, 2002. An emergency rule was implemented to prevent the spread to Washington state. The rule is necessary to carry out the director's duties to protect the avian health/public health in the state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. Kathy Connell, 1111 Washington Street, Olympia, WA 98504-2577, (360) 902-1878.

Name of Proponent: USDA-APHIS, VS, poultry producers, pet stores that sell psittacine birds, private psittacine bird raisers, private, public and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: USDA-APHIS, VS has a general agreement that delineates each agency's responsibilities. RCW 16.36.100 authorizes the director of the Washington State Department of Agriculture (WSDA) to cooperate with agencies of Washington, other states and the federal government.

Rule is necessary because of federal law, 9 C.F.R. 71.2 and 71.3.

Explanation of Rule, its Purpose, and Anticipated Effects: To prevent the introduction or spread of Exotic Newcastle Disease (END) into Washington state. The virus that causes the disease is highly contagious and is readily spread by contact with infected birds or materials contaminated with the causative virus. It was first diagnosed in backyard poultry in California on October 1, 2002. Control efforts have not yet been successful in eliminating the disease in the quarantined areas. The desired outcome is to make it a

permanent rule instead of implementing an emergency rule every time there is an outbreak in the United States.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not result in any significant inequities or disproportionate impacts. The benefits to the general population is maintaining good animal disease control and public health.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. WSDA is not a listed agency in section 201.

Hearing Location: Natural Resources Building, First Floor Cafeteria Conference Room, 1111 Washington Street, Olympia, WA 98504-2577, on August 26, 2003, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by August 25, 2003, TDD (360) 902-1996.

Submit Written Comments to: Dr. Kathy Connell, Acting State Veterinarian, Food Safety, Animal Health and Consumer Services, P.O. Box 42577, Olympia, WA 98504-2577, e-mail kconnell@agr.wa.gov, fax (360) 902-2087, by August 25, 2003.

Date of Intended Adoption: August 29, 2003.

July 8, 2003

Kathy Kravit-Smith
Assistant Director

NEW SECTION

WAC 16-54-155 Exotic Newcastle Disease (END) quarantine. This section applies to all avian species and commercial traffic originating from END quarantine areas in the United States and to bird exhibits, shows, auctions, public displays and competitions held in Washington state.

(1) Areas under quarantine. The areas under quarantine include all counties and portions of counties declared to be under quarantine for END by the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service.

(2) Items under restriction. Birds, poultry, poultry products, poultry waste, vehicles, equipment and materials that could transmit END. Included in the restriction are vehicles that make deliveries of live birds into the quarantine zone and return to Washington state.

(3) No live or dead bird of any type, including poultry, poultry product, material or poultry waste, that could transmit END may be moved into Washington state from the area under quarantine. An exemption is made for eggs that have met the requirements of 9 CFR 82.8, including washing, sanitizing and packing in new material.

(4) No equipment used for the processing of eggs or for the housing, feeding, watering, entertaining, or otherwise caring for birds of any type may be moved into Washington state from the area under quarantine unless accompanied by a certificate signed by an official of the USDA or the California department of food and agriculture stating the equipment has been cleaned and disinfected according to a protocol established by the USDA.

(5) The driver of a commercial vehicle originating from the area under quarantine who is transporting feed or eggs

must provide proof, if asked by an agriculture inspector, of the cleaning and disinfection of the vehicle, trailer, and packing material performed immediately prior to the loading of the vehicle. This proof must be provided in writing and demonstrate that the cleaning and disinfection was performed according to the protocol established by the USDA.

(6) A driver of a vehicle of any type transporting a bird must provide, if asked by any agriculture inspector, an original health certificate issued by an accredited veterinarian within thirty days prior to entry stating the birds are healthy and do not originate from a quarantined area. Photocopies of health certificates must have an original veterinarian signature. National Poultry Improvement Plan (NPIP) forms for movement of poultry may be used by members of NPIP with the certification that the shipment did not originate from a quarantined area.

(7) A promoter of an event in Washington state, such as an exhibit, show, auction, competition, or other public display of birds of any type shall immediately inform the state veterinarian by mail, facsimile, or electronic mail of a scheduled event. The notification shall include the contact name, mailing address, physical address of the event, and daytime telephone number.

(8) A promoter of an event in Washington state, such as an exhibit, show, auction, competition, or other public display of birds of any type, shall inform the event exhibitors and vendors in writing of this WAC, the current quarantine for END, and the risk of introducing END into Washington state. The promoter also shall require each event exhibitor and vendor to attest in writing that they are not in violation of this WAC. The signed document shall be forwarded to the state veterinarian within one week of the conclusion of the event.

WSR 03-15-141

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed July 23, 2003, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-017.

Title of Rule: Chapter 246-562 WAC, Physician visa waivers.

Purpose: Chapter 246-562 WAC, Physician visa waivers, outlines the requirements for application and participation in the state physician visa waiver program.

Statutory Authority for Adoption: Chapter 70.185 RCW.

Statute Being Implemented: Chapter 70.185 RCW.

Summary: Federal legislation passed in November 2002 increasing the number of available waivers from twenty to thirty per year. The proposed amendments add eligible physician specialties, make vacant waivers available to both primary care and specialist physicians on June 1 of each year, clarification of recruitment documentation and general clean up of the language in this chapter.

Reasons Supporting Proposal: The proposed amendments are in response to the constituent input regarding the types of specialist physicians to be added to the eligible list of specialists as well as opening up waivers that remain available on June 1 of each year to both primary care and specialist physicians.

Name of Agency Personnel Responsible for Drafting and Implementation: Jennell Prentice, Olympia, Washington, (360) 236-2814; and **Enforcement:** Kristina Sparks, Olympia, Washington, (360) 236-2800.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In response to community input, the department is proposing the following specialists be added to the eligible list of specialties: Anesthesiology, otolaryngology (ENT), and urology. Many communities have struggled to attract United States physicians to their locations and would like to hire foreign medical graduates if they are able. Adding these specialties to the list will provide another recruitment opportunity for struggling medical communities.

The department allocates 25% of the thirty total waivers to specialists. This breaks out to be eight specialists and twenty-two primary care physicians. In the past when the program only had twenty total waivers, the specialist waivers were filled immediately and the primary care waivers went unused. The department has proposed language that will allow any unfilled waivers on June 1 of each year to be available to either primary care or specialists. This change should allow plenty of time for communities placing primary care physicians to submit their applications as well as assuring that the waivers are filled each year.

Existing language in WAC 246-562-060 requires employers who are not publicly funded providers to notify publicly funded providers of their intent to hire a J-1 physician. The proposed language adds the requirement for applicants hiring specialists to notify publicly funded providers of J-1 physician's employment start date within thirty days of the physician's start date. This provides the publicly funded providers with notice that there is a specialist physician in town accepting Medicaid and Medicare patients, and who has a sliding fee schedule.

There are amendments for clarity throughout the chapter as well.

Proposal Changes the Following Existing Rules: Many of the amendments that are not described above are for the clarification or correction of outdated references.

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 amendments to chapter 246-562 WAC do not impose more than a minor cost on the affected industry, pursuant to RCW 19.85.030.

RCW 34.05.328 does not apply to this rule adoption. The amendments to this chapter are primarily clarifying and corrective in nature. The nonhousekeeping amendments expand the program to increase eligibility, change procedures

for application timing and change the procedure for notification.

Hearing Location: Department of Health, Point Plaza East, 310 Israel Road S.E., Olympia, WA 98501, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Nicole McAllister by August 13, 2003, TDD (800) 833-6388 or (360) 236-2800.

Submit Written Comments to: Jennell Prentice, Office of Community and Rural Health, P.O. Box 47834, Olympia, WA 98504-7834, fax (360) 664-9273, by August 26, 2003.

Date of Intended Adoption: August 27, 2003.

July 22, 2003

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-010 Definitions. The following definitions shall apply in the interpretation and implementation of these rules.

(1) "Applicant" means a health care facility that seeks to employ a physician and is requesting state sponsorship or concurrence of a visa waiver.

(2) "Department" means the department of health.

(3) "Board eligible" means having satisfied the requirements necessary to sit for board examinations.

(4) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application which contains all terms and conditions of employment, including, but not limited to, the salary, benefits, length of employment and any other consideration owing under the agreement.

(5) "Health care facility" means an entity with an active Washington state business license doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of medical care.

(6) "Health professional shortage area" (HPSA) means an area federally designated as having a shortage of primary care physicians or mental health care.

(7) "Low income" means that a family's total household income is less than two hundred percent of the federal poverty level as defined by the U.S. Federal Poverty Guidelines published annually.

(8) "Medically underserved area" (MUA) means a federally designated area based on whether the area exceeds a score for an Index of Medical Underservice, a value based on infant mortality, poverty rates, percentage of elderly and primary care physicians to population ratios.

((8)) (9) "Physician" means the foreign physician, named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

((9)) (10) "Sliding fee discount schedule" means a written delineation documenting the value of charge discounts granted to patients based upon financial hardship.

((10)) (11) "Sponsorship" means a request by the department on behalf of a health care facility to federal immi-

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gration authorities to grant a visa waiver for the purpose of recruiting and retaining physicians.

~~((11))~~ (12) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his/her home country for a two-year period following medical residency training.

~~((12))~~ (13) "Vacancy" means a full-time physician practice opportunity that is based on a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-020 Authority to sponsor visa waivers. (1) The department of health may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an option provided in federal law, 8 U.S.C. Sec. 1184(l) as amended by Public Law 107-273 and 22 C.F.R. 514.44(e). This option allows the department of health to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may acknowledge sponsorship proposed by federal agencies, including the United States Department of ~~((Agriculture))~~ Health and Human Services.

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated shortage areas for health care facilities that have long standing vacancies;

(b) To improve access to physician services for communities and specific under-served populations that are having difficulty finding physician services;

(c) To serve Washington communities which have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for primary health care services or specialist services as allowed by WAC 246-562-080.

(4) The department may only sponsor a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in chapter 246-562 WAC.

(5) The department will limit its activities:

(a) Prior to submission of an application, the department may provide information on preparing a complete application;

(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;

(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single program year, a health care facility in any one designated health professional shortage area or medically underserved area:

(i) Will not be allotted more than two sponsorships; and

(ii) Will not be allotted more than one specialist sponsorship as allowed by WAC 246-562-080(4);

(d) In any given program year seventy-five percent of federally allocated sponsorships will be allotted for primary care physicians~~((:))~~ and twenty-five percent of federally allocated sponsorships will be allotted for specialists through May 31. Any waiver sponsorships that remain unfilled on June 1 of each program year will be available to both primary care and specialist physicians consistent with the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-050 Review criteria. Applicants and physicians must meet the criteria established in 8 U.S.C. 1184(l) as amended by Public Law 107-273 and 22 C.F.R. Sec. 514.44(e) which are incorporated by reference. Copies of these provisions may be requested from the department by writing to the Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

The criteria set out in chapter 246-562 WAC must also be met.

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-060 Criteria for applicants. (1) Applicants must be existing health care facilities that:

(a) ~~((Have been))~~ Are licensed to do business in Washington state; and

(b) Have provided medical care in Washington state for a minimum of twelve months prior to submitting the application.

(2) Applicants may be for-profit, nonprofit, or government organizations.

(3) Except for state institutional and correctional facilities designated as federal shortage areas, the applicant must:

(a) Currently serve;

(i) Medicare clients;

(ii) Medicaid clients;

(iii) Low-income clients, such as subsidized basic health plan enrollees;

(iv) Uninsured clients; and

(v) The population of the federal designation.

(b) Demonstrate that during the twelve months prior to submitting the application, the health care facility was providing a minimum of ten percent of the applicant's total patient visits to Medicaid clients, and/or other low-income clients.

(c) Agree to implement a sliding fee discount schedule for the physician named in the J-1 visa waiver application. The schedule must be:

(i) Available in the client's principal language and English; and

(ii) Posted conspicuously; and

(iii) Distributed in hard copy to individuals making or keeping appointments with that physician.

(4) Applicants must have been actively recruiting to fill the practice vacancy from among qualified physicians who are graduates of United States medical schools. Active recruitment, specific to the location and physician specialty, must be for a period of not less than six months in the twelve months prior to submitting a visa waiver application to the department. Active recruitment can be demonstrated by one or more of the following methods:

- (a) Listings in national publications;
- (b) Web-based advertisements;
- (c) State-wide newspaper advertisements;
- (d) Contractual agreement with a recruiter or recruitment firm; or
- (e) Listing the position with the office of community and rural health, recruitment and retention program.

In-house job postings and word-of-mouth recruitment are not considered active recruitment for the purpose of the J-1 physician visa waiver program; however, they can be used in addition to the methods described in (a) through (e) of this subsection.

(5) Applicants must have a signed employment contract with the physician. Throughout the period of obligation, regardless of physician's visa status, the employment contract must:

- (a) Meet state and federal requirements;
- (b) Not prevent the physician from providing medical services in the designated shortage area after the term of employment (i.e., no noncompete clauses);
- (c) Specify the period of employment:
 - (i) Three years minimum for primary care sponsorship; or
 - (ii) Five years minimum for specialist sponsorship.

(6) Any amendments made to the required elements of the employment contract, subsection (5) of this section, during the first three years for primary care physicians or five years for specialist and subspecialist physicians of contracted employment must be reported to the department for review and approval. The department will complete review and approval of such amendments within thirty calendar days of receipt.

(7) Applicants must pay the physician prevailing wage as determined and approved by U.S. Department of Labor. Approval must be documented on a U.S. Department of Labor form ETA 9035 signed by an authorized official.

~~((7))~~ (8) If the applicant has previously requested sponsorship of a physician, WAC 246-562-020 will apply.

~~((8))~~ (9) If the applicant is not a publicly funded provider, additional criteria apply. The applicant must provide documentation of notification of intent to submit application for J-1 visa physician waiver to all publicly funded providers in HPSA or MUA designated area. Publicly funded providers include, but are not limited to, public hospital districts, local health departments, or community and/or migrant health centers.

Notification must:

- (a) Be sent at least thirty days prior to submitting the application to the department;
- (b) Include a statement giving the publicly funded providers thirty days to provide comment to the department regarding the J-1 physician visa application; and

(c) Provide the department's address.

~~((9))~~ (10) Applicants must ~~((notify))~~ provide written notice to the department ((in writing)) and all publicly funded providers in the health care facility's HPSA or MUA designated area within thirty days of the physician's start-date of employment. ~~((Any amendments made to the required elements of the employment contract, subsection (5) of this section, during the first three years for primary care physicians or five years for specialist and subspecialist physicians of contracted employment must be reported to the department for review and approval. The department will complete review and approval of such amendments within thirty calendar days of receipt.~~

~~((10))~~ The notice must include:

- (a) The physician's name, employment start-date and practice location;
- (b) Services to be provided; and
- (c) Identification of accepted patients, such as Medicaid, Medicare, or basic health plan.

(11) Applicants must submit status reports to the department every six months, with required supporting documentation, during the initial term of employment, three years for primary care physicians or five years for specialists.

~~((11))~~ (12) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

AMENDATORY SECTION (Amending WSR 02-19-084, filed 9/16/02, effective 10/17/02)

WAC 246-562-080 Criteria for the physician. (1) The physician must not have a J-1 visa waiver pending for any other employment offer.

(2) Physicians must have the qualifications described in recruitment efforts for a specific vacancy.

(3) Physicians are considered eligible to apply for a waiver when:

(a) They have successfully completed their residency or fellowship program; or

(b) They are in the last six months of a residency or fellowship program, and the physician provides a letter from their program that:

(i) Identifies the date the physician will complete the residency or fellowship program; and

(ii) Confirms the physician is in good standing with the program.

(4) Physicians applying as primary care physicians must:

(a) Provide direct patient care; and

(b) Be trained in:

(i) Family practice; or

(ii) General internal medicine; or

(iii) Pediatrics; or

(iv) Geriatric medicine; or

(v) Obstetrics and gynecology; or

(vi) Psychiatry and its subspecialties; and

(c) Except for geriatric medicine and psychiatrists, not have any additional specialty training. Continuing medical education (CME) will not be considered specialty training for the purposes of this rule.

(5) Physicians applying as specialists must:

(a) Provide direct patient care;

(b) Be trained in a subspecialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 **Graduate Medical Education Directory**, which is hereby incorporated by reference of:

(i) Internal medicine, except for geriatric medicine; or

(ii) Family practice, except for geriatric medicine; or a specialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 **Graduate Medical Education Directory**, which is hereby incorporated by reference of

(iii) General surgery; ((or))

(iv) Radiology-diagnostic;

(v) Anesthesiology;

(vi) Otolaryngology (ENT); or

(vii) Urology.

(6) Copies of the 1999-2000 **Graduate Medical Education Directory** are available from the American Medical Association or can be viewed at the Washington State Department of Health, Office of Community and Rural Health, ((2725 Harrison NW, Olympia WA 98504)) 310 Israel Road SE, Tumwater WA 98501.

(7) Physicians must have an active Washington state medical license, unless unusual circumstances delay licensing. If the application for a Washington state medical license has been received by the Washington state medical quality assurance commission four or more weeks prior to submission of the visa waiver application, the applicant may substitute a copy of the license application and request an exception.

(8) Physicians must be an active candidate for board certification on or before the start date of employment.

(9) Physicians must have at least one letter of recommendation from their residency program if applying as a primary care physician or from their fellowship program if applying as a specialist that:

(a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and

(b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities; and

(c) Documents level of specialty training, if any; and

(d) Is prepared on residency program letterhead and is signed by residency program staff or faculty; and

(e) Includes name, title, relationship to physician, address and telephone number of signatory.

(10) The physician must comply with all provisions of the employment contract.

(11) Physician must:

(a) Accept Medicaid assignment; and

(b) Post and implement a sliding fee discount schedule; and

(c) Serve the low-income population; and

(d) Serve the uninsured population; and

(e) Serve the shortage designation population; or

(f) Serve the population of a local, state, or federal governmental institution or corrections facility as an employee of the institution.

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-110 ((~~United States Department of Agriculture or other~~)) **Waiver requests federal waiver programs.** In the event an applicant for a ((~~USDA or other~~)) federal agency J-1 waiver submits a copy of an application to the department, the department will acknowledge receipt of the copy of the application.

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-120 Department review and action.

(1) The department will review applications for completeness in date order received.

(2) Applications must be mailed, sent by commercial carrier, or delivered in person. Applications may not be sent by telefax, or electronically.

(3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.

(4) Should multiple primary care physician applications arrive at the department on the same day, the department will rank those applications according to the following criteria:

(a) Federally designated shortage facilities will rank first.

(b) Those applicants serving shortage areas that require the greatest number of physicians relative to population to remove them from federal shortage status will rank second.

(c) Publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to under-served populations will rank third.

(d) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.

(e) If a ranked order cannot be determined by using the criteria in (a) through (d) of this subsection, then applications will be ranked based on random selection.

(5) Should multiple specialist applications arrive at the department on the same day, the department will rank these applications according to the following criteria:

(a) Federally designated shortage facilities will rank first.

(b) Publicly funded employers, such as public hospital districts, community health centers, local, state, or federal governmental institutions or correctional facilities, who have an obligation to provide care to underserved populations will rank second.

(c) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.

(d) If a ranked order cannot be determined by using the criteria in (a) through (c) of this subsection, then applications will be ranked based on random selection.

(6) The department will review applications within ten working days of receipt of the application to determine if the application is complete.

(7) The department will return incomplete applications to the applicant, and provide a written explanation of missing items.

(8) Incomplete applications may be resubmitted with additional required information. Resubmitted applications will be considered new applications and will be reviewed in date order received on resubmission.

(9) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to copies of ~~((USDA or))~~ other federal J-1 applications.

(10) The department will return sponsorship applications to applicants who have had two approved sponsorships in the current year for the shortage area.

(11) If the Washington state medical license is pending at the time the application is submitted to the department, the department may:

- (a) Sponsor or concur;
- (b) Hold the application in order received; or
- (c) Return the application as incomplete.

(12) The department will review complete applications against the criteria specified in this chapter (~~((246-562 WAC))~~).

(13) The department may:

- (a) Request additional clarifying information;
- (b) Verify information presented;
- (c) Investigate financial status of the applicant;

(d) Further investigate any comments generated by publicly funded provider notification of application for waiver;

(e) Return the application as incomplete if the applicant does not supply requested clarifying information within thirty days of request. Incomplete applications must be resubmitted. Resubmitted applications will be considered new applications and will be reviewed in date order received.

(14) The department will notify the applicant in writing of action taken. If the decision is to decline sponsorship, the department will provide an explanation of how the application failed to meet the stated criterion or criteria.

(15) The department may deny a visa waiver request or, prior to U.S. Department of State approval, may withdraw a visa waiver recommendation for cause, which shall include the following:

- (a) The application is not consistent with state and/or federal criteria;
- (b) Fraud;
- (c) Misrepresentation;
- (d) False statements;
- (e) Misleading statements; or
- (f) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials.

(16) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-130 Eligibility for future participation in the visa waiver program. (1) Health care facilities may be denied future participation in the state visa waiver program if:

(a) The required six-month reports are not submitted in a complete and timely manner.

(b) A sponsored physician does not serve the designated shortage area and/or shortage population for the full three years of employment for primary care physicians or the full five years of employment for specialists.

(c) A sponsored physician does not remain employed by the applicant for the full three years of employment for primary care physicians or the full five years of employment for specialists.

(2) A health care facility may request a determination of eligibility prior to submitting an application. The department will review the situation upon receipt of a written request.

AMENDATORY SECTION (Amending WSR 00-15-082, filed 7/19/00, effective 8/19/00)

WAC 246-562-140 Department's responsibility to report to the U.S. Department of State and the United States (~~((Department))~~) Bureau of Citizenship and Immigration (~~(and Naturalization))~~ Services. (1) The department may report to the U.S. Department of State and the United States (~~((Department))~~) Bureau of Citizenship and Immigration (~~(and Naturalization))~~ Services if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

(2) The department may report to the U.S. Department of State and the United States (~~((Department))~~) Bureau of Citizenship and Immigration (~~(and Naturalization))~~ Services if the physician is determined to have left employment in the federally designated area.

AMENDATORY SECTION (Amending WSR 02-19-084, filed 9/16/02, effective 10/17/02)

WAC 246-562-160 Implementation. (~~((1))~~) Notwithstanding any other provision of this chapter, this rule governs the allocation of departmental J-1 visa waiver sponsorships of specialists and primary care physicians during the federal fiscal year which begins October 1 (~~((, 2002))~~) of each year.

~~((2))~~ The department will not process J-1 visa waiver sponsorship applications until the effective date of the amendments to WAC 246-562-080, but may advise applicants with respect to any proposed application.

~~(3)~~ Applications received by the office of community and rural health between October 1, 2002, and the effective date of the amendments to WAC 246-562-080 will be date and time stamped, and will be processed on the effective date of the rule in the order received.)

WSR 03-15-144

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 23, 2003, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-12-084.

Title of Rule: The following sections in chapter 16-303 WAC will either be amended or repealed: WAC 16-303-200 Seed program testing fees, 16-303-210 Fees for special seed tests, 16-303-220 Inventory testing for seed germination, 16-303-230 Official seed sampling or similar service, 16-303-240 Fees for blending seed, 16-303-250 Miscellaneous charges for seed services, 16-303-300 Phyto-sanitary certification of seed—Fees, 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees, 16-303-315 Service fee for sod quality seed tags and tagging, 16-303-317 Annual and rough bluegrass quarantine fees, 16-303-320 Certification fees for seed certified by the department except grasses, and 16-303-330 Certification fees for grass seed.

Purpose: Proposed rule amendments will restructure the seed program's fee schedule and increase fees charged for services to a sufficient level to recover current operating costs, finance two additional seed analysts and enhance the program's ability to address future testing requirements of new technology and crops being raised in Washington state. Seed certification fees, laboratory analysis fees and miscellaneous fees for alfalfa, grasses, vegetables and other minor seed crops would be increased in excess of the Office of Financial Management (OFM) fiscal growth rate factor as authorized in HB 1126 (relating to seed testing and certification fees), which was passed by the 2003 legislature and signed by the governor on May 14, 2003. Specifically, the proposed rule amendments will:

- Increase the fees in WAC 16-303-200, 16-303-210, 16-303-230, 16-303-250, 16-303-300, 16-303-310, 16-303-315, 16-303-317 and 16-303-320 beyond the OFM fiscal growth rate factor as authorized by chapter 308, Laws of 2003 (HB 1126);
- Condense the fee schedule in WAC 16-303-200 so it is easier to use;
- Amend the fee schedule in WAC 16-303-210 to:
 - Combine some fees; and
 - Repeal other fees related to services no longer requested by industry or for services the seed program is no longer able to provide;
- Repeal WAC 16-303-220 in its entirety;
- Repeal WAC 16-303-230(2) because its content is either addressed in WAC 16-303-250 or will be incorporated into that section;
- Amend WAC 16-303-240 to:
 - Add blending fees for "Grass Option A" and "Grass Option B"; and
 - Delete the reference to "plus cost of a purity and germination test which is required on the official sample of each blend" because the seed program no longer does official sampling on any blend;

- Amend WAC 16-303-250 to:
 - Add a "high priority sample" fee;
 - Incorporate the "standby" fee currently located in WAC 16-303-230(2);
 - Delete the "phone report only" under "preliminary report on germination" because it is redundant; and
 - Delete subsection (2) by incorporating its content into the section's fee schedule;
- Amend WAC 16-303-300 to:
 - Delete the "sampling" fees because they are covered in WAC 16-303-230; and
 - Delete the references to "serology test" and "laboratory analysis of plant material to verify disease" because the seed program does not establish these fees. The seed program may be required, by rule, to have these tests conducted but fees for these tests are established by the WSDA Plant Protection Division.
- Amend WAC 16-303-310 by adding language that clearly identifies the O.E.C.D. assessment charges;
- Amend WAC 16-303-320 to:
 - Include a schedule of certification fees for grass seed with related footnotes; and
 - Delete "except grasses" from the section title because the section will now include grasses;
- Repeal WAC 16-303-330 in its entirety because the fees in this section will be incorporated into WAC 16-303-320; and
- Where necessary, clarify the language in the rule sections listed on the CR-101 form under "Subject of possible rule making."

Statutory Authority for Adoption: RCW 15.49.301, 15.49.370(3), chapter 308, Laws of 2003 (HB 1126) and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Victor Shaul, Yakima, (509) 225-2682; **Implementation and Enforcement:** Robert W. Gore, Olympia, (360) 902-1827.

Name of Proponent: Washington State Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Fee increase is in accordance with chapter 308, Laws of 2003 (HB 1126).

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. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the impact of the proposed fee increases to chapter 16-303 WAC and has concluded that

they do not impose a more than minor impact on the businesses regulated by the rule. Therefore, an SBEIS is not required and has not been prepared.

An Analysis to Determine if a Small Business Economic Impact Statement (SBEIS) is Required for a Proposed Increase in WSDA Seed Program Fees (Chapter 16-303 WAC) in Excess of the Fiscal Growth Factor for the Fiscal Year Ending June 30, 2004.

Background and Summary of the Proposed Rule: At the insistence of the Washington seed industry, the Washington state legislature authorized the Washington State Department of Agriculture (WSDA) to increase fees for seed program services in excess of the Office of Financial Management's (OFM) fiscal growth rate factor for the fiscal year ending June 30, 2004 (chapter 308, Laws of 2003 (HB 1126)). WSDA's proposed fee increases will establish fees that will ensure the financial viability of the program and improve its services to the seed industry. WSDA will use the revenue collected from the fees for service in chapter 16-303 WAC to fund day-to-day operations of the program and to fund purchases of new seed testing technologies as directed by the WSDA Seed Program Advisory Committee.

WSDA Seed Program Advisory Committee members are:

Jim Sorensen, Sorensen Seed Co., representing western field grasses

Barb White, Alf Christianson Seed Co., representing western vegetable seed

Pat Haight, Seminis Vegetable Seed Co., representing eastern vegetable seed

Bill Brotherton, Brotherton Seed Co., representing eastern vegetable seed

Dave Johnson, Jacklin Seed Co., representing eastern grasses

Steve Stilson, Dye Seed Ranch, representing eastern turf grasses

Paul Herrman, L&H Seed Co., representing eastern reclamation grasses

Todd Harris, Rainier Seed Co., representing eastern reclamation grasses

Jerry Robinson, Columbia Grain, representing bean pea & lentil seed production

Kurt Braunwart, Progene, representing bean pea & lentil seed production

Dana Herron, Connell Grain Growers, representing eastern seed grain production

Bruce Abbey, Seed grain grower, representing eastern seed grain growers

Larry Eckman, Pioneer Hi-Bred Int'l., representing eastern seed corn

Rick Ames, KAPA Seed Services, representing eastern vegetable seed

Mike McCubbins, Cal/West Seeds, representing alfalfa and clover seed

Henry Estrada, Alfalfa seed grower, representing alfalfa seed producers

Tim Woodward, WSU Co-Op Extension, representing Franklin County

Gary Pelter, WSU Co-Op Extension, representing Grant County

Keith Pfeifer, Washington State Crop Improvement Association

Doug Boze, Washington State Crop Improvement Association

Graydon Robinson, WSDA Seed Program

Victor Shaul, WSDA Seed Program

Seed Industry Involvement in the Rule Development

Process: The seed industry asked WSDA to modify the current seed program fee structure. A subcommittee of the Advisory Committee was formed to study the fee structure and how it could be modified and to determine the funding level necessary to maintain program services at desired levels. The seed industry requested legislation in 2003 authorizing WSDA to raise fees in excess of the OFM fiscal growth rate factor. Such legislation was passed by the 2003 legislature (with only one opposing vote) and signed by Governor Locke on May 14, 2003. The major industry impacted by this legislation and the resulting proposed fee increases is the Washington seed industry, which is composed of turf-grass, range-grass, grain, vegetable seed, and small seeded legume seed producers.

The members of the subcommittee that studied the seed program's fee structure and how it should be modified were:

Dana Herron, Connell Grain Growers

Kurt Braunwart, Progene

Pat Haight, Seminis Vegetable Seed Co.

Graydon Robinson, WSDA Seed Program

Orlin Reinbold, Landmark Seed (volunteer)

The subcommittee met four times. The results of those meetings were:

- A recommendation that the seed industry request legislation allowing WSDA to increase seed program fees beyond the OFM fiscal growth rate factor for fiscal year 2004;
- Contributions to the development of new fee rates; and
- Help in completely restructuring the program's fee schedule resulting in a schedule that is much shorter than the current one and is very clear and concise and easy to understand.

In addition to supporting HB 1126, which made the proposed fee increases possible, the Seed Program Advisory Committee took the lead at several industry meetings in discussing the benefits of increasing the seed program's fees. The most notable meetings were the:

- Turf-grass Seed Commission meeting(s);
- Washington Crop Improvement Association board meeting; and
- Alfalfa Seed Commission meeting.

The Purpose of This Analysis: RCW 19.85.030(1) requires an agency to prepare a small business economic impact statement (SBEIS) if the agency's proposed rule will impose a "more than a minor cost" on businesses in the regulated industry. The purpose of this analysis is to determine if the proposed seed program fee increases impose a "more than

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minor cost" on the businesses affected by them, thus requiring the department to prepare a formal SBEIS.

The Importance and Unique Character of the Washington Seed Industry: There are approximately 164,000 acres under seed production in Washington. There is a wide range of seed types produced in this state, ranging from turf and range grasses to grains, forages, and vegetables. Lesser seed crops include reclamation crops, trees, shrubs, and flower seeds. The primary production area is the Columbia Basin in Eastern Washington. Other production areas include the Spokane and Walla Walla areas in extreme Eastern Washington as well as the Mount Vernon area of Western Washington. The farm-gate value of grass and alfalfa seed alone was nearly \$41 million in 2001.

In 2002, 133,000 acres were inspected under one or more programs administered by the WSDA seed program. The majority of this seed was inspected for certification. This program tracks the genetic identity of seed from year to year and is used to assure the varietal purity of seed. The remainder of the acreage is inspected under the Washington Phytosanitary Inspection Program. Seed under this inspection scheme is eligible for exportation to national and international markets. In 2002 this program alone was responsible for the exportation of 5,112,872 tons of seed.

The state of Washington provides a unique seed production area due to many contributing factors. These include an abundance of land with ample irrigation and the ability to isolate seed crops from consumption crops of the same type, thereby avoiding cross-pollination. The wide range of geography offered in our state makes it possible for a wide array of seed crops to be produced. Also, due to low humidity during the summer months in the Columbia Basin, Washington is able to offer a relatively disease free production area. Another factor that is attractive to seed producers is ready access to the Port of Seattle, which facilitates international movement of Washington seed products. Finally, a thriving dairy and beef cattle industry is present to utilize the byproducts of seed production.

WSDA's Seed Program Support for the Seed Industry: The Washington Department of Agriculture is mandated under RCW 15.49.370 to adopt and enforce regulations for seed certification, to conduct seed testing and to fix and collect fees for such services. In meeting this mandate, WSDA operates the only official seed laboratory in the state. The state seed lab is responsible for providing seed testing services to the Washington seed industry and performs 25,000 tests on 8,000 individual samples annually. These tests provide the information for labeling, which allows producers to market seed according to state and federal seed laws.

The seed program also administers seed certification activities within the state. The intent of this program is to provide growers with a source of genetically identified seed. The WSDA seed program also cooperates with the Washington State Crop Improvement Association, a nonprofit organization, for the certification of small grains.

Groups Affected by the Proposed Fee Increases and the Estimated Cost of Compliance: There are one hundred seventeen businesses cleaning and conditioning seed that are customers of the seed program. Many businesses that deal in

seed are also producers of other commodity crops such as wheat, dry edible beans, hay, and fresh processing crops like sweet corn, peas and beans. RCW 19.85.020 defines a small business as one with fifty or fewer employees. Based upon this definition, one hundred twelve of the seed program's one hundred seventeen customers (95.7%) are small businesses.

In Washington state, Kentucky bluegrass is the most predominant seed crop, by acreages, and those who grow it submit more samples to the seed laboratory for testing than any other group of seed producers. A typical Kentucky bluegrass grower in the Columbia Basin with a 125-acre circle would produce an average of 550 pounds of seed per acre. According to national agricultural statistics, the seed from this field would be valued at \$51,562 (based upon 1997-2001 survey figures).

Under the proposed fee schedule, the cost to certify this field would be \$641.62 compared to the current cost of \$625.25. The laboratory cost of providing the necessary testing and analysis to certify and market the seed from this field would be \$151.25 compared to the current cost of \$73.21. (Note: The proposed laboratory fees for testing and analysis are more than double the current lab fees. Between 1994 and 2002 the WSDA seed program did not increase its fees. Consequently, the costs of providing laboratory services increasingly exceeded the fees for those services charged by the program. The more samples the lab tests and analyzes, the more money the lab loses. Such a situation can't continue if the laboratory is going to stay in business and provide the services that the industry requires.)

Based upon the Kentucky bluegrass example, the total cost to the grower under the proposed fee schedule comes to just over 1.5% of the gross revenue from the field compared to a total cost of 1.35% under the current fee structure. There is not a direct doubling of the percentage of the increased costs due to different services increasing different amounts. Laboratory fees are being increased significantly, while certification charges are going up slightly. WSDA does not consider the combined increase of approximately 0.15% to be a "more than minor" increase, when compared against gross revenue.

The same methodology for increasing fees was applied to all crops certified and tested by WSDA. Therefore the impact effect of the increase will be the same for less prevalent crops as it is for Kentucky bluegrass. Furthermore, WSDA believes that the bluegrass example represents the typical economic impact that the proposed fee increases will have upon the entire seed industry in Washington state.

The seed program is a local fee for service program. The users of its services pay the same unit price per service regardless of the size of the business. Therefore, the impact of the fee increase will be directly proportional to the amount of acreage certified and/or the number of samples submitted. Large growers, with more acreage to certify and more samples to be tested and analyzed than small growers, will incur greater costs than small growers. In other words, the proposed fee schedule does not have a disproportional impact upon small businesses.

An analysis of the charges of other seed laboratories and certification agencies in the northwest shows that the proposed fee schedule will bring the WSDA seed program in line

with the fees that the seed industry is paying in neighboring states. The proposed fee increases will simply allow the seed program to recover its costs of doing business and enable it to provide better, updated services to its customers. The reconfigured fee schedule will be easier to understand and nothing in the proposed amendments requires additional recordkeeping.

Viable Alternatives to the Proposed Fee Increases Do Not Exist: There is really no alternative to the proposed fee increase. The long-term survival of the seed program and the Washington seed industry itself is dependant upon this fee increase. The seed program's budget, under the current fee structure, is not adequate to support the testing and inspection demands placed upon it by the seed industry. The Seed Program Advisory Committee, which is a cross section of the industry, unanimously supports this fee increase. The committee, at meetings on November 18, 2002, and April 4, 2003, voted unanimously to support legislation allowing WSDA to set seed fees in excess of the OFM fiscal growth rate factor and supports the proposed fee increases.

The alternative to increasing seed program fees would be to continue to operate under the current fee structure while scaling back the operations of the program, which is contrary to the mandate of the advisory committee and the wishes of the industry. The seed industry has made it clear that there is unanimous support not only for the maintenance of the seed program, but for the expansion of the program as well, both in terms of hiring additional personnel and offering additional services like herbicide trait testing and screening for genetically enhanced characteristics.

Conclusion: In a Washington state industry that is composed predominately of small businesses that are continually being forced to compete in world markets, retaining a stable and fiscally secure state seed laboratory that can effectively respond to the needs of its customers is essential. A viable state seed lab is also necessary if the state's seed industry is going to expand and create new business opportunities in Washington state. The way to ensure the fiscal health and sound growth of the seed lab is through the adoption of the proposed fee increases.

The WSDA proposal to increase seed program fees will affect anyone testing or certifying seed in Washington state. The amount of fees paid will be directly proportional to the amount of services purchased from the program. Based upon approximate yields, WSDA believes that the typical cost imposed by the new fee structure will be about 1.5% of the gross income per acre, an increase of 0.15% over the cost imposed by the current fee structure. In the department's judgment, an increase of 0.15% is not "more than minor" and, therefore, a small business economic impact statement (SBEIS) is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 21 North First Avenue, Second Floor Conference Room, Yakima, WA 98902, on August 26, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by August 20, 2003, TDD (360) 902-1996.

Submit Written Comments to: George Huffman, Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, fax (360) 902-2085, by 5:00 p.m. on August 26.

Date of Intended Adoption: August 29, 2003.

July 23, 2003

William E. Brookreson
Deputy Director

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-200 Seed program testing fees. Seed testing fees are as follows:

(1) ((FIELD CROPS:

	MINIMUM-SAMPLE SIZE	PURITY	GERMINATION	FE
alfalfa	4-oz	14.86	12.73	23.35
alkaligrass	4-oz	19.10	11.67	23.35
barley	1.25-lb	14.86	12.73	23.35
beets, sugar	1.25-lb	20.17	22.29	23.35
bentgrass	2-oz	33.97	18.04	23.35
bermudagrass	4-oz	19.10	11.67	23.35
black-medie	4-oz	14.86	12.73	23.35
bluegrass	4-oz	23.35	15.91	23.35
brassica-sp.	6-oz	36.08	18.04	23.35
bromo-mountain	6-oz	24.41	12.73	23.35
bromo-smooth-meadow	6-oz	24.41	12.73	23.35
buckwheat	1.25-lb	14.86	12.73	23.35
canarygrass	8-oz	19.10	11.67	23.35
clover	4-oz	14.86	12.73	23.35
fescue	4-oz	23.35	12.73	23.35
flax-lowis	4-oz	14.86	12.73	23.35
foxtail	4-oz	14.86	11.67	23.35
garbanzo-bean	1.25-lb	13.79	12.73	N/A
indian-ricegrass	6-oz	19.10	11.67	23.35
junegrass	6-oz	19.10	11.67	23.35
lentil	1.25-lb	14.86	12.73	N/A
little-bluestem	4-oz	22.29/hr	11.67	23.35
lupine	1.25-lb	14.86	12.73	N/A
milkvetch	1.25-lb	14.86	12.73	23.35
millet	1.25-lb	14.86	12.73	N/A
needle-&-thread	6-oz	19.10	11.67	23.35
needlegrass, green	6-oz	19.10	11.67	23.35
oatgrass	6-oz	19.10	11.67	N/A
oats	1.25-lb	14.86	12.73	23.35
orchardgrass	4-oz	26.53	13.79	23.35
peas	1.25-lb	13.79	12.73	N/A
prairie-sandreed	6-oz	19.10	11.67	23.35
primrose	4-oz	14.86	12.73	N/A
redtop	2-oz	33.97	18.04	23.35
rice	1.25-lb	14.86	12.73	N/A
rye	1.25-lb	14.86	12.73	23.35
ryegrass, perennial	4-oz	23.35	11.67	23.35
ryegrass, annual	4-oz	23.35	11.67	23.35
safflower	1.25-lb	14.86	12.73	N/A

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(2) VEGETABLES:

	MINIMUM-SAMPLE SIZE	PURITY	GERMINATION	TZ		MINIMUM-SAMPLE SIZE	PURITY	GERMINATION	TZ
sainfoin	1.25-lb	14.86	12.73	N/A	asparagus	1.25-lb	14.86	12.73	N/A
sand-dropseed	4-oz	19.10	11.67	23.35	beans	1.25-lb	13.79	12.73	N/A
sand-lovegrass	4-oz	19.10	11.67	23.35	beets	1.25-lb	20.17	19.10	N/A
sideoats-grama	4-oz	22.29/hr	11.67	23.35	cantaloupe	1.25-lb	14.86	12.73	N/A
small-burnett	8-oz	14.86	12.73	N/A	carrot	4-oz	14.86	12.73	40.34
sorghum	1.25-lb	14.86	12.73	N/A	celery	4-oz	14.86	12.73	N/A
sudangrass	8-oz	14.86	12.73	23.35	chard	4-oz	14.86	22.29	22.29
sunflower	1.25-lb	14.86	12.73	N/A	corn	1.25-lb	14.86	12.73	N/A
swiss-chard	1.25-lb	36.08	19.10	N/A	cucumber	1.25-lb	14.86	12.73	N/A
switchgrass	4-oz	19.10	11.67	23.35	dill	4-oz	14.86	12.73	N/A
timothy	4-oz	19.10	11.67	23.35	eggplant	4-oz	14.86	12.73	N/A
trefoil	4-oz	14.86	12.73	N/A	endive	4-oz	14.86	12.73	N/A
triticale	1.25-lb	14.86	12.73	23.35	leek	8-oz	14.86	12.73	N/A
vetch	1.25-lb	19.10	12.73	23.35	lettuce	4-oz	14.86	12.73	N/A
wheat	1.25-lb	14.86	12.73	23.35	okra	4-oz	14.86	12.73	N/A
wheatgrass, beardless					onion	8-oz	14.86	12.73	N/A
slender					parsley	4-oz	14.86	12.73	N/A
thickspike	6-oz	40.34	15.91	23.35	parsnip	4-oz	14.86	12.73	N/A
wheatgrass, bluebunch	6-oz	40.34	15.91	23.35	pepper	8-oz	14.86	12.73	N/A
wheatgrass, crested	4-oz	27.59	15.91	23.35	pumpkin	1.25-lb	14.86	12.73	N/A
wheatgrass, tall					radish	1.00-lb	14.86	12.73	N/A
intermediate					spinach, New-Zealand	8-oz	14.86	22.29	N/A
pubescent	6-oz	40.34	15.91	23.35	spinach	8-oz	14.86	22.29	N/A
wheatgrass, western	6-oz	40.34	15.91	23.35	squash	1.25-lb	14.86	12.73	N/A
wildrye	6-oz	19.10	11.67	23.35	tomato	4-oz	14.86	12.73	N/A
zoysia	4-oz	19.10	11.67	23.35	turnip	6-oz	14.86	12.73	23.35
					watermelon	1.25-lb	14.86	12.73	N/A))

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	37.00	22.60	41.83	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	28.78	24.66	41.83	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	26.72	24.66	41.83	Beans
4	Beets	39.06	43.16	41.83	Beets, Swiss chard, spinach
5	Bentgrass, redtop	65.78	34.94	41.83	Bentgrass, redtop
6	Bluegrass	45.22	30.82	41.83	Bluegrass, all types
7	Brassica sp.	69.88	34.94	41.83	Brassica Species
8	Brome	47.28	24.66	41.83	Brome: Mountain, Smooth, Meadow
9	Fescue	37.00	24.66	41.83	Fescue: Tall and Meadow
10	Fescue, all others	45.22	24.66	41.83	Fescue: Arizona, Blue, Blue Hard, chewings, creeping, Hard, Idaho, Red, Sheep
11	Flax	28.78	24.66	41.83	Lewis flax
12	Orchardgrass	51.38	26.72	41.83	Orchardgrass
13	Peas	28.78	24.66	41.83	Peas, other large seeded legumes
14	Primrose	28.78	24.66	41.83	Primrose

<u>Category</u>	<u>Crop kind</u>	<u>PURITY</u>	<u>GERM/1</u>	<u>TZ</u>	<u>Additional Crops in each Category/2</u>
15	<u>Ryegrass</u>	<u>45.22</u>	<u>22.60</u>	<u>41.83</u>	<u>Ryegrass, (Perennial or Annual)</u>
16	<u>Small burnet</u>	<u>28.78</u>	<u>24.66</u>	<u>41.83</u>	<u>Small burnet</u>
17	<u>Sudangrass</u>	<u>28.78</u>	<u>24.66</u>	<u>41.83</u>	<u>Sudangrass</u>
18	<u>Vegetables</u>	<u>28.78</u>	<u>24.66</u>	<u>45.00</u>	<u>Vegetables: Asparagus, Cabbage, Cantaloupe, Carrot, Celery, Chard, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Kale, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, Turnip, Watermelon</u>
19	<u>Grains and Pulses</u>	<u>28.78</u>	<u>24.66</u>	<u>41.83</u>	<u>Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Lentils, Buckwheat, Barley, Oats, Chickpeas, Vetch</u>
20	<u>Wheatgrass, Wildrye, other native sp.</u>	<u>78.12</u>	<u>30.82</u>	<u>41.83</u>	<u>Wheatgrass: Beardless, Bluebunch, Crested, Intermediate, Pubescent, R/S, Slender, Siberian, Tall, Thickspike, Western Wildrye</u> <u>Other Native Species: Echinacea, Green needlegrass, Indian ricegrass, Junegrass, Little bluestem, Needle and Thread, Squirreltail, Kochia, Penstemon, Oatgrass, Prairie sandreed, Sand dropseed, Sand Lovegrass, Sideoats grama</u>

/1 Standard 400 seed germination test.

(2) Crops not listed in the above table will be charged by the category that they fit into.

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-210 Fees for special seed tests. ((Fees for special seed tests are as follows: (Standard noxious exam size unless otherwise specified.)))

<u>Test</u>	<u>Fee</u>	<u>((Other Considerations)) Additional Information</u>
<u>(1) All states noxious weed examination</u> <u>((2) Analysis of partially cleaned, uncleaned or field run seed with excessive inert, or crop or weed seeds</u>	<u>\$ ((10.60)) 33.38</u> <u>\$ 22.29 hourly rate))</u>	
<u>(2) Dormant Seed Test</u>	<u>\$ 41.83</u>	
<u>(2) (a) For crops requiring a 400 seed TZ as required in the AOSA rules. This fee also applies to paired tests when required by AOSA rules</u>	<u>\$ 83.66</u>	
<u>(3) Brassica seed chemical identification</u>	<u>\$ ((10.60)) 20.94</u>	
<u>(4) Cold (vigor) test for wheat</u>	<u>\$ ((53.08)) 65.00</u>	
<u>((5) Crop and weed exam (Required for all foundation and registered class grass seeds)</u>	<u>Purity fee minus \$ 5.30</u>	<u>Hourly rate will be assessed when applicable; hourly rate applies when a larger amount is requested))</u>
<u>(5) Crop or weed exam</u>		<u>Standard noxious amount from AOSA rules</u>
<u>Turf-type and other small seeded grasses</u>	<u>\$ 38.00</u>	<u>Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues</u>

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Test	Fee	((Other Considerations)) <u>Additional Information</u>
<u>Small seeded legumes and medium seeded crops</u>	\$ 44.00	<u>Brassicas, ryegrass, tall fescue</u>
<u>Wheatgrass and native species</u>	\$ 50.00	
<u>Grains and pulses</u>	\$ 22.00	
(6) <u>Fescue seed ((fluorescence)) ammonia test</u>	\$ ((15.91)) <u>30.82</u>	((Test required on certified samples))
(7) <u>Fluorescence test (400 seed test)</u>	\$ ((13.79)) <u>26.72</u>	
(8) <u>Miscellaneous services, samples requiring extra time, field run samples, etc.</u>	\$ ((22.29 hourly rate)) <u>30.00/hour</u>	
(9) <u>Pest and disease (phyto exam) or soil exam</u>	\$ ((18.04)) <u>34.94</u>	
(10) ((Pea annua check)) <u>Quarantine tests on seed</u>		
<u>Bluegrass and Bentgrass ((5 grams))</u>		
<u>Bluegrass (5 grams)</u>	\$ 18.04) \$ <u>18.04/5 grams</u>	
<u>Other grasses ((10 grams))</u>	\$ <u>18.04/10 grams</u>	
(11) <u>Rules test—Canadian</u>	PURITY	GERMINATION
<u>Alfalfa, clover, peas, lentils</u>	\$ ((22.59)) <u>32.37</u>	\$ ((12.73)) <u>24.66</u>
<u>Kentucky bluegrass</u>	\$ ((33.97)) <u>49.34</u>	\$ ((15.91)) <u>30.82</u>
((Peas, lentils	\$ <u>22.59</u>	\$ <u>12.73</u>))
<u>Bentgrass</u>	\$ ((49.89)) <u>72.47</u>	\$ ((18.04)) <u>34.94</u>
(12) <u>Rules test—I.S.T.A.</u>	PURITY	GERMINATION
<u>Alfalfa, clover, peas, lentils</u>	\$ ((22.59)) <u>32.37</u>	\$ ((15.91)) <u>30.82</u>
<u>Kentucky bluegrass</u>	\$ ((33.97)) <u>49.34</u>	\$ ((15.91)) <u>30.82</u>
((Peas, lentils	\$ <u>22.59</u>	\$ <u>15.91</u>))
(13) ((Samples requiring special preparation for germination, for example pelleted seeds)) <u>Moisture test</u>	\$ ((22.59)) <u>30.00</u>	((Additional Charge))
(14) <u>Seed Count</u>	\$ ((18.04)) <u>21.84</u>	
(15) ((Sod analysis check (25 gram exam to evaluate if a lot appears to be sod quality)) <u>Outstanding charge</u>	\$ ((20.17)) <u>15.00</u>	((Phone report only))
(16) ((Sod seed analysis (A special test of turf grasses for those who need a detailed examination of seed before purchase and/or use)) <u>Sod seed analysis</u>	Bluegrass \$ ((63.69)) Fescue <u>75.00</u> Ryegrass \$ ((44.59)) <u>52.00</u> \$ ((36.08)) <u>42.00</u>	((Bluegrass test includes purity, 25 gram crop and weed exam, and 10 gram Poa annua check. Ryegrass and Fescue test include purity and 50 gram crop and weed exam.))
(17) <u>Sodium Hydroxide test for presence of red and/or white wheat</u>	\$ ((10.60)) <u>20.54</u>	
(18) ((Soil exam or similar (A visual examination of a representative sample	\$ 18.04	Reported on seed analysis certificate
(19)) <u>Undesirable grass species test (includes an all states noxious test) examination (UGS test)</u>	\$ ((12.73)) <u>70.37</u>	
((20) <u>Variety separation of Kentucky bluegrass</u>	\$ 20.17	
<u>If separated at time of purity analysis</u>	\$ 9.55))	

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

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-230 Official seed sampling or similar service. ~~((1))~~ The fee for official seed sampling or similar service is as follows: Fees for official sampling are in addition to travel time and mileage.

Crop	Fee	Minimum charge
Peas, beans, small grains or seeds of similar size	\$ 0.05 Per cwt.	\$ ((22.29)) <u>30.00</u>
For all other kinds	\$ 0.15 Per cwt.	\$ ((22.29)) <u>30.00</u>

~~((2))~~ If a special trip is required to provide a service, the person requesting the service may be charged at the rate of \$ 18.04 per hour travel time plus a mileage fee set by the Washington State Office of Financial Management in addition to the specific fee for service. All standby time is charged at the rate of \$ 22.29 per man-hour.

AMENDATORY SECTION (Amending WSR 01-01-015, filed 12/6/00, effective 1/6/01)

WAC 16-303-240 Fees for blending seed. ~~((Fees for blending seed are five cents per one hundred pounds based on the pounds of seed bagged plus cost of a purity and germination test which is required on the official sample of each blend. All fees are payable by persons or firm requesting permission for said blend.))~~ Blending fee is not applicable to salvage blends.

<u>Grass option B*</u>	<u>Washington origin seed</u>	<u>\$ 1.02 per cwt.</u>
<u>Grass option B*</u>	<u>Out-of-state origin</u>	<u>\$ 0.61 per cwt.</u>
<u>Grass option A and all other blends of other crops</u>		<u>\$ 0.05 per cwt.</u>

*See WAC 16-303-320, footnote 6 for information on option A and option B.

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-250 Miscellaneous charges for seed services. ~~((1))~~ Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	\$ ((12.73)) <u>15.00</u>

Service	Fee
<u>High priority sample - purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)</u>	<u>\$ 150.00</u>
Phone reports on test result, per call	\$ ((3.70 per call)) <u>7.18</u>
Preliminary report on germination ((Phone report only	\$ ((8.49)) <u>20.00</u> \$ ((1.59))
Additional mailing of report	\$ ((2.64)) <u>5.12</u> each destination
Additional copies of reports	\$ ((2.64)) <u>5.12</u> ((f)) minimum fee ((h))
Revised reports	\$ ((5.29)) <u>10.26</u> minimum (hourly fee when applicable) ((minimum fee or hourly fee when applicable))
Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight	\$ 3.70 plus exact shipping cost
Fee for facsimile transmission of documents ((Travel time additional or special requested trips	\$ ((3.70)) <u>5.39</u> per document \$ ((18.04))
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management
((2)) Test plot examinations or consultant work in seed plots, seed fields, seed conditioning plants, etc., shall be at the rate of \$ 22.29 per hour plus mileage and travel time at the rate of \$ 18.04 per hour traveled.	
<u>Stand-by time - or travel time</u>	<u>\$ 30.00/hour</u> <u>Travel time to be charged when special trip is requested.</u>
<u>Sample envelopes</u>	<u>Customer will be charged the exact cost of the envelopes.</u>

PROPOSED

~~((FEES FOR SEED CERTIFICATION OR OTHER SERVICES))~~

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-300 Phyto-sanitary certification of seed—Fees. ~~((1) Fees for phyto-sanitary certification of seed are as follows:))~~

Service	Fee	((Other Considerations)) Additional Information
Phyto-sanitary certificate	\$(22.29 each) 30.00	
Field inspection—All seed except wheat seed (for each required inspection)	\$(5.29) 5.30 per acre, per required inspection	\$(21.22) 50.00 minimum fee ((payable with application)), per inspection
Field inspection—Wheat seed only ((for each required inspection))	\$(2.11) 2.12 per acre or fraction thereof	((Payable with application)) \$ 50.00 minimum fee, per inspection
Area inspection (billed at time certificate is issued)	\$0.05 per cwt.	\$(21.22) 50.00 minimum fee per certificate \$ 159.25 maximum fee per certificate ((Billed at time certificate is issued))
<u>Late fee - per application</u> ((Late fee—	\$ 41.00	
Application	\$ 31.84 each	
Sampling (When Required)—		
Beans, peas, lentils, and cereal grains	\$.05 per cwt.	
Other crops	\$.15 per cwt.	
Serology test	Fee as established by the testing laboratory.	
Laboratory analysis of plant material to verify disease	An additional fee of actual cost shall be charged when necessary to examine plant material and/or seed)	

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03).

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D., and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	((Other Considerations)) Additional Information
O.E.C.D. certificate	\$(10.60) 15.41 each	
O.E.C.D. grow out test	\$(48.83) 65.72 each entry	No charge for control entry
<u>O.E.C.D. assessment</u>	<u>cost to program</u>	
<u>O.E.C.D. tagging fee</u>	<u>\$ 0.84/cwt.</u> <u>\$ 0.53/cwt.</u>	<u>grasses</u> <u>all other crops</u>

AMENDATORY SECTION (Amending WSR 01-01-015, filed 12/6/00, effective 1/6/01)

WAC 16-303-315 Service fee for sod quality seed tags and tagging. Service fee for sod quality seed tags and tagging shall be ~~\$(9.10)~~ **0.12** per cwt. ~~((The official sampling fee is charged when resampling is required.))~~

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-317 Annual and rough bluegrass quarantine fees. Fees for sampling and analysis for the presence of annual or rough bluegrass are those fees established in this chapter and:

(1) Annual bluegrass and rough bluegrass - inspection fee for nursery plantings for the presence of annual bluegrass is ~~\$(53.08)~~ **59.10** per acre or portion thereof. The tagging fee is ~~\$(9.52)~~ **0.53** cwt. with a minimum fee of ~~\$(10.60)~~ **23.12**.

(2) ~~((Rough Bluegrass—inspection fee for nursery plantings is \$ 53.08 per acre or portion thereof.))~~ Quarantine inspection of grass seed fields found to be in violation of the quarantine requirements will be charged at the rate of \$ 150.00 per field inspection.

AMENDATORY SECTION (Amending WSR 03-08-005, filed 3/20/03, effective 4/20/03)

WAC 16-303-320 Certification fees for seed certified by the department ~~((except grasses)).~~ ~~((Fees for seed certification services for seed certified by the department other than grasses are as follows.))~~ (1) Fees apply to both new and renewal applications(=).

The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may accept responsibility for any other additional fees associated with certification. Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

PROPOSED

Seed	Application Fee 1/	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes ((sam- pling and)) tag- ging) 7/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clo- ver, White clover and Trefoil	\$ ((15-91)) 23.12 per variety per grower	\$ ((1-84)) 1.85/acre	\$ ((31-84)) 41.00	\$ ((42-46)) 53.44 ea. field	\$ ((0-52)) 0.53/cwt. 5/	\$ ((0-19)) 0.20/cwt.
Bean	\$ ((15-91)) 23.12 per variety per grower	\$ ((1-84)) 1.85/acre 3/ (one inspection) \$ 3.70/acre 4/ (two inspections)	\$ ((31-84)) 41.00	\$ ((42-46)) 53.44 ea. field	\$ ((0-52)) 0.53/cwt.	\$ ((0-19)) 0.20/cwt.
Turnip, Rutabaga	\$ 23.12 per field	\$ 3.70/acre (two inspections)	\$ 41.00	\$ 53.44 each field	\$ 0.53/cwt.	\$ 0.20
Perennial Grasses 6/	\$ 23.12 per field	\$ 41.00 per field	\$ 41.00	\$ 53.44 each field	Option A \$ 0.84/cwt. Option B \$ 1.17/cwt. (min. \$ 11.66)	\$ 0.31
Corn	\$ ((15-91)) 23.12 for each separate combination/or isolation	\$ ((26-53)) 50.00 first acre \$ ((10-60)) 10.99 ea. additional acre except hybrid corn \$ ((3-70)) 4.85 ea. additional acre	_____	_____	_____	_____
((Sudangrass)) Annual grasses	\$ ((15-91)) 23.12 per field	\$ ((1-84)) 1.85/acre	\$ ((31-84)) 41.00 per field	_____	\$ 0.42/cwt.	((_____)) \$ 0.20
Rapeseed	\$ ((15-91)) 23.12 per variety per grower	\$ ((1-84)) 1.85/acre (one inspection)	\$ ((15-91)) 41.00 per grower	\$ ((21-22)) 53.44 ea. field	\$ ((0-52)) 0.53/cwt.	((_____)) \$ 0.20

PROPOSED

- 1/ ~~((Refer to WAC 16-302-050 for seed certification application due dates.))~~ Seed certification applica-
tion due dates can be found in WAC 16-302-050.
- 2/ ~~((Refundable if acreage is withdrawn before inspec-
tion. Except for bean seed, required of seedling
fields to be harvested for certification the year of
planting. Notification of seeding field to be har-
vested for certification and required fees are due
July 31.))~~ Seedling producing or field inspection
fees are refundable if the acreage is withdrawn
before the inspection is completed. In the case of
bean seed, fees are required of seedling fields to be
harvested for certification the year of planting.
- 3/ One inspection is required for Great Northern Red
Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for
certification of snap beans, kidney beans, and eligi-
bility for shipment into the state of Idaho.
- 5/ ~~((Sampling and))~~ Production fees are billed at com-
pletion of laboratory analysis tests. If ~~((none of the))~~
no seed is tagged, ~~((ten cents))~~ \$ 0.10 of the ~~((fifty-
two cents))~~ \$ 0.53 per cwt. production fee is refund-
able.
- 6/ Option A: Inspection and final certification fees are
based on pounds sampled and billed upon comple-
tion of required laboratory tests.
Option B: Inspection and final certification fees are
based on pounds tagged after required laboratory
tests are completed. Those dealers requesting sam-
pling and tagging privileges and/or participation in

Option B must sign a memorandum of agreement
that shall expire on June 30 of each year. The mem-
orandum may be terminated by the director if the
conditioner violates certification standards or
requirements of memorandum.

7/ Does not include shipping and handling charge.

(2) Other fees associated with grass seed certification:
Out-of-state origin seed tagged with interagency certi-
fication tags.

- Grass Option A: \$ 0.31 per cwt.
- Grass Option B: \$ 0.68 per cwt.
- Reissuance of cert. tags: \$ 0.11 per tag or minimum
fee of \$ 11.66

REPEALER

The following sections of the Washington Administra-
tive Code are repealed:

- WAC 16-303-220 Inventory testing for seed
germination.
- WAC 16-303-330 Certification fees for grass
seed.

WSR 03-15-145
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed July 23, 2003, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-12-085.

Title of Rule: The department is proposing amendments to the following rule sections in chapters 16-301 and 16-302 WAC:

- WAC 16-301-005 General seed standards—Definitions, 16-301-010 What publications are adopted in chapters 16-301, 16-302 and 16-303 WAC and where can they be obtained?, and 16-301-055 Tolerances for seed law enforcement;
- WAC 16-302-045 How may a person apply for seed certification in Washington state?, 16-301-110 Completion of seed certification—When may seed be labeled with a seed certification tag, label or seal?, 16-302-150 Eligibility for interagency certification, 16-302-155 Interagency seed certification procedure, 16-302-255 Land requirements for bean seed certification, 16-302-385 Grass seed standards for certification, and 16-302-410 Standards for sod quality seed.

Purpose: The proposed amendments to chapters 16-301 and 16-302 WAC will amend:

- The "official seed laboratory" definition in WAC 16-301-005 to include accredited seed laboratories;
- WAC 16-301-010 and 16-301-055 to update Association of Official Seed Certifying Agencies (AOSCA) and Association of Official Seed Analysts (AOSA) adoption dates;
- WAC 16-302-045 to eliminate the requirement that payment be sent with the application when applying for certification;
- WAC 16-302-110(1) to read that certification tags "must be" attached to a container of certified seed before it is distributed;
- WAC 16-302-110(2) by replacing the words "under the supervision of the certifying agency" with "in accordance with the certifying agencies rules;"
- WAC 16-302-150(3) and 16-302-155 (2)(b) to delete the references to "Part C" because there isn't a Part "C" on the Interagency Certified Seed Report form;
- WAC 16-302-255(1) by replacing "preceding three years" with "preceding one year;"
- WAC 16-302-385 by adding minimum purity requirements for "turf type" fescue and "range/reclamation type" fescue to the fescue section of the table and to change the pollination type of Indian rice grass;
- WAC 16-302-410(3) to delete "a ten gram Poa annua check."

Statutory Authority for Adoption: RCW 15.49.301, 15.49.370(3) and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Victor Shaul, Yakima, (509)225-2682; Implementation and Enforcement: Robert W. Gore, Olympia, (360) 902-1827.

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: 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. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The proposed amendments to chapters 16-301 and 16-302 WAC do not impose any new costs on businesses regulated by the rule. No new requirements are imposed by the proposed amendments. The purpose of the amendments is to update references and clarify and simplify rule language, which should result in a rule that is easier to understand and apply. For these reasons, an SBEIS is not required and has not been prepared.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 21 North First Avenue, Second Floor Conference Room, Yakima, WA 98902, on August 26, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by August 20, 2003, TDD (360) 902-1996.

Submit Written Comments to: George Huffman, Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, fax (360) 902-2085, by 5:00 p.m. on August 26.

Date of Intended Adoption: August 29, 2003.

July 23, 2003

William E. Brookreson

Deputy Director

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-005 General seed standards—Definitions. Definitions for terms used in this chapter and in chapters 16-302 and 16-303 WAC may be found in chapter 15.49 RCW, seed. For the purposes of these chapters, the following definitions shall apply unless otherwise provided for in law or rule:

"**Agricultural seed**" as defined in RCW 15.49.011(2) includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combination of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

"AOSA" means the Association of Official Seed Analysts.

"AOSCA" means the Association of Official Seed Certifying Agencies.

"Approved trial grounds" means a specific parcel of land approved by the director for experimental or limited production or increase of bean seed.

"Arbitration committee" means the committee established by the director under RCW 15.49.101 to hear and make determinations in mandatory, nonbinding, arbitration cases.

"Bean" means common beans and adzuki beans.

"Blend" as defined in RCW 15.49.011(3) means seed consisting of more than one variety of a species, each in excess of five percent by weight of the whole.

"Blending" as related to this chapter shall be the process of commingling two or more lots of seed to form one lot of uniform quality.

"Buyer" means a person who purchases seeds.

"Chairperson" means the person selected by the arbitration committee from among their numbers to preside.

"Certifying agency" as defined in RCW 15.49.011(5) means:

(a) An agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or

(b) An agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

"Common bean" means *Phaseolus vulgaris L.*

"Complete record" means information which relates to the origin, treatment, germination and purity (including variety) of each lot of seed. Records include seed samples and records of declaration, labels, purchases, sales, cleaning, bulking, treatment, handling, storage, analyses, tests and examinations.

"Dealer" as defined in RCW 15.49.011(7) means any person who distributes seeds.

"Department" as defined in RCW 15.49.011(8) means the Washington state department of agriculture or its duly authorized representative.

"Director" as defined in RCW 15.49.011(9) means the director of the department of agriculture.

"Field standards" means the tolerances permitted as determined by established field inspection procedures.

"Fiscal year" means the twelve-month period July 1 through June 30.

"Flower seeds" as defined in RCW 15.49.011(11) include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold as flower seeds in this state.

"Germination" as defined in RCW 15.49.011(13) means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in

question, are indicative of the ability to produce a normal plant under favorable conditions.

"Interagency certification" means the participation of two or more official certifying agencies in performing the services required to certify the same lot or lots of seed.

"Isolation standards" means the distance in feet from any contaminating source (i.e., distance from other fields of same species).

"Label" as defined in RCW 15.49.011(18) includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by chapter 15.49 RCW, and may include other information including the requirement for arbitration.

"Land standards" means the number of years that must elapse between the destruction of a stand of a kind, and establishment of a stand of a specified class of a variety of the same kind (i.e., number of years out of production of same crop kind).

"Mixture, mixed or mix" as defined in RCW 15.49.011(22) means seed consisting of more than one species, each in excess of five percent by weight of the whole.

"Nursery" means an area of two acres or less in which grass for seed production is seeded in rows with twenty-four inch minimum spacing to facilitate roguing.

"O.E.C.D." means the Organization for Economic Cooperation and Development certification scheme.

"Off-type" means a plant or seed which deviates in one or more characteristics from that which has been described as being usual for the strain or variety.

"Official certificate" means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps, or similar documents certifying seed quality or condition.

"Official sample" as defined in RCW 15.49.011(23) means any sample taken and designated as official by the department.

"Official seed laboratory" means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 21 N 1st Avenue, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon. This definition is to include any laboratory that has an accreditation process in place.

"Origin" means the county within the state of Washington, or the state, territory, or country where a specific seed lot was grown.

"Person" as defined in RCW 15.49.011(26) means an individual, partnership, corporation, company, association, receiver, trustee or agent.

"Proprietary variety" means that crop variety for which a person has exclusive production and/or marketing rights.

"Representative sample" means a sample drawn in accordance with sampling procedures adopted in WAC 16-301-095.

"Seeds" as defined in RCW 15.49.011(33) means agricultural or vegetable seeds, or other seeds as determined by rules adopted by the department. The word seed or seeds as used in this chapter shall include all propagating materials.

"Seed labeling permit" means a permit issued by the department pursuant to RCW 15.49.400 to a person labeling seed for distribution in this state.

"Seed program advisory committee" means a committee of representatives from the small grains; pea, lentil, bean, vegetable, small seeded legumes, and grass seed industries selected by the program manager in consultation with the industry.

"Seed standards" means the tolerances permitted as determined by established seed inspection procedures.

"Serology" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry viruses.

"Stock seed" means breeders, prebasic, or like initial generation of seed.

"Sudangrass" means *Sorghum bicolor x drummondii*.

"University" means the Washington State University.

"USDA" means the United States Department of Agriculture.

"Vegetable seeds" as defined in RCW 15.49.011(38) include the seeds of all crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

"WSCIA" means the Washington State Crop Improvement Association.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-010 What publications are adopted in chapters 16-301, 16-302, and 16-303 WAC and where can they be obtained? (1) The AOSCA rules and procedures for certification adopted in the year ((2000)) 2003. A copy may be obtained by writing; AOSCA, 600 Watertower Lane, Suite D, Meridian, Idaho 83642-6286.

(2) The AOSA rules for testing seed adopted in the year ((2000)) 2003. A copy may be obtained by contacting the administrative office for AOSA at McBride and Associates, Inc., P.O. Box 80705, Lincoln, NB 68501-0705.

(3) The Federal Seed Act and Code of Federal Regulations (CFR) Part 201 as revised January 1, 1998. A copy may be obtained by writing to the USDA, AMS, Washington, D.C. 20250.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-055 Tolerances for seed law enforcement. Tolerances for seed law enforcement shall be in accord with the code of federal regulations, C.F.R. Title 7, Section 201 as revised January 1, 1998 and/or those adopted by the Association of Official Seed Analysts, as amended on Octo-

ber 1, ((2000)) 2003, except for the tolerances for prohibited noxious and restricted noxious weed seed which shall be as the Washington state seed law specifies for labeling.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-150 Eligibility for interagency certification. (1) Seed recognized for interagency certification must be received in containers carrying official certification labels or evidence of its eligibility from another official certifying agency together with the following information:

- (a) Variety and species;
- (b) Quantity of seed;
- (c) Class of seed; and
- (d) Field or lot number traceable to the previous certifying agency's records.

(2) Seed tagged and sealed with official certification tags is eligible for interagency certification without obtaining approval from the certifying agency of the originating state.

(3) An "interagency certified seed" report form must be submitted to all certifying agencies involved. Forms can be obtained from the department seed program. Information required to complete the form includes:

Part A

- Name
- Address of shipper
- Destination
- Shipping weight
- Lot number
- Grower name
- Field number
- Date of seed shipment
- Amount of seed used

Part B ((and C))

- Date shipment is received by the receiving state
- Receiving weight and lot number
- Clean weight
- Bag count
- New lot number if different than the receiving lot number
- Screenings weight

(4) Certified seed not tagged and sealed with official certification tags must follow the interagency certification procedure in WAC 16-302-155.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-155 Interagency seed certification procedure. Certified seed that is produced in Washington state and shipped out-of-state must comply with the interagency seed certification procedure.

(1) The interagency seed certification procedure for field pea, lentil, soybean, small grain and sorghum seed is as follows:

PROPOSED

(a) A certified seed sale certificate must be executed by the department for unprocessed seed pending final certification when moved out-of-state.

(b) Unprocessed seed pending final certification is subject to all certification fees when moved out-of-state.

(2) The interagency seed certification procedure for all other kinds of seed except field pea, lentil, soybean, small grain and sorghum seed shipped out-of-state is as follows:

(a) Obtain approval of all certifying agencies involved prior to shipment:

- Complete section (A) of "interagency certified seed" report referred to in WAC 16-302-150(3). Prior to shipment one copy of the "interagency certified seed" report must be submitted to the department seed program and one copy to the certifying agency where seed is being processed.

- Clearly mark each container with the lot number and Washington field number.

(b) Upon completion of seed processing, section((s)) (B) ((and (C))) of "interagency certified seed" report referred to in WAC 16-302-150(3) must be completed and submitted to the department seed program.

- If the department is to finalize certification, a representative of the certifying agency in the receiving state must draw an official sample. The sample must be submitted to the department seed program.

- When Washington state certification tags are used, the lot must be tagged and sealed under supervision of the department. The applicant must pay a mileage fee and hourly rate for all additional mileage and travel time required.

- When Washington state interagency tags are used, the tags must be mailed to the nearest representative of the certifying agency having jurisdiction for tagging.

(c) If another state receives seed and finalizes certification, the department must advise the receiving state's certifying

agency of certification eligibility. Sampling, testing, and tagging shall be in accordance with the receiving state's requirements.

(d) The applicant for interagency seed certification is responsible for all fees authorized under Washington's certification program and any additional fees that may be assessed by both agencies involved. Fees for Washington's interagency certification program must be paid upon submission to the department of the "interagency certified seed" report, section (A).

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-255 Land requirements for bean seed certification. Land requirements for the production of bean seed are as follows:

(1) A field to be eligible for the production of certified class must not have been planted to beans of a different variety the preceding ((three)) one year((s)).

A field to be eligible for the production of foundation or registered classes must not have been planted to beans for the previous three years unless those beans were of the same variety of equal or higher class. The fields must be free of bacterial diseases during the previous two years of planting.

(2) A bean field is not eligible for production of certified seed for more than two consecutive years.

AMENDATORY SECTION (Amending WSR 02-12-060, filed 5/30/02, effective 6/30/02)

WAC 16-302-385 Grass seed standards for certification. The seed standards for grass shall be as follows:

CROP AND TYPE OF REPRODUCTION AS PER WAC 16-302-330	SEED STANDARDS												
	MINIMUM % GERM (d)(n)		MINIMUM % PURE		MAXIMUM % INERT		MAXIMUM % WEEDS (b)		MAXIMUM % OTHER CROPS		MAXIMUM SEEDS OF OTHER CROP GRASS SPECIES		
	FNDT. REG.	FNDT. CERT.	FNDT. REG.	FNDT. CERT.	FNDT. REG.	FNDT. CERT.	FNDT. REG.	FNDT. CERT.	FNDT. (i) REG. (i)	FNDT. (a) CERT. (a)	FNDT. SEEDS/LB.	REG. SEEDS/LB.	CERT. %
BLUEGRASS													
Big (A)	70	70	90	90	10	10	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Canby (A)	70	70	90	90	10	10	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Kentucky (A)	80	80	97	97	3	3	.05	.3	.1	.5	45 /lb.	454 /lb.	.25
Canada, Upland (A)	80	80	96	92	4	8	.05	.3	.1	.5	45 /lb.	907 /lb.	.25
BROMEGRASS													
Smooth & Meadow (C) (C)	80	85	95	95	5	5	.05	.3 (c)	.1	.5	9 /lb.	91 /lb.	.25
Mountain & Sweet	85	85	95	95	5	5	.3	.3 (c)	.1	1.0	9 /lb.	91 /lb.	.25
DEERTONGUE (C)	50	50	97	95	3	5	.50	.5 (c)	1.0	1.0	1%		
FESCUE													
Tall & Meadow (C)	80	85	95	97	5	3	.03	.3 (c)	.1	.5	18 /lb.	91 /lb.	.25
Hard & Sheep (m)													
<u>Turf Type (o)</u> (C)	80	85	95	97	5	3	.03	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
<u>Reclamation/Range Type</u>	80	85	95	92	5	8	.03	.3(c)	.1	.5	9 /lb.	45 /lb.	.25
Chewings Red, Idaho and other (C)	80	90	95	97	5	3	.03	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25
Fescue													

PROPOSED

CROP AND TYPE OF REPRODUCTION AS PER WAC 16-302-330	FNDT. REG.	MINIMUM % GERM (d)(n)		MINIMUM % PURE		MAXIMUM % INERT		MAXIMUM % WEEDS (b)		MAXIMUM % OTHER CROPS		MAXIMUM SEEDS OF OTHER CROP GRASS SPECIES		
		CERT.	REG.	CERT.	REG.	CERT.	REG.	CERT.	REG.	FNDT. (i)	CERT. (a)	FNDT. SEEDS/LB.	REG. SEEDS/LB.	CERT. %
ORCHARDGRASS (C)	80	85	85	90	15	10	.03	.3 (c)	.1	.5	27 /lb.	91/lb.	.25	
RYEGRASS Pennfine (C)	80	85	96 (k)	97 (k)	4	3	.1	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25	
TIMOTHY	80	85	97	97	3	3	.1	.3	.1	.5	9 /lb.	45 /lb.	.25	
WHEATGRASS (n) Beardless (C)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Bluebunch (C)(C)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Intermediate, Tall (C)	80	85	95	95	5	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Pubescent Western, R/S Streambank, (C)	80	85	95	95	5	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Thickspike (S)	80	85	90	90	10	10	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Slender (C)	80	85	90	95	10	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
Crested & Siberian	80	85	90	95	10	5	.1	.3 (c)	.1 (e)	.5 (e)	9 /lb.	45 /lb.	.25	
INDIAN RICEGRASS ((C)) (S)	80(j)	80 (j)	95	90	5	10	.3	.5	.5	1.0	9 /lb.	45 /lb.	.25	
PUCCINELLIA (n) distans (C)	80	80	90	95	5	5	.3	.5	.5	1.0	45 /lb.	454 /lb.	.25	
WILDRYE (n) (C)	80	80	90	90	10	10	.1	.3 (c)	.1	.5	9 /lb.	45 /lb.	.25	
BENTGRASS (C)	85	85	98	98	2	2	.3	.4 (f) (g)	.2	.6 (h)				
REDTOP (C)	80	80	92	92	8	8	.3	.5 (f)	.5	.2				
Ann. CANARYGRASS (C)	85	85	99	99	1	1	.1	.3	1/lb.	3/lb.				
GREEN (n) (C)	80	80	80	80	20	20	.1	.3(c)	.1	.5				
NEEDLEGRASS SWITCHGRASS (C)	60	60	90	90	10	10	.5	1.5	.1	.25				

The following (a) - ((C)) (Q) are notes to the above table.

- (a) Not to exceed .25% other grass species for blue tag seed.
- (b) Grass seed must not contain more than 45/lb. for registered seed 91/lb. for certified seed, singly or collectively, of objectionable weed seeds. (See (f) of this subsection for certified bentgrass and redtop exemption.) Grass seed shall be free of the seed of prohibited noxious weeds.
- (c) A tolerance of 0.5% may be allowed for samples containing weedy bromus spp provided the total of all other weed seeds does not exceed 0.3%.
- (d) A standard tetrazolium (two hundred seed) test may be used in lieu of germination test. NOTE: State and federal seed laws require seed be labeled on a germination test.
- (e) A tolerance of 0.8% may be allowed in registered and certified wheatgrass containing small grain seed provided the total of all other crop seed does not exceed 0.1% for registered class and 0.5% for certified class.
- (f) Certified seed must not contain over 907 seeds per pound, singly or collectively, of the following weeds: Plantago spp., Big Mouse-ear Chickweed, Yarrow, Spotted Cat's Ear, and Dandelion.
- (g) A maximum of .50% weed seed may be allowed in certified bentgrass containing silver hairgrass provided the total of all other weed seed does not exceed .40%.
- (h) 1.50% other fine bentgrasses and .50% redtop may be allowed in certified bentgrass containing a minimum of 98.00% total bentgrass.
- (i) A crop exam is required for all registered and foundation class grass seeds.
- (j) Or 70% by Tz test.
- (k) Maximum other ryegrass allowed as determined by fluorescence test: Foundation 0.1%, registered 1%, certified 2% for annual and 3% for perennial containing a minimum of 97% total

ryegrass. Acceptable fluorescence levels for specific varieties available upon request.

- (l) 85% minimum germination allowed on ryegrass varieties as designated by the breeder or variety owner. See list maintained by the seed program.
- (m) An ammonia test is required on hard and sheep fescue to determine presence of other Fescue sp. Other fine-leaved fescue found in the ammonia test will be included with other crop not other grass species.
- (n) Total viability as allowed in WAC 16-302-170 can be substituted for germination percentage.
- (o) Turf type fescues 97% pure seed. Range/reclamation types 92% pure seed. Varietal designation of turf or range/reclamation types are to be made by the breeder or variety owner. If no designation is made, the variety will be considered a turf type.

AMENDATORY SECTION (Amending WSR 02-12-060, filed 5/30/02, effective 6/30/02)

WAC 16-302-410 Standards for sod quality seed. (1)
 Except for ryegrass sod quality seed, seed standards for sod quality grass seed are as follows:

Variety	Minimum Purity	Minimum Germination	Maximum* Other Crop	Maximum**Weed
Kentucky Bluegrass	97%	80%	0.1%	.02%
Red Fescue	98%	90%	0.1%	.02%
Chewings Fescue	98%	90%	0.1%	.02%
Tall Fescue	98%	85%	0.1%	.02%

- * Must be free of ryegrass, orchardgrass, timothy, Agrostis sp., black medic, Poa trivialis, brome, reed canarygrass, tall fescue, clover, and meadow foxtail. Maximum allowable Canada bluegrass .02%. When the base sample is one of these kinds, the species will not be considered a contaminant (i.e., tall fescue in tall fescue).
- ** Must be free of Big, Canby and Sandberg bluegrass, dock, chickweed, crabgrass, plantain, short-awn foxtail, annual bluegrass, velvetgrass, rattail fescue and noxious weed seeds as listed under WAC 16-302-100 and 16-302-105.

(2) Seed standards for sod quality ryegrass seed are as follows:

Variety	Minimum Purity	Germination****	Other Crop*	Maximum Weed***
Ryegrass**	98%	90%	0.10%	.02%

- * Must be free of black medic, orchardgrass, timothy, Agrostis sp., Poa trivialis, brome, reed canarygrass, tall fescue, clover and meadow foxtail. Maximum allowable Canada bluegrass 0.02%.
- ** Maximum fluorescence levels as determined by breeder or variety owner.
- *** Must be free of Big, Canby and Sandberg bluegrass, rattail fescue, dock, chickweed, crabgrass, plantain, annual bluegrass, velvetgrass, short-awn foxtail, and noxious weed seeds as listed under WAC 16-302-100 and 16-302-105. An additional 0.07% of weedy Bromus spp. will be allowed.
- **** 85% minimum germination allowed on ryegrass varieties as designated by the breeder or variety owner. See list maintained by the seed program.

(3) A sod seed analysis certificate is the basis of determining if a lot meets sod quality standards. This certificate is issued by the certifying agency and represents a purity analysis, a twenty-five gram noxious all weed all crop exam (~~(on a ten gram Poa annua cheek)~~) and a germination test (~~(on an official sample)~~), except a 50-gram noxious all weed all crop exam is required for fescues and ryegrass.

(4) In addition to a seed certification tag, seed meeting sod quality certified seed standards will be tagged with a special "sod quality seed" tag.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-045 How may a person apply for seed certification in Washington state? If a person wishes to participate in the Washington state seed certification program, you must submit an application to the appropriate certifying agency (~~(along with the required fees (application fee, field inspection fee and late application fee if applicable))~~).

(1) An application for seed certification must be submitted for each crop, variety and field.

(2) Applications may be obtained from a certified seed processor or the certifying agency listed in WAC 16-302-010.

(3) The applicant is responsible for payment of all fees. Washington State University, its official agents and USDA Plant Material Center are exempt from paying fees on seed stock.

(4) The applicant must attach to the application for seed certification official tags/labels and/or other verification from seed stock planted. The applicant must also attach proof of

quarantine compliance when required, under chapter 16-301 WAC. Refer to chapter 16-303 WAC for appropriate fees.

(5) When it is necessary for a grower to reseed due to a failure to get a stand, the grower will retain records of seed lots used and the date of reseeding. Reseeding must be done within two years of the original planting date for grasses or within one year for all other crops. If seed stock of a different lot is used for reseeding, the grower must submit proof of seed stock used on a seedling application form. An additional application fee will be charged.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-110 Completion of seed certification—When may seed be labeled with a seed certification tag, label or seal? (1) The seed certification tag, label or seal is evidence of the genetic identity and purity of the contents (~~(and is)~~) must be attached to a container of certified seed prior to distribution. Seed that fails to meet certification standards because of genetic purity is not eligible for labeling.

(2) Seed certification tags, labels, and seals must be obtained from the certifying agency except as allowed in WAC 16-302-390, and must be attached to seed containers (~~(under the supervision of the certifying agency)~~) in accordance with the certifying agency's rules.

(3) Certification of seed is valid only if the tag, label or seal is affixed to each container in accordance with the AOSCA procedures as shown in WAC 16-301-010.

(4) No tag, label or seal may be removed and reused without permission of the certifying agency.

(5) A certified seed sale certificate will be issued upon completion of final certification for all seed to be sold in bulk. This certificate must accompany any shipment or transfers including those to other seed plants, out-of-state shipments or with any brokered seed. The seed plants own invoice may be used in lieu of a certified seed sale certificate for retail sales to growers.

(6) Seed that fails to meet certification requirements on factors other than genetic purity may be designated substandard at the discretion of the certifying agency. The certification tag or label attached to the seed must clearly show the reason the seed is substandard. Seed may not be tagged substandard if the seed can be remilled to meet minimum seed standards.

(7) Refer to chapter 16-301 WAC for seed labeling requirements.

PROPOSED



WSR 03-15-068

EXPEDITED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed July 15, 2003, 10:51 a.m.]

Title of Rule: WAC 246-919-110, 246-919-320, 246-919-330 and 246-919-360, licensing requirement housekeeping.

Purpose: These rules are being proposed as amendments because they are correcting typographical errors, changing names or adding clarifying language to the rule without changing its effect.

Statutory Authority for Adoption: RCW 18.71.017.

Statute Being Implemented: Chapter 18.71 RCW.

Summary: Amending the proposed rules will correct, change a name and clarify language to the rules without changing their effects.

Reasons Supporting Proposal: Amending these rules will assure the commission's rules are up to date and clarify current licensing requirements without increasing the requirements. As a result of this action the licensing requirement rules will be clearer.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Beverly A. Teeter, Health Administrator, 310 Israel Road, Tumwater, WA 98501, (360) 236-4788.

Name of Proponent: Department of Health, Medical Quality Assurance Commission, Beverly Teeter, Health Administrator, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule amendments will correct typographical errors, change an entity name and clarify language for licensing requirements. This will ensure that the regulations are up-to-date and reflect current approved licensing requirements.

Proposal Changes the Following Existing Rules: Amending WAC 246-919-110 Commission meetings, 246-919-320 Approved United States and Canadian medical schools, 246-919-330 Postgraduate medical training defined, and 246-919-360 Examinations accepted for reciprocity or waiver.

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 Beverly A. Teeter, Health Administrator, Department of Health, Medical Quality Assurance Commission, 310 Israel Road, Tumwater, WA

98501, P.O. Box 47866, Olympia, WA 98504, AND RECEIVED BY September 23, 2003.

July 7, 2003

Maryella E. Jansen

Deputy Executive Director

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-110 Commission meetings. Regular commission meetings shall be held at least four times yearly. Additional regular or special meetings may be called at the discretion of the chair or by a quorum of the commission.

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-320 Approved United States and Canadian medical schools. For the purposes of the Medical Practice Act, the commission approves those medical schools (~~listed as~~) accredited (~~medical schools in the United States set forth in Appendix II, Table I, and as accredited schools in Canada set forth in Appendix III, Table I, as published in the Journal of the American Medical Association for March 7, 1980~~) by the Liaison Committee on Medical Education.

AMENDATORY SECTION (Amending WSR 01-18-087, filed 9/5/01, effective 10/6/01)

WAC 246-919-330 Postgraduate medical training defined. (1) For the purposes of this chapter, postgraduate medical training means clinical training approved by the commission in general medicine or surgery, or a (~~recognized~~) specialty or subspecialty in the field of medicine or surgery as recognized by the American Board of Medical Specialties. The training must be acquired after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. Only satisfactory clinical performance evaluations will be accepted. This definition includes, but is not limited to, internships, residencies and fellowships in medical or surgical subjects.

(2) The commission approves only the following postgraduate clinical training courses:

(a) Programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) which are listed in the 1984-85 directory of residency programs, or programs approved by the Accreditation Council at the time of residency.

(b) Programs accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or programs accredited by the RCPSC or CFPC at the time of residency.

AMENDATORY SECTION (Amending WSR 96-03-073, filed 1/17/96, effective 2/17/96)

WAC 246-919-360 Examinations accepted for reciprocity or waiver. (1) The commission may accept certain examinations as a basis for licensure. These examinations

EXPEDITED

include USMLE, FLEX, NBE, or those given by the other states, or territories of the United States, with the exception of Florida and Hawaii. Those who have taken the Licentiate of the Medical Council of Canada (L.M.C.C.) and holds a valid LMCC certification obtained after 1969, may be granted a license without examination.

(2) Examination combination acceptable. Any applicant who has successfully completed Part I (NBE) or Step 1 (USMLE) plus Part II or Step 2 plus Part III or Step 3; or FLEX Component 1 plus Step 3; or Part I or Step 1, plus Part II or Step 2, plus FLEX Component 2 shall be deemed to have successfully completed a medical licensure examination as required by RCW 18.71.070. (For clarification, see Table 1.)

Accepted Examinations taken in Sequence	Other Acceptable Combinations
NBME Part I <i>plus</i> NBME Part II <i>plus</i> NBME Part III	NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> NBME Part III or USMLE Step 3
FLEX Component 1 <i>plus</i> FLEX Component 2	FLEX Component 1 <i>plus</i> USMLE Step 3 or NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> FLEX Component 2
USMLE Step 1 <i>plus</i> USMLE Step 2 <i>plus</i> USMLE Step 3	

WSR 03-15-142

EXPEDITED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. A-030832—Filed July 23, 2003, 10:06 a.m.]

Title of Rule: This rule making would update WAC references, clean up language and outdated material, and reflect recent changes in legislation in Title 480 WAC.

Purpose: This rule making would revise cross-references in chapters 480-120 and 480-121 WAC, to reflect numbering changes in chapter 480-120 WAC that became effective on July 1, 2003; in chapters 480-90, 480-100, and 480-110 WAC, to reflect numbering changes in chapter 480-80 WAC, and in chapter 480-107 WAC, to reflect numbering changes in chapter 480-100 WAC. In addition, this rule making would implement amendments to RCW 80.04.130, 80.36.110, 80.36.320, and 80.36.330, pursuant to sections 1-4, chapter 189, Laws of 2003, relating to tariff and price list notices and promotional offerings by amending relevant sections of chapter 480-80 WAC, and creating a new section, WAC 480-80-126. This rule making would also clean up language and outdated material, and correct grammatical and punctuation errors.

Other Identifying Information: Commission Docket No. A-030832. Affected chapters of the WAC include: Chapters 480-80, 480-90, 480-100, 480-107, 480-110, 480-120, and 480-121 WAC.

Action	WAC Section	Rule Title	Proposed Changes
Chapter 480-80 WAC, Tariffs, price lists, and contracts			
Amend	480-80-121	Tariff changes with statutory notice.	Amends the notice requirements for filing tariffs, consistent with recent amendments to RCW 80.36.110, pursuant to section 2, chapter 189, Laws of 2003, effective July 27, 2003.
Amend	480-80-122	Tariff changes with less than statutory notice.	Amends the notice requirements for filing tariffs, consistent with recent amendments to RCW 80.36.110, pursuant to section 2, chapter 189, Laws of 2003, effective July 27, 2003.
Adopt	480-80-126	Telecommunications promotional offering.	Adds new section that defines promotional offering and provides that tariff filings that make a promotional offering become effective when filed, consistent with recent amendments to RCW 80.04.130 and 80.36.110, pursuant to sections 1 and 2, chapter 189, Laws of 2003, effective July 27, 2003.
Amend	480-80-205	Effective date of price list filings.	Amends the notice requirements for the filing of price lists, defines a promotional offering, and provides that price list filings that make a promotional offering become effective when filed consistent with recent amendments to RCW 80.36.110, 80.36.320, and 80.36.330, pursuant to sections 2, 3, and 4, chapter 189, Laws of 2003, effective July 27, 2003.
Chapter 480-90 WAC, Gas companies—Operations			

EXPEDITED

Action	WAC Section	Rule Title	Proposed Changes
Chapter 480-90 WAC, Gas companies—Operations			
Amend	480-90-153(3)	Disclosure of private information.	Updates the rule to reflect revised WAC section cross-referenced in chapter 480-80 WAC, Tariffs, price lists, and contracts.
Chapter 480-100 WAC, Electric companies—Operations			
Amend	480-100-153(3)	Disclosure of private information.	Updates the rule to reflect revised WAC section cross-referenced in chapter 480-80 WAC, Tariffs, price lists, and contracts.
Chapter 480-107 WAC, Electric companies—Purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers			
Amend	480-107-001(2)	Purpose and scope.	Updates the rule to reflect revised WAC section cross-referenced in chapter 480-100 WAC, Electric companies—Operations.
Amend	480-107-005	Definitions.	Updates the rule to reflect revised WAC section cross-referenced in chapter 480-100 WAC, Electric companies—Operations, and to remove numbering of definitions.
Chapter 480-110 WAC, Water companies			
Amend	480-110-435(2)(b)	Extension contracts.	Updates the rule to reflect revised WAC section cross-referenced in chapter 480-80 WAC, Tariffs, price lists, and contracts.
Chapter 480-120 WAC, Telecommunications operations			
Amend	480-120-083(1)(b) and (d)	Cessation of telecommunications services.	Updates the rule to reflect new numbering of chapter effective July 1, 2003.
Amend	480-120-147(1)(a)(v)	Changes in local exchange and intrastate toll services.	Updates the rule to correct language from "interstate" to "intraLATA."
Amend	480-120-264(1)(b) and (2)(c)	Prepaid calling services.	Updates the rule to reflect new numbering of chapter effective July 1, 2003.
Amend	480-120-439(2)	Service quality performance reports.	Amends the rule to remove reference to incorrect WAC section.
Chapter 480-121 WAC, Registration, competitive classification and price lists of telecommunications companies			
Amend	480-121-063	Regulatory requirements that may be waived for competitively classified telecommunications companies.	Revises the rule to reflect references to repealed sections and new numbering of chapter 480-120 WAC effective July 1, 2003.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, 81.04.160, 34.05.353.

Statute Being Implemented: Sections 1-4, chapter 189, Laws of 2003.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Sharyn Bate, Regulatory Analyst, 1300 South Evergreen

Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1295; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal would amend certain sections in chapters 480-90, 480-100, 480-107, 480-110, 480-120 and 480-121 WAC to reflect current published versions of renumbered sections and make other minor administrative changes.

In addition, the proposal would reflect amendments to certain sections of chapters 80.04 and 80.36 RCW, pursuant to recent legislation in sections 1-4, chapter 189, Laws of 2003, by:

Creating a new section in chapter 480-80 WAC, Tariffs, price lists, and contracts, WAC 480-80-126 Telecommunications promotional offering, that would define promotional offering and would provide that tariff filings that make a promotional offering become effective when filed with the commission,

Adding language to WAC 480-80-121 Tariff changes with statutory notice and 480-80-122 Tariff changes with less than statutory notice, that would amend the notice requirements for the filing of tariffs, and

Adding language to WAC 480-80-205 Effective date of price list filings, that would amend the notice requirements for the filing of price lists, that would define a promotional offering, and that would provide that price list filings that make a promotional offering become effective when filed with the commission.

Correct grammatical and punctuation errors.

Proposal Changes the Following Existing Rules: See Other Identifying Information and Explanation of Rule above.

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 Secretary, Docket No. A-030832, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, AND RECEIVED BY September 22, 2003.

July 23, 2003

Carole J. Washburn
Secretary

EXPEDITED

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-121 Tariff changes with statutory notice. (1) The statutory notice periods for tariff changes are:

(a) The commission must receive tariff changes not less than thirty days in advance of the requested effective date as required by RCW 80.28.060 and ((80.36.110. Telecommunications companies not classified as competitive that meet the requirements of RCW 80.36.110(2) may file with ten days' notice to the commission)) 80.36.110 (1)(a);

(b) The commission must receive telecommunications tariff changes that reduce rates with no offsetting rate increases not less than ten days in advance of the requested effective date, as required by RCW 80.36.110 (2)(a). If a company makes a filing pursuant to this subsection, it may not file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year.

(2) The statutory notice period begins on the date the commission receives the tariff filing, in accordance with WAC 480-80-031.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-122 Tariff changes with less than statutory notice. (1) The commission may allow tariff changes to become effective with less than the statutory notice (LSN) period specified in WAC 480-80-121(1) when the utility provides good cause. A utility filing for LSN treatment may use an LSN form provided by the commission, or may submit a letter that includes the following:

- (a) Utility information:
- (i) Name and address of utility;
 - (ii) Telephone number, e-mail address, and fax number;
- and
- (iii) Name of contact person for the filing.
- (b) Tariff identification information:
- (i) Number of the tariff being amended;
 - (ii) Title of the tariff item(s) being amended, if applicable; and
 - (iii) Number of the tariff sheet being amended.
- (c) Concise description of the changes being proposed;
- (d) Reason(s) for requesting LSN handling;
- (e) Effective date requested; and
- (f) If the utility does not include an authorizing signature on the tariff sheets, a statement certifying that the submitting person has authority to issue tariff changes on behalf of the utility.

(2) A utility requesting LSN must file tariff sheets with an effective date that reflects the required statutory notice period.

(3) If the LSN request is granted, the commission will issue an order directing that the tariff sheets be revised to reflect the authorized LSN effective date.

NEW SECTION

WAC 480-80-126 Telecommunications promotional offering. (1) Any telecommunications tariff filing that makes a promotional offering becomes effective on the later of the effective date stated in the tariff or the date it is filed with the commission.

(2) For purposes of this section, a promotional offering is a telecommunications tariff that, for a period of up to ninety days, waives or reduces charges or conditions of service for existing or new subscribers for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-205 Effective date of price list filings. (1) Any ((new price list or)) price list ((change)) filing that has the effect of changing the rates or charges paid by customers becomes effective on the later of:

- (a) The effective date stated in the price list;
- (b) Ten days after it is filed with the commission, as required by RCW ((80.36.320(2) and 80.36.330(2))) 80.36.110 (1)(b); or

(c) Ten days after any existing customers are provided actual notice of the change in accordance with WAC 480-120-196.

(2)(a) Any price list filing that introduces a service not previously in the company's price list, or that makes changes not affecting the rates or charges paid by customers, or that makes a promotional offering, becomes effective on the later of the effective date stated in the price list or the date it is filed with the commission.

(b) For purposes of this section, a promotional offering is a telecommunications price list that, for a period of up to ninety days, waives or reduces charges or conditions of service for existing or new subscribers for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

(3) This section does not apply to the filing of initial price lists as a part of an application for registration and competitive classification under chapter 480-121 WAC.

AMENDATORY SECTION (Amending Docket No. UG-990294, General Order No. R-488, filed 9/28/01, effective 10/29/01)

WAC 480-90-153 Disclosure of private information. (1) A gas utility may not disclose or sell private consumer information with or to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a customer who does not already subscribe to that service or product, unless the utility has first obtained the customer's written permission to do so.

(2) Private consumer information includes the customer's name, address, telephone number, and any other personally identifying information, as well as information related to the quantity, technical configuration, type, destina-

tion, and amount of use of service or products subscribed to by a customer of a regulated utility that is available to the utility solely by virtue of the customer-utility relationship.

(3) This section does not prevent disclosure of the essential terms and conditions of special contracts as provided for in WAC (~~(480-80-335)~~) 480-80-143, Special contracts for electric, water, and natural gas utilities.

(4) This section does not prevent the utility from inserting any marketing information into the customer's billing package.

(5) The utility may collect and release customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

AMENDATORY SECTION (Amending Docket No. UE-990473, General Order No. R-489, filed 9/28/01, effective 10/29/01)

WAC 480-100-153 Disclosure of private information.

(1) An electric utility may not disclose or sell private consumer information with or to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a customer who does not already subscribe to that service or product, unless the utility has first obtained the customer's written permission to do so.

(2) Private consumer information includes the customer's name, address, telephone number, and any other personally identifying information, as well as information related to the quantity, technical configuration, type, destination, and amount of use of service or products subscribed to by a customer of a regulated utility that is available to the utility solely by virtue of the customer-utility relationship.

(3) This section does not prevent disclosure of the essential terms and conditions of special contracts as provided for in WAC (~~(480-80-335)~~) 480-80-143, Special contracts for electric, water, and natural gas utilities.

(4) This section does not prevent the utility from inserting any marketing information into the customer's billing package.

(5) The utility may collect and release customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

AMENDATORY SECTION (Amending Order R-304, Docket No. U-89-2814-R, filed 7/18/89)

WAC 480-107-001 Purpose and scope. (1) The purpose of this chapter is to establish rules for determining rates, terms, and conditions governing the following purchases by electric utilities: Electricity from qualifying facilities; the electrical savings associated with eligible conservation measures pursuant to these rules; electricity from independent power producers; and, at the utility's election, utility subsidiaries, and other electric utilities. These rules are intended to provide an opportunity for conservation and generating resources to compete on a fair and reasonable basis to fulfill a utility's new resource needs. It is the commission's intent that bids under these rules shall include the costs of compliance by the project with environmental laws, rules, and regu-

lations in effect at the time of the bid and those reasonably anticipated to be in effect during the term of the project.

These rules are consistent with the provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292. Purchase of electric power under these rules shall satisfy an electric utility's obligation to purchase power from qualifying facilities under section 210 of PURPA.

These rules do not preclude electric utilities from constructing electric resources, operating conservation programs, purchasing power through negotiated purchase contracts, or otherwise taking action to satisfy their public service obligations. Information about the price and availability of electric power obtained through the bidding procedures described in these rules may be used, in conjunction with other evidence, in general rate cases and other cost recovery proceedings pertaining to resources not acquired through these bidding procedures.

(2) The provisions of this chapter shall apply to any electric utility which has submitted to the commission a least-cost plan as provided in WAC (~~(480-100-251)~~) 480-100-238.

AMENDATORY SECTION (Amending Order R-304, Docket No. U-89-2814-R, filed 7/18/89)

WAC 480-107-005 Definitions. ~~((1))~~ "Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for purchases to be made pursuant to these rules, the utility would generate itself or purchase from another source.

~~((2))~~ "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a generating facility's own generation equipment during an unscheduled outage of the facility.

~~((3))~~ "Commission" means the Washington utilities and transportation commission.

~~((4))~~ "Conservation measures" means electric energy efficiency improvements to buildings or energy using equipment and processes.

~~((5))~~ "Economic dispatch" means, within contractually specified limits, modifying the timing of power purchases from a generating facility so as to minimize the costs of delivering electricity.

~~((6))~~ "Electric utility" means any public service company as defined by RCW 80.04.010 engaged in the generation, distribution, sale, or furnishing of electricity and which is subject to the jurisdiction of the commission.

~~((7))~~ "Eligible conservation suppliers" means electric utility customers, or third party conservation contractors installing energy efficiency measures as described in these rules.

~~((8))~~ "Generating facilities" means plant and other equipment employed for the purposes of generating electricity purchased through contracts entered into under these rules.

~~((9))~~ "Independent power producers" means generating facilities or portions thereof that are not recognized in the retail rates of any electric utility and that are not qualifying

facilities as defined (~~in subsection (16) of this section~~) below.

~~((10))~~ "Interruptible power" means electric energy or capacity supplied by an electric utility to a generating facility subject to interruption by the electric utility under certain specified conditions.

~~((11))~~ "Least cost plan" means the filing made every two years by an electric utility in accordance with WAC ~~((480-100-251))~~ 480-100-238.

~~((12))~~ "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of a generating facility.

~~((13))~~ "Project developer" means an individual, association, corporation, or other legal entity potentially entering into a power or conservation savings contract with the utility.

~~((14))~~ "Project proposal" means a project developer's document containing a description of the project and other information responsive to the requirements set forth in the RFP.

~~((15))~~ "Prototype contract" means standardized terms and conditions that govern specific electric power or electrical savings purchases by electric utilities. Prototype contracts may be structured to accommodate terms and conditions specific to individual projects, subject to the conditions set forth in these rules.

~~((16))~~ "Qualifying facilities" are generating facilities that meet the criteria specified by the FERC in 18 C.F.R. Part 292 Subpart B.

~~((17))~~ "Request for proposals" (RFP) means the document describing an electric utility's solicitation of bids for the delivery of power or electrical savings.

~~((18))~~ "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a generating facility in addition to that which the facility generates itself.

~~((19))~~ "Utility subsidiary" means a legal entity, other than a qualifying facility, which is owned, in whole or in part, by an electric utility, and which may enter a power or conservation savings contract with that electric utility.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

WAC 480-110-435 Extension contracts. (1) Each water company must file, as a part of its tariff, an extension rule that states the conditions required by the company before it will extend its transmission and distribution infrastructure to provide water service to an applicant.

(2) Companies entering into any extension contract must:

(a) File the contract with the commission not less than thirty days before the proposed effective date of the contract.

(b) Conform the proposed contract to the applicable provisions of WAC ~~((480-80-335))~~ 480-80-143.

(3) Extension contracts must include the documentation necessary to show that the proposed charges are fair, just, reasonable, and sufficient.

(4) An extension may also be referred to as a distribution extension, a main extension, or a line extension.

AMENDATORY SECTION (Amending General Order No. R-494, Docket No. UT-010558, filed 12/5/01, effective 1/5/02)

WAC 480-120-083 Cessation of telecommunications services. (1) This rule applies to any telecommunications company that ceases the provision of any telecommunications service in all or any portion of the state (exiting telecommunications company). This rule does not apply to:

(a) Services offered by tariff that are subject to the statutory notice requirements of RCW 80.36.110 (Tariff Changes – Statutory Notice – Exception);

(b) Discontinuance of service to an individual customer in compliance with WAC ~~((480-120-081))~~ 480-120-172 (Discontinuance of Service);

(c) Cessation of a service when the provider replaces the terminated service with comparable service without interruption. For example, the notice requirements of this rule do not apply when a local exchange carrier (LEC) providing Centrex-type service with one group of features replaces that service, without interruption, with a version of Centrex-type service that has a different group of features; and

(d) A service being discontinued that has no subscribers. Changes in customers' service providers for local exchange and intrastate toll services when there is a cessation of service are also subject to WAC ~~((480-120-139))~~ 480-120-147 (changes in local exchange and intrastate toll services).

(2) No telecommunications company may cease the provision of any telecommunications service in all or any portion of the state unless it first provides written notice to the following persons at least 30 days in advance of cessation of service:

(a) The commission;

(b) The state 911 program, in the instance of local exchange service, private branch exchange service (PBX), Centrex-type service, or private line service used in the provision of emergency services related to the state 911 program;

(c) Each of its customers, including customers that are telecommunications companies;

(d) Incumbent local exchange carriers (ILECs) providing the exiting telecommunications company with unbundled network elements (UNEs) pursuant to the Telecommunications Act of 1996, 47 U.S.C. Section 151 *et seq.*, if UNEs or combinations of UNEs are part of a telecommunications service provided to some or all of the exiting telecommunications company's customers;

(e) Each telecommunications company providing the exiting telecommunications company with resold telecommunications service, if resold service is part of a telecommunications service provided to some or all of the exiting telecommunications company's customers;

(f) The national number administrator authorizing the release of all assigned telephone numbers to other telecommunications companies and releasing all unassigned telephone numbers to the number administrator.

(3) The notice to the commission and the state 911 program required in subsections (2)(a) and (b) must include:

(a) The name of the exiting telecommunications company;

(b) For each category of service, the date each telecommunications service will cease; and

(c) The number of customers for each telecommunications service and their location, described by exchange or by city and county for each telecommunications service being ceased.

(4) The notice to customers required in subsection (2)(c) must include:

(a) The date telecommunications service will cease;

(b) Information on how to contact the exiting telecommunications company by telephone in order to obtain information needed to establish service with another provider;

(c) An explanation of how customers may receive a refund on any unused service. The exiting telecommunications company must provide information to consumers via its customer service number outlining the procedure for obtaining refunds and continue to provide this information for sixty days after the date of cessation of service.

(d) A second notice provided by one of the two options listed below:

(i) Between ten and thirty days before cessation of service, the exiting telecommunications company must complete one direct call advising every customer of the cessation of service, including the date of cessation of service and a number to call for more information, if necessary. A direct call means a call in which the company leaves a recorded voice message for or speaks directly to the responsible party or its agent on the billing account; or

(ii) At least ten days before cessation of service, the exiting telecommunications company must provide a second written notice of cessation of service including the date of cessation of service and a number to call for more information, if necessary; and

(e) A company may seek the commission's assistance in drafting the customer notices.

(5) The notice to ILECs required in subsection (2)(d) must include:

(a) The date telecommunications service will cease;

(b) Identification of the UNE components in relationship to the service information provided to the customer when such information differs from the ILEC's identification information as billed to the exiting telecommunications company. For example, if the ILEC identifies a UNE loop with a circuit identification number, the exiting telecommunications company must provide the ILEC with the customer telephone number assigned to the ILEC's UNE loop circuit identification number; and

(c) The telephone contact information to enable the ILEC or new provider to obtain UNE service and circuit identification information needed to establish service for a customer who will no longer receive service from the exiting telecommunications company.

(6) The notice to suppliers required in subsection (2)(e) must include:

(a) The date telecommunications service will cease;

(b) Identification of the resold service element components in relationship to the service information provided to the customer, when such information differs from the supplier's identification information as billed to the exiting telecommunications company; and

(c) Telephone contact information to enable the regulated supplier or new provider to obtain underlying service and circuit identification information needed to establish comparable replacement service for a customer who will no longer receive service from the exiting telecommunications company.

(7) The notice to the national number administrator required in subsection (2)(f) must include:

(a) Identification of all working telephone numbers assigned to customers;

(b) Identification of all unassigned or administrative numbers available for reassignment to other providers and the date such unassigned telephone numbers will be available for reassignment; and

(c) Authorization of the release of each individual assigned customer's telephone number(s) to subsequent providers selected by the customer.

(8) ILECs and telecommunications companies that are suppliers under subsection (6) must provide the information in the required notice(s) (if received) to the subsequent provider upon a request authorized by the customer.

(9) A telecommunications company ceasing a local exchange service, a PBX service, a Centrex-type service, or a private line service used in the provision of emergency services related to the state 911 program must inform the commission and the state 911 program within twenty-four hours of the cessation of telecommunications service of the number of customers and their location, listed by exchange or by city and county, that remained as customers for the telecommunications service when service ceased.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-147 Changes in local exchange and intrastate toll services. (1) **Verification of orders.** A local exchange or intrastate toll carrier that requests on behalf of a customer that the customer's carrier be changed, and that seeks to provide retail services to the customer (submitting carrier), may not submit a change-order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the procedures in (a) through (c) of this subsection:

(a) The company has obtained the customer's written or electronic authorization to submit the order (letter of agency). The letter of agency must be a separate electronic form, located on a separate screen or web page, or a separate written document (or easily separable document) containing only the authorizing language described in (a)(i) through (vi) of this subsection, having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency, whether written or electronic, must be signed and dated by the customer of the telephone line(s) requesting the preferred carrier change. The letter of agency shall not be combined on the same document or on the same screen or web page with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (a)(i) through (vi) of this subsection, and the necessary information

to make the check a negotiable instrument. The check may not contain any promotional language or material. It must contain, in easily readable, boldface type on the front of the check, a notice that the customer is authorizing a preferred carrier change by signing the check. Letter-of-agency language must be placed near the signature line on the back of the check. Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the customer. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language, as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm the following information from the customer:

(i) The customer billing name, billing telephone number and billing address and each telephone number to be covered by the change order;

(ii) The decision to change;

(iii) The customer's understanding of the change fee;

(iv) That the customer designates (name of carrier) to act as the customer's agent for the preferred carrier change;

(v) That the customer understands that only one telecommunications carrier may be designated as the customer's ((interstate)) **intraLATA** preferred carrier; that only one telecommunications carrier may be designated as the customer's interLATA preferred carrier; and that only one telecommunications carrier may be designated as the customer's local exchange provider, for any one telephone number. The letter of agency must contain a separate statement regarding the customer's choice for each preferred carrier, although a separate letter of agency for each choice is not necessary; and

(vi) Letters of agency may not suggest or require that a customer take some action in order to retain the current preferred carrier.

(b) The submitting carrier has obtained the customer's authorization, as described in (a) of this subsection, electronically, by use of an automated, electronic telephone menu system. This authorization must be placed from the telephone number(s) for which the preferred carrier is to be changed and must confirm the information required in (a)(i) through (vi) of this subsection.

Telecommunications companies electing to confirm the preferred carrier change electronically must establish one or more toll free telephone numbers exclusively for that purpose.

Calls to the number(s) must connect a customer to a voice response unit, or similar device, that records the required information regarding the change, including recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the change order that confirms and includes appropriate verification data (e.g., the customer's date of birth). The independent third party must not be owned, managed, controlled or directed by the carrier or the carrier's marketing agent; and must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent. The content of the verification must include clear and unambiguous confirma-

tion that the customer has authorized a preferred carrier change.

(2) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA toll, and interLATA toll) that carrier must obtain separate authorization, and separate verification, from the customer for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a customer's authorization for a preferred carrier change must be retained by the submitting carrier, at a minimum, for two years to serve as verification of the customer's authorization to change his or her telecommunications company. The documentation must be made available to the customer and to the commission upon request and at no charge. Documentation includes, but is not limited to, entire third-party-verification conversations and, for written verifications, the entire verification document.

(4) **Implementing order changes.** An executing carrier may not verify directly with the customer the submission of a change in a customer's selection of a provider received from a submitting carrier. The executing carrier must comply promptly, without any unreasonable delay, with a requested change that is complete and received from a submitting carrier. An executing carrier is any telecommunications carrier that affects a request that a customer's carrier be changed.

This section does not prohibit any company from investigating and responding to any customer-initiated inquiry or complaint.

(5) **Preferred carrier freezes.** A preferred carrier freeze prevents a change in a customer's preferred carrier selection unless the customer gives the carrier from whom the freeze was requested express consent. Express consent means direct, written, electronic, or oral direction by the customer. All local exchange companies (LECs) must offer preferred carrier freezes. Such freezes must be offered on a non-discriminatory basis to all customers. Offers or solicitations for such freezes must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA toll, and interLATA toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All LECs must notify all customers of the availability of a preferred carrier freeze, no later than the customer's first telephone bill, and once per year must notify all local exchange service customers of such availability on an individual customer basis (e.g., bill insert, bill message, or direct mailing).

(b) All carrier-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the customer will be unable to make a change in carrier selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange carrier may implement a preferred carrier freeze unless the customer's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier, as described in subsections (1) and (2) of this section.

(d) All LECs must offer customers, at a minimum, the following procedures for lifting a preferred carrier freeze:

(i) A customer's written or electronic authorization stating the customer's intent to lift the freeze;

(ii) A customer's oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the customer in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing carrier must confirm appropriate verification data (e.g., the customer's date of birth), and the customer's intent to lift the freeze.

(e) A LEC may not change a customer's preferred carrier if the customer has a freeze in place, unless the customer has lifted the freeze in accordance with this subsection.

(6) **Remedies.** In addition to any other penalties provided by law, a submitting carrier that requests a change in a customer's carrier without proper verification as described in this rule shall receive no payment for service provided as a result of the unauthorized change and shall promptly refund any amounts collected as a result of the unauthorized change. The customer may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment shall be remitted to the customer's authorized telecommunications company.

(7) **Exceptions.** Companies transferring customers as a result of a merger, purchase of the company, or purchase of a specific customer base are exempt from subsections (1) through (6) of this section if the companies comply with the following conditions and procedures:

(a) The acquiring company must provide a notice to each affected customer at least thirty days before the date of transfer. Such notice must include the following information:

(i) The date on which the acquiring company will become the customer's new provider;

(ii) The rates, terms, and conditions of the service(s) to be provided upon transfer, and the means by which the acquiring company will notify the customer of any change(s) to those rates, terms, and conditions;

(iii) That the acquiring company will be responsible for any carrier change charges associated with the transfer;

(iv) The customer's right to select a different company to provide the service(s);

(v) That the customer will be transferred even if the customer has selected a "freeze" on his/her carrier choices, unless the customer chooses another carrier before the transfer date;

(vi) That, if the customer has a "freeze" on carrier choices, the freeze will be lifted at the time of transfer and the customer must "refreeze" carrier choices;

(vii) How the customer may make a complaint prior to or during the transfer; and

(viii) The toll-free customer service telephone number of the acquiring carrier.

(b) The acquiring company must provide a notice to the commission at least thirty days before the date of the transfer. Such notice must include the following information:

(i) The names of the parties to the transaction;

(ii) The types of services affected;

(iii) The date of the transfer; and

(iv) That the company has provided advance notice to affected customers, including a copy of such notice.

(c) If after filing notice with the commission any material changes develop, the acquiring company must file written notice of those changes with the commission no more than ten days after the transfer date announced in the prior notice. The commission may, at that time, require the company to provide additional notice to affected customers regarding such changes.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-120-264 Prepaid calling services. (1) For the purposes of this section, prepaid calling services (PPCS) means any transaction in which a customer pays for service prior to use and applies only to those services where the number of available minutes decreases as the customer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use.

(a) PPCS may require the use of an access number or authorization code.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC ((480-120-138)) **480-120-263**.

(2) PPCS providers must provide customers a without-charge telephone number staffed by personnel capable of:

(a) Responding to technical problems or questions related to their service twenty-four hours a day, seven days a week;

(b) Responding to general account-related questions during regular business hours; and

(c) Providing the commission's toll-free number and address to dissatisfied customers as required by WAC ((480-120-101)) **480-120-165**.

(3) Billing requirements for PPCS.

(a) A PPCS provider may charge only for the actual time a circuit is open for conversation. The price list or tariff and presale document must define billing increments. The provider must not round up the length of conversation time for less than a full billing increment beyond that full increment.

(i) If a PPCS provider uses an increment based on a time measurement, the increment must not exceed one minute.

(ii) If a PPCS provider bills usage in "unit" measurements, it must clearly define units using both equivalent dollar amounts and time measurement. Unit billing increments cannot exceed the equivalent one minute rate.

(b) At the customer's request, a PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those on file with

the commission. The PPCS provider must inform the customer of the new rates at the time of the recharge request.

(4) PPCS providers must maintain the following call data for a minimum of twenty-four months:

(a) Dialing and signaling information that identifies the inbound access number called or the access identifier;

(b) The number of the originating phone when the information is passed to the PPCS provider;

(c) The date and time the call was originated;

(d) The duration or termination time of the call;

(e) The called number; and

(f) The personal identification number (PIN), or account number.

(5) Disclosure requirements - Prepaid calling services.

(a) A PPCS provider must disclose, prior to the sale, the following information:

(i) The PPCS provider's name as registered with the commission;

(ii) The "doing business as" name as registered with the commission, if applicable;

(iii) The maximum charge per billing increment. A PPCS provider charging varying rates for intrastate and interstate calls must provide all applicable rates. The rates disclosed must be no more than those in its price list or tariff on file with the commission at the time of purchase;

(iv) Charges for all services, including any applicable surcharges, fees, or taxes, and the method of application;

(v) Expiration date, if applicable. If a card expires after a set period of time from activation, the PPCS provider must specify the expiration date on the card. If an expiration date is not disclosed on the card it will be considered unexpired indefinitely; and

(vi) Recharge policy, if applicable. If a PPCS provider does not disclose the expiration date at the time service is recharged, the service will be considered unexpired indefinitely.

(b) A PPCS provider must disclose, at the time of purchase, the following information:

(i) The without-charge telephone number(s) a customer may use to resolve technical problems, service-related questions, and general account-related questions; and

(ii) Authorization code, if required, to access the service or, if applicable, the without-charge telephone number used to establish access capability.

(c) If the PPCS provider is not the entity that packages the services for sale to the public, it must require the company that does so, through a written agreement, to comply with the disclosure requirements of this section.

(6) Time of use disclosure requirements. The PPCS provider must:

(a) Announce at the beginning of each call the time remaining on the prepaid account or prepaid calling card; and

(b) Announce the time remaining at least one minute before the prepaid account balance is depleted.

(7) When a PPCS provider has failed to provide service at rates disclosed prior to the sale or quoted at the time an account is recharged, or the PPCS provider has failed to meet performance standards, it must provide refunds for any unused service or provide equivalent service credit when requested by a customer. Refunds or credits must equal the

value remaining on the prepaid calling account. The customer may choose either the refund or equivalent service credit option.

(8) Performance standards for prepaid calling services. Each PPCS provider must ensure that:

(a) Customers can complete a minimum of ninety-eight percent of all call attempts to the called party's number. The PPCS provider will consider any busy signals or unanswered calls as completed calls.

(b) Customers can complete a minimum of ninety-eight percent of all call attempts to the PPCS provider. The PPCS provider will not consider any busy signals or unanswered calls as completed calls.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-439 Service quality performance reports. (1) **Class A companies.** Class A companies must report monthly the information required in subsections (3), (4), and (6) through (10) of this section. Companies must report within thirty days after the end of the month in which the activity reported on takes place (e.g., a report concerning missed appointments in December must be reported by January 30).

(2) **Class B companies.** Class B companies need not report to the commission as required by subsection (1) of this section. However, these companies must retain, for at least three years from the date they are created, all records that would be relevant, in the event of a complaint or investigation, to a determination of the company's compliance with the service quality standards established by WAC 480-120-105, ((480-120-107,)) 480-120-112, 480-120-132, 480-120-401, 480-120-411, and 480-120-440.

(3) **Missed appointment report.** The missed appointment report must state the number of appointments missed, the total number of appointments made, and the number of appointments excluded under (b), (c), or (d) of this subsection. The report must state installation and repair appointments separately.

(a) A LEC is deemed to have kept an appointment when the necessary work in advance of dispatch has been completed and the technician arrives within the appointment period, even if the technician then determines the order cannot be completed until a later date. If the inability to install or repair during a kept appointment leads to establishment of another appointment, it is a new appointment for purposes of determining under this subsection whether it is kept or not.

(b) When a LEC notifies the customer at least twenty-four hours prior to the scheduled appointment that a new appointment is necessary and a new appointment is made, then the appointment that was canceled is not a missed appointment for purposes of this subsection. A company-initiated changed appointment date is not a change to the order date for purposes of determining compliance with WAC 480-120-105 and 480-120-112.

(c) A LEC does not miss an appointment for purposes of this subsection when the customer initiates a request for a new appointment.

(d) A LEC does not miss an appointment for purposes of this subsection when it is unable to meet its obligations due to force majeure, work stoppages directly affecting provision of service in the state of Washington, or other events beyond the LEC's control.

(4) Installation or activation of basic service report. The report must state the total number of orders taken, by central office, in each month for all orders of up to the initial five access lines as required by WAC 480-120-105. The report must include orders with due dates later than five days as requested by a customer. The installation or activation of basic service report must state, by central office, of the total orders taken for the month, the number of orders that the company was unable to complete within five business days after the order date or by a later date as requested by the customer.

(a) A separate report must be filed each calendar quarter that states the total number of orders taken, by central office, in that quarter for all orders of up to the initial five access lines as required by WAC 480-120-105. The installation or activation of basic service ninety-day report must state, of the total orders taken for the quarter, the number of orders that the company was unable to complete within ninety days after the order date.

(b) A separate report must be filed each six months that states the total number of orders taken, by central office, in the last six months for all orders of up to the initial five access lines as required by WAC 480-120-105. The installation or activation of basic service one hundred eighty day report must state, of the total orders taken for six months, the number of orders that the company was unable to complete within one hundred eighty days.

Orders for which customer-provided special equipment is necessary; when a later installation or activation is permitted under WAC 480-120-071; when a technician arrives at the customer's premises at the appointed time and prepared to install service and the customer is not available to provide access; or when the commission has granted an exemption under WAC 480-120-015 from the requirement for installation or activation of a particular order, may be excluded from the total number of orders taken and from the total number of uncompleted orders for the month.

For calculation of the report of orders installed or activated within five business days in a month, orders that could not be installed or activated within five days in that month due to force majeure may be excluded from the total number of orders taken and from the total number of uncompleted orders for the month if the company supplies documentation of the effect of force majeure upon the order.

(5) Major outages report. Notwithstanding subsections (1) and (2) of this section, any company experiencing a major outage that lasts more than forty-eight hours must provide a major outage report to the commission within ten business days of the major outage. The major outages report must include a description of each major outage and a statement that includes the time, the cause, the location and number of

affected access lines, and the duration of the interruption or impairment. When applicable, the report must include a description of preventive actions to be taken to avoid future outages. This reporting requirement does not include company-initiated major outages that are in accordance with the contract provisions between the company and its customers or other planned interruptions that are part of the normal operational and maintenance requirements of the company.

The commission staff may request oral reports from companies concerning major outages at any time and companies must provide the requested information.

(6) Summary trouble reports. Each month companies must submit a report reflecting the standard established in WAC 480-120-438. The report must include the number of reports by central office and the number of lines served by the central office. In addition, the report must include an explanation of causes for each central office that exceeds the service quality standard established in WAC 480-120-438. The reports, including repeated reports, must be presented as a ratio per one hundred lines in service. The reports caused by customer-provided equipment, inside wiring, force majeure, or outages of service caused by persons or entities other than the local exchange company should not be included in this report.

(7) Switching report. Any company experiencing switching problems in excess of the standard established in WAC 480-120-401 (2)(a), must report the problems to the commission. The report must identify the location of every switch that is performing below the standard.

(8) Interoffice, intercompany and interexchange trunk blocking report. Companies that experience trunk blocking in excess of the standard in WAC 480-120-401 (3) and (5) must report each trunk group that does not meet the performance standards. For each trunk group not meeting the performance standards, the report must include the peak percent blocking level experienced during the preceding month, the number of trunks in the trunk group, the busy hour when peak blockage occurs, and whether the problem concerns a standard in WAC 480-120-401 (3) or (5). The report must include an explanation of steps being taken to relieve blockage on any trunk groups that do not meet the standard for two consecutive months.

(9) Repair report.

(a) For service-interruption repairs subject to the requirements of WAC 480-120-440, companies must report the number of service interruptions reported each month, the number repaired within forty-eight hours, and the number repaired more than forty-eight hours after the initial report. In addition, a company must report the number of interruptions that are exempt from the repair interval standards as provided for in WAC 480-120-440.

(b) For service-impairment repairs subject to the requirements of WAC 480-120-440, companies must report the number of service impairments reported each month, the number repaired within seventy-two hours, and the number repaired more than seventy-two hours after the initial report. In addition, a company must report the number of impairments that are exempt from the repair interval standard as provided for in WAC 480-120-440.

(10) **Business office and repair answering system reports.** When requested, companies must report compliance with the standard required in WAC 480-120-133. If requested, companies must provide the same reports to the commission that company managers receive concerning average speed of answer, transfers to live representatives, station busies, and unanswered calls.

(11) The commission may choose to investigate matters to protect the public interest, and may request further information from companies that details geographic area and type of service, and such other information as the commission requests.

(12) If consistent with the purposes of this section, the commission may, by order, approve for a company an alternative measurement or reporting format for any of the reports required by this section, based on evidence that:

(a) The company cannot reasonably provide the measurement or reports as required;

(b) The alternative measurement or reporting format will provide a reasonably accurate measurement of the company's performance relative to the substantive performance standard; and

(c) The ability of the commission and other parties to enforce compliance with substantive performance standard will not be significantly impaired by the use of the alternative measurement or reporting format.

(13) Subsection (12) of this section does not preclude application for an exception under WAC 480-120-015.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommunications companies. (1) The following regulatory requirements are waived for competitively classified companies:

(a) RCW 80.04.300 (Budgets to be filed by companies—Supplementary budgets);

(b) RCW 80.04.310 (Commission's control over expenditures);

(c) RCW 80.04.320 (Budget rules);

(d) RCW 80.04.330 (Effect of unauthorized expenditure—Emergencies);

(e) RCW 80.04.360 (Earnings in excess of reasonable rate—Consideration in fixing rates);

(f) RCW 80.04.460 (Investigation of accidents);

(g) RCW 80.04.520 (lease of utility facilities);

(h) RCW 80.36.100 (Tariff schedules to be filed and open to public);

(i) RCW 80.36.110 (Tariff changes—Statutory notice—Exception);

(j) Chapter 80.08 RCW (Securities) (except RCW 80.08.140, State not obligated);

(k) Chapter 80.12 RCW (Transfers of property);

(l) Chapter 80.16 RCW (Affiliated interests);

(m) WAC 480-80-101 Tariff requirements through WAC 480-80-143 Special contracts for gas, electric, and water companies;

(n) Chapter 480-140 WAC (~~Commission general—Budgets~~);

(o) Chapter 480-143 WAC (~~Commission general—Transfers of property~~);

(p) Chapter 480-146 WAC (~~((securities and affiliated interests))~~) (Commission general—Securities, liens, affiliated interests, refunding of notes, lease of utility facilities);

(q) (~~WAC 480-120-031 (Accounting)~~);

(r) WAC 480-120-032 (Expenditures for political or legislative activities);

(s) WAC 480-120-043 (Notice to the public of tariff changes);

(t) WAC 480-120-046 (Service offered);

(u) WAC 480-120-131 (Reports of accidents);

(v) WAC 480-120-541 (Access charges);

(w) WAC 480-120-542 (Collective consideration of Washington intrastate rate, tariff, or service proposals); and

(x) WAC 480-120-544 (Mandatory cost changes for telecommunications companies); WAC 480-120-102 (Service offered);

(r) WAC 480-120-305 (Streamlined filing requirements for Class B telecommunications company rate increases);

(s) WAC 480-120-311 (Access charge and universal service reporting);

(t) WAC 480-120-321 (Expenditures for political or legislative activities); and

(u) WAC 480-120-323 (Washington Exchange Carrier Association (WECA)).

This rule supersedes all waivers of regulatory requirements for competitively classified companies granted by the commission at the time of a company's competitive classification. However, subsequent to the adoption of this rule, the commission may revoke the waiver of any regulatory requirement set forth in (a) through (~~(x)~~) ((u)) of this subsection or may waive any regulatory requirement not included in (a) through (~~(x)~~) ((u)) of this subsection.

(2) The commission may by order revoke waivers of regulatory requirements if it determines that revocation is necessary to protect the public interest.

(3) In addition, the commission may waive regulatory requirements for telecommunications companies that it has classified as competitive if it determines that competition with the regulatory waiver will serve the same purposes as public interest regulation.

WSR 03-14-109
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed June 30, 2003, 3:55 p.m., effective August 1, 2003]

Date of Adoption: June 27, 2003.

Purpose: The Division of Child Care and Early Learning is adopting new chapter 388-292 WAC to establish the seasonal child care program in Economic Services Administration's WAC and to clarify the existing eligibility criteria, income and copay calculations, rights and responsibilities, authorized services and program guidelines.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-165-130.

Statutory Authority for Adoption: RCW 74.12.340.

Other Authority: Chapter 74.15 RCW.

Adopted under notice filed as WSR 03-09-033 on April 7, 2003.

Changes Other than Editing from Proposed to Adopted Version:

Rule as proposed in WSR 03-01-060	Rule as adopted	Reason
WAC 388-292-0010 (e) A person with parental control as defined in WAC 388-292-005 (1)(c) through (h)	(e) A person with parental control as defined in WAC 388-292-005 (1)(c) through (1)(h)	In response to comments received
WAC 388-292-0075 (2) By writing to the Office of Administrative Hearings, 919 Lakeridge Way S.W., P.O. Box 42488, Olympia, WA 98504-2488 within ninety days of the date any decision of an action is received	(2) By writing to the Office of Administrative Hearings, at the address in <u>WAC 388-02-0025(1) 919 Lakeridge Way SW, PO Box 42488, Olympia, WA 98504-2488</u> within ninety days of the date any decision of an action is received	In response to comments received
WAC 388-292-0060 (4) Have your information held confidentially except when required by federal or state regulations to be shared with other agencies	(4) Have your information held confidentially <u>as required by chapter 42.17 RCW, chapter 388-01 WAC and other applicable state and federal laws.</u> except when required by federal or state regulations to be shared with other agencies	In response to comments received

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 35, 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 35, Amended 0, Repealed 1.

Effective Date of Rule: August 1, 2003.

June 27, 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 eligible 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;

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- (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.
(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 (i);	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:
(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.

(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:

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- (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 as required by Chapter 42.17 RCW, Chapter 388-01 WAC and other applicable state and federal laws;
- (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, at the address in WAC 388-02-0025(1) 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 including:

(a) Family child care homes; and

(b) Child day care centers.

(2) Exempt from licensing but certified by DSHS including:

(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:

(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

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(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 PROCESS

NEW 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 NOTICE

NEW 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 NOTICES

NEW 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 03-15-006
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed July 3, 2003, 9:03 a.m.]

Date of Adoption: July 2, 2003.

Purpose: The Office of the State Actuary (OSA) has provided the Department of Retirement Systems (DRS) updated factors for the calculation of the lump sum costs of purchasing service credit under RCW 41.50.165(2), based on a study that OSA undertakes every six years. As a result, it is necessary for DRS to amend sections in chapter 415-10 WAC. In addition, DRS is adopting new WAC 415-02-370, which provides the actuarial factors used in the calculations.

Citation of Existing Rules Affected by this Order: Amending WAC 415-10-020, 415-10-030, and 415-10-040.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.50.165.

Adopted under notice filed as WSR 03-11-043 on May 16, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 2, 2003

John Charles

Director

NEW SECTION

WAC 415-02-370 Service credit purchase factors. RCW 41.50.165(2) and chapter 415-10 WAC allow a member to purchase service credit by paying the actuarial value of the resulting increase in his or her benefit. This section provides the actuarial factor tables that the department uses to calculate the lump sum costs for the purchase. For more information on the factors and their use, please read chapter 415-10 WAC.

(1) **What are the factors for calculating the lump sum costs of purchasing service credit?** There are three factors that may be used to calculate the cost of purchasing service credit:

(a) **Factor 1** represents the pension accrual rate, the annuity price (value of future benefit payments), increases in average final compensation, future salary increases and interest discount between the member's age at the time of the service credit purchase and the normal retirement age.

(b) **Factor 2** represents the cost of lowering the normal retirement age by one year.

(c) **Factor 3** represents future salary increases and interest discount between the member's age at the time of the service credit purchase and the normal retirement age.

(2) **What is "normal retirement age"?** Normal retirement age (NRA) is the earliest projected age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. The requirements are different among plans; please consult your plan for specific, detailed information.

LEOFF Plan 1:	RCW 41.26.090(1)
LEOFF Plan 2:	RCW 41.26.430(1)
PERS Plan 1:	RCW 41.40.180
PERS Plan 2:	RCW 41.40.630(1)
PERS Plan 3:	RCW 41.40.820(1)
SERS Plan 2:	RCW 41.35.420(1)
SERS Plan 3:	RCW 41.35.680(1)
TRS Plan 1:	RCW 41.32.480
TRS Plan 2:	RCW 41.32.765(1)
TRS Plan 3:	RCW 41.32.875(1)
WSPRS Plan 1:	RCW 43.43.250(2)
WSPRS Plan 2:	RCW 43.43.250(2)

(3) **What is "Months to NRA"?** This means the number of months from the member's age when the service credit is purchased to the member's NRA. The number of months to

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NRA is used to find the applicable factor(s) in Table 1 and Table 3 for calculating the service purchase credit cost.

(4) Table - Factor 1. Factor 1 is used in the calculation of the service credit purchase cost for a member in any PERS, TRS, SERS, LEOFF, or WSPRS plan.

FACTOR 1

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
0	0.3245	0.2922	0.2115	0.2300	0.2445	0.2112	0.2454	0.3026	0.2815
1	0.3236	0.2914	0.2109	0.2294	0.2438	0.2106	0.2447	0.3018	0.2807
2	0.3227	0.2906	0.2104	0.2288	0.2432	0.2101	0.2441	0.3010	0.2800
3	0.3219	0.2898	0.2098	0.2281	0.2425	0.2095	0.2434	0.3001	0.2792
4	0.3210	0.2890	0.2092	0.2275	0.2419	0.2089	0.2427	0.2993	0.2785
5	0.3201	0.2882	0.2087	0.2269	0.2412	0.2084	0.2421	0.2985	0.2777
6	0.3192	0.2874	0.2081	0.2263	0.2406	0.2078	0.2414	0.2977	0.2770
7	0.3183	0.2867	0.2075	0.2257	0.2399	0.2072	0.2407	0.2969	0.2762
8	0.3174	0.2859	0.2070	0.2251	0.2392	0.2067	0.2401	0.2961	0.2754
9	0.3166	0.2851	0.2064	0.2244	0.2386	0.2061	0.2394	0.2952	0.2747
10	0.3157	0.2843	0.2058	0.2238	0.2379	0.2055	0.2387	0.2944	0.2739
11	0.3148	0.2835	0.2053	0.2232	0.2373	0.2050	0.2381	0.2936	0.2732
12	0.3139	0.2827	0.2047	0.2226	0.2366	0.2044	0.2374	0.2928	0.2724
13	0.3131	0.2819	0.2041	0.2220	0.2360	0.2038	0.2368	0.2920	0.2717
14	0.3122	0.2812	0.2036	0.2214	0.2353	0.2033	0.2361	0.2912	0.2709
15	0.3114	0.2804	0.2030	0.2208	0.2347	0.2027	0.2355	0.2904	0.2702
16	0.3105	0.2797	0.2025	0.2202	0.2340	0.2022	0.2348	0.2896	0.2695
17	0.3097	0.2789	0.2019	0.2196	0.2334	0.2016	0.2342	0.2888	0.2687
18	0.3088	0.2782	0.2014	0.2190	0.2327	0.2011	0.2335	0.2880	0.2680
19	0.3080	0.2774	0.2008	0.2184	0.2321	0.2005	0.2329	0.2873	0.2673
20	0.3072	0.2766	0.2002	0.2178	0.2315	0.2000	0.2323	0.2865	0.2665
21	0.3063	0.2759	0.1997	0.2172	0.2308	0.1994	0.2316	0.2857	0.2658
22	0.3055	0.2751	0.1991	0.2166	0.2302	0.1989	0.2310	0.2849	0.2651
23	0.3046	0.2744	0.1986	0.2160	0.2295	0.1983	0.2303	0.2841	0.2643
24	0.3038	0.2736	0.1980	0.2154	0.2289	0.1978	0.2297	0.2833	0.2636
25	0.3030	0.2729	0.1975	0.2148	0.2283	0.1973	0.2291	0.2825	0.2629
26	0.3021	0.2721	0.1969	0.2142	0.2277	0.1967	0.2285	0.2818	0.2622
27	0.3013	0.2714	0.1964	0.2137	0.2270	0.1962	0.2278	0.2810	0.2614
28	0.3005	0.2706	0.1959	0.2131	0.2264	0.1957	0.2272	0.2803	0.2607
29	0.2997	0.2699	0.1953	0.2125	0.2258	0.1951	0.2266	0.2795	0.2600
30	0.2988	0.2691	0.1948	0.2119	0.2252	0.1946	0.2260	0.2788	0.2593
31	0.2980	0.2684	0.1943	0.2113	0.2246	0.1941	0.2254	0.2780	0.2586
32	0.2972	0.2677	0.1937	0.2107	0.2240	0.1935	0.2248	0.2772	0.2579
33	0.2964	0.2669	0.1932	0.2102	0.2233	0.1930	0.2241	0.2765	0.2571
34	0.2955	0.2662	0.1927	0.2096	0.2227	0.1925	0.2235	0.2757	0.2564
35	0.2947	0.2654	0.1921	0.2090	0.2221	0.1919	0.2229	0.2750	0.2557
36	0.2939	0.2647	0.1916	0.2084	0.2215	0.1914	0.2223	0.2742	0.2550
37	0.2931	0.2640	0.1911	0.2078	0.2209	0.1909	0.2217	0.2735	0.2543
38	0.2923	0.2633	0.1906	0.2073	0.2203	0.1904	0.2211	0.2727	0.2536
39	0.2915	0.2625	0.1900	0.2067	0.2197	0.1898	0.2205	0.2720	0.2530
40	0.2907	0.2618	0.1895	0.2061	0.2191	0.1893	0.2199	0.2712	0.2523

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Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
41	0.2899	0.2611	0.1890	0.2056	0.2185	0.1888	0.2193	0.2705	0.2516
42	0.2891	0.2604	0.1885	0.2050	0.2179	0.1883	0.2187	0.2697	0.2509
43	0.2884	0.2597	0.1880	0.2044	0.2173	0.1878	0.2181	0.2690	0.2502
44	0.2876	0.2590	0.1875	0.2039	0.2167	0.1873	0.2175	0.2683	0.2495
45	0.2868	0.2582	0.1869	0.2033	0.2161	0.1867	0.2169	0.2675	0.2489
46	0.2860	0.2575	0.1864	0.2027	0.2155	0.1862	0.2163	0.2668	0.2482
47	0.2852	0.2568	0.1859	0.2022	0.2149	0.1857	0.2157	0.2660	0.2475
48	0.2844	0.2561	0.1854	0.2016	0.2143	0.1852	0.2151	0.2653	0.2468
49	0.2836	0.2554	0.1849	0.2011	0.2137	0.1847	0.2145	0.2646	0.2461
50	0.2829	0.2547	0.1844	0.2005	0.2131	0.1842	0.2139	0.2639	0.2455
51	0.2821	0.2540	0.1839	0.2000	0.2126	0.1837	0.2134	0.2631	0.2448
52	0.2813	0.2533	0.1834	0.1994	0.2120	0.1832	0.2128	0.2624	0.2441
53	0.2806	0.2526	0.1829	0.1989	0.2114	0.1827	0.2122	0.2617	0.2435
54	0.2798	0.2519	0.1824	0.1983	0.2108	0.1822	0.2116	0.2610	0.2428
55	0.2790	0.2513	0.1819	0.1978	0.2103	0.1817	0.2110	0.2603	0.2421
56	0.2783	0.2506	0.1814	0.1973	0.2097	0.1812	0.2104	0.2596	0.2415
57	0.2775	0.2499	0.1809	0.1967	0.2091	0.1807	0.2099	0.2588	0.2408
58	0.2767	0.2492	0.1804	0.1962	0.2085	0.1802	0.2093	0.2581	0.2401
59	0.2760	0.2485	0.1799	0.1956	0.2080	0.1797	0.2087	0.2574	0.2395
60	0.2752	0.2478	0.1794	0.1951	0.2074	0.1792	0.2081	0.2567	0.2388
61	0.2745	0.2471	0.1789	0.1946	0.2068	0.1787	0.2075	0.2560	0.2381
62	0.2737	0.2465	0.1784	0.1940	0.2063	0.1782	0.2070	0.2553	0.2375
63	0.2730	0.2458	0.1780	0.1935	0.2057	0.1778	0.2064	0.2546	0.2368
64	0.2722	0.2451	0.1775	0.1930	0.2052	0.1773	0.2059	0.2539	0.2362
65	0.2715	0.2445	0.1770	0.1925	0.2046	0.1768	0.2053	0.2532	0.2355
66	0.2707	0.2438	0.1765	0.1919	0.2041	0.1763	0.2048	0.2525	0.2349
67	0.2700	0.2431	0.1760	0.1914	0.2035	0.1758	0.2042	0.2519	0.2342
68	0.2693	0.2425	0.1755	0.1909	0.2029	0.1753	0.2036	0.2512	0.2336
69	0.2685	0.2418	0.1751	0.1904	0.2024	0.1749	0.2031	0.2505	0.2329
70	0.2678	0.2411	0.1746	0.1898	0.2018	0.1744	0.2025	0.2498	0.2323
71	0.2670	0.2405	0.1741	0.1893	0.2013	0.1739	0.2020	0.2491	0.2316
72	0.2663	0.2398	0.1736	0.1888	0.2007	0.1734	0.2014	0.2484	0.2310
73	0.2656	0.2391	0.1731	0.1883	0.2002	0.1729	0.2009	0.2477	0.2304
74	0.2648	0.2385	0.1727	0.1878	0.1996	0.1724	0.2003	0.2470	0.2297
75	0.2641	0.2378	0.1722	0.1872	0.1991	0.1720	0.1998	0.2464	0.2291
76	0.2634	0.2372	0.1717	0.1867	0.1985	0.1715	0.1992	0.2457	0.2285
77	0.2627	0.2365	0.1713	0.1862	0.1980	0.1710	0.1987	0.2450	0.2279
78	0.2619	0.2359	0.1708	0.1857	0.1974	0.1705	0.1981	0.2443	0.2272
79	0.2612	0.2352	0.1703	0.1852	0.1969	0.1701	0.1976	0.2437	0.2266
80	0.2605	0.2346	0.1699	0.1847	0.1964	0.1696	0.1971	0.2430	0.2260
81	0.2598	0.2339	0.1694	0.1841	0.1958	0.1691	0.1965	0.2423	0.2254
82	0.2590	0.2333	0.1689	0.1836	0.1953	0.1686	0.1960	0.2416	0.2247
83	0.2583	0.2326	0.1685	0.1831	0.1947	0.1682	0.1954	0.2410	0.2241
84	0.2576	0.2320	0.1680	0.1826	0.1942	0.1677	0.1949	0.2403	0.2235
85	0.2569	0.2314	0.1675	0.1821	0.1937	0.1672	0.1944	0.2396	0.2229

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Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
86	0.2562	0.2307	0.1671	0.1816	0.1931	0.1668	0.1938	0.2390	0.2223
87	0.2555	0.2301	0.1666	0.1811	0.1926	0.1663	0.1933	0.2383	0.2217
88	0.2548	0.2295	0.1662	0.1806	0.1921	0.1659	0.1928	0.2377	0.2211
89	0.2541	0.2289	0.1657	0.1801	0.1916	0.1654	0.1922	0.2370	0.2205
90	0.2534	0.2282	0.1653	0.1796	0.1910	0.1650	0.1917	0.2364	0.2199
91	0.2528	0.2276	0.1648	0.1792	0.1905	0.1645	0.1912	0.2357	0.2193
92	0.2521	0.2270	0.1643	0.1787	0.1900	0.1641	0.1906	0.2351	0.2187
93	0.2514	0.2264	0.1639	0.1782	0.1895	0.1636	0.1901	0.2344	0.2181
94	0.2507	0.2257	0.1634	0.1777	0.1889	0.1632	0.1896	0.2338	0.2175
95	0.2500	0.2251	0.1630	0.1772	0.1884	0.1627	0.1890	0.2331	0.2169
96	0.2493	0.2245	0.1625	0.1767	0.1879	0.1623	0.1885	0.2325	0.2163
97	0.2486	0.2239	0.1621	0.1762	0.1874	0.1619	0.1880	0.2319	0.2157
98	0.2479	0.2233	0.1616	0.1757	0.1869	0.1614	0.1875	0.2312	0.2151
99	0.2473	0.2227	0.1612	0.1753	0.1864	0.1610	0.1870	0.2306	0.2146
100	0.2466	0.2221	0.1608	0.1748	0.1859	0.1605	0.1865	0.2300	0.2140
101	0.2459	0.2215	0.1603	0.1743	0.1854	0.1601	0.1860	0.2294	0.2134
102	0.2452	0.2209	0.1599	0.1738	0.1849	0.1596	0.1855	0.2287	0.2128
103	0.2446	0.2202	0.1595	0.1734	0.1843	0.1592	0.1849	0.2281	0.2122
104	0.2439	0.2196	0.1590	0.1729	0.1838	0.1588	0.1844	0.2275	0.2116
105	0.2432	0.2190	0.1586	0.1724	0.1833	0.1583	0.1839	0.2269	0.2111
106	0.2425	0.2184	0.1582	0.1719	0.1828	0.1579	0.1834	0.2262	0.2105
107	0.2419	0.2178	0.1577	0.1715	0.1823	0.1574	0.1829	0.2256	0.2099
108	0.2412	0.2172	0.1573	0.1710	0.1818	0.1570	0.1824	0.2250	0.2093
109	0.2405	0.2166	0.1569	0.1705	0.1813	0.1566	0.1819	0.2244	0.2087
110	0.2399	0.2160	0.1564	0.1701	0.1808	0.1562	0.1814	0.2238	0.2082
111	0.2392	0.2155	0.1560	0.1696	0.1803	0.1557	0.1809	0.2232	0.2076
112	0.2386	0.2149	0.1556	0.1692	0.1798	0.1553	0.1804	0.2226	0.2070
113	0.2379	0.2143	0.1552	0.1687	0.1793	0.1549	0.1799	0.2220	0.2065
114	0.2373	0.2137	0.1547	0.1683	0.1788	0.1545	0.1794	0.2214	0.2059
115	0.2366	0.2131	0.1543	0.1678	0.1784	0.1541	0.1790	0.2207	0.2053
116	0.2360	0.2125	0.1539	0.1673	0.1779	0.1537	0.1785	0.2201	0.2048
117	0.2353	0.2120	0.1535	0.1669	0.1774	0.1532	0.1780	0.2195	0.2042
118	0.2347	0.2114	0.1530	0.1664	0.1769	0.1528	0.1775	0.2189	0.2036
119	0.2340	0.2108	0.1526	0.1660	0.1764	0.1524	0.1770	0.2183	0.2031
120	0.2334	0.2102	0.1522	0.1655	0.1759	0.1520	0.1765	0.2177	0.2025
121	0.2328	0.2096	0.1518	0.1650	0.1754	0.1516	0.1760	0.2171	0.2019
122	0.2321	0.2091	0.1514	0.1646	0.1749	0.1512	0.1755	0.2165	0.2014
123	0.2315	0.2085	0.1509	0.1641	0.1745	0.1507	0.1751	0.2159	0.2008
124	0.2309	0.2079	0.1505	0.1637	0.1740	0.1503	0.1746	0.2153	0.2003
125	0.2302	0.2074	0.1501	0.1632	0.1735	0.1499	0.1741	0.2147	0.1997
126	0.2296	0.2068	0.1497	0.1628	0.1730	0.1495	0.1736	0.2141	0.1992
127	0.2290	0.2062	0.1493	0.1623	0.1726	0.1491	0.1732	0.2136	0.1986
128	0.2283	0.2057	0.1489	0.1619	0.1721	0.1487	0.1727	0.2130	0.1981
129	0.2277	0.2051	0.1484	0.1614	0.1716	0.1482	0.1722	0.2124	0.1975
130	0.2271	0.2045	0.1480	0.1610	0.1711	0.1478	0.1717	0.2118	0.1970

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Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
131	0.2264	0.2040	0.1476	0.1605	0.1707	0.1474	0.1713	0.2112	0.1964
132	0.2258	0.2034	0.1472	0.1601	0.1702	0.1470	0.1708	0.2106	0.1959
133	0.2252	0.2028	0.1468	0.1597	0.1697	0.1466	0.1703	0.2100	0.1954
134	0.2246	0.2023	0.1464	0.1592	0.1693	0.1462	0.1699	0.2095	0.1948
135	0.2240	0.2017	0.1460	0.1588	0.1688	0.1458	0.1694	0.2089	0.1943
136	0.2234	0.2012	0.1456	0.1584	0.1684	0.1454	0.1690	0.2083	0.1938
137	0.2228	0.2006	0.1452	0.1579	0.1679	0.1450	0.1685	0.2078	0.1933
138	0.2222	0.2001	0.1448	0.1575	0.1675	0.1446	0.1681	0.2072	0.1927
139	0.2215	0.1995	0.1445	0.1571	0.1670	0.1443	0.1676	0.2066	0.1922
140	0.2209	0.1990	0.1441	0.1566	0.1665	0.1439	0.1671	0.2061	0.1917
141	0.2203	0.1984	0.1437	0.1562	0.1661	0.1435	0.1667	0.2055	0.1912
142	0.2197	0.1979	0.1433	0.1558	0.1656	0.1431	0.1662	0.2049	0.1906
143	0.2191	0.1973	0.1429	0.1553	0.1652	0.1427	0.1658	0.2044	0.1901
144	0.2185	0.1968	0.1425	0.1549	0.1647	0.1423	0.1653	0.2038	0.1896
145	0.2179	0.1963	0.1421	0.1545	0.1642	0.1419	0.1648	0.2032	0.1891
146	0.2173	0.1957	0.1417	0.1541	0.1638	0.1415	0.1644	0.2027	0.1886
147	0.2167	0.1952	0.1413	0.1536	0.1633	0.1412	0.1639	0.2021	0.1881
148	0.2161	0.1947	0.1409	0.1532	0.1629	0.1408	0.1635	0.2016	0.1876
149	0.2155	0.1941	0.1405	0.1528	0.1624	0.1404	0.1630	0.2010	0.1871
150	0.2149	0.1936	0.1401	0.1524	0.1620	0.1400	0.1626	0.2005	0.1866
151	0.2144	0.1931	0.1398	0.1520	0.1615	0.1396	0.1621	0.1999	0.1860
152	0.2138	0.1925	0.1394	0.1516	0.1611	0.1392	0.1617	0.1994	0.1855
153	0.2132	0.1920	0.1390	0.1511	0.1606	0.1389	0.1612	0.1988	0.1850
154	0.2126	0.1915	0.1386	0.1507	0.1602	0.1385	0.1608	0.1983	0.1845
155	0.2120	0.1909	0.1382	0.1503	0.1597	0.1381	0.1603	0.1977	0.1840
156	0.2114	0.1904	0.1378	0.1499	0.1593	0.1377	0.1599	0.1972	0.1835
157	0.2108	0.1899	0.1374	0.1495	0.1589	0.1373	0.1595	0.1967	0.1830
158	0.2103	0.1894	0.1371	0.1491	0.1584	0.1369	0.1590	0.1961	0.1825
159	0.2097	0.1888	0.1367	0.1487	0.1580	0.1366	0.1586	0.1956	0.1820
160	0.2091	0.1883	0.1363	0.1483	0.1576	0.1362	0.1582	0.1951	0.1815
161	0.2086	0.1878	0.1360	0.1479	0.1572	0.1358	0.1577	0.1945	0.1810
162	0.2080	0.1873	0.1356	0.1475	0.1567	0.1354	0.1573	0.1940	0.1805
163	0.2074	0.1868	0.1352	0.1470	0.1563	0.1351	0.1569	0.1935	0.1800
164	0.2069	0.1863	0.1349	0.1466	0.1559	0.1347	0.1564	0.1929	0.1795
165	0.2063	0.1857	0.1345	0.1462	0.1555	0.1343	0.1560	0.1924	0.1790
166	0.2057	0.1852	0.1341	0.1458	0.1550	0.1339	0.1556	0.1919	0.1785
167	0.2052	0.1847	0.1338	0.1454	0.1546	0.1336	0.1551	0.1913	0.1780
168	0.2046	0.1842	0.1334	0.1450	0.1542	0.1332	0.1547	0.1908	0.1775
169	0.2040	0.1837	0.1330	0.1446	0.1538	0.1328	0.1543	0.1903	0.1770
170	0.2035	0.1832	0.1327	0.1442	0.1534	0.1325	0.1539	0.1898	0.1765
171	0.2029	0.1827	0.1323	0.1438	0.1529	0.1321	0.1534	0.1892	0.1761
172	0.2024	0.1822	0.1319	0.1434	0.1525	0.1318	0.1530	0.1887	0.1756
173	0.2018	0.1817	0.1316	0.1430	0.1521	0.1314	0.1526	0.1882	0.1751
174	0.2013	0.1812	0.1312	0.1426	0.1517	0.1311	0.1522	0.1877	0.1746
175	0.2007	0.1808	0.1308	0.1423	0.1513	0.1307	0.1518	0.1872	0.1742

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
176	0.2001	0.1803	0.1305	0.1419	0.1509	0.1303	0.1514	0.1867	0.1737
177	0.1996	0.1798	0.1301	0.1415	0.1504	0.1300	0.1509	0.1861	0.1732
178	0.1990	0.1793	0.1297	0.1411	0.1500	0.1296	0.1505	0.1856	0.1727
179	0.1985	0.1788	0.1294	0.1407	0.1496	0.1293	0.1501	0.1851	0.1723
180	0.1979	0.1783	0.1290	0.1403	0.1492	0.1289	0.1497	0.1846	0.1718
181	0.1974	0.1778	0.1287	0.1399	0.1488	0.1285	0.1493	0.1841	0.1713
182	0.1968	0.1773	0.1283	0.1395	0.1484	0.1282	0.1489	0.1836	0.1709
183	0.1963	0.1769	0.1280	0.1392	0.1480	0.1278	0.1485	0.1831	0.1704
184	0.1958	0.1764	0.1276	0.1388	0.1476	0.1275	0.1481	0.1826	0.1699
185	0.1952	0.1759	0.1273	0.1384	0.1472	0.1271	0.1477	0.1821	0.1695
186	0.1947	0.1754	0.1269	0.1380	0.1468	0.1268	0.1473	0.1816	0.1690
187	0.1942	0.1749	0.1266	0.1377	0.1463	0.1264	0.1469	0.1812	0.1685
188	0.1936	0.1744	0.1263	0.1373	0.1459	0.1261	0.1465	0.1807	0.1681
189	0.1931	0.1740	0.1259	0.1369	0.1455	0.1257	0.1461	0.1802	0.1676
190	0.1926	0.1735	0.1256	0.1365	0.1451	0.1254	0.1457	0.1797	0.1671
191	0.1920	0.1730	0.1252	0.1362	0.1447	0.1250	0.1453	0.1792	0.1667
192	0.1915	0.1725	0.1249	0.1358	0.1443	0.1247	0.1449	0.1787	0.1662
193	0.1910	0.1720	0.1246	0.1354	0.1439	0.1244	0.1445	0.1782	0.1657
194	0.1905	0.1716	0.1242	0.1351	0.1435	0.1240	0.1441	0.1777	0.1653
195	0.1899	0.1711	0.1239	0.1347	0.1432	0.1237	0.1437	0.1773	0.1648
196	0.1894	0.1706	0.1235	0.1343	0.1428	0.1234	0.1433	0.1768	0.1644
197	0.1889	0.1702	0.1232	0.1340	0.1424	0.1230	0.1429	0.1763	0.1639
198	0.1884	0.1697	0.1228	0.1336	0.1420	0.1227	0.1425	0.1758	0.1635
199	0.1879	0.1692	0.1225	0.1332	0.1416	0.1224	0.1422	0.1753	0.1630
200	0.1874	0.1688	0.1222	0.1329	0.1412	0.1220	0.1418	0.1748	0.1626
201	0.1868	0.1683	0.1218	0.1325	0.1409	0.1217	0.1414	0.1744	0.1621
202	0.1863	0.1678	0.1215	0.1321	0.1405	0.1214	0.1410	0.1739	0.1617
203	0.1858	0.1674	0.1211	0.1318	0.1401	0.1210	0.1406	0.1734	0.1612
204	0.1853	0.1669	0.1208	0.1314	0.1397	0.1207	0.1402	0.1729	0.1608
205	0.1848	0.1664	0.1205	0.1310	0.1393	0.1204	0.1398	0.1724	0.1604
206	0.1843	0.1660	0.1201	0.1307	0.1389	0.1200	0.1394	0.1720	0.1599
207	0.1838	0.1655	0.1198	0.1303	0.1386	0.1197	0.1391	0.1715	0.1595
208	0.1833	0.1651	0.1195	0.1300	0.1382	0.1194	0.1387	0.1710	0.1591
209	0.1828	0.1646	0.1192	0.1296	0.1378	0.1191	0.1383	0.1706	0.1586
210	0.1823	0.1642	0.1188	0.1293	0.1374	0.1187	0.1379	0.1701	0.1582
211	0.1818	0.1637	0.1185	0.1289	0.1370	0.1184	0.1375	0.1696	0.1578
212	0.1813	0.1633	0.1182	0.1285	0.1366	0.1181	0.1371	0.1692	0.1573
213	0.1808	0.1628	0.1179	0.1282	0.1363	0.1178	0.1368	0.1687	0.1569
214	0.1803	0.1624	0.1175	0.1278	0.1359	0.1174	0.1364	0.1682	0.1565
215	0.1798	0.1619	0.1172	0.1275	0.1355	0.1171	0.1360	0.1678	0.1560
216	0.1793	0.1615	0.1169	0.1271	0.1351	0.1168	0.1356	0.1673	0.1556
217	0.1788	0.1611	0.1166	0.1268	0.1347	0.1165	0.1352	0.1668	0.1552
218	0.1783	0.1606	0.1163	0.1264	0.1344	0.1162	0.1349	0.1664	0.1547
219	0.1779	0.1602	0.1159	0.1261	0.1340	0.1158	0.1345	0.1659	0.1543
220	0.1774	0.1597	0.1156	0.1257	0.1337	0.1155	0.1341	0.1655	0.1539

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
221	0.1769	0.1593	0.1153	0.1254	0.1333	0.1152	0.1338	0.1650	0.1535
222	0.1764	0.1588	0.1150	0.1250	0.1330	0.1149	0.1334	0.1646	0.1530
223	0.1759	0.1584	0.1147	0.1247	0.1326	0.1146	0.1330	0.1641	0.1526
224	0.1754	0.1580	0.1144	0.1244	0.1322	0.1143	0.1327	0.1636	0.1522
225	0.1750	0.1575	0.1140	0.1240	0.1319	0.1139	0.1323	0.1632	0.1518
226	0.1745	0.1571	0.1137	0.1237	0.1315	0.1136	0.1319	0.1627	0.1513
227	0.1740	0.1566	0.1134	0.1233	0.1312	0.1133	0.1316	0.1623	0.1509
228	0.1735	0.1562	0.1131	0.1230	0.1308	0.1130	0.1312	0.1618	0.1505
229	0.1730	0.1558	0.1128	0.1227	0.1304	0.1127	0.1308	0.1614	0.1501
230	0.1726	0.1554	0.1125	0.1223	0.1301	0.1124	0.1305	0.1609	0.1497
231	0.1721	0.1549	0.1122	0.1220	0.1297	0.1121	0.1301	0.1605	0.1493
232	0.1716	0.1545	0.1119	0.1217	0.1294	0.1118	0.1298	0.1601	0.1489
233	0.1712	0.1541	0.1116	0.1213	0.1290	0.1115	0.1294	0.1596	0.1485
234	0.1707	0.1537	0.1113	0.1210	0.1287	0.1112	0.1291	0.1592	0.1481
235	0.1702	0.1533	0.1109	0.1207	0.1283	0.1108	0.1287	0.1588	0.1477
236	0.1698	0.1529	0.1106	0.1203	0.1279	0.1105	0.1284	0.1583	0.1473
237	0.1693	0.1524	0.1103	0.1200	0.1276	0.1102	0.1280	0.1579	0.1469
238	0.1688	0.1520	0.1100	0.1197	0.1272	0.1099	0.1277	0.1575	0.1465
239	0.1684	0.1516	0.1097	0.1193	0.1269	0.1096	0.1273	0.1570	0.1461
240	0.1679	0.1512	0.1094	0.1190	0.1265	0.1093	0.1270	0.1566	0.1457
241	0.1674	0.1508	0.1091	0.1187	0.1262	0.1090	0.1267	0.1562	0.1453
242	0.1670	0.1504	0.1088	0.1184	0.1258	0.1087	0.1263	0.1557	0.1449
243	0.1665	0.1500	0.1085	0.1180	0.1255	0.1084	0.1260	0.1553	0.1445
244	0.1661	0.1496	0.1082	0.1177	0.1251	0.1081	0.1256	0.1549	0.1441
245	0.1656	0.1492	0.1079	0.1174	0.1248	0.1078	0.1253	0.1545	0.1437
246	0.1652	0.1488	0.1076	0.1171	0.1244	0.1075	0.1249	0.1540	0.1433
247	0.1647	0.1483	0.1074	0.1168	0.1241	0.1073	0.1246	0.1536	0.1429
248	0.1642	0.1479	0.1071	0.1165	0.1238	0.1070	0.1243	0.1532	0.1425
249	0.1638	0.1475	0.1068	0.1161	0.1234	0.1067	0.1239	0.1528	0.1421
250	0.1633	0.1471	0.1065	0.1158	0.1231	0.1064	0.1236	0.1523	0.1417
251	0.1629	0.1467	0.1062	0.1155	0.1227	0.1061	0.1232	0.1519	0.1413
252	0.1624	0.1463	0.1059	0.1152	0.1224	0.1058	0.1229	0.1515	0.1409
253	0.1620	0.1459	0.1056	0.1149	0.1221	0.1055	0.1226	0.1511	0.1405
254	0.1615	0.1455	0.1053	0.1146	0.1217	0.1052	0.1222	0.1507	0.1401
255	0.1611	0.1451	0.1051	0.1142	0.1214	0.1049	0.1219	0.1503	0.1398
256	0.1607	0.1447	0.1048	0.1139	0.1211	0.1046	0.1216	0.1499	0.1394
257	0.1602	0.1443	0.1045	0.1136	0.1208	0.1043	0.1212	0.1495	0.1390
258	0.1598	0.1439	0.1042	0.1133	0.1204	0.1040	0.1209	0.1491	0.1386
259	0.1594	0.1435	0.1039	0.1130	0.1201	0.1038	0.1206	0.1486	0.1383
260	0.1589	0.1431	0.1036	0.1127	0.1198	0.1035	0.1202	0.1482	0.1379
261	0.1585	0.1427	0.1034	0.1123	0.1195	0.1032	0.1199	0.1478	0.1375
262	0.1581	0.1423	0.1031	0.1120	0.1191	0.1029	0.1196	0.1474	0.1371
263	0.1576	0.1419	0.1028	0.1117	0.1188	0.1026	0.1192	0.1470	0.1368
264	0.1572	0.1415	0.1025	0.1114	0.1185	0.1023	0.1189	0.1466	0.1364
265	0.1568	0.1411	0.1022	0.1111	0.1182	0.1020	0.1186	0.1462	0.1360

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
266	0.1563	0.1407	0.1019	0.1108	0.1178	0.1017	0.1182	0.1458	0.1357
267	0.1559	0.1404	0.1017	0.1105	0.1175	0.1015	0.1179	0.1454	0.1353
268	0.1555	0.1400	0.1014	0.1102	0.1172	0.1012	0.1176	0.1450	0.1349
269	0.1551	0.1396	0.1011	0.1099	0.1169	0.1009	0.1173	0.1446	0.1346
270	0.1546	0.1392	0.1008	0.1096	0.1165	0.1006	0.1169	0.1442	0.1342
271	0.1542	0.1389	0.1006	0.1093	0.1162	0.1004	0.1166	0.1439	0.1338
272	0.1538	0.1385	0.1003	0.1090	0.1159	0.1001	0.1163	0.1435	0.1335
273	0.1534	0.1381	0.1000	0.1087	0.1156	0.0998	0.1160	0.1431	0.1331
274	0.1529	0.1377	0.0997	0.1084	0.1152	0.0995	0.1156	0.1427	0.1327
275	0.1525	0.1374	0.0995	0.1081	0.1149	0.0993	0.1153	0.1423	0.1324
276	0.1521	0.1370	0.0992	0.1078	0.1146	0.0990	0.1150	0.1419	0.1320
277	0.1517	0.1366	0.0989	0.1075	0.1143	0.0987	0.1147	0.1415	0.1316
278	0.1513	0.1362	0.0986	0.1072	0.1140	0.0985	0.1144	0.1411	0.1313
279	0.1509	0.1359	0.0984	0.1069	0.1137	0.0982	0.1141	0.1408	0.1309
280	0.1505	0.1355	0.0981	0.1066	0.1134	0.0979	0.1138	0.1404	0.1306
281	0.1501	0.1351	0.0978	0.1063	0.1131	0.0977	0.1135	0.1400	0.1302
282	0.1497	0.1347	0.0975	0.1060	0.1128	0.0974	0.1132	0.1396	0.1299
283	0.1492	0.1344	0.0973	0.1058	0.1124	0.0971	0.1128	0.1392	0.1295
284	0.1488	0.1340	0.0970	0.1055	0.1121	0.0969	0.1125	0.1388	0.1291
285	0.1484	0.1336	0.0967	0.1052	0.1118	0.0966	0.1122	0.1385	0.1288
286	0.1480	0.1332	0.0964	0.1049	0.1115	0.0963	0.1119	0.1381	0.1284
287	0.1476	0.1329	0.0962	0.1046	0.1112	0.0961	0.1116	0.1377	0.1281
288	0.1472	0.1325	0.0959	0.1043	0.1109	0.0958	0.1113	0.1373	0.1277
289	0.1468	0.1321	0.0956	0.1040	0.1106	0.0955	0.1110	0.1369	0.1273
290	0.1464	0.1318	0.0954	0.1037	0.1103	0.0953	0.1107	0.1365	0.1270
291	0.1460	0.1314	0.0951	0.1035	0.1100	0.0950	0.1104	0.1362	0.1266
292	0.1456	0.1311	0.0949	0.1032	0.1097	0.0948	0.1101	0.1358	0.1263
293	0.1452	0.1307	0.0946	0.1029	0.1094	0.0945	0.1098	0.1354	0.1259
294	0.1448	0.1304	0.0944	0.1026	0.1091	0.0943	0.1095	0.1350	0.1256
295	0.1444	0.1300	0.0941	0.1023	0.1088	0.0940	0.1092	0.1347	0.1252
296	0.1440	0.1296	0.0938	0.1020	0.1085	0.0937	0.1089	0.1343	0.1249
297	0.1436	0.1293	0.0936	0.1018	0.1082	0.0935	0.1086	0.1339	0.1245
298	0.1432	0.1289	0.0933	0.1015	0.1079	0.0932	0.1083	0.1335	0.1242
299	0.1428	0.1286	0.0931	0.1012	0.1076	0.0930	0.1080	0.1332	0.1238
300	0.1424	0.1282	0.0928	0.1009	0.1073	0.0927	0.1077	0.1328	0.1235
301	0.1420	0.1279	0.0925	0.1006	0.1070	0.0924	0.1074	0.1324	0.1232
302	0.1416	0.1275	0.0923	0.1004	0.1067	0.0922	0.1071	0.1321	0.1228
303	0.1413	0.1272	0.0920	0.1001	0.1064	0.0919	0.1068	0.1317	0.1225
304	0.1409	0.1268	0.0918	0.0998	0.1061	0.0917	0.1065	0.1314	0.1222
305	0.1405	0.1265	0.0915	0.0996	0.1058	0.0914	0.1062	0.1310	0.1218
306	0.1401	0.1261	0.0913	0.0993	0.1055	0.0912	0.1059	0.1307	0.1215
307	0.1397	0.1258	0.0910	0.0990	0.1053	0.0909	0.1057	0.1303	0.1212
308	0.1393	0.1255	0.0908	0.0988	0.1050	0.0907	0.1054	0.1299	0.1208
309	0.1390	0.1251	0.0905	0.0985	0.1047	0.0904	0.1051	0.1296	0.1205
310	0.1386	0.1248	0.0903	0.0982	0.1044	0.0902	0.1048	0.1292	0.1202

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
311	0.1382	0.1244	0.0900	0.0980	0.1041	0.0899	0.1045	0.1289	0.1198
312	0.1378	0.1241	0.0898	0.0977	0.1038	0.0897	0.1042	0.1285	0.1195
313	0.1374	0.1238	0.0896	0.0974	0.1035	0.0895	0.1039	0.1281	0.1192
314	0.1370	0.1234	0.0893	0.0972	0.1032	0.0892	0.1036	0.1278	0.1189
315	0.1367	0.1231	0.0891	0.0969	0.1030	0.0890	0.1034	0.1274	0.1185
316	0.1363	0.1227	0.0888	0.0966	0.1027	0.0887	0.1031	0.1271	0.1182
317	0.1359	0.1224	0.0886	0.0964	0.1024	0.0885	0.1028	0.1267	0.1179
318	0.1355	0.1220	0.0883	0.0961	0.1021	0.0882	0.1025	0.1264	0.1176
319	0.1352	0.1217	0.0881	0.0958	0.1019	0.0880	0.1022	0.1260	0.1173
320	0.1348	0.1214	0.0879	0.0956	0.1016	0.0878	0.1019	0.1257	0.1170
321	0.1344	0.1210	0.0876	0.0953	0.1013	0.0875	0.1017	0.1253	0.1166
322	0.1340	0.1207	0.0874	0.0950	0.1010	0.0873	0.1014	0.1250	0.1163
323	0.1337	0.1203	0.0871	0.0948	0.1008	0.0870	0.1011	0.1246	0.1160
324	0.1333	0.1200	0.0869	0.0945	0.1005	0.0868	0.1008	0.1243	0.1157
325	0.1329	0.1197	0.0867	0.0942	0.1002	0.0866	0.1005	0.1240	0.1154
326	0.1326	0.1194	0.0864	0.0940	0.0999	0.0863	0.1003	0.1236	0.1151
327	0.1322	0.1190	0.0862	0.0937	0.0997	0.0861	0.1000	0.1233	0.1147
328	0.1319	0.1187	0.0860	0.0935	0.0994	0.0859	0.0997	0.1230	0.1144
329	0.1315	0.1184	0.0857	0.0932	0.0991	0.0856	0.0995	0.1226	0.1141
330	0.1312	0.1181	0.0855	0.0930	0.0988	0.0854	0.0992	0.1223	0.1138
331	0.1308	0.1178	0.0853	0.0927	0.0986	0.0852	0.0989	0.1220	0.1135
332	0.1304	0.1175	0.0850	0.0924	0.0983	0.0849	0.0987	0.1216	0.1132
333	0.1301	0.1171	0.0848	0.0922	0.0980	0.0847	0.0984	0.1213	0.1128
334	0.1297	0.1168	0.0846	0.0919	0.0977	0.0845	0.0981	0.1210	0.1125
335	0.1294	0.1165	0.0843	0.0917	0.0975	0.0842	0.0979	0.1206	0.1122
336	0.1290	0.1162	0.0841	0.0914	0.0972	0.0840	0.0976	0.1203	0.1119
337	0.1286	0.1159	0.0839	0.0912	0.0969	0.0838	0.0973	0.1200	0.1116
338	0.1283	0.1156	0.0836	0.0909	0.0967	0.0835	0.0971	0.1196	0.1113
339	0.1279	0.1152	0.0834	0.0907	0.0964	0.0833	0.0968	0.1193	0.1110
340	0.1276	0.1149	0.0832	0.0904	0.0962	0.0831	0.0965	0.1190	0.1107
341	0.1272	0.1146	0.0830	0.0902	0.0959	0.0829	0.0963	0.1187	0.1104
342	0.1269	0.1143	0.0827	0.0899	0.0957	0.0826	0.0960	0.1183	0.1101
343	0.1265	0.1140	0.0825	0.0897	0.0954	0.0824	0.0957	0.1180	0.1098
344	0.1262	0.1137	0.0823	0.0895	0.0951	0.0822	0.0955	0.1177	0.1095
345	0.1258	0.1133	0.0821	0.0892	0.0949	0.0820	0.0952	0.1174	0.1092
346	0.1255	0.1130	0.0818	0.0890	0.0946	0.0817	0.0949	0.1170	0.1089
347	0.1251	0.1127	0.0816	0.0887	0.0944	0.0815	0.0947	0.1167	0.1086
348	0.1248	0.1124	0.0814	0.0885	0.0941	0.0813	0.0944	0.1164	0.1083
349	0.1245	0.1121	0.0812	0.0883	0.0938	0.0811	0.0941	0.1161	0.1080
350	0.1241	0.1118	0.0809	0.0880	0.0936	0.0808	0.0939	0.1158	0.1077
351	0.1238	0.1115	0.0807	0.0878	0.0933	0.0806	0.0936	0.1154	0.1074
352	0.1235	0.1112	0.0805	0.0875	0.0931	0.0804	0.0934	0.1151	0.1071
353	0.1231	0.1109	0.0803	0.0873	0.0928	0.0802	0.0931	0.1148	0.1068
354	0.1228	0.1106	0.0800	0.0870	0.0926	0.0799	0.0929	0.1145	0.1065
355	0.1225	0.1103	0.0798	0.0868	0.0923	0.0797	0.0926	0.1142	0.1063

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
356	0.1221	0.1100	0.0796	0.0866	0.0920	0.0795	0.0923	0.1139	0.1060
357	0.1218	0.1097	0.0794	0.0863	0.0918	0.0793	0.0921	0.1135	0.1057
358	0.1215	0.1094	0.0791	0.0861	0.0915	0.0790	0.0918	0.1132	0.1054
359	0.1211	0.1091	0.0789	0.0858	0.0913	0.0788	0.0916	0.1129	0.1051
360	0.1208	0.1088	0.0787	0.0856	0.0910	0.0786	0.0913	0.1126	0.1048
361	0.1205	0.1085	0.0785	0.0854	0.0908	0.0784	0.0911	0.1123	0.1045
362	0.1201	0.1082	0.0783	0.0851	0.0905	0.0782	0.0908	0.1120	0.1042
363	0.1198	0.1079	0.0781	0.0849	0.0903	0.0780	0.0906	0.1117	0.1040
364	0.1195	0.1076	0.0779	0.0847	0.0900	0.0778	0.0903	0.1114	0.1037
365	0.1191	0.1073	0.0777	0.0844	0.0898	0.0776	0.0901	0.1111	0.1034
366	0.1188	0.1070	0.0775	0.0842	0.0895	0.0774	0.0898	0.1108	0.1031
367	0.1185	0.1067	0.0772	0.0840	0.0893	0.0771	0.0896	0.1105	0.1028
368	0.1181	0.1064	0.0770	0.0837	0.0891	0.0769	0.0894	0.1102	0.1025
369	0.1178	0.1061	0.0768	0.0835	0.0888	0.0767	0.0891	0.1099	0.1023
370	0.1175	0.1058	0.0766	0.0833	0.0886	0.0765	0.0889	0.1096	0.1020
371	0.1171	0.1055	0.0764	0.0830	0.0883	0.0763	0.0886	0.1093	0.1017
372	0.1168	0.1052	0.0762	0.0828	0.0881	0.0761	0.0884	0.1090	0.1014
373	0.1165	0.1049	0.0760	0.0826	0.0879	0.0759	0.0882	0.1087	0.1011
374	0.1162	0.1046	0.0758	0.0824	0.0876	0.0757	0.0879	0.1084	0.1008
375	0.1159	0.1044	0.0756	0.0821	0.0874	0.0755	0.0877	0.1081	0.1006
376	0.1156	0.1041	0.0754	0.0819	0.0871	0.0753	0.0874	0.1078	0.1003
377	0.1153	0.1038	0.0752	0.0817	0.0869	0.0751	0.0872	0.1075	0.1000
378	0.1150	0.1035	0.0750	0.0815	0.0866	0.0749	0.0869	0.1072	0.0997
379	0.1146	0.1032	0.0747	0.0813	0.0864	0.0746	0.0867	0.1070	0.0995
380	0.1143	0.1029	0.0745	0.0811	0.0862	0.0744	0.0865	0.1067	0.0992
381	0.1140	0.1027	0.0743	0.0808	0.0859	0.0742	0.0862	0.1064	0.0989
382	0.1137	0.1024	0.0741	0.0806	0.0857	0.0740	0.0860	0.1061	0.0986
383	0.1134	0.1021	0.0739	0.0804	0.0854	0.0738	0.0857	0.1058	0.0984
384	0.1131	0.1018	0.0737	0.0802	0.0852	0.0736	0.0855	0.1055	0.0981
385	0.1128	0.1015	0.0735	0.0800	0.0850	0.0734	0.0853	0.1052	0.0978
386	0.1125	0.1012	0.0733	0.0798	0.0847	0.0732	0.0850	0.1049	0.0976
387	0.1122	0.1010	0.0731	0.0795	0.0845	0.0730	0.0848	0.1046	0.0973
388	0.1119	0.1007	0.0729	0.0793	0.0843	0.0728	0.0846	0.1043	0.0970
389	0.1116	0.1004	0.0727	0.0791	0.0840	0.0726	0.0843	0.1040	0.0968
390	0.1113	0.1001	0.0725	0.0789	0.0838	0.0724	0.0841	0.1037	0.0965
391	0.1109	0.0999	0.0723	0.0787	0.0836	0.0722	0.0839	0.1035	0.0962
392	0.1106	0.0996	0.0721	0.0785	0.0833	0.0720	0.0836	0.1032	0.0960
393	0.1103	0.0993	0.0719	0.0782	0.0831	0.0718	0.0834	0.1029	0.0957
394	0.1100	0.0990	0.0717	0.0780	0.0829	0.0716	0.0832	0.1026	0.0954
395	0.1097	0.0988	0.0715	0.0778	0.0826	0.0714	0.0829	0.1023	0.0952
396	0.1094	0.0985	0.0713	0.0776	0.0824	0.0712	0.0827	0.1020	0.0949
397	0.1091	0.0982	0.0711	0.0774	0.0822	0.0710	0.0825	0.1017	0.0946
398	0.1088	0.0980	0.0709	0.0772	0.0820	0.0708	0.0823	0.1014	0.0944
399	0.1085	0.0977	0.0707	0.0769	0.0817	0.0706	0.0820	0.1012	0.0941
400	0.1082	0.0974	0.0705	0.0767	0.0815	0.0704	0.0818	0.1009	0.0939

PERMANENT

Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
401	0.1079	0.0972	0.0703	0.0765	0.0813	0.0702	0.0816	0.1006	0.0936
402	0.1076	0.0969	0.0701	0.0763	0.0811	0.0700	0.0814	0.1003	0.0934
403	0.1074	0.0966	0.0700	0.0761	0.0809	0.0699	0.0812	0.1001	0.0931
404	0.1071	0.0964	0.0698	0.0759	0.0807	0.0697	0.0810	0.0998	0.0928
405	0.1068	0.0961	0.0696	0.0756	0.0804	0.0695	0.0807	0.0995	0.0926
406	0.1065	0.0958	0.0694	0.0754	0.0802	0.0693	0.0805	0.0992	0.0923
407	0.1062	0.0956	0.0692	0.0752	0.0800	0.0691	0.0803	0.0990	0.0921
408	0.1059	0.0953	0.0690	0.0750	0.0798	0.0689	0.0801	0.0987	0.0918
409	0.1056	0.0950	0.0688	0.0748	0.0796	0.0687	0.0799	0.0984	0.0916
410	0.1053	0.0948	0.0686	0.0746	0.0794	0.0685	0.0797	0.0982	0.0913
411	0.1050	0.0945	0.0685	0.0744	0.0791	0.0684	0.0794	0.0979	0.0911
412	0.1047	0.0943	0.0683	0.0742	0.0789	0.0682	0.0792	0.0976	0.0908
413	0.1044	0.0940	0.0681	0.0740	0.0787	0.0680	0.0790	0.0974	0.0906
414	0.1041	0.0938	0.0679	0.0738	0.0785	0.0678	0.0788	0.0971	0.0903
415	0.1039	0.0935	0.0677	0.0736	0.0783	0.0676	0.0786	0.0968	0.0901
416	0.1036	0.0932	0.0675	0.0734	0.0781	0.0674	0.0784	0.0966	0.0899
417	0.1033	0.0930	0.0674	0.0732	0.0778	0.0673	0.0781	0.0963	0.0896
418	0.1030	0.0927	0.0672	0.0730	0.0776	0.0671	0.0779	0.0960	0.0894
419	0.1027	0.0925	0.0670	0.0728	0.0774	0.0669	0.0777	0.0958	0.0891
420	0.1024	0.0922	0.0668	0.0726	0.0772	0.0667	0.0775	0.0955	0.0889
421	0.1021	0.0919	0.0666	0.0724	0.0770	0.0665	0.0773	0.0952	0.0887
422	0.1018	0.0917	0.0664	0.0722	0.0768	0.0663	0.0771	0.0950	0.0884
423	0.1016	0.0914	0.0663	0.0720	0.0766	0.0662	0.0769	0.0947	0.0882
424	0.1013	0.0912	0.0661	0.0718	0.0764	0.0660	0.0767	0.0945	0.0879
425	0.1010	0.0909	0.0659	0.0716	0.0762	0.0658	0.0765	0.0942	0.0877
426	0.1007	0.0907	0.0657	0.0714	0.0760	0.0656	0.0763	0.0940	0.0874
427	0.1005	0.0904	0.0655	0.0713	0.0757	0.0654	0.0760	0.0937	0.0872
428	0.1002	0.0902	0.0653	0.0711	0.0755	0.0652	0.0758	0.0934	0.0870
429	0.0999	0.0899	0.0652	0.0709	0.0753	0.0651	0.0756	0.0932	0.0867
430	0.0996	0.0897	0.0650	0.0707	0.0751	0.0649	0.0754	0.0929	0.0865
431	0.0994	0.0894	0.0648	0.0705	0.0749	0.0647	0.0752	0.0927	0.0862
432	0.0991	0.0892	0.0646	0.0703	0.0747	0.0645	0.0750	0.0924	0.0860
433	0.0988	0.0890	0.0644	0.0701	0.0745	0.0643	0.0748	0.0921	0.0858
434	0.0986	0.0887	0.0642	0.0699	0.0743	0.0641	0.0746	0.0919	0.0855
435	0.0983	0.0885	0.0641	0.0697	0.0741	0.0640	0.0744	0.0916	0.0853
436	0.0980	0.0883	0.0639	0.0695	0.0739	0.0638	0.0742	0.0914	0.0851
437	0.0978	0.0880	0.0637	0.0693	0.0737	0.0636	0.0740	0.0911	0.0848
438	0.0975	0.0878	0.0635	0.0691	0.0735	0.0634	0.0738	0.0909	0.0846
439	0.0972	0.0876	0.0634	0.0690	0.0733	0.0633	0.0735	0.0906	0.0844
440	0.0970	0.0873	0.0632	0.0688	0.0731	0.0631	0.0733	0.0904	0.0841
441	0.0967	0.0871	0.0630	0.0686	0.0729	0.0629	0.0731	0.0901	0.0839
442	0.0964	0.0869	0.0628	0.0684	0.0727	0.0627	0.0729	0.0899	0.0837
443	0.0962	0.0866	0.0627	0.0682	0.0725	0.0626	0.0727	0.0896	0.0834
444	0.0959	0.0864	0.0625	0.0680	0.0723	0.0624	0.0725	0.0894	0.0832
445	0.0956	0.0862	0.0623	0.0678	0.0721	0.0622	0.0723	0.0892	0.0830

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Months to NRA	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
446	0.0954	0.0859	0.0622	0.0676	0.0719	0.0621	0.0721	0.0889	0.0827
447	0.0951	0.0857	0.0620	0.0675	0.0717	0.0619	0.0719	0.0887	0.0825
448	0.0949	0.0855	0.0618	0.0673	0.0715	0.0617	0.0717	0.0884	0.0823
449	0.0946	0.0852	0.0617	0.0671	0.0713	0.0616	0.0715	0.0882	0.0821
450	0.0944	0.0850	0.0615	0.0669	0.0711	0.0614	0.0713	0.0879	0.0818
451	0.0941	0.0848	0.0613	0.0667	0.0709	0.0612	0.0712	0.0877	0.0816
452	0.0938	0.0845	0.0612	0.0665	0.0707	0.0611	0.0710	0.0875	0.0814
453	0.0936	0.0843	0.0610	0.0664	0.0705	0.0609	0.0708	0.0872	0.0812
454	0.0933	0.0841	0.0608	0.0662	0.0703	0.0607	0.0706	0.0870	0.0809
455	0.0931	0.0838	0.0607	0.0660	0.0701	0.0606	0.0704	0.0867	0.0807
456	0.0928	0.0836	0.0605	0.0658	0.0699	0.0604	0.0702	0.0865	0.0805
457	0.0925	0.0834	0.0603	0.0656	0.0697	0.0602	0.0700	0.0863	0.0803
458	0.0923	0.0831	0.0602	0.0654	0.0695	0.0601	0.0698	0.0860	0.0801
459	0.0920	0.0829	0.0600	0.0653	0.0694	0.0599	0.0696	0.0858	0.0798
460	0.0918	0.0827	0.0598	0.0651	0.0692	0.0598	0.0694	0.0856	0.0796
461	0.0915	0.0824	0.0597	0.0649	0.0690	0.0596	0.0692	0.0853	0.0794
462	0.0913	0.0822	0.0595	0.0647	0.0688	0.0595	0.0690	0.0851	0.0792
463	0.0910	0.0820	0.0593	0.0645	0.0686	0.0593	0.0689	0.0849	0.0790
464	0.0908	0.0817	0.0592	0.0643	0.0684	0.0591	0.0687	0.0846	0.0788
465	0.0905	0.0815	0.0590	0.0642	0.0683	0.0590	0.0685	0.0844	0.0785
466	0.0903	0.0813	0.0588	0.0640	0.0681	0.0588	0.0683	0.0842	0.0783
467	0.0900	0.0810	0.0587	0.0638	0.0679	0.0587	0.0681	0.0839	0.0781
468	0.0898	0.0808	0.0585	0.0636	0.0677	0.0585	0.0679	0.0837	0.0779
469	0.0896	0.0806	0.0583	0.0634	0.0675	0.0583	0.0677	0.0835	0.0777
470	0.0893	0.0804	0.0582	0.0633	0.0673	0.0582	0.0675	0.0832	0.0775
471	0.0891	0.0801	0.0580	0.0631	0.0672	0.0580	0.0674	0.0830	0.0773
472	0.0888	0.0799	0.0579	0.0629	0.0670	0.0579	0.0672	0.0828	0.0771
473	0.0886	0.0797	0.0577	0.0628	0.0668	0.0577	0.0670	0.0826	0.0769
474	0.0883	0.0795	0.0576	0.0626	0.0666	0.0576	0.0668	0.0823	0.0767
475	0.0881	0.0793	0.0574	0.0624	0.0664	0.0574	0.0666	0.0821	0.0764
476	0.0879	0.0791	0.0572	0.0623	0.0662	0.0572	0.0664	0.0819	0.0762
477	0.0876	0.0788	0.0571	0.0621	0.0661	0.0571	0.0663	0.0817	0.0760
478	0.0874	0.0786	0.0569	0.0619	0.0659	0.0569	0.0661	0.0814	0.0758
479	0.0871	0.0784	0.0568	0.0618	0.0657	0.0568	0.0659	0.0812	0.0756
480	0.0869	0.0782	0.0566	0.0616	0.0655	0.0566	0.0657	0.0810	0.0754

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(5) Tables - Factor 2 and Factor 3. Factors 2 and 3 will be used in the calculation of the service credit purchase cost only for a member in PERS Plan 1, TRS Plan 1, WSPRS Plan 1, or WSPRS Plan 2 and only if the service credit purchase would allow the member to retire earlier.

FACTOR 2

Plan	Factor 2
PERS 1	0.00434
TRS 1	0.00383
WSPRS 1	0.00489
WSPRS 2	0.00460

FACTOR 3

Months to NRA	Factor 3
0	1.0000
1	0.9973
2	0.9946
3	0.9919
4	0.9892
5	0.9865
6	0.9838
7	0.9811

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Months to NRA	Factor 3
8	0.9784
9	0.9757
10	0.9730
11	0.9703
12	0.9676
13	0.9650
14	0.9624
15	0.9597
16	0.9571
17	0.9545
18	0.9519
19	0.9493
20	0.9467
21	0.9440
22	0.9414
23	0.9388
24	0.9362
25	0.9337
26	0.9311
27	0.9286
28	0.9261
29	0.9236
30	0.9210
31	0.9185
32	0.9160
33	0.9135
34	0.9109
35	0.9084
36	0.9059
37	0.9034
38	0.9010
39	0.8985
40	0.8961
41	0.8936
42	0.8912
43	0.8887
44	0.8863
45	0.8838
46	0.8814
47	0.8789
48	0.8765
49	0.8741
50	0.8718
51	0.8694
52	0.8670
53	0.8647

Months to NRA	Factor 3
54	0.8623
55	0.8599
56	0.8576
57	0.8552
58	0.8528
59	0.8505
60	0.8481
61	0.8458
62	0.8435
63	0.8412
64	0.8389
65	0.8366
66	0.8343
67	0.8321
68	0.8298
69	0.8275
70	0.8252
71	0.8229
72	0.8206
73	0.8184
74	0.8162
75	0.8139
76	0.8117
77	0.8095
78	0.8073
79	0.8051
80	0.8029
81	0.8006
82	0.7984
83	0.7962
84	0.7940
85	0.7919
86	0.7897
87	0.7876
88	0.7854
89	0.7833
90	0.7811
91	0.7790
92	0.7769
93	0.7747
94	0.7726
95	0.7704
96	0.7683
97	0.7662
98	0.7641
99	0.7621

Months to NRA	Factor 3
100	0.7600
101	0.7579
102	0.7558
103	0.7538
104	0.7517
105	0.7496
106	0.7475
107	0.7455
108	0.7434
109	0.7414
110	0.7394
111	0.7374
112	0.7354
113	0.7334
114	0.7314
115	0.7293
116	0.7273
117	0.7253
118	0.7233
119	0.7213
120	0.7193
121	0.7174
122	0.7154
123	0.7135
124	0.7115
125	0.7096
126	0.7076
127	0.7057
128	0.7038
129	0.7018
130	0.6999
131	0.6979
132	0.6960
133	0.6941
134	0.6922
135	0.6904
136	0.6885
137	0.6866
138	0.6847
139	0.6829
140	0.6810
141	0.6791
142	0.6772
143	0.6754
144	0.6735
145	0.6717

Months to NRA	Factor 3
146	0.6698
147	0.6680
148	0.6662
149	0.6644
150	0.6625
151	0.6607
152	0.6589
153	0.6571
154	0.6552
155	0.6534
156	0.6516
157	0.6498
158	0.6481
159	0.6463
160	0.6446
161	0.6428
162	0.6411
163	0.6393
164	0.6375
165	0.6358
166	0.6340
167	0.6323
168	0.6305
169	0.6288
170	0.6271
171	0.6254
172	0.6237
173	0.6220
174	0.6203
175	0.6186
176	0.6169
177	0.6152
178	0.6135
179	0.6118
180	0.6101
181	0.6084
182	0.6068
183	0.6051
184	0.6035
185	0.6018
186	0.6002
187	0.5985
188	0.5969
189	0.5952
190	0.5936
191	0.5919

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Months to NRA	Factor 3
192	0.5903
193	0.5887
194	0.5871
195	0.5855
196	0.5839
197	0.5823
198	0.5807
199	0.5792
200	0.5776
201	0.5760
202	0.5744
203	0.5728
204	0.5712
205	0.5697
206	0.5681
207	0.5666
208	0.5650
209	0.5635
210	0.5619
211	0.5604
212	0.5589
213	0.5573
214	0.5558
215	0.5542
216	0.5527
217	0.5512
218	0.5497
219	0.5482
220	0.5467
221	0.5452
222	0.5437
223	0.5423
224	0.5408
225	0.5393
226	0.5378
227	0.5363
228	0.5348
229	0.5333
230	0.5319
231	0.5304
232	0.5290
233	0.5275
234	0.5261
235	0.5246
236	0.5232
237	0.5217

Months to NRA	Factor 3
238	0.5203
239	0.5188
240	0.5174
241	0.5160
242	0.5146
243	0.5132
244	0.5118
245	0.5104
246	0.5090
247	0.5077
248	0.5063
249	0.5049
250	0.5035
251	0.5021
252	0.5007
253	0.4993
254	0.4980
255	0.4966
256	0.4953
257	0.4939
258	0.4926
259	0.4912
260	0.4898
261	0.4885
262	0.4871
263	0.4858
264	0.4844
265	0.4831
266	0.4818
267	0.4805
268	0.4792
269	0.4779
270	0.4766
271	0.4752
272	0.4739
273	0.4726
274	0.4713
275	0.4700
276	0.4687
277	0.4674
278	0.4662
279	0.4649
280	0.4636
281	0.4624
282	0.4611
283	0.4598

Months to NRA	Factor 3
284	0.4586
285	0.4573
286	0.4560
287	0.4548
288	0.4535
289	0.4523
290	0.4510
291	0.4498
292	0.4486
293	0.4474
294	0.4461
295	0.4449
296	0.4437
297	0.4425
298	0.4412
299	0.4400
300	0.4388
301	0.4376
302	0.4364
303	0.4353
304	0.4341
305	0.4329
306	0.4317
307	0.4305
308	0.4293
309	0.4282
310	0.4270
311	0.4258
312	0.4246
313	0.4235
314	0.4223
315	0.4212
316	0.4200
317	0.4189
318	0.4177
319	0.4166
320	0.4155
321	0.4143
322	0.4132
323	0.4120
324	0.4109
325	0.4098
326	0.4087
327	0.4075
328	0.4064
329	0.4053

Months to NRA	Factor 3
330	0.4042
331	0.4031
332	0.4020
333	0.4008
334	0.3997
335	0.3986
336	0.3975
337	0.3964
338	0.3954
339	0.3943
340	0.3932
341	0.3922
342	0.3911
343	0.3900
344	0.3890
345	0.3879
346	0.3868
347	0.3858
348	0.3847
349	0.3837
350	0.3826
351	0.3816
352	0.3805
353	0.3795
354	0.3784
355	0.3774
356	0.3764
357	0.3753
358	0.3743
359	0.3732
360	0.3722
361	0.3712
362	0.3702
363	0.3692
364	0.3682
365	0.3672
366	0.3662
367	0.3651
368	0.3641
369	0.3631
370	0.3621
371	0.3611
372	0.3601
373	0.3591
374	0.3582
375	0.3572

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Months to NRA	Factor 3
376	0.3562
377	0.3553
378	0.3543
379	0.3533
380	0.3524
381	0.3514
382	0.3504
383	0.3495
384	0.3485
385	0.3476
386	0.3466
387	0.3457
388	0.3447
389	0.3438
390	0.3428
391	0.3419
392	0.3410
393	0.3400
394	0.3391
395	0.3381
396	0.3372
397	0.3363
398	0.3354
399	0.3344
400	0.3335
401	0.3326
402	0.3317
403	0.3308
404	0.3299
405	0.3289
406	0.3280
407	0.3271
408	0.3262
409	0.3253
410	0.3244
411	0.3236
412	0.3227
413	0.3218
414	0.3209
415	0.3201
416	0.3192
417	0.3183
418	0.3174
419	0.3166
420	0.3157
421	0.3148

Months to NRA	Factor 3
422	0.3140
423	0.3131
424	0.3123
425	0.3114
426	0.3106
427	0.3097
428	0.3088
429	0.3080
430	0.3071
431	0.3063
432	0.3054
433	0.3046
434	0.3037
435	0.3029
436	0.3021
437	0.3013
438	0.3004
439	0.2996
440	0.2988
441	0.2980
442	0.2971
443	0.2963
444	0.2955
445	0.2947
446	0.2939
447	0.2931
448	0.2923
449	0.2915
450	0.2907
451	0.2900
452	0.2892
453	0.2884
454	0.2876
455	0.2868
456	0.2860
457	0.2852
458	0.2844
459	0.2837
460	0.2829
461	0.2821
462	0.2813
463	0.2806
464	0.2798
465	0.2790
466	0.2782
467	0.2775

Months to NRA	Factor 3
468	0.2767
469	0.2759
470	0.2752
471	0.2744
472	0.2737
473	0.2729
474	0.2722
475	0.2714
476	0.2707
477	0.2699
478	0.2692
479	0.2684
480	0.2677

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-10-020 Definitions. As used in this chapter:

(1) **Average earnings** means:

(a) In PERS Plan 1, TRS Plan 1 or WSPRS Plan 1: The average of your two highest consecutive years of compensation as of the date of your service credit purchase.

(b) In Plan 2 or Plan 3: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(c) In LEOFF Plan 1: The basic salary attached to your position at the date of your service credit purchase.

(2) **Factors**(:

(a) "Factor 1" means the actuarial cost factor calculated by the state actuary and adopted by the department. The actual factor used varies depending upon the time between the date of payment and the projected date of retirement. Generally, the longer the gap between date of payment and date of retirement the lower the factor.

(b) "Factor 2" is the actuarial factor calculated by the state actuary based upon demographic differences between the membership of the different retirement systems. Those factors are: .00788 (PERS Plan 1); .00698 (TRS Plan 1); and .00908 (WSPRS Plan 1).

(c) "Factor 3" means the interest factor calculated by the state actuary and adopted by the department. This factor is used only when the service credit purchase lowers the projected retirement age and is based upon the higher cost to the system of the earlier retirement)) means the actuarial cost factors calculated by the state actuary and adopted by the department that are used in the formulas for calculating the cost of a service credit purchase. See WAC 415-02-370 for additional information about the service credit purchase factors.

(3) **LEOFF** means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

(4) **PERS** means the public employees' retirement system established under chapter 41.40 RCW.

(5) **SERS** means the school employees' retirement system established under chapter 41.35 RCW.

(6) **Service credit being purchased** means the number of service credit months or service credit years you are purchasing.

(7) **TRS** means the teachers' retirement system established under chapter 41.32 RCW.

(8) **WSPRS** means the Washington state patrol retirement system established under chapter 43.43 RCW.

(9) **Years of earlier retirement** equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

(10) **Years of service** equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-10-030 Calculation of cost to purchase service credit in certain plans. If you are a member of LEOFF Plan 1 or 2, PERS Plan 2 or 3, TRS Plan 2 or 3, or SERS Plan 2 or 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following formula:

$$\text{Service Credit Purchase Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1} \\ ((= \text{Cost to purchase service credit}))$$

This represents the cost of the additional retirement allowance you will receive by including the additional service credit from your purchase into your retirement benefit calculation.

Example: Purchase of additional service credit.

Ron is an active PERS Plan 2 member who currently has 18 years of service. Ron turned age 61 last month. His average earnings are \$50,000. Ron would like to purchase 3 years of service that he previously withdrew but did not restore before the deadline.

The department will first determine Ron's normal retirement age to identify the appropriate factor from the Factor 1 tableⁱ to use in the formula for calculating the service credit purchase cost. Normal retirement age (NRA) is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. Ron's NRA will come when he is age 65 and has 21 years of serviceⁱⁱ. Since he is currently age 61, Ron is 4 years (48 months) to normal retirement age. So, the department will use the factor 0.2016 from the Factor 1 table, which is factor for 48 months to NRA under PERS Plan 2.

The department will then calculate the cost of purchasing the service credit using the Service Credit Purchase Cost formula:

$$\text{Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

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The cost of Ron's purchase would be calculated as follows:

$$\text{Cost} = \$50,000 \times 3 \text{ (years purchased)} \times 0.2016 \text{ (48 months to NRA)} = \underline{\$30,240}$$

Ron's total cost to purchase 3 years of service credit is \$30,240.

Footnotes to section:

ⁱSee WAC 415-02-370.

ⁱⁱRon would first qualify under the PERS Plan 2 eligibility rule of being age 65 or older with at least 5 years of service.

AMENDATORY SECTION (Amending WSR 02-23-037, filed 11/13/02, effective 1/1/03)

WAC 415-10-040 Calculation of cost to purchase service credit for members of PERS Plan 1, TRS Plan 1 or WSPRS Plan 1 or 2. If you are a member of PERS 1, TRS 1 or WSPRS Plan 1 or 2, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following three part formula:

Part 1 Cost = ((Service Credit Being Purchased)) Average Earnings x ((Average Earnings)) Service Credit Being Purchased x Factor 1	Part 2 Cost = ((Years of Service)) Average Earnings x ((Average Earnings)) Years of Service x Years of Earlier Retirement x Factor 2 x ((Years of Earlier Retirement)) x Factor 3
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((Cost to purchase service credit)) Service Credit Purchase Cost (Part 3) = Part 1 Cost + Part 2 Cost.

The Part 1 Cost represents the cost of including the additional service in your retirement allowance calculation. The Part 2 Cost represents the cost of ~~((commencing))~~ beginning your retirement ~~((allowance))~~ benefit at ~~((the earliest possible))~~ an earlier age. If your purchase does not allow you to begin your retirement at an earlier age, your Part 2 Cost is zero.

Example: Purchase of additional service credit that enables earlier retirement.

Don is an active PERS 1 member who currently has 18 years of service. Don turned age 50 last month. His average earnings are \$50,000. Don would like to purchase 3 years of

service that he previously withdrew but did not restore before the deadline.

The department will first determine Don's normal retirement age. Normal retirement age (NRA), is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. The department will use Don's NRA to identify the appropriate factor from the Factor 1 tableⁱ to use in the formula for calculating the Part 1 Cost. Since Don can retire earlier due to the service credit purchase, the normal retirement age will also be used to identify the appropriate factor from the Factor 3 tableⁱⁱ to use in the formula for calculating the Part 2 Cost. Don's NRA will come in 7 years when he is age 57 and has 25 years of serviceⁱⁱⁱ. Since he is currently age 50, Don is 7 years (84 months) to normal retirement age. So, the department will use the factors for 84 months to NRA from the Factor 1 table and the Factor 3 table.

The department will next determine how much earlier Don can retire if he purchases service credit. If Don purchases 3 years of service, his service credit total will increase to 21 years. This means that Don would reach 25 years of service when he is age 54. In another year, Don would be eligible to retire (age 55, with 26 years). With the purchase, Don is eligible to retire 2 years earlier (age 55) than his NRA of 57.

The department will then calculate the cost of purchasing the service credit using the three part formula:

$$\begin{aligned} \text{Part 1 Cost} &= \text{Average Earnings} \times \text{Service Purchased} \times \text{Factor 1} \\ \text{Part 2 Cost} &= (\text{Total Service}^{\text{iv}}) \times (\text{Average Earnings}) \times (\text{Factor 2}^{\text{v}}) \times (\text{Years of Earlier Retirement}) \times (\text{Factor 3}) \\ \text{Service Credit Purchase Cost (Part 3)} &= \text{Part 1 Cost} + \text{Part 2 Cost} \end{aligned}$$

The cost of Don's purchase would be calculated as follows:

$$\begin{aligned} \text{Part 1 Cost} &= \$50,000 \times 3 \text{ (years purchased)} \times 0.1680 \text{ (7 years to NRA)} = \underline{\$25,200} \\ \text{Part 2 Cost} &= \$50,000 \times 26 \text{ years} \times 2 \text{ years earlier} \times 0.00434 \text{ (PERS 1)} \times 0.7940 \text{ (84 months to NRA)} = \underline{\$8,959} \\ \text{Service Credit Purchase Cost (Part 3)} &= \underline{\$25,200} + \underline{\$8,959} = \underline{\$34,159}^{\text{vi}} \end{aligned}$$

Don's total cost to purchase 3 years of service credit is \$34,159.

Footnotes to section:

ⁱSee WAC 415-02-370.

ⁱⁱSee WAC 415-02-370.

ⁱⁱⁱDon would qualify under the PERS Plan 1 eligibility rule of being age 55 or older with at least 25 years of service.

^{iv}This means the total service credit the member would have at retirement, including the purchased service credit.

^vSee WAC 415-02-370.

^{vi}This result is rounded to the nearest dollar.

PERMANENT

WSR 03-15-007
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed July 3, 2003, 9:11 a.m., effective August 1, 2003]

Date of Adoption: July 2, 2003.

Purpose: This rule is being amended to explain that a member who transfers from PERS to SERS, and then back to PERS, will have choice rights. The amendment reflects existing DRS practice and procedure.

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-425.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.40.785.

Other Authority: ESSB 6530 (chapter 247, Laws of 2000).

Adopted under notice filed as WSR 03-11-044 on May 16, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Prerequisite to Adoption or Effectiveness of Rule: Business practices are improved by making this rule effective on the first day of a month.

Effective Date of Rule: August 1, 2003.

July 2, 2003
 John Charles
 Director

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-425 How do I determine if I have choice rights or transfer rights to PERS Plan 3? (1) Definitions:

(a) "**Concurrently employed**" means you are employed at the same time, in eligible positions, by a Phase 1 employer and by a Phase 2 employer.

(b) "**Exercising choice rights**" means choosing Plan 2 or Plan 3 or defaulting into Plan 3.

(c) "**Phase 1 employer**" means state agencies and institutes of higher education.

(d) "**Phase 2 employer**" means all other employers.

(e) "**Phase 1 transfer period**" is the period from March 1, 2002, through and including August 31, 2002.

(f) "**Phase 2 transfer period**" is the period from September 1, 2002, through and including May 31, 2003.

(2) **What determines if I have "choice rights" or "transfer rights"?** Your current employment status and your employment history will be used to determine if you have choice rights or transfer rights. If your employment status changes, your rights must be reevaluated. A change in your employment status, such as separating from employment or becoming reemployed, may change your rights.

(3) **What are "choice rights" and how are they applied?** "Choice rights" refers to your right, within a ninety-day period, to make an irrevocable choice to become a member of Plan 2 or Plan 3.

(a) You will be reported in Plan 2 until you exercise choice rights.

(b) You must make a choice within ninety days of your first day of employment in an eligible position.

(c) You will be defaulted into Plan 3 if you continue employment past the ninety-day choice period without making a choice.

(d) You may exercise choice rights only once.

(4) **Do I have "choice rights"?**

(a) You have choice rights if your initial PERS membership began on or after March 1, 2002, with a Phase 1 employer in an eligible position.

(i) If you separate from employment and did not exercise your choice rights, you retain choice rights if you are reemployed in an eligible position with a Phase 1 employer.

(ii) If you separate from employment and did not exercise your choice rights, and you are not employed by a Phase 2 employer during Phase 2, you retain choice rights if you begin another period of employment in an eligible position with a Phase 2 employer after May 31, 2003.

(b) You have choice rights if your initial PERS membership began on or after September 1, 2002, with a Phase 2 employer in an eligible position. If you separate from employment and did not exercise your choice rights, you retain choice rights if you begin another period of employment in an eligible position with a Phase 1 or Phase 2 employer.

(c) You have choice rights if you transferred from membership in PERS to membership in the school employees' retirement system and then became employed in an eligible PERS position on or after March 1, 2002, with a Phase 1 employer or on or after September 1, 2002, with a Phase 2 employer.

(5) **What are "transfer rights" and how are they applied?** "Transfer rights" refers to your right as a Plan 2 member to transfer into Plan 3 during an applicable transfer period to your employment type.

(a) You are not required to exercise transfer rights. If you have transfer rights, you will remain in Plan 2 unless you decide to transfer to Plan 3.

(b) If you do not transfer to Plan 3 during the Phase 1 or the Phase 2 transfer periods, you will not qualify to receive the additional transfer payment under RCW 41.40.795 or retroactive gainsharing payment under RCW 41.31A.040.

2003) to apply the rules to a Phase 2 employer.

(6) **Do I have transfer rights?**

- (a) You have transfer rights if you:
 - (i) Are a Plan 2 member;
 - (ii) Are employed in an eligible position by a Phase 1 employer during the Phase 1 transfer period; and
 - (iii) Were not eligible for choice rights under subsection (4)(a) or (c) of this section.

(b) You have transfer rights if you:

- (i) Are a Plan 2 member;
- (ii) Are employed in an eligible position by a Phase 2 employer during the Phase 2 transfer period; and
- (iii) Were not eligible for choice rights under subsection (4)(b) or (c) of this section.

(7) **What are "January transfer rights" and how are they applied?** "January transfer rights" refers to a Plan 2 member's right to transfer to Plan 3 during any January after the close of a transfer period.

(a) If you are employed by a Phase 1 employer, in an eligible position, the first January you can transfer is January 2003.

(b) If you are employed by a Phase 2 employer, in an eligible position, the first January you can transfer is January 2004.

(c) You must earn service credit in the January in which you transfer.

(8) **Do I have January transfer rights?**

(a) You have January transfer rights if you were eligible for transfer rights and did not transfer to PERS Plan 3 during the transfer period that applied to you.

(b) You have January transfer rights if you:

(i) Were employed in an eligible position with a Phase 1 employer before the Phase 1 transfer period, or were employed in an eligible position by a Phase 2 employer before the Phase 2 transfer period;

(ii) Were not employed by a Phase 1 employer during the Phase 1 transfer period;

(iii) Were not employed by a Phase 2 employer during the Phase 2 transfer period; and

(iv) Are employed by a Phase 1 employer in an eligible position that you began after the Phase 1 transfer period ended, or are employed by a Phase 2 employer in an eligible position that you began after the Phase 2 transfer period ended.

(9) **What happens after I become a Plan 3 member?**

Once you choose Plan 3 or default to Plan 3 or transfer to Plan 3, you will remain a Plan 3 member. You will not have any additional transfer rights or choice rights to exercise.

(10) **What rules apply to me if I am concurrently employed?** If you are, or become concurrently employed during the Phase 1 transfer period in an eligible position, you will have transfer rights but must wait until the Phase 2 transfer period to transfer. If you separate from one of the employers, your membership rights must be reevaluated.

Examples: *The examples are written, for the most part, for a Phase 1 employer. Use the Phase 2 transfer period (September 1, 2002, through and including May 31,*

Plan Choice Rights:
Example 1: Pat starts working for a state agency in an eligible position (Phase 1 employer) as of:
A. April 1, 2002. Since Pat has not previously been a member of PERS, Pat has ninety days to make a plan choice for Plan 2 or Plan 3. See subsection (3)(b) of this section.
B. After forty-five days, Pat leaves service without making a choice, and then returns in an eligible position one year later. Pat has a new ninety day period in which to make his plan choice . See subsection (4)(a)(i) of this section.
C. Pat chooses Plan 3 within his ninety days. Pat is now a Plan 3 member regardless of future employment. See subsection (9) of this section.
D. Instead of choosing Plan 3, Pat lets his ninety day plan choice period go by with out choosing Plan 2 or Plan 3. Pat is defaulted into Plan 3 and is now a Plan 3 member regardless of future employment. See subsections (3)(c) and (9) of this section.

Transfer Rights:
Example 2:
A. Chris has been a Plan 2 member since 1977. Chris is working at a state agency (Phase 1 employer) as of March 1, 2002. Since Chris was a member prior to the start of Plan 3, Chris has the right to transfer to Plan 3 in the transfer period (March 1, 2002, through August 31, 2002). See subsection (6)(a) of this section.
B. However, Chris did not make a decision to transfer prior to the close of the Phase 1 transfer period. If Chris remains employed for a Phase 1 employer, the right to transfer to Plan 3 is limited to January of each year. See subsection (8)(a) of this section.
C. In this variation, Chris was a Plan 2 member from March 1, 1987, through February 1, 2002. Chris returns on October 15, 2002, for a state agency (Phase 1 employer). Since Chris returned to service after the transfer period (March 1, 2002, through August 31, 2002), Chris only has the right to transfer to Plan 3 in January of each year. See subsection (8)(b) of this section.

Irrevocable Choice Rule:
Example 3: Mike starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Mike has not previously been a member of PERS, he has ninety days to make a plan choice for Plan 2 or Plan 3. Mike chooses Plan 3 within his ninety days. Mike is now a Plan 3 member regardless of future employment. See subsection (9) of this section.

PERMANENT

Irrevocable Choice Rule:

Example 4: Pat starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Pat has not previously been a member of PERS, he has ninety days to make a **plan choice** for Plan 2 or Plan 3. Pat chooses Plan 2 within his ninety days. Pat is now a Plan 2 member who can no longer have a **plan choice** regardless of future employment. See subsection (3)(d) of this section.

Concurrent Employment in Phase 1 and 2:

Example 5: Using example 2A, Chris also accepts employment for a county (Phase 2 employer) on April 1, 2002, **prior to transferring** to Plan 3. Since Chris is concurrently employed at a Phase 1 and a Phase 2 employer, Chris must wait for the Phase 2 window before he can transfer to Plan 3. See subsection (10) of this section.

WSR 03-15-010**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed July 3, 2003, 3:03 p.m.]

Date of Adoption: June 30, 2003.

Purpose: Amending WAC 388-71-0460 to describe what tasks/services cannot be authorized when a client lives with their individual provider or their personal aide, or their individual provider or personal aide lives with them.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0460.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39.005.

Adopted under notice filed as WSR 03-11-066 on May 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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) ~~((ASA))~~ ADSA 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)))~~ not pay for shopping, housework, laundry, meal preparation, ((laundry, and supervision due to impaired judgement) for:

~~((a)))~~ or wood supply when you and your individual provider, agency provider, or personal aide live in the same household.

(4) The department will adjust payments to an individual provider, agency provider, or personal aide who is doing household tasks for more than one client living in the same household((; or

~~((b) A client in a shared living arrangement (MPC))).~~

WSR 03-15-019**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed July 8, 2003, 2:09 p.m.]

Date of Adoption: July 8, 2003.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-230.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

Adopted under notice filed as WSR 03-10-045 on May 1, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, 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.

July 8, 2003

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 02-04-001, filed 1/23/02, effective 2/23/02)

WAC 308-93-230 Procedure for perfecting security interest. (1) How is the security interest in a vessel perfected?

A security interest in a vessel (~~for which a certificate of ownership is required~~) is perfected (~~only by compliance with~~) when the requirements (~~of~~) similar to RCW 46.12-095 for vehicles is followed. Security interest in a vessel (other than one held as inventory by a manufacturer or a dealer and for which a certificate of ownership is required) is perfected only by completing the requirements of RCW 46.12.103 for vessels under the circumstances provided for in this section:

(a) The existing certificate and application for certificate of ownership containing the name and address of the secured party is received by the department with required fees; or

(b) The secured interest is perfected as of the time of its creation if the secured party's name and address appear on the outstanding certificate of ownership when received in (a) of this subsection with appropriate fees; or

(c) The vessel is subject to a security interest when brought into this state. The perfection of the security interest is determined by the jurisdiction in which the vessel was either purchased, registered and/or titled and the security interest is attached.

If perfected through the laws of another jurisdiction, the following applies:

(i) If the name of the secured party is shown on the existing certificate of ownership issued by that jurisdiction, the security interest continues perfected in this state.

(ii) If the security interest was not perfected under the law of the jurisdiction where the vessel was when the security interest was attached, it may be perfected in this state, in that case perfection dates from the time of perfection in this state.

The application must be in the same manner as provided for vehicles and WAC 308-93-069 and 308-93-070 as provided for vessels.

(2) When would the department of licensing not issue a certificate of ownership?

(a) Vessels that are documented in compliance with federal regulations are issued a registration and are not issued a certificate of ownership; or

(b) When ownership in doubt; or

(c) The out-of-state lien holder retains title.

(3) What fees are charged for adding, deleting or changing a secured party?

~~((The))~~ An application fee ((is one dollar-A)) and filing fee ((is) are due for each transaction ((and)). An additional service fee is charged if a licensing subagent processes the transaction as referenced in RCW 88.02.070.

(((4))) (4) What is the secured party's obligation when the lien has been satisfied?

When a certificate of ownership is required, the secured party must comply with RCW 46.12.170 as provided for vehicles, and WAC 308-93-069 and 308-93-070 as provided for vessels and pay the required fees.

~~(((4)))~~ Requirements for application for certificate of ownership:

(a) New vessels:

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

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

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

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

(v) A copy of the factory invoice may be used in lieu of the manufacturer's statement of origin or carpenter's certificate only when such documents are not available and obtaining a replacement from the manufacturer would cause an undue amount of delay in titling the vessel. A certificate of fact describing why the statement of origin or carpenter's certificate is not available must be accompanied by the photocopy of the factory invoice and any necessary releases of interest on a form approved by the department.

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

(i) Excise exemption affidavit;

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

(iii) Declaration of value form;

(iv) Previous ownership document properly released;

(v) Proof of sales tax paid;

(vi) Release of interest;

(vii) Other verification of ownership approved by the department, such as:

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

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

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

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

(i) Excise exemption affidavit;

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

(iii) Declaration of value form;

(iv) Previous ownership document properly released;

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

(vi) Proof of sales tax paid;

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

(viii) An affidavit in lieu of title;

(ix) Release of interest;

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

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

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

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

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

(5) What is the secured party's obligation when the lien has been satisfied due to the sale of the vessel?

The secured party ((shaH)) must comply with RCW 46.12.101 as provided for vehicles and WAC 308-93-069 and 308-93-070 as provided for vessels.

((5)) Vessel owners applying for certificate of ownership and/or registration of a vessel must submit an application, which includes, but is not limited to:

(a) Expiration date of the certificate of registration;

(b) The name of each owner of the vessel and if the vessel is subject to security interest, the name of each secured party;

(c) The department-assigned customer account number for each owner of the vessel including secured parties if available;

(d) The address at which one of the owners regularly receives mail;

(e) The mailing address of the first secured party;

(f) The Washington registration number as assigned;

(g) Make and model year;

(h) Length of vessel;

(i) Type of power (gasoline, diesel, etc.);

(j) Primary use (commercial, pleasure, etc.);

(k) Primary method of propulsion (inboard, sail, etc.);

(l) Type of vessel (runabout, cabin, etc.);

(m) Primary vessel construction (fiberglass, wood, etc.);

(n) County of moorage;

(o) Hull identification number, if one has been assigned;

(p) Latest purchase price and purchase year or, if the vessel was not acquired by purchase, a declaration of value and year of declaration.

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

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

In addition to the information listed above, upon original application for certificate of ownership and/or registration of a homemade vessel, the owner shall complete and sign a declaration of value form. The owner's signature must be notarized/certified in accordance with WAC 308-93-470.

(6) Is the secured party liable for the acts of the vessel owner?

No. The secured party is not liable or responsible for any act or contract made by the vessel owner or by any person representing the vessel owner.

**WSR 03-15-047
PERMANENT RULES
GROWTH MANAGEMENT
HEARINGS BOARDS**

[Filed July 11, 2003, 11:38 a.m.]

Date of Adoption: July 10, 2003.

Purpose: Changes boards' addresses, filing location, changes and sets dates for annual and semiannual joint board meetings, deletes obsolete and repealed sections, minor technical corrections.

Citation of Existing Rules Affected by this Order: Amending WAC 242-02-010, 242-02-052, 242-02-070, 242-02-072, 242-02-834 and 242-04-050; and new section WAC 242-02-076.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 03-10-069 on May 6, 2003.

Changes Other than Editing from Proposed to Adopted Version: Minor edit to address change.

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 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 11, 2003

Edward G. McGuire
Board Member-CPSGMHB
Rules Coordinator

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

WAC 242-02-010 Organization. Three growth management hearings boards were established pursuant to chapter 36.70A RCW. Each board is an independent quasi-judicial agency of the state of Washington with three members appointed by the governor who are qualified by experience or training in matters pertaining to land use planning. These rules were developed ((and)), adopted, and amended jointly by all three boards pursuant to RCW 36.70A.270(7). They

should be read in conjunction with the act and the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 00-09-094, filed 4/19/00, effective 5/20/00)

WAC 242-02-052 Petition for rule making. (1) Right to petition for rule making. Any person may petition the joint boards for the adoption, amendment, or repeal of any rule. Said petition shall be filed with ~~((the Central Puget Sound board during the 1999-2001 biennium;))~~ the Western Washington board ~~((during the 2001-2003 biennium; and the Eastern Washington board during the 2003-2005 biennium)).~~

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

(a) A caption in the following form:

BEFORE THE JOINT GROWTH MANAGEMENT
HEARINGS BOARDS
STATE OF WASHINGTON

No.

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

PETITION FOR RULE MAKING

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

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

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

WAC 242-02-070 Quorum. (1) Joint boards. For the purpose of adopting, amending or repealing these rules, at least two members of each board must concur.

(2) Individual board. For purposes of making orders or decisions or transacting other official business, two members of a board shall constitute a quorum and may act even though one position on the board is vacant. One member or designated hearing examiner may hold hearings and take testimony. The findings of such member or hearing examiner shall not become final until approved by a majority of the

board ~~((in accordance with WAC 242-02-840)).~~ A board member who does not attend a hearing shall review a transcript or recording of the hearing before signing the decision. ~~((In instances of a tie vote, the procedures described in WAC 242-02-870 shall apply.))~~

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

WAC 242-02-072 Principal offices. The principal offices of each board are as follows:

- (1) Eastern Washington Growth Management Hearings Board
~~((Suite 818 Larson Building
6 South 2nd Street
Yakima, Washington 98901
(509) 454-7803
(509) 454-7292 fax))~~
15 West Yakima Avenue, Suite 102
Yakima, Washington 98902
509-574-6960
509-574-6964 fax
e-mail: aandreas476@ew.gmhb.wa.gov
website: www.gmhb.wa.gov
- (2) Western Washington Growth Management Hearings Board
905 24th Way S.W. Suite B-2
P.O. Box 40953
Olympia, Washington 98504-0953
(360) 664-8966
(360) 664-8975 fax
e-mail: western@ww.gmhb.wa.gov
website: www.gmhb.wa.gov
- (3) Central Puget Sound Growth Management Hearings Board
~~((Financial Center
1215 Fourth Avenue, Suite 322
Seattle, Washington 98161-1001))~~
900 Fourth Avenue, Suite 2470
Seattle, Washington 98164
(206) 389-2625
(206) 389-2588 fax
e-mail: central@cps.gmhb.wa.gov
website: www.gmhb.wa.gov

NEW SECTION

WAC 242-02-076 Annual and semiannual joint boards meetings. (1) The annual joint boards meeting will be held on the first Thursday and first Friday of October of each year.

(a) In odd-numbered years the annual joint boards meeting will be held within the Central Puget Sound board's region.

(b) In even-numbered years the annual joint boards meeting will be held within the Eastern Washington board's region.

(c) The location, time and agenda for the annual joint boards meeting will be posted on the boards' website (www.gmhb.wa.gov) in September of each year.

(2) The semiannual joint boards meeting will be held on the last Thursday in April each year.

(a) Each year the semiannual joint boards meeting will be held within the Western Washington board's region.

(b) The location, time and agenda for the semiannual joint boards meeting will be posted on the boards' website (www.gmhb.wa.gov) in March of each year.

AMENDATORY SECTION (Amending WSR 00-09-094, filed 4/19/00, effective 5/20/00)

WAC 242-02-834 Publication of final decision and orders. Copies of all final decisions and orders are available from the board that entered the decision and order. The growth management hearings board website is (~~www.gma-boards.wa.gov~~) www.gmhb.wa.gov. Each board posts its decisions within its individual portion of the website and maintains a digest of its decisions.

AMENDATORY SECTION (Amending WSR 00-09-094, filed 4/19/00, effective 5/20/00)

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

(a) Eastern Washington Growth Management Hearings Board
(~~(Suite 818 Larson Building)~~)
15 West Yakima Avenue, Suite 102
(~~(6 South 2nd Street)~~)
Yakima, Washington 98902
(~~(Yakima, Washington 98904)~~)
509-574-6960
(~~((509) 454-7803)~~)
509-574-6964 fax
(~~((509) 454-7292 fax)~~)
e-mail: aandreas476@ew.gmhb.wa.gov
website: www.gmhb.wa.gov

(b) Western Washington Growth Management Hearings Board
905 24th Way S.W. Suite B-2
P.O. Box 40953
Olympia, Washington 98504-0953
(360) 664-8966
(360) 664-8975 fax
e-mail: western@ww.gmhb.wa.gov
website: www.gmhb.wa.gov

(c) Central Puget Sound Growth Management Hearings Board
(~~(Financial Center)~~)
900 Fourth Avenue, Suite 2470

(~~1215 Fourth Avenue, Suite 322~~)
Seattle, Washington 98164
(~~Seattle, Washington 98161-1001~~)
(206) 389-2625
(206) 389-2588 fax
e-mail: central@cps.gmhb.wa.gov
website: www.gmhb.wa.gov

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

WSR 03-15-054
PERMANENT RULES
SECRETARY OF STATE
[Filed July 11, 2003, 3:48 p.m.]

Date of Adoption: July 11, 2003.

Purpose: Establish a uniform procedure for registering voters with nontraditional addresses and updating special absentee ballot and preliminary abstract of votes provisions.

Citation of Existing Rules Affected by this Order: Amending WAC 434-262-010, 434-262-020, and 434-240-010.

Statutory Authority for Adoption: RCW 29.04.080.

Adopted under notice filed as WSR 03-10-055 on May 21 [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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 11, 2004 [2003]

Steve Excell

Assistant Secretary of State

NEW SECTION

WAC 434-208-100 Registering to vote—Nontraditional address. No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional physical address being used as a residence address. Nontraditional addresses may include shelters, parks or other identifi-

able locations which the voter deems to be his/her residence. Voters using such an address will be registered and precincted based on the location provided. Voters without a traditional address will be registered at the county courthouse, city hall or other public building near the area that the voter considers his/her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status provided the voter designates a valid mailing address.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-010 Definitions. As used in these regulations:

(1) "Canvassing" is that process of examining in detail a ballot, groups of ballots, election subtotals, or grand totals, in order to determine the final official returns of a primary, special, or general election, and to safeguard the integrity of the election process.

(2) "County canvassing board" is that body charged by law with the duty of canvassing absentee ballots, of ruling on the validity of questioned or challenged ballots, of the verifying all unofficial returns as listed in the auditor's abstract of votes, and the producing of the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairman of the board of the county legislative authority, or their designated representatives.

(3) (~~"Preliminary abstract of votes" is that report prepared by the county auditor which lists registered voters, votes cast, and all vote totals by precinct, or by combination of precincts if applicable, but it shall not include any absentee ballot totals or any subtotals or county-wide totals.~~)

(4)) "Auditor's abstract of votes" is that report prepared by the county auditor which lists the number of registered voters, votes cast, all of the vote totals by precinct, or by combination of precincts if applicable, and which includes absentee ballot totals, legislative district subtotals, if any, and county-wide totals. Vote totals in the auditor's abstract of votes shall be unofficial until verified and certified by the county canvassing board.

~~((5) "Verification of the auditor's abstract of votes" is that process whereby the county canvassing board determines that all of the individual precinct and absentee ballot totals, as shown on the auditor's abstract of votes, have been correctly listed and that the various subtotals are an accurate reflection of the sum of those individual precinct and absentee ballot totals.~~

(6)) (4) "County canvass report" is the auditor's abstract of votes after verification by the county canvassing board and shall contain a certificate which shall include the oath as specified in RCW 29.62.040, the original signatures of each member of the county canvassing board, the county seal, and all other material pertinent to the election.

((7)) (5) "Certified copy of the county canvass report" is that report transmitted by the county auditor to the secretary of state which contains registered voters and votes cast by precinct, or combination of precincts if applicable, votes cast for and against state measures, and votes cast for candidates for federal and statewide offices and for any office

whose jurisdiction encompasses more than one county, absentee ballot totals for those measures and candidates, subtotals if applicable, and county-wide totals. It shall also include a certificate, bearing original signatures and an original county seal, identical to that included in the official county canvass report, and any other material which may be pertinent to the canvass of the election.

AMENDATORY SECTION (Amending WSR 02-07-028, filed 3/12/02, effective 4/12/02)

WAC 434-262-020 Preliminary abstract of votes. Following the election and prior to the official canvass, the county auditor shall prepare ~~((a))~~ a preliminary abstract of votes, listing the number of registered voters and votes cast. The preliminary abstract of votes must also list separately for votes cast by absentee ballot and those cast at the polls, votes cast for and against measures, votes cast for candidates, overvotes and undervotes, by precinct or groups of precincts in the event that precincts have been combined in accordance with RCW 29.04.055, for canvassing purposes. The county auditor shall inspect the ~~((report))~~ preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 02-20-037, filed 9/24/02, effective 10/25/02)

WAC 434-240-010 Definitions. As used in this chapter:

(1) An "elector" of the state of Washington is any person who qualifies under state or federal law as an overseas voter, service voter, or out-of-state voter and who:

(a) Is not currently a registered voter in Washington or any other state;

(b) Will be at least eighteen years of age at the time of the next election;

(c) Is a citizen of the United States;

(d) Is a legal resident of the state, county, and precinct for at least thirty days preceding the election at which he or she offers to vote;

(e) Is not currently being denied his or her civil rights by being convicted of a crime for which he or she could have been sentenced to the state penitentiary;

(2) "Out-of-state voters," "overseas voters," "protected records voters," and "service voters" are electors of the state of Washington and are not registered voters of Washington or any other state; electors of the state of Washington who are spouses or dependents of service voters shall be considered to be either out-of-state voters or overseas voters;

(3) "Service voters" are electors of the state of Washington who are outside the state during the period available for voter registration and who are members of the armed forces while in active service, are students or members of the faculty at a United States military academy, are members of the merchant marine of the United States, are members of a religious group or welfare agency officially attached to and serving with the armed forces of the United States, or are certified participants in the address confidentiality program authorized by chapter 40.24 RCW.

WSR 03-15-060

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed July 14, 2003, 10:46 a.m.]

(4) "Canvassing" is that process of examining, in detail, a ballot, groups of ballots, election subtotals, or grand totals in order to determine the final official returns of a primary, special, or general election and in order to safeguard the integrity of the election process;

(5) "Territorial limits of the United States" means the fifty United States and the District of Columbia;

(6) "Ongoing absentee ballot" is a ballot provided to voters who have requested in writing to automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote, and provided to voters who are certified participants in the address confidentiality program, pursuant to the provisions of chapter 40.24 RCW;

(7) "Hospital absentee ballot" is that absentee ballot provided to voters confined to a health care facility on the day of a primary or election;

~~(8) ("Special absentee ballot" is that ballot provided to registered voters and electors in state primary and general elections who indicate on their application that they believe they will be residing or stationed or working outside the continental United States at the time of the election and that they will be unable to vote and return a regular absentee ballot during the time period provided by law;~~

(9)) "Regular absentee ballot" is that absentee ballot provided to voters or electors who request an absentee ballot and who do not either request or qualify for an ongoing absentee ballot, hospital absentee ballot, or special absentee ballot;

~~((10))~~ (9) "Secure storage" are those locations provided for the storage of all material connected with the absentee ballot process, including ballots, and shall be under the direct control of the county auditor. Secure storage shall employ the use of numbered seals and logs or any other security measures which will detect any inappropriate access to the secured materials when such materials are not being prepared or processed by the county auditor or persons authorized by the county canvassing board;

~~((11))~~ (10) "Challenged ballot" is that ballot issued to any voter whose registration has been challenged pursuant to the provisions of chapter 29.10 RCW and this chapter;

~~((12))~~ (11) "Special ballot" is that ballot issued to a voter by precinct election officers pursuant to WAC 434-253-043.

~~((13))~~ (12) "County auditor" shall be as defined by RCW 29.01.043, and with respect to the processing of absentee ballots and applications, the term includes any employee of the county auditor who is directed in writing to perform those duties on behalf of the county auditor.

~~((14))~~ (13) "Mail ballot precinct" is any precinct containing less than two hundred active registered voters at the closing of voter registration under RCW 29.07.160 in which the county auditor has determined to conduct the voting by mail ballot.

Date of Adoption: July 10, 2003.

Purpose: For WSU Spokane: To reorganize, clarify and streamline existing parking regulations in accordance with board of regents directive. To enable the board of regents to change fines without recodification in the WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 504-14-810 and 504-14-830.

Statutory Authority for Adoption: RCW 28B.30.125.

Adopted under notice filed as WSR 03-10-057 on May 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 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: Thirty-one days after filing.

July 10, 2003

Kirsten Pauli

Rules Coordinator

WASHINGTON STATE UNIVERSITY: CAMPUS TRAFFIC AND PARKING REGULATIONS FOR WASHINGTON STATE UNIVERSITY SPOKANE

AMENDATORY SECTION (Amending WSR 01-18-015, filed 8/24/01, effective 9/24/01)

WAC 504-14-810 Violations, fines, and sanctions. (1) Violations and fines: Parking violations will be processed by the university. Fines must be paid at authorized locations ~~(at the following rates:)~~ Schedules for parking violations, fines, and sanctions are posted in the public area of the parking services office and on the parking services web site.

((a)) Overtime/nonpayment at meter	\$ 10.00))
((b)) Overtime in time zone	\$ 10.00))
((c)) No parking permit	\$ 25.00))
((d)) No parking permit for this area	\$ 20.00))
((e)) No parking zone	\$ 20.00))
((f)) Improper display of permit/indicator	\$ 5.00))
((g)) Blocking traffic	\$ 25.00))

PERMANENT

((h)) Unauthorized parking in a disability space	\$ 250.00))
((i)) Parking in a fire zone	\$ 50.00))
((j)) Unauthorized parking in reserved area	\$ 40.00))
((k)) Illegal use of permit	\$ 65.00))
((l)) Display of lost or stolen permit	\$ 200.00))
((m)) Wheel lock fee	\$ 50.00))
((n)) Unauthorized/overtime parking in service space	\$ 25.00))
((o)) Unauthorized/overtime parking on the pedestrian mall	\$ 50.00))
((p)) All other parking violations	\$ 20.00))

(2) Reduction of fines: Fines for violations ~~((in subsection (1)(a) and (b) of this section))~~ of overtime/nonpayment at meter and overtime in time zone paid within twenty-four hours will be reduced by one-half. Eligible violations received on Friday or Saturday can be paid on the following Monday to satisfy the twenty-four-hour requirement. Mailed fines must be postmarked within twenty-four hours to receive the one-half reduction. If a permit holder of record neglects to display his/her permit and receives a notice of violation for no parking permit, ~~((subsection (1)(e) of this section;))~~ that fine will be reduced ~~((to five dollars))~~ when possession of a valid parking permit for the location is verified by WSU Spokane public safety within twenty-four hours.

(3) Visitors: The first violation of ~~((the))~~ notices ~~((listed in subsection (1)(e) of this section;))~~ for no parking permit((;)) and ((subsection (1)(d) of this section;)) no parking permit for this area((;)) issued to visitors are considered warning notices upon presentation to WSU Spokane public safety.

(4) Inoperable vehicles: It is the owner's responsibility to immediately contact WSU Spokane public safety in the event that the owner's vehicle becomes inoperable.

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

AMENDATORY SECTION (Amending WSR 01-18-015, filed 8/24/01, effective 9/24/01)

WAC 504-14-830 Other violations and sanctions. (1) Schedules for parking violations fines and sanctions are posted in the public area of the parking operations office and on the parking operations web site.

~~((1))~~ (2) Late payment of fines: Failure to pay fines and charges will result in the total amount assessed being referred the WSU controller's office for collection. Forty-five days after issuance of a notice of violation a ~~((ten-dollar charge))~~ late fee shall be added to all unpaid parking violations.

(a) If a WSU student or staff member fails to pay the fine assessed for any violation, the fine will be referred to the WSU controller's office for collection. The controller may, if other collection efforts fail withhold the amount of the outstanding fines from damage deposits or other funds held for any student in order to secure payment. Where collection efforts are unsuccessful, the controller may notify the regis-

trar to refrain from issuing student transcripts or to withhold permission to reenroll for a subsequent term until outstanding fines are paid.

(b) The procedures discussed above are not exclusive, however, and failure by anyone to pay fines may lead to towing or use of the wheel lock device described in these regulations. The procedures discussed above are not a precondition to towing or use of the wheel lock.

~~((2))~~ (3) Impound by wheel lock or towing:

(a) Any vehicle with an accumulation of three or more unpaid parking violations or any vehicle displaying a lost or stolen permit may be temporarily immobilized by use of a wheel lock device placed on a wheel. A ~~((fifty-dollar))~~ wheel lock fee will be assessed on vehicles which are immobilized with a wheel lock.

(b) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

(i) Has been immobilized by wheel lock more than twenty-four hours; or

(ii) Is illegally parked in a marked tow-away zone; or

(iii) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or

(iv) Cannot be impounded with a wheel lock device; or

(v) Is illegally parked in a disability space.

(c) The driver and/or owner of a towed vehicle shall pay towing and storage expenses.

(d) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours will be assessed an additional storage fee ~~((of ten dollars))~~ for each calendar day or portion thereof, beyond the first twenty-four hours.

(e) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(f) No vehicle impounded by towing or wheel lock devices shall be released until the following fines are paid in cash:

(i) All unpaid parking violation penalties against said vehicle and any other vehicle registered to the violator;

(ii) A ~~((fifty-dollar))~~ wheel lock fee;

(iii) All towing and storage fees.

(g) Any vehicle impounded pursuant to these regulations in excess of thirty calendar days shall be considered an abandoned vehicle and shall be disposed of in accordance with chapter 46.55 RCW.

(h) A person wishing to challenge the validity of any fines or fees imposed under this subsection may appeal such fines or fees as elsewhere provided in these regulations. However, in order to secure release of the vehicle, such person must pay the amount of such fines or fees as a bond which will be refunded to the extent the appeal is successful.

(i) An accumulation of six unpaid violations during any twelve-month period, exclusive of meter violations, and overtime in time zone violations, will subject the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

~~((3))~~ (4) Failure to pay fines: Failure to pay a fine or comply with other penalties assessed pursuant to these regu-

lations after exhausting or failing to exercise appeals provided for in these regulations constitutes a violation of RCW 28B.10.560. A citation or complaint for such violations may be issued and filed with the district court. Upon request of the university, the department of licensing may withhold vehicle registration pending the payment of outstanding parking fines.

WSR 03-15-061
PERMANENT RULES
WASHINGTON STATE UNIVERSITY

[Filed July 14, 2003, 10:47 a.m.]

Date of Adoption: July 10, 2003.

Purpose: For Intercollegiate College of Nursing/WSU College of Nursing: To reorganize, clarify and streamline existing parking regulations in accordance with board of regents directive. To enable the board of regents to changes fines without recodification in the WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 504-18-170.

Statutory Authority for Adoption: RCW 28B.30.125.

Adopted under notice filed as WSR 03-10-058 on May 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 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: Thirty-one days after filing.

July 10, 2003

Kirsten Pauli

Rules Coordinator

**WASHINGTON STATE UNIVERSITY: PARKING
REGULATIONS—INTERCOLLEGIATE COLLEGE
OF NURSING/WASHINGTON STATE UNIVERSITY
COLLEGE OF NURSING**

AMENDATORY SECTION (Amending WSR 01-18-019, filed 8/24/01, effective 9/24/01)

WAC 504-18-170 Administration and enforcement.

(1) The finance officer of the ((ICNE)) college of nursing in Spokane is responsible for the administration and enforcement of the college parking regulations.

(2) Anyone observed in violation of parking regulations may be given a notice of violation.

(3) The university reserves the right to impound any illegally parked vehicle at either or both the owner's or driver's expense.

(4) Parking violations will be processed by the office of finance and operations of the college in Spokane and will be paid in that office. Parking violations may be appealed in writing within 10 days of the violation. WAC 504-18-170(7) describes the appeals procedure.

(5) ((The)) A schedule of parking fines ((for staff and students will be:

(a) \$10.00 for absence of parking permit when required, or improper parking, or parking in an area not allowed by permit.

(b) \$20.00 for parking in a disabled parking space without a disability permit)) and sanctions will be available at the college of nursing receptionist's desk, posted at the college's office of finance and operations, and filed with the university rules coordinator.

(6) Failure of a student or staff member to pay the fine assessed for any violation will result in the total amount of the fines being referred to Washington State University for collection. Washington State University, may, if other collection efforts fail, withhold outstanding fines from damage deposits or other funds held for students. Where collection efforts are unsuccessful, Washington State University may refrain from issuing copies of student transcripts or withhold permission to reenroll for an ensuing term until outstanding fines are paid.

(7) Appeal procedure

This procedure serves two primary purposes: To assure an impartial evaluation of certain circumstances and situations relating to an appeal and to aid in the appraisal of parking problems. The initial appeal must be in writing. The forms for this purpose may be obtained at the office of finance and operations of the college in Spokane. Appeals are reviewed and acted on by the college finance officer or designee.

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

WSR 03-15-062
PERMANENT RULES
WASHINGTON STATE UNIVERSITY

[Filed July 14, 2003, 10:48 a.m.]

Date of Adoption: July 10, 2003.

Purpose: For WSU Vancouver: To reorganize, clarify and streamline existing parking regulations in accordance with board of regents directive. To enable the board of regents to change fines without recodification in the WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 504-19-810 and 504-19-830.

Statutory Authority for Adoption: RCW 28B.30.125.

Adopted under notice filed as WSR 03-10-059 on May 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 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: Thirty-one days after filing.

July 10, 2003

Kirsten Pauli

Rules Coordinator

WASHINGTON STATE UNIVERSITY: CAMPUS TRAFFIC AND PARKING REGULATIONS FOR WASHINGTON STATE UNIVERSITY VANCOUVER

AMENDATORY SECTION (Amending WSR 96-15-050, filed 7/15/96, effective 8/15/96)

WAC 504-19-810 Violations, fines, and sanctions. 1)

Violations and fines: Parking violations will be processed by the university. Fines must be paid at authorized locations (~~(-at the following rates-)~~). Schedules for parking violations, fines, and sanctions are posted in the public area of the parking services office and on the parking services web site.

((a)) Overtime/nonpayment at meter	\$ 10.00))
((b)) Overtime in time zone	\$ 10.00))
((c)) No parking permit	\$ 25.00))
((d)) No parking permit for this area	\$ 20.00))
((e)) No parking zone	\$ 20.00))
((f)) Improper display of permit/indicator	\$ 5.00))
((g)) Blocking traffic	\$ 25.00))
((h)) Unauthorized parking in a disability space	\$ 50.00))
((i)) Parking in a fire zone	\$ 50.00))
((j)) Unauthorized parking in reserved area	\$ 40.00))
((k)) Illegal use of permit	\$ 65.00))
((l)) Display of lost or stolen permit	\$ 200.00))
((m)) Wheel lock fee	\$ 50.00))
((n)) Unauthorized/overtime parking in service space	\$ 25.00))

((o)) Unauthorized/overtime parking on the pedestrian mall	\$ 50.00))
((p)) All other parking violations	\$ 20.00))

(2) Reduction of fines: Fines for violations (~~(in subsection (1)(a) and (b) of this section))~~ of overtime/nonpayment at meter and overtime in time zone paid within twenty-four hours will be reduced by one-half. Eligible violations received on Friday or Saturday can be paid on the following Monday to satisfy the twenty-four-hour requirement. Mailed fines must be postmarked within twenty-four hours to receive the one-half reduction. If a permit holder of record neglects to display his/her permit and receives a notice of violation for no parking permit, (~~(in subsection (1)(c) of this section,))~~) that fine will be reduced (~~(to five dollars))~~) when possession of a valid parking permit for the location is verified by WSUV public safety within twenty-four hours.

(3) Visitors: The first violation of (~~(the))~~) notices (~~(listed in subsection (1)(e) of this section,))~~ for no parking permit(~~(;))~~) and (~~(subsection (1)(d) of this section,))~~) no parking permit for this area(~~(;))~~) issued to visitors are considered warning notices upon presentation to WSUV public safety.

(4) Inoperable vehicles: It is the owner's responsibility to immediately contact WSUV public safety in the event that their vehicle becomes inoperable.

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

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

AMENDATORY SECTION (Amending WSR 01-19-028, filed 9/13/01, effective 10/14/01)

WAC 504-19-830 Other violations and sanctions. (1) Schedules for parking violations, fines, and sanctions are posted in the public area of the parking services office and on the parking services web site.

~~((+))~~ (2) Late payment of fines: Failure to pay fines and charges will result in the total amount assessed being referred for collection. Forty-five days after issuance of a notice of violation a (~~(ten-dollar charge))~~) late fee shall be added to all unpaid parking violations.

If a student or staff member fails to pay the fine assessed for any violation, the fine will be referred to the WSU controller's office for collection. The controller may, if other collection efforts fail, deduct outstanding fines from the salary warrants of employees or withhold the amount of the outstanding fines from damage deposits or other funds held for any student in order to secure payment. Where collection efforts are unsuccessful, the controller may notify the registrar to refrain from issuing student transcripts or to withhold permission to reenroll for a subsequent term until outstanding fines are paid. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines may lead to towing or use of the wheel lock device described in these regulations. The procedures discussed above are not a precondition to towing or use of the wheel lock.

PERMANENT

~~((2))~~ (3) Impound by wheel lock or towing:

(a) Any vehicle with an accumulation of three or more unpaid parking violations or any vehicle displaying a lost or stolen permit may be temporarily immobilized by use of a wheel lock device placed on a wheel. A ~~((fifty-dollar))~~ wheel lock fee will be assessed on vehicles which are immobilized with a wheel lock.

(b) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

(i) Has been immobilized by wheel lock more than twenty-four hours; or

(ii) Is illegally parked in a marked tow-away zone; or

(iii) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or

(iv) Cannot be impounded with a wheel lock device; or

(v) Is illegally parked in a disability space.

(c) The driver and/or owner of a towed vehicle shall pay towing and storage expenses.

(d) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours will be assessed a storage fee ~~((of ten dollars))~~ for each calendar day or portion thereof, beyond the first twenty-four hours.

(e) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(f) No vehicle impounded by towing or wheel lock devices shall be released until the following fines are paid in cash:

(i) All unpaid parking violation penalties against said vehicle and any other vehicle registered to the violator;

(ii) A ~~((fifty-dollar))~~ wheel lock fee;

(iii) All towing and storage fees.

(g) Any vehicle impounded pursuant to these regulations in excess of thirty calendar days shall be considered an abandoned vehicle and shall be disposed of in accordance with chapter 46.55 RCW.

(h) A person wishing to challenge the validity of any fines or fees imposed under this subsection may appeal such fines or fees as elsewhere provided in these regulations. However, in order to secure release of the vehicle, such person must pay the amount of such fines or fees as a bond which will be refunded to the extent the appeal is successful.

(i) An accumulation of six unpaid violations during any twelve-month period, exclusive of meter violations, and overtime in time zone violations, will subject the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

~~((3))~~ (4) Failure to pay fines: Failure to pay a fine or comply with other penalties assessed pursuant to these regulations after exhausting or failing to exercise appeals provided for in these regulations constitutes a violation of RCW 28B.10.560. A citation or complaint for such violations may be issued and filed with the district court. Upon request of the university, the department of licensing may withhold vehicle registration pending the payment of outstanding parking fines.

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

WSR 03-15-063

PERMANENT RULES

BIG BEND

COMMUNITY COLLEGE

[Filed July 14, 2003, 2:46 p.m.]

Date of Adoption: July 8, 2003.

Purpose: To update and revise existing code to reflect the current college policies and procedures concerning the organization, practice and procedure, student conduct code, student athletic participation, designation of authority, policies and procedures, general conduct code, traffic and parking regulations, use of college facilities, bookstore operating procedures, library policies, residence housing policies, public records, Family Educational Rights and Privacy Act of 1974, and policy on personnel files.

Citation of Existing Rules Affected by this Order: Repealing and amending Title 132R WAC, Community Colleges—Big Bend Community College.

Statutory Authority for Adoption: RCW 28B.50.140 and chapter 34.05 RCW.

Adopted under notice filed as WSR 03-11-006 on May 9, 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 6, 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 20, Amended 49, Repealed 23.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 20, Amended 49, Repealed 23.

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.

July 10, 2003

K. W. Turner

VP Administrative Services

AMENDATORY SECTION (Amending WSR 90-02-016, filed 12/26/89, effective 1/26/90)

WAC 132R-01-010 Organization—Operation—Information. (1) Organization. Big Bend Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer

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of the institution. The president establishes the structure of the administration.

(2) Rules coordinator. The designated rules coordinator for Big Bend Community College is the vice-president, administrative services, located at the following address:

Vice-President, Administrative Services
Big Bend Community College
Building 1400
~~((28th &))~~ 7662 Chanute Street
Moses Lake, WA 98837-3299

(3) Operation. The administrative office is located at the following address:

Big Bend Community College
Building 1400
~~((28th &))~~ 7662 Chanute Street
Moses Lake, WA 98837-3299

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(4) Information. Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Big Bend Community College - Admissions
Building 1400
~~((28th &))~~ 7662 Chanute Street
Moses Lake, WA 98837-3299

AMENDATORY SECTION (Amending WSR 90-02-016, filed 12/26/89, effective 1/26/90)

WAC 132R-02-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

President's Office
Big Bend Community College
Building 1400
~~((28th &))~~ 7662 Chanute Street
Moses Lake, WA 98837-3299

Written application for an adjudicative proceeding should be submitted to the above address within twenty days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

AMENDATORY SECTION (Amending WSR 90-02-016, filed 12/26/89, effective 1/26/90)

WAC 132R-02-080 Recording devices. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC ~~((132R-02-010))~~ 132R-02-070, except for the method of official recording selected by the institution.

~~((RULES OF CONDUCT AND PROCEDURES OF ENFORCEMENT))~~ STUDENT CONDUCT CODE

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-04-010 Student rights and responsibilities. Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the student handbook which is on file in the office of the ~~((dean,))~~ vice-president of student services.

NEW SECTION

WAC 132R-04-015 Definitions. (1) "ASB" means the representative governing body for students at Big Bend Community College recognized by the board of trustees.

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

(3) "Board" means the board of trustees of Community College District 18, state of Washington.

(4) "College president" or "president" means the duly appointed chief executive officer of Big Bend Community College, Community College District 18, state of Washington, or in his/her absence, the acting chief executive officer.

(5) "College" means Big Bend Community College located within Community College District 18, state of Washington.

(6) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) "College personnel" refers to any person employed by Community College District 18 on a full-time or part-time basis, except those who are faculty members.

(8) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the vice-president of student services, student disciplinary council, college president, or the board of trustees for the violation of any of the provisions of the code of student conduct or any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(9) "District" means Community College 18, state of Washington.

(10) "Faculty member(s)" means any employee of Big Bend Community College who is employed on a full-time or

part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibility are comparable as determined by the appointing authority, except administrative appointments.

(11) "Hazing" means any method of initiation into a student organization, association, or living group or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(12) "Recognized student organization" means and includes any group or organization composed of students, which is affirmed by the student government of the college.

(13) "A sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by college faculty members or personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college faculty member(s) or personnel, shall be deemed to be a nonsponsored activity.

(14) "Student" means a person who is enrolled for courses at the college.

(15) "Working days" means Monday through Friday, excluding holidays.

NEW SECTION

WAC 132R-04-017 Jurisdiction. All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function whether occurring on or off college facilities/premises.

NEW SECTION

WAC 132R-04-019 Right to demand identification. For the purpose of determining identity of a person as a student any faculty member or other college personnel authorized by the college president may demand that any person on college facilities produce evidence of student enrollment at the college. Tender of the student identification card will satisfy this requirement.

Refusal by a student to produce identification as required shall subject the student to disciplinary action.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-040 (~~Demonstration rights~~) Freedom of expression. (1) (~~Students and nonstudents may conduct or may participate in any demonstration as defined in WAC 132R-04-010 on college facilities which are generally available to the public provided such demonstrations:~~) Fundamental to the democratic process are the rights of free

speech and peaceful assembly. Students, other members of the college community, and nonstudents shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operations of the college.

(2) Concomitantly, while supporting the rights of students and others, the college recognizes the responsibility to maintain an atmosphere conducive to a sound educational endeavor.

(3) To insure the reconciliation of such rights and responsibilities, while respecting the private rights of all individuals, campus demonstrations may be conducted only in areas which are generally available to the public provided such demonstrations:

(a) Are conducted in an orderly manner; and

(b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or with the general educational processes of the college; or

(c) Do not unreasonably interfere with vehicular or pedestrian traffic; or

(d) Do not unreasonably interfere with regular college functions.

~~((2))~~ (4) A student who conducts or participates in a demonstration which violates any provision of this rule shall be subject to disciplinary action. A nonstudent who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

NEW SECTION

WAC 132R-04-042 Freedom of access to higher education. Each student is free to pursue his or her educational goals; and to that end, appropriate opportunities for learning in the classroom shall be provided by the district. The college shall maintain an open door policy, to the end that no student will be denied admission because of the location of the student's residence, or because of the student's educational background or ability; that, insofar as is practical in the judgment of the board, curriculum offerings shall be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body; provided, that the administrative officers of the college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the community college, or would, by the student's presence or conduct, create a disrupting atmosphere within the community college inconsistent with the purposes of the institution.

NEW SECTION

WAC 132R-04-047 Freedom of association and organization. Students bring to the campus a variety of previously acquired interests and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational or social.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a faculty member who has agreed to serve as an advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur.

In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, national origin, or religion. Membership in all student organizations shall be open to any member of the college community who is willing to subscribe to the stated aims of the student organization. Affiliation with a noncampus organization shall not be grounds for denial of charter, provided that other conditions for charter issuance have been met.

NEW SECTION

WAC 132R-04-056 Standards. Attendance at Big Bend Community College presupposes that a student will observe the laws and deport themselves according to accepted standards of personal and group conduct. It further presupposes that each student will comply with the rules, regulations and procedures as are, or may be, established by Big Bend Community College. Failure to observe such laws, standards, rules, regulations and procedures shall render a student subject to penalties, which may include dismissal from the college.

The provisions of this section on student conduct and discipline do not apply to probation or suspension arising solely from low scholarship.

NEW SECTION

WAC 132R-04-057 Student code of conduct violations. Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(2) Violates any provisions of the code of student rights and responsibilities.

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of academic misconduct and dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, disciplinary proceedings or other lawful activities on the college campus. Said conduct may be defined as:

(i) Behavior that involves an expressed or an implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur;

(ii) Threat to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety;

(iii) Intentional and repeated following or contacting another person in a manner that intimidates, harasses or places another in fear for his or her personal safety or the safety of his or her property.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the physical or mental health and safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) All forms of sexual misconduct which includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape.

(f) All forms of hazing which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or college organization.

(g) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(h) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(i) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the vice-president of student services, or any other person designated by the college president.

(j) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(k) Possessing, consuming, being demonstrably under the influence of, or furnishing any form of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by the college's current alcohol policy.

(l) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(m) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(n) Using, possessing, furnishing or selling any narcotic or dangerous drug as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

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

(p) Theft or conversion of college property or private property.

(q) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(r) Possession, making or causing to be made, any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another, a key for which there has been no proper authorization.

(s) Interfering with college computing or communication functions or with the work of another student, faculty member, or college official; gaining unauthorized access, altering data, misusing computing facilities to send harassing messages, or misuse of the campus network and/or computing facilities as defined by the current college technology use policy and procedures.

(t) Disruptive classroom conduct including abusive language toward a classroom instructor and/or student and other acts of misconduct.

(4) Single or repeated violation of the above code is relevant in determining an applicant's or a student's membership in the college.

NEW SECTION

WAC 132R-04-063 Disciplinary sanctions. If any student is found to have violated any of the offenses enumerated at WAC 132-04-057, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions.

(1) Minor disciplinary sanction:

(a) "Disciplinary warning." Formal action censoring a student for unacceptable conduct or violation of college rules or regulations. The student is notified in writing of this action. Warnings imply that further unacceptable conduct or violation of rules will result in one of the more serious actions described below.

(b) "Disciplinary probation." Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in college-related privileges or extra-curricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation shall be for a specified period of time.

(c) "Educational activities." Activities designed to foster student development may include, but are not limited to, community service, attendance at educational programs, or written assignments.

(d) "Restitution." Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) "Assessment." Referral for drugs/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(2) Major disciplinary sanction:

(a) "Disciplinary suspension." Formal action taken by authorized personnel (the president or anyone authorized to act in the absence of the president) dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for a stated or for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated. The notification suspending the student must state the conditions to be met and whether the action is to be noted permanently on the student's record. The student and vice-president of student services are notified in writing of the action taken, the terms of the suspension and any conditions involved, and the dean of enrollment services is requested to enter the action on the student's academic record. No fees will be refunded for the quarter in which the action is taken.

(b) "Disciplinary expulsion." Discretionary action by authorized personnel dismissing a student permanently for flagrantly unacceptable conduct or violation of college rules or regulations. Unlike suspension, no term is involved, the action always becomes effective on notice. Expulsion must have the prior approval of the president. The student is notified in writing of the action taken, and the dean of enrollment services is requested to enter the action permanently on the student's academic record.

(c) "Hold" (administrative). Attachment of a student's record to assure compliance with college rules, procedures, or obligations. The "hold" may be placed on the student's record by the authorized college office responsible for enforcement of the rule, procedure, or obligation involved. The authorized office must request the dean of enrollment services in writing to place a "hold" on the student's record. The student will not be permitted to register for any subsequent quarter nor to obtain a transcript of his/her record except on the written release of the office which placed the "hold."

(d) "Registration canceled" (administrative). Privileges of attendance withdrawn, effective immediately on notice.

(i) By order of the business office for financial delinquencies. (Handled as a withdrawal for recording purposes.)

(ii) By order of the vice-president of student services for failure to comply with rules, regulations or instructions.

The order canceling a registration must be addressed to the student involved in writing. The registration office automatically will place a "hold" on the student's record to prevent registration for future quarters and the issuance of transcripts.

NEW SECTION

WAC 132R-04-064 Interim discipline. (1) Disciplinary actions of the college will be implemented by the president, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the college will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities of others or imperil the physical or mental health and safety of members of the college community, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:

(a) Interim restrictions, including, but not limited to, assignment to alternate college housing or removal from college housing, limitation of access to college facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the college or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the college.

(2) Each instructor is authorized to implement interim suspension when necessary to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. An instructor imposing an interim suspension shall report such action, in writing, to the division chair, vice-president of student services, and vice-president of instruction.

(3) In all cases of interim discipline, the student or student organization is entitled to personally appeal before the vice-president of student services or designee as soon as is reasonably possible. The student disciplinary review request must be submitted in writing no later than ten working days from the date of said disciplinary action.

(4) The vice-president of student services shall conduct a meeting with the student within five working days after receipt of the disciplinary review request. As a result of the meeting between the vice-president of student services and the student, the vice-president may recommend to the president or the president's designee either continuation or termination of the interim discipline and/or initiate disciplinary procedures in accordance with WAC 132R-04-112 through 132R-04-160.

NEW SECTION

WAC 132R-04-067 Readmission after major discipline. Any petition for readmission by a student suspended or expelled for disciplinary reasons other than poor scholarship

must be addressed to the office of the vice-president of student services. Such a petition must be in writing and must state in detail the reasons why the penalty should be reconsidered. Since the president of the college or his/her designee participates in disciplinary decisions suspending/expelling students from the college, decisions on such petitions for readmission must be reviewed and approved by the president before being announced to the petitioner.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-100 Delegation of disciplinary authority. The board, acting pursuant to ~~((RCW 28.85.140 (14)-(f))~~RCW 28B.50.140(14)(j)), do by written order delegate to the president of the college authority to administer the disciplinary action prescribed in WAC 132R-04-150. All disciplinary actions in which there is a recommendation that a student be suspended or expelled, shall be acted upon by the president ~~((The president shall have no authority to delegate this decision))~~ or his/her designee as listed in the Big Bend Community College board of trustees policy book, section BP 1004.5.

NEW SECTION

WAC 132R-04-112 Discipline statement. (1) The vice-president of student services is the primary agent for the administration of discipline for unacceptable conduct or infraction of college rules except those which are the responsibility of divisions and instructors as hereafter described.

(a) The division chair and faculty of each division are responsible for the administration of discipline for infraction of rules and regulations of the college or for unacceptable conduct by students in matters relating to their academic progress.

(b) The instructor is responsible for the maintenance of order and proper conduct in the classroom. He/she is authorized to impose interim suspension as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(2) The instructor of each course shall be responsible for the maintenance of order and proper student conduct in a classroom. Each instructor is authorized to impose interim suspension in order to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. In the event of disruptive classroom conduct, academic misconduct, and/or dishonesty, the instructor may take any and all reasonable action against any student. A course of action might include, but not be limited to:

(a) Issuing a failing grade on a particular test, paper, assignment, or course.

(b) Dismissing the student(s) from class pending a hearing with the vice-president of student services.

(c) Dropping the student from the course.

(d) Referring the case to local authorities for civil action.

(3) An instructor taking action against any student for an act of disruptive classroom conduct, academic misconduct, and/or dishonesty, shall report such action in writing to the division chair, appropriate dean, vice-president of student

services, and vice-president of instructional services as soon as possible. Any student subject to action of an instructor for a code of conduct violation may seek review of that action by the vice-president of student services. The student disciplinary review request must be submitted in writing to the vice-president of student services within ten working days from the date of said disciplinary action.

NEW SECTION

WAC 132R-04-115 Disciplinary action. (1) A student charged with unacceptable conduct is entitled to a fair hearing. The procedures set forth below shall be interpreted and administered in such a way as to accomplish this objective. Disciplinary proceedings are not to be construed as judicial trials; care will be taken to comply as fully as possible with the spirit and intent of procedural safeguards relative to the rights of the individual concerned.

(a) When disciplinary action is initiated by a faculty member for disruptive classroom conduct, academic misconduct, and/or dishonesty, a written report of the occurrence shall be filed with the division chair, appropriate dean, vice-president of student services, and vice-president of instruction.

(b) All other instances of misconduct shall be reported to the vice-president of student services.

(c) Any student accused of violating any provisions of the rules of student conduct **shall** be called for an initial conference with the vice-president of student services or his/her designated representative, and **shall** be informed of what provision of the rules of student conduct have been violated, and the maximum penalties, if any, which might result from initiation of a disciplinary proceeding.

(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the vice-president of student services or his/her designated representative may take any of the following actions:

(a) Terminate the proceedings, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate;

(c) Impose minor sanctions directly (warning or reprimand);

(d) Refer the case to the disciplinary committee.

(3) Should a disciplinary committee hearing be necessary, the student shall be notified **in writing** as to the date, time, place of the hearing, and charge(s), including reference to the particular sections of the rules of student conduct involved. He/she shall be permitted to examine the evidence against him/her and where pertinent shall be given the names of those who will be witnesses against him/her. In the hearing he/she may present evidence, testimonial or documentary, in his/her behalf.

(4) The president or vice-president of student services shall notify the student in writing of the final determination on any charge of unacceptable conduct. In the case of a student under eighteen years of age who is expelled, suspended or placed on disciplinary probation, the parents or guardian of

the student shall also be notified in writing. (This does not apply to emancipated minors.)

NEW SECTION

WAC 132R-04-117 Disciplinary committee. (1) The committee shall be a standing committee composed of one administrator appointed by the president, two faculty members selected by the college faculty association and two students selected by the student government.

(2) If any member of the committee is unable to consider a particular disciplinary proceeding for any reason including a conflict of interest, such member shall be temporarily replaced by a student or faculty member as appropriate pursuant to the procedure established in this section.

(3) The disciplinary committee shall conduct such hearing within twenty working days after disciplinary action has been referred to such committee and shall give the student charged with violation of the rules of student conduct a minimum notice of five working days of said hearing as specified within the following section. With the mutual agreement of the parties, the hearing date may be continued beyond the twenty working day limit.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-130 Disciplinary committee procedures. (1) The hearing panel will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the ~~((dean))~~ vice-president of student ~~((personnel))~~ services.

(2) The student has a right to a fair and impartial hearing before the disciplinary committee on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the disciplinary committee from making its findings of fact, conclusions and recommendations as provided herein.

(3) The student shall be given written notice of the time and place of the hearing before the disciplinary committee by personal service or registered mail and be afforded not less than ~~((20))~~ five working days notice thereof. Said notice shall contain:

(a) A statement of the time, place and nature of the disciplinary proceeding.

(b) A statement of the charges against him/her including reference to the particular sections of the rules of student conduct involved.

(4) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross examine witnesses testifying against him as to factual matters.

(5) ~~((If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as his counsel, he must tender three days notice thereof to the dean of student personnel services.))~~ The student has the right to be assisted by any (one) advisor he/she may choose, at his/her own expense. The advisor may be an attorney. The

student is responsible for presenting his/her own case and, therefore, advisors are not permitted to speak or to participate directly in a hearing. The accused student can, however, speak with his/her advisor during the hearing. If the student utilizes an attorney as an advisor, the student shall give the vice-president of student services three days' notice of intent to do so.

(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the ~~((dean))~~ vice-president of student ((personnel)) services; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to ~~((be represented by))~~ have a licensed attorney act as his/her advisor, the ~~((dean))~~ vice-president of student ((personnel)) services may elect to have the college represented by an assistant attorney general.

(7) If, at the conclusion of the hearing, the committee finds that the student has committed one or more violations, and that such violations are in fact violations of a rule or rules of student conduct, the committee shall make such a finding and recommend such disciplinary action as they shall deem appropriate against the student. Prior acts of misconduct may be considered in making the recommendation for disciplinary action.

(8) ~~((An adequate summary of all the evidence and facts presented to the disciplinary committee during the course of the proceeding will be taken. A copy thereof shall be available at the office of the dean of student personnel services.))~~ During the course of the proceeding an adequate summary of all the evidence and facts will be taken. A copy shall be available at the office of the vice-president of student services.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-140 Disciplinary committee decision. ~~((H))~~ Upon conclusion of the disciplinary hearing, the disciplinary committee shall consider all the evidence therein presented and decide by majority vote as to the specific findings and conclusions required pursuant to WAC 132R-04-130, and whether to recommend to the president any of the following actions:

~~((a))~~ (1) That the college terminate the proceedings and exonerate the student or students;

~~((b))~~ (2) That the president or his/her designee impose any of the disciplinary action as provided in WAC 132R-04-150.

~~((2) The student will be provided with a copy of the committee's findings of fact and conclusions regarding whether the student did violate any rules of student conduct, and such student shall also be provided with a copy of the recommendations of disciplinary action.))~~

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-150 Imposition of discipline. (1) The college president or his/her designee shall review all ~~((actions))~~ hearings for which the disciplinary committee has

recommended disciplinary action and determine whether or not disciplinary action shall be imposed against the said student. With the exception of interim discipline as authorized by WAC 132R-04-064, the college president or his/her designee shall have no authority to impose any disciplinary action on a student unless disciplinary action has been recommended by the disciplinary committee against such student or unless such student has waived his/her right to a hearing before such disciplinary committee. ((The disciplinary action imposed by the president shall not be more severe than that recommended by the disciplinary committee.))

(2) In determining whether or not to impose disciplinary action against a student, the president shall review the summary of the evidence and facts presented to the disciplinary committee ~~((, the findings and conclusions of the disciplinary committee,))~~ and the recommendation of the disciplinary committee ~~((and))~~, the college president shall then determine whether or not to impose disciplinary action in any form. Prior acts of misconduct may be considered in making a decision.

(3) ~~((If the college president determines to impose disciplinary action for a violation of the rules of conduct for which disciplinary action has been recommended by the disciplinary committee unless the said student waives his right to such hearing, the college president shall have authority to:~~

(a) Expel such student permanently from the college; or

(b) Suspend the right of such student to attend the college for a maximum of three consecutive academic quarters; or

~~((e) Reprimand such student in writing and forward a copy of such reprimand to the guardian or parents of such student.))~~ Discipline may be imposed by the college president or his/her designee for violations of the rules of conduct, not only in those instances where the disciplinary committee has made recommendations after a hearing, but also in cases where the student has waived his/her right to such a hearing. Sanctions available to the president are described in WAC 132R-04-056 and 132R-04-063.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-160 Student appeal. Any student feeling aggrieved by the ~~((findings or conclusions))~~ recommendations of the disciplinary committee or the order of the college president or his/her designee imposing disciplinary action may appeal the same in writing by directing an appeal to the ~~((chairman of the board))~~ college president or his/her designee within ~~((15))~~ fifteen days following receipt of the order of the president or his/her designee imposing disciplinary action. The ~~((board))~~ college president or his/her designee may, at ~~((their))~~ his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary action imposed.

NEW SECTION

WAC 132R-04-165 Maintenance of disciplinary records. (1) The vice-president of student services shall keep records of all disciplinary cases. The division chair shall

report to the vice-president of student services and appropriate dean, in writing, all cases in which disciplinary action is taken.

(2) The vice-president of student services shall notify the chair and the dean of the division in which the student is enrolled and the dean of enrollment services of any disciplinary action taken, which is to be recorded on the student's official record, and shall keep accurate records of all disciplinary cases handled by, or reported to, his/her office.

(3) The vice-president of student services shall receive and maintain certain records of all disciplinary action taken by any college employee. These records should be consulted by disciplinary authorities for records of previous misconduct before taking disciplinary action in any case.

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

~~WAC 132R-04-170 ((Civilian)) Criminal prosecution. ((The board acting through the)) College ((president)) personnel or students may refer any ((violations of the rules of student conduct which involve violations of federal or state law to civilian)) student code of conduct violations which are also violations of federal or state law to the proper authorities for disposition.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 132R-04-020 Liquor.
- WAC 132R-04-030 Drugs.
- WAC 132R-04-035 Damaging property.
- WAC 132R-04-050 Criminal violations.
- WAC 132R-04-055 Classroom conduct.
- WAC 132R-04-060 Commercial activities.
- WAC 132R-04-070 Outside speakers.
- WAC 132R-04-080 Trespass.
- WAC 132R-04-090 Distribution of materials.
- WAC 132R-04-110 Disciplinary action.
- WAC 132R-04-120 Disciplinary committee.

AMENDATORY SECTION (Amending WSR 90-02-017, filed 12/26/89, effective 1/1/90)

WAC 132R-05-010 Immediate suspension. Student athletes found to have violated chapter 69.41 RCW, Legend drugs—Prescription drugs, shall, upon conviction, be immediately suspended from participation in school-sponsored athletic events by the athletic director ((of athletics)). The period of loss of eligibility to participate will be determined by the athletic director ((of athletics)) at the conclusion of a brief adjudicative hearing(s) as detailed in the Big Bend

Community College athletic handbook, to be commenced within twenty days of the suspension.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-12-010 Designation of appointing authority. Pursuant to WAC 251-04-020(2), the position of "appointing authority" at Big Bend Community College is designated:

(1) The president or the person occupying the position of president at Big Bend Community College is designated as the "appointing authority" for purposes of RCW 28B.50.140(14).

(2) The president of Big Bend Community College is delegated authority by written order of the board of trustees. ~~((The power and duties vested in the board may be transferred in accordance with this chapter. Such delegated powers and duties may be exercised in the name of the district board.))~~

(3) Pursuant to RCW 28B.10.528, the board of trustees hereby delegates to the president executive responsibility of administering the policies adopted by the board of trustees and executing all decisions of the board of trustees requiring administrative action. Pursuant to RCW 28B.50.140(14), the board expressly delegates the appointing authority in matters concerning all Big Bend Community College District 18 personnel to the president. This delegation does not include a delegation of powers related to the position of president and also excludes a delegation of powers related to decisions regarding approval or denial of faculty tenure. This delegation includes a delegation of authority to hire, terminate, suspend, reassign, discipline, or demote personnel without prior approval of the board of trustees.

(4) The board delegates the appointing authority of the college to the persons occupying the following positions in the president's absence: Vice-president of instruction, vice-president for administrative services and vice-president of student services (hereinafter collectively referred to as "senior administrators"). The appointing authority delegated to the senior administrators shall only be exercised if the following criteria are met: The president must be absent. Absent means that the individual has taken formal medical, vacation or personal leave; is not available in person, by telephone, by pager or other reasonable means; and/or has left prior written notice indicating an "absent" status. No administrator shall exercise any authority unless all administrators preceding them on the senior administrators' order of positions list are also absent as previously defined.

(5) Senior administrators' order of positions list:

- (a) Vice-president for administrative services;
- (b) Vice-president of instruction;
- (c) Vice-president of student services;

The senior administrators who are able to establish that the president and other administrators who precede them on the order of positions list are absent shall have the authority to hire, terminate, suspend, reassign, discipline or demote any Big Bend Community College District 18 personnel (with the exception of the president or other senior administrators as defined herein) without prior approval of the board of trust-

PERMANENT

ees. This delegation of power does not include the ability to render decisions related to the granting or denial of tenure.

AMENDATORY SECTION (Amending Order 70-4, filed 3/5/70)

WAC 132R-12-020 Classified employee exemptions. Pursuant to RCW ((28.75.040 [28B.16.040])) 41.06.070, the following positions at Big Bend Community College and in Community College District No. 18, state of Washington, are deemed exempt from the provisions of chapter ((28.75.RCW [chapter 28B.16.RCW])) 41.06.RCW:

- (1) Members of the board of trustees.
- (2) President.
- (3) Major administrative officers:
 - (a) ((Dean)) Vice-president of instruction.
 - (b) ((Associate dean for occupational education.)) Vice-president for administrative services.
 - (c) ((Dean)) Vice-president of student ((personnel)) services.
 - (((d) Administrative assistant for business or financial affairs.))

(4) All employees of Community College District No. 18 who are either probationary faculty appointees or tenured faculty appointees pursuant to RCW ((28.85.850 through 28.85.869 [RCW 28B.50.850 through 28B.50.869])) 28B.50.850 through 28B.50.869.

(5) All deans, directors, coordinators, and assistants to the president and major administrative officers analogous to vice-presidents(=

- (a) Director of community services.
- (b) Director of the upward bound program.
- (c) Director of student activities.
- (d) Director of federal programs.
- (e) Executive secretary to the president.
- (f) All other heads of major administrative or academic divisions.
- (6) Positions involved in research, counselling of students, and graphic arts and publications:
 - (a) Coordinator of financial aids and housing.
 - (b) Public information officer.
- (7) Professional consultants under contract and all student employees)).

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-116-070 Impounding of illegally parked vehicles. The president or his/her designee(s) may order the impound and storage of any vehicle parked in areas where parking is not allowed, or parked in a space reserved for another vehicle, or illegally parked in a handicapped space. The impounding and storage shall be at the expense of either or both the owner and operator of the impounded vehicle. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-116-090 Parking violations. Parking violations may occur and may result in the issuance of a parking violation citation, impound, or both.

(1) Vehicles parked in a space reserved for handicapped parking and not displaying a handicapped parking permit shall be subject to citation.

(2) Vehicles parked in such a manner as to occupy more than one space shall be subject to citation.

(3) Vehicles parked in an area not specifically posted for parking shall be subject to citation. Vehicles parked in service areas, driveways, loading zones, on lawns, or areas with yellow curb shall be subject to citation, impound, or both.

(4) Vehicles parked in a posted area specifically prohibiting parking shall be subject to citation, impound, or both.

Chapter 132R-117 WAC

~~((FIREARMS AND DANGEROUS WEAPONS))~~ GENERAL CONDUCT CODE

AMENDATORY SECTION (Amending WSR 92-20-077, filed 10/5/92, effective 11/5/92)

WAC 132R-117-010 Firearms and dangerous weapons. (1) Possession, carrying or discharge of any explosive, firearm, or other weapon (including shot guns, pistols, air guns, pellet-guns, and paint-ball guns), whether loaded or unloaded, is prohibited on Big Bend Community College owned or controlled property.

(2) Only such persons who are authorized to carry firearms or other weapons as duly appointed and commissioned law enforcement officers in the state of Washington, and persons or entities authorized by contract to carry firearms in the course of their employment, shall possess firearms or other weapons issued for their possession by their respective law enforcement agencies while on campus or other college controlled property, including residence halls.

(3) Other than the persons referenced in subsection (2) of this section, members of the campus community and visitors who bring firearms or other weapons to campus must immediately place the firearms or weapons in the college-provided storage facility. The storage facility ~~((is controlled by the office of student life and is))~~ for students living at the residence halls is controlled by the residence halls coordinator. The storage facility for all other students is in the registration office and is controlled by the vice-president of student services. Both facilities are accessible during the hours of 8:00 a.m. through 4:30 p.m., Monday through Friday (excluding holidays).

(4) Anyone seeking to bring a firearm or other weapon onto campus for display or demonstration purposes directly related to a class or other educational activity must obtain prior written authorization from the vice-president of ~~((educational services))~~ instruction or any other person designated by the president of the college. The vice-president of ~~((educational services))~~ instruction or other designee shall review

any such request and may establish conditions to the authorization.

(5) Firearms owned by the institution for use by special interest groups such as ASB gun clubs, ROTC, or intercollegiate shooting teams, must be stored in a location approved by the ~~(dean)~~ vice-president of student services or any other person designated by the president of the college. Said firearms must be checked out by the club advisor or coach and are to be used by legitimate members of the club or teams in the normal course of the club or team's activity.

(6) Violators shall be subject to appropriate disciplinary or legal action.

NEW SECTION

WAC 132R-117-020 Trespass. (1) The president of the college or his/her designee is authorized in the instance of any event that is deemed to be unreasonably disruptive of order or which impedes the movement of persons or vehicles or which seems to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college, then the president or his/her designee shall have the power and authority subject to the students' right of demonstration as guaranteed pursuant to WAC 132R-04-040 to:

(a) Prohibit the entry of, or withdraw the license or privilege of any person or persons or any group of persons to enter onto or remain upon all or any portion of a college facility which is owned and/or operated by the college; or

(b) Give notice against trespass by any manner specified in chapter 9A.52 RCW to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility, which college facility is owned and/or operated by the college; or

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility which is owned and/or operated by the college.

(2) Any student who shall disobey a lawful order given by the president or his/her designee pursuant to the requirements of this rule, may be subject to criminal prosecution and may be subject to disciplinary action.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-118-010 Purpose. The primary objective of the rules and regulations set forth in this chapter is to provide safety, traffic, and parking controls for the use of bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles upon all state lands devoted to the educational, recreational, and living activities of Big Bend Community College.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-118-020 Bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles defined. A bicycle shall be, for the purposes of this section, any vehicle with three or less wheels

and containing a saddle seat, and which is not motor driven. Any vehicle with three or less wheels and containing a saddle seat, and which is motor driven is considered a motorcycle or motorscooter for the purposes of this section. Any vehicle with ski(s) and a track-type drive designed for travel over snow is considered a snowmobile for the purposes of this section. Any unit consisting of a board with two or more wheels attached to the underside that is propelled by the use of a persons foot is considered a skateboard for this section. For the purposes of this section, any shoe-skate with four wheels is considered a skate, and any shoe-skate with three or more wheels attached in a straight line is considered an in-line skate. Any vehicle with three or four wheels and containing a saddle-type seat, which is motor driven is considered an all-terrain vehicle for the purpose of this section.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-118-030 Applicable rules and regulations. The safety, traffic, and parking regulations for bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles which are applicable upon the campus of Big Bend Community College are as follows:

(1) The motor vehicle and other traffic laws of the state of Washington;

(2) Special regulations set forth in this chapter.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-118-040 Operation of bicycles, motorcycles, motorscooters, snowmobiles, skateboards, skates, in-line skates and all-terrain vehicles. (1) No bicycle, motorcycle, or motorscooter may be operated on sidewalks, walkways, lawns, or other property not set aside for such purposes on the Big Bend Community College campus.

(2) Bicycles, motorcycles, motorscooters, and all-terrain vehicles may be operated any place where automobiles or other motor vehicles are permitted.

(3) Snowmobiles (~~and~~), skateboards, skates and in-line skates are prohibited as a means of transportation or recreation on campus property.

Chapter 132R-136 WAC

USE OF COLLEGE FACILITIES (~~(EQUIPMENT AND SUPPLIES))~~)

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-136-010 Philosophy and purpose concerning the use of college facilities. The Big Bend Community College board of trustees has determined that college facilities shall be made available for community use. College facilities shall be used for those activities (~~which~~) that are related directly to its educational mission or are justifiable on

the basis of their contributions to the cultural, social, or economic development of the community and state.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-136-030 Eligibility for use of college facilities. Application for use of college facilities can be made by contacting the college. Contracts for the use of college facilities shall be completed and returned by ~~((the group representative))~~ an agent of the organization prior to final approval. Information concerning facility rental regulations, procedures, fees, and liabilities may be found in the ~~((board policy))~~ Administrative Process Manual AP8051.

NEW SECTION

WAC 132R-136-035 Use of college facilities by ASB organizations. Any recognized ASB organization may request approval from the director of student programs to utilize available college facilities for authorized activities as provided for in official ASB documents. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for an organization.

Student organizations should schedule facility use requests with the appropriate office at least two weeks in advance of an event whenever possible.

NEW SECTION

WAC 132R-136-055 Commercial activities. (1) College facilities shall not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including, but not limited to, display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities related to educational objectives and are conducted under the sponsorship or at the request of a college department or office of the associated student body, provided that such solicitation does not interfere with or operate to the detriment of the conduct of the college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this section, the term "commercial activities" does not include handbills, leaflets, newspapers and similarly related materials as regulated in WAC 132R-136-070.

NEW SECTION

WAC 132R-136-060 Outside speakers. The trustees, administration and the faculty of the college subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important

public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community.

(1) Any recognized ASB campus student organization may invite speakers on campus subject to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on the campus does not represent an endorsement, either implicit or explicit, of his/her views by the college, its students, its faculty, its administration or its board.

(3) The scheduling of facilities for guest lecturers or invited speakers shall be made through the office of the vice-president of instruction or the director of student programs, by the inviting instructor or campus student organization.

(4) The vice-president of instruction or the director of student programs will be notified at least three days prior to the appearance of an invited speaker, at which time a proper form (available in the office of the vice-president of instruction or director of student programs) must be completed with all particulars regarding speaker, time, place, etc., signed by the sponsoring instructor or organization advisor, and filed with the office of the vice-president of instruction or the director of student programs. Exceptions to the three-day ruling may be made by either of the identified administrators.

(5) The vice-president of instruction or the director of student programs may require a question period or arrange to have views other than those of the invited speakers represented at the meeting, or at a subsequent meeting. The president or his/her designee may assign faculty or staff to preside over any meeting where a speaker has been invited.

NEW SECTION

WAC 132R-136-070 Distribution of materials. (1) Handbills, leaflets, newspaper and similar related matter may be sold or distributed free of charge by any student or students or by members of recognized student organizations or by college employees on or in college facilities at locations specifically designated by the vice-president of student services or by his/her designee; provided such distribution or sale does not interfere with the ingress and egress of persons, or interfere with the free flow of vehicle or pedestrian traffic.

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

(3) All nonstudents shall be required to register with the vice-president of student services or with his/her designee prior to the distribution of any handbill, leaflet, newspaper or related matter. Nonstudents shall not be allowed to sell handbills, leaflets, newspapers or related matter on or in college facilities.

(4) The dissemination or distribution of materials by persons on public streets, walks and hallways of the campus shall be subject to the laws of the city of Moses Lake, Grant County, state of Washington and the United States of America.

NEW SECTION

WAC 132R-136-080 Posting of materials. The college encourages free expression. Use of college facilities as provided herein, however, does not accord users the opportunity to post commercial solicitations, advertising or promotional materials without permission.

Permission for posting literature in the various restricted areas provided, therefore, shall be obtained from the vice-president of student services or his/her designee. Permission to post literature does not accord users immunity from legal action which may occur from posting said material.

ASB campaign rules govern special poster and sign locations for ASB elections. Information on these special policies, restricted areas and regulations is available in the office of student programs.

Posting of posters, signs and other publicity or promotional materials is permitted only in locations specified above. All materials sought to be posted in restricted posting areas must have the identity of its sponsorship appearing on its face.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-144-010 Big Bend Community College bookstore operating procedures. Big Bend Community College bookstore is operated for the support and use of students and staff of Big Bend Community College. Big Bend Community College bookstore may engage in the direct and on-line sale of goods and services to individuals, groups, or external agencies for fees only when those services or goods are directly and substantially related to the educational mission of the college as outlined in Big Bend Community College's business competition policy.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-144-020 Return and refund policy. (1) Defective merchandise may be returned within a reasonable time for replacement or refund at the discretion of the bookstore manager.

(2) ~~((New books))~~ Course materials may be returned for refund on specified dates as established and posted by the bookstore manager. The proper ~~(("drop card" and))~~ sales slip must be presented.

(3) Exceptions to the above are subject to the discretion of the bookstore manager.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-150-050 Smoking. Smoking is ~~((restricted to areas so designated by the head librarian or his or her designee))~~ prohibited in all college buildings.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132R-150-030 Inspection.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-158-010 Resident housing policies. In addition to the rules, regulations, and responsibilities as defined in the "Student Rights and Responsibilities" handbook, residence hall students are also subject to the rules and regulations as printed in both the residence hall handbook and the residence hall contract. Copies are available from the ~~((director of housing))~~ residence hall coordinator at Big Bend Community College.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Community College District No. 18 with the provisions of chapter ~~((1, Laws of 1973 (Initiative 276)))~~ 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular with ~~((sections 25-32 of that act, dealing))~~ RCW 42.17.250 through 42.17.348 that deal with public records.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-020 Definitions. (1) "Public record" indicates any writing containing information relating to the conduct of ~~((governmental))~~ government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Community College District No. 18" was established pursuant to the Community College Act of 1967. Community College District No. 18 shall hereinafter be referred to as the "district." Where appropriate, the term Community College District No. 18 also refers to the staff and employees of the Community College District No. 18.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-030 Description of central and field organization of Community College District No. 18. ~~((1))~~

PERMANENT

The Community College District No. 18 is an institution of higher education. The administrative office of the district and its staff are located at Moses Lake, Washington.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-050 Public records available. All public records of the district, as defined in WAC 132R-175-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by ~~((section 31, chapter 1, Laws of 1973 and chapter 132R-175 WAC))~~ RCW 42.17.310.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-060 Public records officer. The district's public records shall be ~~((in charge of))~~ managed by the public records officer as designated by the district. The person so designated shall be located in the business office of the district. The public records officer shall be responsible for the following: The implementation of the district's rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ~~((1, Laws of 1973))~~ 42.17 RCW.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-080 Requests for public records. In accordance with requirements of chapter ~~((1, Laws of 1973))~~ 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the district's staff, if the public records officer is not available, at the administrative office of the district during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the district's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist

the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 3, filed 1/11/78)

WAC 132R-175-090 Copying. No fee shall be charged for the inspection of public records. The district shall charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the district copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying. At least five working days may be required to provide copies of public records.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-100 Exemptions. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132R-175-080 is exempt under the provisions of ~~((section 31, chapter 1, Laws of 1973))~~ RCW 42.17.310. All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(2) In addition, pursuant to ~~((section 26,))~~ chapter ~~((1, Laws of 1973))~~ 42.17 RCW, the district reserves the right to delete ~~((identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.~~

~~((3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld))~~ redact portions of documents. If deletions/redactions are made they will be accompanied by a written statement specifying the reason for the deletion/redaction, including a statement of the specific exemption authorizing the deletion/redaction and a brief explanation of how the exemption applies to the information which is deleted/redacted.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public

records officer or other staff member denying the request shall refer it to the president of the college. The president shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the ~~((district))~~ board of trustees as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-120 Protection of public records.

~~((That))~~ The location of the public records officer appointed pursuant to WAC 132R-175-060 shall be in the business office. ~~((That))~~ The public records officer shall establish a central district index which shall be the district's master index to be coordinated with subsidiary indexes established in each major administrative area of the college, specifically:

(1) The office of the secretary to the board of trustees of the district (which is the office of the president of Big Bend Community College);

(2) The office of the president of Big Bend Community College;

(3) The office of the ~~((dean))~~ vice-president of instruction;

(4) The office of the ~~((dean))~~ vice-president of student ~~((personnel))~~ services;

(5) The ~~((business))~~ office of the vice-president for administrative services; and/or

~~((Any subdivision of each major administrative area mutually agreed upon by the administrator of the area involved and the public records officer.~~

~~((That))~~ Upon receiving requests for public records in the manner prescribed in WAC 132R-175-080, it shall be the duty of the public records officer to immediately act upon the request. If it is determined the item requested is a public record as defined in WAC 132R-175-020 it shall be the duty of the public records officer to locate the public record in the office in which it is filed and make it available for inspection. ~~((That should))~~ If, in the judgment of the public records officer, there be a possibility of the destruction of the public record, then the public records officer shall make available a copy of the record. ~~((That))~~ Upon request the public records officer shall make available copies of public records in accordance with WAC 132R-175-090.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-130 Records index. (1) The district shall make available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) ~~((availability))~~ The current index promulgated by the district shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

AMENDATORY SECTION (Amending Order 73-8, filed 5/4/73)

WAC 132R-175-140 District's address. All communications with the district including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter ~~((1, Laws of 1973))~~ 42.17 RCW and these rules; requests for copies of the district's decisions and other matters, shall be addressed as follows: Big Bend Community College, Community College District No. 18, c/o Public Records Officer, ~~((Business Office, North Campus))~~ 7662 Chanute Street, Moses Lake, Washington 98837-3299.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-010 Purpose. The purpose of this chapter is to implement 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act of 1974 as amended, by establishing rules and procedures to ensure that information contained in student records is accurate and is handled in a responsible manner by the college and its employees. Further information on policies and procedures relative to student records is available in the student records section of the "*Student Handbook*."

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-020 Definitions. The following definitions shall apply in interpreting these regulations:

(1) "Directory information" means information contained in a student's education record which is general in nature and does not constitute an invasion of privacy if disclosed. The college has designated directory information in WAC 132R-190-035.

(2) "Education records" means those records, files, documents and other materials which contain information directly related to a student and are maintained by the college(~~(, except:~~

~~(a) A personal record kept by educational, supervisor and administrative personnel which belongs solely to the maker of the records and which has never been disclosed or made available to any other person except the maker's temporary substitute.~~

~~(b) An employment record used only in relation to an individual's employment.~~

~~(c) Records made and maintained by a Big Bend Community College counselor acting in his or her professional capacity which are used only in connection with the treatment of the student are not available to anyone except that the records may be personally reviewed by a physician or other appropriate professional of the student's choice.~~

~~(d) Alumni records which contain information about a student after he or she is no longer in attendance at the college and which do not relate to the person as a student) or a person acting for the college. The term does not include:~~

~~(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.~~

~~(b) If the personnel of a law enforcement unit do not have access to education records under this section, the records and documents of such law enforcement unit which are kept separate, are maintained solely for law enforcement purposes, and are not made available to persons other than law enforcement officials of the same jurisdiction.~~

~~(c) In the case of persons who are employed by the college but who are not in attendance at the college, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose.~~

~~(d) Records on a student attending the college, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are made or maintained, or used in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.~~

(3) "Student" means any individual who is or has been in attendance at Big Bend Community College and on whom educational records are maintained.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-030 Right of inspection. Any student shall have a right, subject to the procedural requirements outlined in WAC 132R-190-070 through 132R-190-090 of these regulations, to inspect any and all education records directly related to him or her that is intended for school use or that is

available for parties outside the school. Education records will be made available to the student within fifteen working days after receipt of the request to inspect the records. Copies may be requested and shall be provided at a fee not to exceed the actual cost to the college of providing the copies.

The college reserves the right to refuse to permit a student to inspect and review the following education records:

(1) The financial statement of the student's parents.

(2) ~~((Statements and)) Confidential letters and statements of recommendation ((prepared by college officials or submitted with the student's application for admission))~~ which were placed in the student's records before January 1, 1975, or for which the student has waived his or her right ~~((of access))~~ in writing to inspect and review and that are related to the student's admission, application for employment or job placement, or receipt of honors. Except that if these statements and letters have been used for any purpose other than that for which they were originally prepared, the student may inspect and review them. When a record contains personally identifiable information about more than one student, a student may inspect only that information which relates to him or her.

(3) Records connected with ~~((an application to attend)) admission to the college ((if that application was denied)), application for employment, and receipt of an honor or honorary recognition.~~

(4) Those records which are excluded from the definition of "education records" in WAC 132R-190-020(2).

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-035 Availability of directory information. The following personally identifiable information contained in a student's education record shall be deemed "directory information" and unless restricted by the student may be disclosed without a student's prior written consent: Student's name, address, electronic mail address, telephone listing, date of birth, enrollment status (full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. The college will give public notice to students annually of the matters contained in the above-designated "directory information." Each student will have ten days from the day of registration to decide if he or she wishes to have directory information released without written consent.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-040 Access permitted to college and certain other officials without consent. (1) The following persons, individuals, agencies, or organizations shall be entitled to access to official education records of any student subject to the limitations outlined in subsection (2) of this section, without prior written consent of the student:

(a) College officials, including administrators, faculty, instructors and staff who have a legitimate educational interest within the performance of their responsibilities to the college;

(b) Officials of other colleges, schools, or school systems, upon the condition that the student is notified of the transfer and receives a copy of the record if he or she desires it and has the opportunity to challenge the content of the record, per the procedures outlined in WAC 132R-190-100;

(c) Authorized representatives of the Comptroller General of the United States, the Secretary, an administrative head of an education agency, or state and local educational authorities. State and local officials, organizations conducting studies for educational agencies or institutions provided, that except when collection of personally identifiable data is specifically authorized by federal law, any data collected by these representatives with respect to individual students shall not include information which permit the personal identification of such students;

(d) Lending institutions receiving applications from students or granting to students financial aid, and individual organizations or institutions that provide scholarships to any applicant student when such organizations or individuals make requests for students' education records in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations to carry out their accrediting functions;

(f) Parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

~~(g) ((Any person or entity authorized by judicial order or lawfully issued subpoena to receive such records or information, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith by the college;~~

~~(h))~~ Appropriate parties in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) The college shall maintain a record, kept with the education records of each student, indicating all agencies or organizations which have requested or obtained access to the student's education records. The custodian of the records shall indicate specifically the legitimate interest each such agency or organization has in obtaining this information. The record may be reviewed by the student.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-050 Distribution of information to others. The college shall not furnish any personally identifiable information contained in education records directly related to a student to any person, agency, or organization other than those designated in WAC 132R-190-040, unless a written consent from the student is obtained. The college may furnish such information without the consent of the student if it is furnished in compliance with a judicial order, or pursuant to any lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance therewith unless the court or other issuing agency orders the college not to notify the student

before compliance with the subpoena. The written consent should specifically identify the records to be released, the reason for the release and to whom the records are to be released. The college president, the president's designee, or office(s) receiving a subpoena should immediately notify the attorney general.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-070 Requests for access to student records. Personally identifiable information regarding a student will only be furnished to persons making a written request and providing to the custodian of the records information sufficient to identify the requesting party as a person who has a right to access ((tø)) such records.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-100 Procedure for challenges. (1) A student wishing to exercise the rights set forth in WAC 132R-190-090 shall first discuss with the ~~((director of admissions and registrar))~~ dean of enrollment services the nature of the corrective action sought by the student.

(2) If the informal proceedings required in subsection (1) of this section fail to resolve the student's challenge, the student may file with the public records officer provided for in chapter 132R-175 WAC a written request for a hearing (brief adjudicative proceeding pursuant to chapter 132R-02 WAC).

(3) Within a reasonable time after submission of a request for hearing, the president or his or her designee will appoint a hearing officer. The hearing officer may not have a direct interest in the outcome of the hearing.

(a) The hearing officer shall conduct a hearing concerning the student's request for corrective action within a reasonable time and shall reasonably in advance of the hearing notify the student of the date, time and place of the hearing.

(b) The student may, at his or her expense, be represented by one or more individuals of his or her choice at the hearing.

(c) The student and the college shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request for the hearing. A record shall be made of the hearing by means satisfactory to the college.

(d) Within ten days of the completion of the hearing, the hearing officer shall provide the parties with a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. The decision shall be binding upon the college and the student.

(4) If the education records are held to be accurate, or not misleading or in violation of the student's right of privacy, the college will notify the student of his or her right to place in the record a statement commenting on the challenged information and/or a statement setting forth the reasons for disagreeing with the decision. Such statement will be maintained as part of the student's education records as long as the contested portion is maintained and must be disclosed if the college discloses the contested portion of the record.

(5) If information in the education record is held to be inaccurate, misleading, or in violation of the student's right of privacy, the college will amend the record and so notify the student in writing.

AMENDATORY SECTION (Amending WSR 94-07-019, filed 3/8/94, effective 4/8/94)

WAC 132R-190-110 Disciplinary records. Disciplinary records shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. The vice-president of student services office shall keep records of all disciplinary cases, which shall be recorded on the official records of the students. Special precautions shall be exercised to ensure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records. However, the results of any disciplinary proceeding, concerning a crime of violence as defined by 18 U.S.C. Sec. 16 may be released to an alleged victim of that crime.

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-200-010 Policy on personnel files. Big Bend Community College shall maintain one personnel file for each employee. This file shall be in the college's (~~personnel~~) human resource office. No other personnel file shall be maintained by any other officer or administrator of the college. This shall not preclude the maintenance of all lawful payroll records by the (~~business~~) payroll office nor maintenance of other essential records by appropriate personnel for the operation of the institution.

**WSR 03-15-072
PERMANENT RULES
NORTHWEST AIR
POLLUTION AUTHORITY**

[Filed July 16, 2003, 2:29 p.m.]

Date of Adoption: July 10, 2003.

Purpose: The amended regulation allows the Northwest Air Pollution Authority to establish a new source review program that is approvable into the state implementation plan (SIP).

Citation of Existing Rules Affected by this Order:

AMENDATORY SECTIONS

- Section 104 Update state and federal regulations that are adopted by reference to include recently promulgated NSPS and NESHAP regulations.
- Section 122 Clarify applicability of appeals from orders and notices.

- Section 133 Increase the maximum civil penalty from \$13,000 per day to \$14,000 per day to account for inflation.
- Section 200 Add, delete and revise terms related to the new source review program in order to be more consistent with those found in chapter 173-400 WAC.
- Section 300 Rewrite this new source review section to be more consistent with the state program found in chapter 173-400 WAC.
- Section 301 Delete portions pertaining to new source review as they are now being addressed in section 300 and clarity requirements for temporary sources.
- Section 324 Clarify registration and new source review fee applicability and update fee schedules.
- Section 325 Clarify issues regarding the transfer of registration and orders.
- Section 501 Add additional fees for fire training permits and correct a citation to another section of the regulation.

SECTIONS TO REPEAL

- Section 302 Rules pertaining to new source review are now being addressed in section 300.
- Section 310 Rules pertaining to new source review are now being addressed in section 300.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 03-11-091 on May 21, 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 3, Repealed 2; 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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 14, 2003

James Randles
Control Officer

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 03-16 issue of the Register.

PERMANENT

WSR 03-15-088
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed July 17, 2003, 4:35 p.m., effective July 17, 2003, 4:35 p.m.]

Date of Adoption: July 14, 2003.

Purpose: This rule implements the increased standards based on the federal poverty level effective April 1, 2003, based on the standards published in the *Federal Register*, Vol. 68, No. 26.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075.

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

Other Authority: RCW 74.09.530 and 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 03-12-068 on June 2, 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 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Federal statute (42 U.S.C., chapter 7) requires states to use the annually adjusted federal poverty level (FPL) guidelines as the basis for determining financial eligibility standards for certain medical assistance programs. The department adopted an emergency rule, WSR 03-08-066 effective April 1, 2003, to implement the 2003 FPL guidelines that went into effect on that date per the United States Department of Health and Human Services announcement published in the *Federal Register* (Volume 68, No. 26, pages 6456-6458). This permanent rule will replace WSR 03-08-066 that would otherwise expire on July 28, 2003. The immediate effective date is needed to prevent a lapse in the applicable FPL that could result in incorrect eligibility determinations for individuals and families in need of medical assistance.

Effective Date of Rule: Immediately on filing [July 17, 2003, 4:35 p.m.]

July 14, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

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

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

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

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

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

(2) Beginning April 1, ((2002)) 2003, the monthly FPL standards are:

FAMILY SIZE	100% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$((739)) <u>749</u>	\$((1366)) <u>1385</u>	\$((1477)) <u>1497</u>	\$((1625)) <u>1647</u>	\$((1846)) <u>1871</u>
2	\$((995)) <u>1010</u>	\$((1841)) <u>1869</u>	\$((1990)) <u>2020</u>	\$((2189)) <u>2222</u>	\$((2488)) <u>2525</u>
3	\$((1252)) <u>1272</u>	\$((2316)) <u>2353</u>	\$((2504)) <u>2544</u>	\$((2754)) <u>2798</u>	\$((3130)) <u>3180</u>
4	\$((1509)) <u>1534</u>	\$((2791)) <u>2837</u>	\$((3017)) <u>3067</u>	\$((3319)) <u>3374</u>	\$((3771)) <u>3834</u>
5	\$((1765)) <u>1795</u>	\$((3266)) <u>3321</u>	\$((3530)) <u>3590</u>	\$((3883)) <u>3949</u>	\$((4413)) <u>4488</u>
6	\$((2022)) <u>2057</u>	\$((3741)) <u>3805</u>	\$((4044)) <u>4114</u>	\$((4448)) <u>4525</u>	\$((5055)) <u>5142</u>
7	\$((2279)) <u>2319</u>	\$((4215)) <u>4289</u>	\$((4557)) <u>4637</u>	\$((5013)) <u>5101</u>	\$((5696)) <u>5796</u>
8	\$((2535)) <u>2580</u>	\$((4690)) <u>4773</u>	\$((5070)) <u>5160</u>	\$((5577)) <u>5676</u>	\$((6338)) <u>6450</u>
9	\$((2792)) <u>2842</u>	\$((5165)) <u>5258</u>	\$((5584)) <u>5684</u>	\$((6142)) <u>6252</u>	\$((6980)) <u>7105</u>
10	\$((3049)) <u>3104</u>	\$((5640)) <u>5742</u>	\$((6097)) <u>6207</u>	\$((6707)) <u>6828</u>	\$((7621)) <u>7759</u>
Add to the ten person standard for each person over ten:					
	\$((257)) <u>262</u>	\$((475)) <u>485</u>	\$((514)) <u>524</u>	\$((565)) <u>576</u>	\$((642)) <u>655</u>

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

WSR 03-15-121
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed July 22, 2003, 11:53 a.m.]

Date of Adoption: July 8, 2003.

Purpose: To correct an incorrect WAC reference. Currently, WAC 180-79A-127 refers to WAC 180-79-123; it should refer to WAC 180-79A-123.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-127.

PERMANENT

Statutory Authority for Adoption: RCW 28A.010.410.

Adopted under notice filed as WSR 03-10-071 on May 6, 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.

July 17, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

WAC 180-79A-127 Renewal of certificate. A holder of a certificate subject to expiration may renew such certificate subject to the rules in effect at the time of such renewal, unless otherwise stipulated by the provisions of WAC ((~~180-79-123~~)) 180-79A-123.

WSR 03-14-012
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed June 18, 2003, 3:58 p.m.]

Date of Adoption: June 13, 2003.

Purpose: The purpose of this emergency filing [is] to amend sections of chapter 388-148 WAC, Licensing requirements for child foster homes, group care programs/facilities, and agencies, which impact the receipt of federal funding for eligible children in care with Children's Administration. This notice and the full text of these emergency rules are available from the DSHS rule-making website at <http://www1.dshs.wa.gov/msa/rpau/docket.html>, or by contacting Jean Croisant, DSHS Children's Administration, phone (360) 725-2486, or by e-mail at biggire@dshs.wa.gov.

Citation of Existing Rules Affected by this Order:

Amending WAC 388-148-0035 What personal characteristics do I need to provide care to children?, 388-148-0040 What first aid and cardiopulmonary resuscitation (CPA) training is required?, 388-148-0045 What HIV/AIDS training is required?, 388-148-0050 How do I apply for a license?, 388-148-0060 When am I not allowed to receive a license from a child-placing agency?, 388-148-0065 When may I be certified to provide care to children?, 388-148-0095 When are licenses denied, suspended or revoked?, 388-148-0120 What incidents involving children must I report?, 388-148-0125 What are your requirements for keeping client records?, 388-148-0140 What personnel policies must I have?, 388-148-0170 What steps must I take to ensure children's safety around bodies of water?, 388-148-0220 What fire safety requirements must I follow to qualify for a license?, 388-148-0260 What are the general requirements for bedrooms?, 388-148-0270 What are the requirements for beds?, 388-148-0335 When must I get medical exams for the children under my care?, 388-148-0345 What must I do to prevent the spread of infections and communicable diseases?, 388-148-0350 How do I manage medications for children under my care?, 388-148-0395 What requirements must I meet for feeding babies?, 388-148-0460 What requirements do you have for supervising children?, 388-148-0520 What are the training requirements for foster parents and prospective foster parents?, 388-148-0560 Do I need a treatment plan for children under my care?, 388-148-0585 What social service staff do I need?, 388-148-0630 What fire prevention measures must I take?, 388-148-0700 What are the qualifications for an executive director for a group care program or child-placing agency?, 388-148-0720 What qualifications must the child care staff for a group care program and a child-placing agency have?, 388-148-0725 What is the ratio of child care staff to children in group care facilities?, 388-148-0785 What is the proper ratio of staff to children in home or group care facilities offering maternity services?, 388-148-0800 What levels of secure CRCs exist?, 388-148-0915 What steps must be taken after a youth is admitted into a CRC?, 388-148-0995 What are the ratio requirements of youth care staff to youth in crisis residential centers?, 388-148-1060 What services may a child-placing agency provide?, 388-148-1070 What health

histories need to be provided to adoptive parents?, 388-148-1115 Do you have requirements for adoptive services? and 388-148-1120 What is the process for adoptions?; and new WAC 388-148-0058 May I have a license for both child day care and child foster care?, 388-148-0427 Are there specific requirements regarding Native American children?, 388-148-0462 Who may provide care to a foster child in the foster home when the foster parent is away from the home?, 388-148-0542 May a foster child be supervised by someone under eighteen in the foster home?, 388-148-0722 What are the qualifications for health care staff for a group care program or a child-placing agency?, 388-148-0892 What are the requirements for a level three secure CRC?, 388-148-1076 What are the qualifications for an executive director of a child-placing agency?, 388-148-1077 What are the qualifications for a case aide for a child-placing agency program?, 388-148-1078 What are the qualifications for health care staff hired or contracted by a child-placing agency to provide services to children in care?, 388-148-1079 What are the qualifications for consultants for child-placing agency programs?, 388-148-1140 May a licensed child-placing agency provide emergency respite services?, 388-148-1145 Does an agency or individual need to be licensed as a child-placing agency to provide emergency respite services that are not center-based?, 388-148-1150 Does a child-placing agency providing emergency respite services need specific program staff?, 388-148-1155 What are the education and training requirements for a program manager for an emergency respite program at a child-placing agency?, 388-148-1160 What services do child-placing agencies provide if they offer an emergency respite program?, 388-148-1165 Does a child-placing agency need approval from the division of licensed resources to provide emergency respite services?, 388-148-1170 What age children may receive emergency respite services?, 388-148-1175 Who may place a child for emergency respite?, 388-148-1180 Must all children accepted for emergency respite care have current immunizations?, 388-148-1185 What are the record-keeping requirements for a child-placing agency providing emergency respite services?, and 388-148-1190 What written information is needed before a child is accepted for emergency respite care by a child-placing agency?

Statutory Authority for Adoption: Chapter 74.15 RCW.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Children's Administration has found that some of the sections of chapter 388-148 WAC require waivers in order for provider compliance. The approval of waivers then jeopardizes federal funds received by Children's Administration to support services to children and their families.

These rules replace emergency rules adopted as WSR 03-05-099 on February 19, 2003. Children's Administration has filed a preproposal statement of inquiry (WSR 02-06-083) and is engaged in working with stakeholders for the permanent adoption of rule changes. Stakeholders recently reviewed the draft rules, and the department is preparing economic analyses related to the possible impact of the rules.

The tentative date for the filing of the proposed rules for public comment is mid-September 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 21, Amended 36, 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 21, Amended 36, Repealed 0.

Effective Date of Rule: Immediately.

June 13, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0035 What personal characteristics do I need to provide care to children? If you are requesting a license, certification, or a position as an employee, volunteer, intern, or contractor in a foster home, group care facility, staffed residential home, or child-placing agency you must have the following specific personal characteristics:

(1) You must demonstrate that you have the understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional, and social needs of the children under your care.

(2) You must not have been disqualified by our background check (chapter 388-06 WAC) prior to having unsupervised access to children.

(3) You have not had a license denied or revoked from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's safety, well being, and long-term stability.

(4) You must not have been found to have committed abuse or neglect of a child or vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well being and long-term stability.

(5) You must have the ability to furnish the child with a nurturing, respectful, supportive, and responsive environment.

~~((4))~~ (6) The department may require you to give additional information. We may request this information at any time and it may include, but is not limited to:

- (a) Substance and alcohol abuse evaluations and/or documentation of treatment;
- (b) Psychiatric evaluations;
- (c) Psycho-sexual evaluations; and
- (d) Medical evaluations and/or medical records.

~~((5))~~ (7) Any evaluation requested under WAC 388-148-0035 ~~((4))~~(6)(a)-(d) will be at the applicant/licensees expense.

~~((6))~~ (8) The licensor must be given permission to speak with the evaluator/provider prior to and after the evaluation.

(9) Misrepresentation by a prospective employee, intern, or volunteer may be grounds for termination or denial of employment or volunteer service to that individual.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0095 When are licenses denied, suspended or revoked? (1) A license must be denied, suspended or revoked if the department decides that you cannot provide care for children in a way that ensures their safety, health and well-being.

(2) The department must, also, disqualify you for any of the reasons that follow.

(a) You have been disqualified by your background check (see chapter 388-06 WAC).

(b) You have been found to have committed child abuse or neglect or you treat, permit or assist in treating children in your care with cruelty, indifference, abuse, neglect, or exploitation, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(c) You or anyone living on the premises had a license denied or revoked from an agency that ~~((provided))~~ regulates care to children or vulnerable adults, unless the department determines that you do not pose a risk to children or vulnerable adults.

(d) You try to get a license by deceitful means, such as making false statements or leaving out important information on the application.

(e) You commit, permit or assist in an illegal act on the premises of a home or facility providing care to children.

(f) You are using illegal drugs, or excessively using alcohol and/or prescription drugs.

(g) You knowingly allowed employees or volunteers who made false statements on their applications to work at your agency.

(h) You knowingly allowed employees or volunteers who use illegal drugs, alcohol, or prescription drugs that affect their ability to perform their job duties to work at your agency or be on the premises when children are present.

(i) You repeatedly lack qualified or an adequate number of staff to care for the number and types of children under your care.

~~((+))~~ (j) You have refused to allow our authorized staff and inspectors to have requested information or access to your facility, child and program files, and/or your staff and clients.

~~((+))~~ (k) You are unable to manage the property, fiscal responsibilities, or staff in your agency.

~~((+))~~ (l) You have failed to comply with the federal and state laws for any Native American children that you have under care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0170 What steps must I take to ensure children's safety around outdoor bodies of water? (1) You must ensure children in your care or placed in your home or facility are safe around bodies of water.

(2) You must daily empty and clean any portable wading pool that children use.

(3) Children under twelve must be in continuous visual or auditory range at all times when they are swimming((:)) or wading((-or-boatng)) by an adult with current age appropriate first aid and CPR.

(4) You must ensure age and developmentally appropriate supervision of any child that uses hot tubs, swimming pools, spas, and around man-made and natural bodies of water.

(5) All safety devices and rescue equipment, such as personal flotation devices must meet state and federal water safety regulations.

(6) You must lock or secure hot tub and spa areas when they are not in use.

~~((6))~~ (7) You must place a fence designed to discourage climbing and have a locking gate around a pool or have another DLR approved safety device. The pool must be inaccessible to children when not in use.

(8) Foster homes with pools must have a written safety and supervision plan for each child.

(9) Individuals providing supervision in foster homes and staffed residential homes serving five or fewer children must know how and be able to use rescue equipment or have a current life-saving certification, when children are using a pool on the premises.

(10) All group care facilities and staffed residential homes serving six children must have a person with current life-saving certification on-duty when children are using a pool at the facility.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0040 What first aid and cardiopulmonary resuscitation (CPR) training is required? You ~~((and)),~~ your staff, interns, volunteers, or any adult who may at any time be the sole caregiver, must have the following first-aid and CPR training:

(1) If you have a home or facility that provides care, the care givers must have current training in:

- (a) Basic standard first aid; and
- (b) Age-appropriate cardiopulmonary resuscitation (CPR).

(2) Approved first aid and CPR training must be in accordance with a nationally recognized standard such as the American Red Cross or American Heart Association.

(3) For any facilities other than foster homes, the person with first aid and CPR training must be on the premises at all times when children are present.

(4) The ~~((requirement for))~~ CPR training ~~((may be waived))~~ is not required for persons with a statement from

their physician that the training is not advised for medical reasons.

(5) You must keep records in your home or facility showing who has completed current first aid and CPR training.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0045 What HIV/AIDS training is required? (1) You must provide or arrange for training for yourself ~~((and any of)),~~ your staff, and any adult who may at anytime be the sole caregiver, on the prevention, transmission, and treatment of HIV and AIDS. Such training must include infection control requirements.

(2) You must use infection control requirements and educational material consistent with the current approved curriculum *Know - HIV/AIDS Prevention Education for Health Care Facility Employees*, published by the department of health, office on HIV/AIDS.

~~((3))~~ ~~The staff of group care programs are required to complete blood-borne pathogen training.)~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0050 How do I apply for a license? To apply for a license, the person or legal entity responsible for your home or facility must follow these procedures:

(1) You must send the application form to your licenser at DLR or a child-placing agency.

(2) With the application form, you must send written verification for each applicant of the following information:

- (a) ~~((Written verification for each applicant of:))~~
 - (i) A tuberculosis test or an x-ray unless you can demonstrate ~~((religious))~~ medical reasons prohibiting the test;
 - ~~((ii))~~ (b) First-aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and

~~((iii))~~ (c) HIV/AIDS training including infection control standards.

~~((b))~~ (3) A completed background check form for anyone age sixteen years or older on the premises of the home or facility including, but not limited to:

- (a) Each applicant((:));
- (b) Family member((:));
- (c) Staff person((:));
- (d) Board member((:));
- (e) Intern or volunteer who:
 - (i) Is at least sixteen years old;
 - (ii) Is not a foster child; and
 - (iii) Has unsupervised access to children (see chapter 388-06 WAC).

~~((e))~~ (4) If you ~~((have))~~ or anyone age sixteen years or older in your home or facility has lived in Washington state less than three years, you must provide us with a completed FBI fingerprint form for that person.

~~((d))~~ ~~We may require additional information from you including, but not limited to:~~

~~(i) Substance and alcohol abuse evaluations and/or documentation of completed treatment;~~
~~(ii) Psychiatric evaluations;~~
~~(iii) Psycho-sexual evaluations; and~~
~~(iv) Medical evaluations and/or medical records.~~
 (3) ~~Except foster homes, if you are applying for a license renewal, you must send the application form to your licenser at least ninety days prior to the expiration of your current license.~~)

NEW SECTION

WAC 388-148-0058 May I have a license for both child day care and child foster care? The department does not issue licenses for both a foster home and a child day care home, except under the following conditions:

(1) It must be clear that one type of care does not interfere with the health and safety of any child while providing the other type of care.

(2) The total number of children in both categories must not exceed the number permitted by the most stringent capacity standards for the licensed care of children.

(3) Any exceptions to the limitation on capacity require the written approval of the director of the division of licensed resources or their designee and the appropriate division of child care and early learning approval.

(4) Approval to have both a child foster care license and a child day care license must:

(a) Be in writing; and

(b) Signed by a licenser from the division of licensed resources (for a foster care license) and from the division of child care and early learning (for a child day care license).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0060 When am I not allowed to receive a license from a child-placing agency? (1) You or your relatives, are not allowed to be certified by a child-placing agency as a foster home, if you or your relative is in an administrative or supervisory role or directly involved in certification, placement, or authorization of payment to yourself or your relative for that same child-placing agency.

(2) You or your relative may apply to a different child-placing agency for a license.

(3) Licensed foster parents who become employed by ~~((the department))~~ children's administration or a child-placing agency must be relicensed through an agency other than their employer within six months of employment.

Note: Relative as defined under RCW 74.15.020 (4)(i) through (iv).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0065 When may I be certified to provide care to children? You may apply for certification of your home or facility by the department rather than a license, if ~~((you))~~ the following four conditions apply:

- (1) You are exempt from needing a license (per chapter 74.15 RCW);
- (2) You meet the licensing requirements; ~~((and))~~
- (3) You wish to serve department-funded children; and
- (4) You are licensed by authority of an Indian tribe within the state under RCW 74.15.190.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0120 What incidents involving children must I report? (1) You or your staff must report any of the following incidents ~~((immediately))~~ as soon as possible and in no instance later than forty-eight hours to your local children's administration intake staff, the child's social worker or case manager, and parent or legal guardian when the parent has placed the child:

(a) Any reasonable cause to believe that a child has suffered child abuse or neglect;

(b) Any violations of the licensing or certification requirements;

(c) Death of a child;

(d) Any child's suicide attempt that results in injury requiring medical treatment or hospitalization;

(e) Any use of physical restraint that is alleged improper or excessive;

(f) Sexual contact between two or more children that is not considered typical play between preschool age children;

(g) Any disclosures of sexual or physical abuse by a child in care;

(h) Physical assaults between two or more children that result in injury requiring off-site medical treatment or hospitalization;

~~(i) ((Unexpected health problems that require off-site medical treatment;~~

~~((j)) Any medication that is given incorrectly and requires off-site medical treatment; or~~

~~((k)) (j) Serious property damage that is a safety hazard and is not immediately corrected(~~((or~~~~

~~((l) Any emergent medical care)).~~

(2) ~~((You or your staff must report immediately))~~ The following are examples of significant incidents that must be reported as soon as possible or in no instance later than forty-eight hours, ~~((any of the following incidents))~~ to the child's social worker, if the child is in the department's custody or to the case manager if placed with a child-placing agency program:

(a) Suicidal/homicidal ideations, gestures, or attempts that do not require professional medical treatment;

(b) Unexpected health problems that do not require professional medical treatment;

(c) Any incident of medication incorrectly administered;

(d) Physical assaults between two or more children that result in injury but did not require professional medical treatment;

(e) Runaways; ~~((and))~~

(f) Any emergent medical care; and

(g) Use of physical restraints for routine behavior management.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0125 What are your requirements for keeping client records? (1) Any identifying and personal information about a child and the child's family must be kept confidential.

(2) You must keep records about children and their families in a secure place. If the child is in the department's custody, at the end of the child's placement, reports written by others about the child or the child's family must be returned to the child's social worker.

(3) During a placement in your foster home, your records must be kept at your home and contain, if available, at a minimum, the following information:

- (a) The child's name, birth date, and legal status;
- (b) Name and telephone number of the social worker for each child in care;
- (c) Names, address and telephone numbers of parents or persons to be contacted in case of emergency;
- (d) Information on specific cultural needs of the child;
- (e) Medical history including any medical problems, name of doctor, type of medical coverage and provider;
- (f) Mental health history and any current mental health and behavioral issues, including medical and psychological reports when available;
- (g) Other pertinent information related to the child's health, including dental records;
- (h) Record of immunizations. Receiving and interim care homes and facilities do not need to keep records of immunizations for children in their care less than thirty days. Crisis residential centers and children placed in a foster home by a child-placing agency licensed to provide emergency respite services do not need to keep records of immunizations for children in their care;
- (i) Child's school records, report cards, school pictures, and individual education plans (IEP);
- (j) Special instructions including supervision requirements and suggestions for managing problem behavior;
- (k) Inventory of personal belongings at the time of placement; and
- (l) The child's visitation plan.

(4) During a child's placement in a staffed residential home (~~(or a)~~), group care program, or a child-placing agency program your records must be kept at your site and contain, at a minimum, the following information in addition to the information in subsection (3)(a) through (l) of this section:

- (a) Written consent from the child placing agency, if any, for providing medical care and emergency surgery (unless that care is authorized by a court order);
- (b) Names, addresses, and telephone numbers of persons authorized to take the child under care out of the facility;
- (c) A copy of the court order or voluntary placement agreement that gives approval to place the child;
- (d) Case plans, such as children's administration's "individual service and safety plan"; (~~and~~)
- (e) Daily logs of therapy treatment received by children with the signature of the person making the entry in the log; and
- (f) Facility or program logs documenting the following:

(i) Date, time, and which residents and staff are participating in an activity;

(ii) Narrative to note behavior and issues of residents;

(iii) Any health or safety issues;

(iv) Signature of staff reviewing the log during each shift;

(v) Staff to resident ratio on each shift;

(vi) On-call and relief staff on premises during emergencies; and

(vii) After-hours telephone number of the supervisor.

(5) If you operate a group care program, staffed residential home, or child-placing agency and have client files with information not returned to the department, you must keep them for six years following the termination or expiration of any contract you have with the department.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0140 What personnel policies must I have? You must follow the personnel requirements listed below, at any home or facility we license.

(1) Each employee, intern, contractor, or volunteer who has unsupervised access to children must have completed an application for employment and signed a form enabling us to do a background check (chapter 388-06 WAC). You must keep a log of all the background check results.

(2) Misrepresentation by the prospective employee, interns, or volunteer will be grounds for termination or denial of employment or volunteer service.

(3) If you have five or more staff, volunteers, or interns you must have written policies covering qualifications, training, and duties for employees, interns, and volunteers.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0220 What fire safety requirements must I follow to qualify for a license? (1) If you operate a program or facility other than a foster home, staffed residential home, or child-placing agency, you must follow the regulations developed by the Washington State Fire Marshal's office. The regulations are minimum requirements for protecting life and property against fire. You can find these contained in the current Uniform Fire Code with Washington state amendments.

(2) Foster homes and staffed residential homes (~~(need)~~) must have inspections by fire marshal or local fire department if either:

- (a) Licensors request the inspections; or
- (b) Local ordinances or State Fire Marshal regulations require these inspections.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0260 What are the general requirements for bedrooms? You must meet all of the following requirements for bedrooms if you provide full-time care in a home or facility.

(1) An adult must be on the same floor or within easy hearing distance and accessibility to where children under six years of age are sleeping. In foster homes only, children age one through five years may sleep on separate floors provided that they are supervised with an electronic "baby" monitor to ensure health and safety. Infants under age one year must be on the same floor as an adult.

(2) You must use only bedrooms that have unrestricted direct access to hallways, corridors, living rooms, day rooms, or other such common use areas.

(3) You must not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

(4) For facilities licensed after December 31, 1986, bedrooms must have both:

(a) Adequate ceiling height for the safety and comfort of the occupants. Normally, this would be seven and a half feet; and

(b) A window of not less than one-tenth of the required floor space that can open into the outside, allowing natural light into the bedroom and permitting emergency access or exit.

(5) For any foster children six years of age and over, you must furnish separate sleeping quarters for each gender.

(6) Children in care must not share the same bed.

(7) In group care facilities, single occupancy bedrooms must provide at least fifty square feet of floor space.

(8) In foster homes, single occupancy bedrooms must provide adequate floor space for the safety and comfort of the child. Normally, this would be at least fifty square feet of floor space, not including closets.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0270 What are the requirements for beds? (1) Each child in care must have a bed of his or her own.

(2) For each child in care, you must provide a bed at least thirty inches wide with a clean and comfortable mattress in good condition, pillow, sheets, blankets, and pillowcases. Each child's pillow must be covered with waterproof material or be washable.

(3) Bedding must be clean.

(4) You must provide waterproof mattress covers or moisture resistant mattresses, if needed.

(5) You must provide an infant with a crib that ensures the safety of the infant and complies with chapter 70.111 RCW, Infant Crib Safety Act.

(6) Cribs must have no more than two and three-eighths inches space between vertical slats when used for infants under six months of age.

(7) Cribs, infant beds, bassinets, and playpens must:

(a) Have clean, firm, snug fitting mattresses covered with waterproof material that is easily sanitized; and

(b) Be made of wood, metal, or approved plastic with secure latching devices

(8) Crib bumpers, stuffed toys and pillows must not be used in cribs, infant beds, bassinets, or playpens with an infant.

(9) You must follow the recommendation of the American Academy of Pediatrics, 1-800-505-CRIB, placing infants on their backs each time for sleep.

(10) You may use toddler beds with a standard crib mattress that is sufficient in length and width for the comfort of children under six years of age.

(11) You must not allow children to use the loft style beds or upper bunks of double-deck beds if using them due to age, development or condition could hurt them. Examples: Preschool age children, expectant mothers and children with disabilities.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0335 When must I get medical exams for the children under my care? (1) (~~You, together~~) I consultation with the child's social worker, you must schedule a medical exam for any child who, within the past year, has not:

(a) Been under regular medical supervision; or

(b) Had a physical exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP).

(2) A physical exam (EPSDT) must be completed within thirty days of placement and annually thereafter.

Note: You may contact the child's social worker for information on this.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0345 What must I do to prevent the spread of infections and communicable diseases? You must take precautions to guard against infections and communicable diseases infecting the children under care in your home or facility.

General communicable diseases and infections

(1) In each home or facility, other than a foster home, staff with a reportable communicable disease, as defined by the department of health, in an infectious stage must not be on duty until they have a physician's approval for returning to work.

(2) Each home or facility, other than a foster home, that cares for severely and multiple-handicapped children must have an infection control program supervised by a registered nurse.

(3) Foster homes with medically fragile children may use other alternatives, such as in-home nursing services, to consult on infection control procedures.

Tuberculosis

(4) Applicants for a license or adults authorized to have unsupervised access to children in a home or facility must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless:

(a) The person has evidence of testing within the previous twelve months;

(b) The person has evidence that they have a negative chest x-ray since a previously positive skin test;

(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.

(5) The department does not require a tuberculin skin test if:

(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or

(b) A physician indicates that the test is medically unadvisable.

(6) Persons whose tuberculosis skin test is positive must have a chest x-ray within thirty days following the skin test.

(7) The department does not require retesting unless a person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.

(8) The facility must keep the results of the applicant and employees TB test results in the personnel file on the premises of the facility.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0350 How do I manage medications for children under my care? (1) You must meet the department's requirements for managing prescription and nonprescription medication for children under your care.

(2) If you care for children in the custody of a tribal court you must follow the direction of that court regarding giving or applying prescription and nonprescription medications or ointments.

(3) Only you or another authorized care provider (example: respite provider) may (~~give or~~):

(a) Have access to medications for the child under your care;

~~((4))~~ (b) Give medications, prescription and nonprescription, only on the written approval of a parent, person or agency having authority by court order to approve medical care;

~~((5))~~ (c) Except for foster homes, keep a record of all medications you give a child;

~~((6))~~ (d) Foster homes must keep a record of all prescription medication given to foster children; and

~~((7) Properly dispose)~~

(4) You or another authorized care provider must follow the department of health protocol in the proper disposal of medications that are no longer being taken or have expired.

Prescription medications

~~((8))~~ (5) You or another authorized care provider must:

(a) Give prescription medications:

(i) Only as specified on the prescription label; or

(ii) As otherwise approved by a physician or another person legally authorized to prescribe medication.

(b) Check with the physician or pharmacist about possible side effects for any prescription medications, herbal supplements and remedies, and interactions with nonprescription drugs the child is taking.

Psychotropic medications

~~((9))~~ (6) Care providers must not approve giving psychotropic medications to a child in care. Approval can only be given by one of these:

(a) The child's parent;

(b) Dependency guardians;

(c) A court order; or

(d) The child's social worker; if:

(i) The child is legally free and in the permanent custody of the department; or

(ii) It is impossible to obtain informed parental consent after normal work hours, on weekends, or on holidays.

~~((10))~~ (7) Children who are at least thirteen years old may decline to take prescription psychotropic medication. If this happens contact the child's social worker immediately.

Nonprescription medications

~~((11))~~ (8) Children taking psychotropic medications must have the prescribing physician's authorization before any nonprescription drugs and herbal supplements are given.

~~((12))~~ (9) You or another authorized care provider must follow these requirements for nonprescription medications. You must:

(a) Give certain classifications of nonprescribed medications, only with the dose and directions on the manufacturer's label for the age and/or weight of the child needing the medication. These nonprescribed medications include but are not limited to:

(i) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;

(ii) Nonnarcotic cough suppressants;

(iii) Decongestants;

(iv) Antacids and anti-diarrhea medication;

(v) Anti-itching ointments or lotions intended specifically to relieve itching;

(vi) Shampoo for the removal of lice;

(vii) Diaper ointments and powders intended specifically for use in the diaper area of children;

(viii) Sun screen (for children over six months); and

(ix) Antibacterial ointments for first aid use.

(b) Give any other nonprescription medications only when approved in writing by a physician. These nonprescription medications may be given with a physician's standing order. Physician's standing orders must be patient specific.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0395 What requirements must I meet for feeding babies? You must meet the following requirements for feeding babies:

(1) In group care settings, all formulas must be in sanitized bottles with nipples and labeled with the child's name and date prepared if more than one child is bottle-fed.

(2) You must refrigerate filled bottles if bottles are not used immediately and contents must be discarded if not used within twenty-four hours.

(3) If you reuse bottles and nipples, you must sanitize them.

(4) If breast milk is provided by anyone other than a baby's biological mother, approval must be obtained from the child's social worker.

(5) Infants who are six months of age or over may hold their own bottles as long as an adult remains in the room and within observation range. You must take bottles from the child when the child finishes feeding or when the bottle is empty.

(6) You must not prop bottles while feeding infants.

NEW SECTION

WAC 388-148-0427 Are there specific requirements regarding Native American children? You must comply with all requirements of the Federal Indian Child Welfare Act, 25 USC 1901, et. seq. and all applicable state laws.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0460 What requirements do you have for supervising children? (1) You must provide or arrange for care and supervision that is appropriate for the child's age, developmental level, and condition.

(2) You must supervise children who help with food preparation in the kitchen, based on their age and skills.

(3) Preschool children and children with severe developmental disabilities must not be left unattended in a bathtub or shower.

(4) Foster parents and facility staff must provide the children in their care with appropriate adult supervision, emotional support, personal attention, and structured daily routines and living experiences.

(5) In group care children must be supervised during sleeping hours by at least one awake staff when:

(a) There are more than six children in care; and

(b) The major focus of the program is behavioral rather than the development of independent living skills such as a teen parent program or responsible living skills program; or

(c) The youth's behavior poses a risk to self or others.

(6) In foster homes and staffed residential homes, children must be supervised during sleeping hours by at least one awake staff when it is part of the written supervision plan with the child's social worker.

(7) Adequate supervision should be arranged and maintained during times of crisis when one or more family members or staff members may be unavailable to provide the necessary supervision or coverage for other children in care.

(8) When special supervision is required and agreed upon between the department and the agency or foster parent, the agency or foster parent provides the necessary supervision. This supervision may require auditory or visual supervision at all times.

(9) When a child has exhibited behavior in a previous placement or the placement agency believes the child poses a risk to other children the agency must inform the provider and jointly develop a plan to address the risk.

(10) When a child exhibits behavior that poses a safety risk to other children in care, ((the child must not share a) sleeping arrangements and/or bedroom ((with)) assignments

must be made, in consultation with the child's social worker, to ensure the safety of other children.

NEW SECTION

WAC 388-148-0462 Who may provide care to a foster child in the foster home when the foster parent is away from the home? (1) A foster parent may allow a friend, or a relative to provide care to a foster child in the foster home when the conditions that follow are met. The foster parent must:

(a) Be familiar and comfortable with the individual who will be caring for the foster child;

(b) Meet with the substitute caregiver and review the expectations regarding supervision and discipline of the foster child;

(c) Be responsible for providing the caregiver any special care instructions;

(d) Provide information on how to be contacted by the substitute caregiver; and

(e) Ensure the child has a safety plan.

(2) On an occasional basis and for less than twenty-four hours, the foster parent may use a friend or a relative as a substitute caregiver, without verifying criminal and founded child abuse/neglect history when the foster parent has no reason to suspect the substitute caregiver:

(a) Has a history that would disqualify them from caring for a department child; or

(b) Would be at risk in the their care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0520 What are the training requirements for foster parents and prospective foster parents? (1) ~~((To receive a)) All foster ((home license, you)) parents (both parents in a two-parent household) must ((attend required orientation and preservice training programs that the department sponsors, or that your licensed child placing agency offers.~~

~~((2) You need)) have:~~

~~((a) Proof of completion of current first-aid/CPR training that is geared for the ages of the foster children ((you)) they want in your home((-~~

~~((3) You need)); and~~

~~((b) Proof of completion of HIV/AIDS prevention training.~~

~~((4) The primary care givers must))~~

(2) The CPR training is not required for person with a statement from their physician that the training is not advised for medical reasons.

(3) At least one foster parent must:

(a) Attend required orientation and pre-service training programs that the department sponsors or that your licensed child-placing agency offers; and

(b) Complete all required DLR-approved training after licensing.

NEW SECTION

WAC 388-148-0542 May a foster child be supervised by someone under eighteen in the foster home? (1) A foster parent may use a friend or relative who is sixteen or seventeen to supervise (baby sit) a foster child under the following conditions:

(a) The foster parent knows the youth babysitter to be reliable and mature enough to provide appropriate care to the foster child.

(b) The youth babysitter has completed a background check within the past year. Exception: For occasional care of less than twenty-four hours, the verification of the background check is not required, provided the foster parent has no reason to suspect:

(i) The babysitter has a disqualifying criminal history or founded complaint of child abuse/neglect; and

(ii) The child would be at risk in the care of the babysitter.

(c) The youth babysitter must not be responsible for more than three foster children.

(2) If the care by the youth babysitter is a regular arrangement, the foster parents must have the written approval of the social worker for the foster child.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0560 Do I need a treatment plan for children under my care? (1) ~~((If you operate a)) All group homes, staffed residential home ((or a group care program you)), a child-placing agency, or foster homes that have contracts or agreements with the department to provide treatment or therapeutic services to dependent children~~ must assist in developing and implementing a written treatment plan for each child ~~((accepted for care in any of the programs you provide))~~ in care after thirty days.

(2) The treatment plan must:

(a) Identify the service needs of the child, parent or guardian;

(b) Describe the treatment goals and strategies for achieving those goals;

(c) Include a running account of the treatment received by the child and others involved in the treatment plan, such as any group treatment or individual counseling; and

(d) Be updated at least quarterly to show the progress toward meeting goals and list barriers to the permanent plan.

(3) A social service staff person must review and sign approving the child's treatment plan.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0585 What social service staff do I need ~~((for my home or facility))~~? (1) Except for foster homes, you must provide or arrange for social services by qualified persons who have specific educational training. Except for juvenile detention facilities, social service staff must meet education and training requirements that follow:

~~((1))~~ (2) One person who provides social services must have a master's degree in social work or a closely related field from an accredited school.

~~((2))~~ (3) Social service staff without a master's degree in social work or closely related field must have a bachelor's degree in social work or a closely related field. A person with a master's degree must consult at least eight hours per month with any social service staff who have only a bachelor's degree.

~~((3))~~ (4) When social services are provided by another agency, you must have a written agreement with the agency describing the scope of service they provide. Written agreements must meet the requirements of this rule.

~~((4))~~ (5) A social service staff person must review and sign approving the child's treatment plan.

~~((5))~~ (6) A social service staff person must review and sign approving licensing application packets before they are submitted to DLR.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0630 What fire prevention measures must I take? The department requires that you must take the following fire prevention measures for your staffed residential home and group care facility:

(1) You must request the local fire department to visit your home or facility to:

~~(a) Assist care givers in meeting all necessary fire safety requirements; and~~

~~(b))~~ become familiar with your home or facility.

(2) You must assure that furnace rooms are:

(a) Maintained free of lint, grease, and rubbish; and

(b) Suitably isolated, enclosed, or protected.

(3) Flammable or combustible materials must be stored away from exits and in areas that are not accessible to children. Combustible rubbish must not be allowed to collect and must be removed from the building or stored in closed, metal containers away from building exits.

(4) All trash must be removed daily from the building and thrown away in a safe manner outside the building. All containers used for the disposal of waste material must consist of noncombustible materials and have tops.

(5) All electrical motors must be kept free of dust.

(6) Open-flame devices capable of igniting clothing must not be left on, unattended or used in a manner that could result in an accidental ignition of children's clothing.

(7) Candles must not be used.

(8) All electrical circuits, devices and appliances must be properly maintained. Circuits must not be overloaded. Extension cords and multi-plug adapters must not be used in place of permanent wiring and proper outlets.

(9) House and facility numbers must be clearly visible from the street or road in front of the property. Where the home or facility is not clearly visible from the road, the address must be posted at the head of the driveway.

Note: This is to allow emergency vehicles and fire trucks to easily find addresses.

(10) Fireplaces, woodstoves, and similar devices must be installed and approved according to the rules that were in

effect at the time of installation (see the local building permit). These devices must be properly maintained and must be cleaned and certified at least once a year or maintained according to the manufacturer's recommendations.

GROUP CARE AND CHILD-PLACING AGENCIES

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0700 What are the qualifications for an executive director for a group care program or child-placing agency? (1) A group care program or child-placing agency executive director or person responsible for the agency administration, agency oversight, and fiscal operation must meet, at a minimum, the requirements that follow.

(a) Be able to communicate to the department the roles, expectations and purposes of the program; and

(b) Work with representatives of other agencies.

(2) They must also meet one of these education or experience requirements:

(a) Have a bachelor's degree in social science or a closely related field from an accredited school; or

(b) Have a minimum of two years of successful, full-time relevant experience, such as working in a group care facility; or

(c) Have a minimum of two years as a foster parent with a letter of recommendation from the licensing agency and supervising agency.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0720 What qualifications must the child care staff for a group care program and a child-placing agency have? The child care staff person of a group care program and child-placing agency is responsible for the care, supervision, and behavior management of children under your care. The department requires ((the)) child care staff of each group care program and child-placing agency:

(1) Be at least twenty-one years old;

(2) Exception: Child care staff may be eighteen to twenty years old if enrolled and participating in an internship or practicum program with an accredited college or university; and supervised by staff twenty-one years or older;

(3) Have a high school diploma or GED;

(4) Have one year of experience working with children;

(5) Have the skills and abilities to work successfully with the challenging behaviors of children in care; and

(6) Have effective communication and problem solving skills.

NEW SECTION

WAC 388-148-0722 What are the qualifications for health care staff for a group care program or a child-placing agency? (1) The health care staff, such as a licensed practical nurse (LPN) and certified nurse's assistant/aide (CNA),

must meet the full professional competency requirements in their respective field.

(2) The health care staff must maintain their certification or licensure as required by the department of licensing.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0725 What is the ratio of child care staff to children in group care facilities? The department has specific requirements for the ratio of child care staff to children in group care.

(1) The ratio for group homes is at least one child care staff member on site for every eight children during waking and sleeping hours.

Note: Crisis residential centers, staffed residential homes, maternity programs, and programs for children with severe developmental disabilities have different requirements.

(2) At least two adults, including at least one child care staff person, must be on site whenever more than eight children are on the premises.

(3) To keep the proper ratio of staff to children, the executive director, on-site program manager, support staff and maintenance staff may serve temporarily as child care staff if they have adequate training.

(4) During sleeping hours of youth, at least one staff person must be awake in all group home programs when:

(a) There are more than six youth in care; and

(b) The major focus of the program is behavioral change rather than the development of independent living skills, such as teen parent and independent living skills programs; or

(c) The youth's behavior poses a safety risk to self or others.

(5) When only one child care staff is on site, a second staff must be on call.

(6) You must have relief staff so that all staff can have the equivalent of two days off a week.

(7) If you have more than one program in one building, such as a group care program and a crisis residential center, you must follow the most stringent staffing ratio requirements.

(8) For certified juvenile detention facilities, at least one child care staff member must be on duty for every ten children in care during the sleeping and waking hours.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0785 What is the proper ratio of staff to children in home or group care facilities offering maternity services? Residential programs provide twenty-four-hour care to expectant mothers and to new mothers with infants.

(1) These programs must employ sufficient numbers of residential staff to meet the physical, safety, health and emotional needs of the residents. Residential staff are in charge of supervising the day-to-day living situation for youth.

Note: Child care staff may carry out any maintenance tasks that do not detract from their primary function.

(2) When youth are on the premises, the ratio of staff to residents must be as follows:

(a) At least one residential staff member must be on duty for every eight ~~((mothers))~~ persons.

(b) When more than eight persons ~~((including mothers and children))~~ are on the premises, at least two adults, including at least one child care staff must be on duty.

(3) You must have relief staff so that all staff can have the equivalent of two days off a week.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0880 What levels of secure CRCs exist? The department licenses ~~((two))~~ three types of secure crisis residential centers (CRCs): Level one ~~((and))~~, level two, and level three. Level one is the most secure facility and level ~~((two))~~ three is the least secure facility.

NEW SECTION

WAC 388-148-0892 What are the requirements for a level three secure CRC? A level-three secure crisis residential center (CRC) must meet each of these requirements:

(1) Be a free-standing facility, separate unit or separate building within a campus with exterior doors that have special egress-control devices;

(2) Meet or exceed the current state building code for facilities with special egress-control devices; and

(3) Maintain a recreation area, within the secured facility or secured on the property of the facility, that can support youth's vigorous physical activity. (Any fences used to secure the recreation area must meet or exceed the specifications of the level-two secure CRC referenced in WAC 388-148-0890(3)).

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0915 What steps must be taken after a youth is admitted into a CRC?

All CRCs

(1) The director or designee of ~~((a))~~ any crisis residential center (CRC) must immediately notify the parents of the youth who has been admitted.

(2) If the director or designee of any CRC is unable to contact the youth's parents within, forty-eight hours, he or she must:

(a) Contact the department and request that the case be reviewed for dependency filing under chapter 13.34 RCW or "child in need of services" filing under chapter 13.32A RCW; and

(b) Document the contact with the department in the youth's case record.

(3) After a youth is admitted to any CRC, the director or designee must ensure that a youth is assessed for any health needs requiring immediate attention.

(4) By the first school day after admission, the staff of any crisis residential center must:

(a) Notify the youth's school district about the youth's placement; and

(b) Assess the youth for any educational needs as a part of the assessment process for inclusion in the discharge summary.

Secure CRCs

~~((3))~~ (5) Within the first twenty-four hours after admitting a youth to a secure crisis residential center, and each twenty-four hours after, the director or designee must assess the youth's risk of running.

~~((4))~~ (6) The secure CRC director or designee must determine what type of CRC, regular or secure, would be best for the youth.

~~((5))~~ (7) The secure CRC director or designee must use the following criteria in making the decision, considering the safety, health and welfare of the youth and others:

(a) The youth's age and maturity;

(b) The youth's physical, mental, and emotional condition upon arrival at the center;

(c) The circumstances that led to the youth's placement at the facility;

(d) The youth's behavior;

(e) The youth's history of running away;

(f) The youth's willingness to cooperate in conducting the assessment;

(g) The youth's need for continued assessment, protection, and intervention services in a CRC; and

(h) The likelihood the youth will remain at a CRC.

~~((6))~~ (8) The secure CRC director or designee must put the decision about the youth's status in writing in the youth's file.

~~((7) After a youth is admitted, the CRC director or designee must ensure that a youth is assessed for any health needs requiring immediate attention.~~

~~((8) By the first school day after admission, the crisis residential center staff must:~~

~~((a) Notify the youth's school district about the youth's placement; and~~

~~((b) Assess the youth for any educational needs as a part of the assessment process for inclusion in the discharge summary.))~~

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-0995 What are the ratio requirements of youth care staff to youth in crisis residential centers?

(1) You must ensure the safety of the youth that are residing in crisis residential centers (CRCs) by maintaining staffing ratios. This may require a staffing ratio higher than the minimum listed if necessary for the health and safety of youth and/or staff.

Regular CRCs

(2) At all times, regular crisis residential centers must have at least one youth care staff on duty for every four youth in care.

(3) Regular crisis residential centers must have at least two awake youth care staff on duty during waking hours of the youth.

(4) Regular crisis residential centers must have at least one awake youth care staff on duty during sleeping hours of the youth. One or more additional (back-up) staff must be on the premises during sleeping hours to maintain staffing ratios.

Under extraordinary circumstances, the DLR director may approve an alternative back-up plan.

Secure CRCs

(5) At all times, secure crisis residential centers must have at least two staff on duty ~~((at all times))~~ when youth are present.

(6) At all times, secure crisis residential centers not co-located with a detention center must have at least one youth care staff on duty for every three youth in care.

(7) At all times, secure crisis residential centers that are located in the same facility as a detention ((facilities)) center must have ~~((the))~~ at least one awake youth care staff on duty for every four youth in care.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1060 What services may a child-placing agency provide? The department licenses child-placing agencies to provide:

(1) Certification of eligible foster homes meeting full licensing requirements;

(2) Maternity services to expectant mothers;

(3) Specialized (treatment) foster care;

(4) Emergency respite services;

(5) Residential care programs, such as group homes, crisis residential centers, and independent living skills programs; and

~~((5))~~ (6) Adoption services.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1070 What health histories need to be provided to ~~((foster or))~~ adoptive parents? ~~((1) To meet department requirements,))~~ Your child-placing agency must provide adoptive ~~((see WAC 388-25-0330, or foster))~~ parents with ~~((the following))~~ information ~~((when available, at the time of placement:~~

~~((a) The mental and physical health histories of the birth parents;~~

~~((b) A written health history for each child prior to placement, including a history of immunizations, allergies, previous illnesses, and conditions that may adversely affect the child's health; and~~

~~((c) The developmental and psychological history for the adoptive children.~~

~~Note: You must arrange for the child's medical examinations, immunizations, and health care as required by WAC 388-148-0335 and 388-148-0340.~~

~~((2) The adoptive parent(s) must sign one copy of the report, showing that they have received the information. You must retain this signed copy in the child's permanent file.~~

~~((3) When the child is being placed for adoption, your report must not contain information that might identify the birth parents)) that meets the federal and state statutes.~~

NEW SECTION

WAC 388-148-1076 What are the qualifications for an executive director of a child-placing agency? The executive director of a child-placing agency must meet the executive director qualifications outlined for programs and agencies in section WAC 388-148-0700.

NEW SECTION

WAC 388-148-1077 What are the qualifications for a case aide for a child-placing agency program? The qualifications for a case aide at a child-placing agency program must meet the qualifications for the child care staff at a group care program outlined in WAC 388-148-0720.

NEW SECTION

WAC 388-148-1078 What are the qualifications for health care staff hired or contracted by a child-placing agency to provide services to children in care? A child-placing agency health care staff, such as licensed practical nurses (LPN) and certified nursing assistants (CNA) must meet the health care staff qualifications outlined in WAC 388-148-0722.

NEW SECTION

WAC 388-148-1079 What are the qualifications for consultants for child-placing agency programs? The qualifications for consultants for child-placing agency programs are outlined in WAC 388-148-0600.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1115 Do you have requirements for adoptive services? (1) As a child-placing agency providing adoption services, you must ~~((meet the department's requirements under chapter 388-25 WAC.~~

~~((2) You must)) follow federal and state adoption laws.~~

~~((a) Recruit potential adoptive families that reflect the diversity of children in your community((-~~

~~((3) You must)); and~~

~~((b) Provide adoptive applicants with the following services, at a minimum:~~

~~((a)) (i) Information about the adoption process;~~

~~((b)) (ii) Your agency's policies, practices and legal procedures;~~

~~((c)) (iii) Types of children available for adoption and implications for parenting different types of children; and~~

~~((d)) (iv) Information on adoption support programs.~~

~~((4))~~ (2) You must document that you provided this information to the adoptive applicant in the applicant's file.

(3) You must visit the adoptive home of all adoptive placements at least once in the first thirty days of placement and an additional face-to-face visit to observe the parent and child each sixty days after that until the adoption is finalized.

(4) You must be available for consultation regarding the adjustment of the adopted child and the family after finalization of the adoption.

AMENDATORY SECTION (Amending WSR 01-18-037, filed 8/28/01, effective 9/28/01)

WAC 388-148-1120 What is the process for adoptions? You must go through the following steps to place a child for adoption.

(1) The applicants must submit an application (including a completed background inquiry form) to the child-placing agency.

(2) Once you have received an application, but before you have sign a contract for services, you must give the applicants a written statement about:

(a) The adoption agency's fixed fees and fixed charges to be paid by the applicant;

(b) An estimate of additional itemized expenses to be paid by applicant; and

(c) Specific services covered by fees that you offer for child placement or adoption.

(3) Your staff must complete an adoptive home study as required in RCW 26.33.190 with the participation of the applicant(s). For the study, your staff and the applicants ~~((need to))~~ must decide ~~((about))~~ the following:

(a) The suitability of the applicant(s) to be adoptive parent(s); and

(b) The type of child(ren) for which the applicant or applicants are best suited.

(4) Your staff must accept or deny the application and give an explanation for your decision.

(5) You must file preplacement (home study) reports with the court (as required by RCW 26.33.180 through 26.33.190).

(6) Your staff must prepare the potential adoptive parent(s) for placement of a specific child by:

(a) Locating and providing information about the child and the birth family to the prospective adoptive family ~~((as described in chapter 388-25 WAC))~~ provided under federal and state statute;

(b) Discussing the likely implications of the child's background for adjusting in the adoptive family.

(7) Your staff must reevaluate the applicant(s) suitability for adopting a child each time an adoptive placement is considered.

CHILD-PLACING AGENCIES—EMERGENCY RESPITE SERVICES

NEW SECTION

WAC 388-148-1140 May a licensed child-placing agency provide emergency respite services? A licensed child-placing agency may offer emergency respite services by providing direct child care in a licensed foster home (for thirty days or less) or by contracting or by written agreement with a licensed child day care home or center (up to ten hours/day).

NEW SECTION

WAC 388-148-1145 Does an agency or individual need to be licensed as a child-placing agency to provide emergency respite services that are not center-based? An agency or individual must be licensed as a child-placing agency to provide community-based emergency respite services to children.

NEW SECTION

WAC 388-148-1150 Does a child-placing agency providing emergency respite services need specific program staff? A child-placing agency must have a program manager responsible for the emergency respite program.

NEW SECTION

WAC 388-148-1155 What are the education and training requirements for a program manager for an emergency respite program at a child-placing agency? The education and training requirements for a program manager for an emergency respite program at a child-placing agency are:

(1) A bachelor's degree in social services, child development, or a related field; or

(2) Five years of successful full-time experience in a relevant field; and

(3) Current first aid and CPR training; and

(4) HIV/AIDS prevention training; and

(5) If supervising other staff, then supervisory abilities that promote effective staff performance and relevant experience, training, and demonstrated skills in each area that he or she will be supervising.

NEW SECTION

WAC 388-148-1160 What services do child-placing agencies provide if they offer an emergency respite program? (1) A child-placing agency must provide the following emergency respite services:

(a) A family assessment of the need for the services;

(b) Direct child care; and

(c) Appropriate community service referrals.

(2) Family support services may be provided by the child-placing agency offering emergency respite services.

NEW SECTION

WAC 388-148-1165 Does a child-placing agency need approval from the division of licensed resources to provide emergency respite services? (1) An emergency respite program provided by a child-placing agency must be approved by DLR.

(2) The child-placing agency must send to DLR a detailed written program description outlining education, recreational, and any therapeutic services the agency will provide to children and their families.

(3) A foster home used for emergency respite care must be designated as a respite care home only, unless DLR gives administrative approval for a foster home to provide emergency respite care and regular foster care.

(4) The foster home must be assessed for health and safety with each emergency respite placement considering the other respite children in the home.

NEW SECTION

WAC 388-148-1170 What age children may receive emergency respite services? Emergency respite services may be provided to children birth through seventeen years.

NEW SECTION

WAC 388-148-1175 Who may place a child for emergency respite? Only a parent or legal guardian of a child may voluntarily place a child in emergency respite care. This is not to be used by foster parents for respite care for foster children.

NEW SECTION

WAC 388-148-1180 Must all children accepted for emergency respite care have current immunizations? A child accepted by a child-placing agency for emergency respite care may be placed with a licensed foster home without current immunizations.

NEW SECTION

WAC 388-148-1185 What are the record-keeping requirements for a child-placing agency providing emergency respite services? (1) Emergency respite service records must be kept at the child-placing agency and contain, at a minimum, the following information:

(a) Logs of children accepted for emergency respite care;

(b) A copy of any suspected child abuse and/or neglect referrals made to children's administration with the child's name and birthdate;

(c) Names, address and home and business telephone numbers of parents or persons to be contacted in case of emergency;

(d) Dates and illnesses or accidents while in emergency respite care;

(e) Any medications and treatments given to a child while in emergency respite care; and

(f) Health screening information including any allergy information.

(2) Identifying and personal information about the child and their family must be kept confidential as described under federal and state laws, unless the parent has given permission for release.

(3) Information about the child and their families must be kept in a secure place.

NEW SECTION

WAC 388-148-1190 What written information is needed before a child is accepted for emergency respite care by a child-placing agency? Before accepting a child for emergency respite care, a child-placing agency must obtain the following written consent and information from the parent or legal guardian:

(1) Permission from the child's parent or guardian authorizing the placement of their child;

(2) Permission to seek emergency medical care or surgery on behalf of their child;

(3) Permission to transport the child;

(4) Basic family information, including address, telephone numbers, and emergency contacts; and

(5) Basic medical information, including current medication, immunization history (if available), known allergies, and at-risk behaviors of the child.

WSR 03-14-060**EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed June 25, 2003, 4:26 p.m., effective July 1, 2003]

Date of Adoption: June 23, 2003.

Purpose: To initiate six-month eligibility reviews for DSHS/MAA clients of family and children's medical programs; and to eliminate continuous eligibility for children. The FY 2003 supplemental budget (SSB 5403, chapter 10, Laws of 2003) included provision to eliminate continuous eligibility for child and implement six-month reviews for family and children's medical programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-416-0015, 388-418-0005, 388-418-0025 and 388-434-0005.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530, and the fiscal year 2003 supplemental budget (SSB 5403, chapter 10, Laws of 2003).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Budget assumptions included in the fiscal year 2003 supplemental budget include savings that will result from policy changes affecting the rules listed in this order. Further, all changes that may be construed to result in more restrictive eligibility under the Medicaid pro-

gram must be implemented before September 2, 2003, to ensure state receipt of enhanced federal funding made available under the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, HR.2. Observing the time requirements of regular rule-making procedures would prevent the department from implementing the changes in a timeframe that is required under the spending authority in the supplemental budget. It would, in addition, prevent implementation of the changes prior to the deadline to ensure receipt of the enhanced federal funding. Therefore, immediate adoption of the proposed amendments is necessary to implement the State Supplemental Budget Act and ensure receipt of enhanced federal funding of the Medicaid program.

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 4, 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 4, Repealed 0.

Effective Date of Rule: July 1, 2003.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-08-002, filed 3/22/00, effective 5/1/00)

WAC 388-416-0015 Certification periods for categorically needy (CN) medical and children's health insurance program (CHIP). (1) A certification period is the period of time a person is determined eligible for a categorically needy (CN) medical program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues to the last day of the last month of the certification period.

(2) For a child eligible for the newborn medical program, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) For a woman eligible for a medical program based on pregnancy, the certification period ends the last day of the month that includes the sixtieth day from the day the pregnancy ends.

(4) For families ~~(and)~~ and children ~~(, and SSI-related persons)~~ the certification period is ~~((twelve))~~ six months. When the medical assistance unit is also receiving benefits under a cash or food assistance program, the medical certification period is updated to begin anew at each:

(a) Approved application for cash or food assistance; or

(b) Completed eligibility review.

(5) For an SSI-related person the certification period is twelve months.

~~((6))~~ (6) When the child turns nineteen the certification period ends even if the ~~((twelve))~~ six-month period is not over. The certification period may be extended past the end of the month the child turns nineteen when:

(a) The child is receiving inpatient services on the last day of the month the child turns nineteen;

(b) The inpatient stay continues into the following month or months; and

(c) The child remains eligible except for exceeding age nineteen.

~~((6))~~ (7) A retroactive certification period can begin up to three months immediately before the month of application when:

(a) The client would have been eligible for medical assistance if the client had applied; and

(b) The client received covered medical services as described in WAC 388-529-0100.

~~((7))~~ (8) If the client is eligible only during the three-month retroactive period, that period is the only period of certification.

~~((8))~~ (9) Any months of a retroactive certification period are added to the designated certification periods described in this section.

~~((9))~~ (10) For a child determined eligible for CHIP medical benefits as described in chapter 388-542 WAC:

(a) The certification periods are described in subsections (1), (4), and ~~((5))~~ (6) of this section;

(b) There is not a retroactive eligibility period as described in subsections ~~((6), (7), and (8))~~ (7), (8), and (9); and

(c) For a child who has creditable coverage at the time of application, the certification period begins on the first of the month after the child's creditable coverage is no longer in effect, if:

(i) All other CHIP eligibility factors are met; and

(ii) An eligibility decision is made per WAC 388-406-0035.

AMENDATORY SECTION (Amending WSR 01-11-109, filed 5/21/01, effective 7/1/01)

WAC 388-418-0005 What type of changes must I report for cash, food, and medical assistance? For purposes of this section, an "assistance unit" or "AU" is a group of people who live together and whose income or resources we count to decide what benefits the AU gets. Even if someone in your AU is not eligible to get a benefit, we still count that person's income or resources if they are financially responsible for you or someone in your AU, such as a common child. If you are a parent of a child who gets long-term care benefits, you need only report changes in income or resources that are actually contributed to the child. Tables one, two and three below show the types of changes you must report based on the type of assistance you get. Use table one to see if you must report a change for cash or food assistance. Use table two to see if you must report a change for children's, pregnant women's, or family medical assistance. Use

table three to see if you must report a change for SSI-related medical or long-term care medical assistance.

Type of change to report when you or anyone in your assistance unit AU):	Do I have to report this change for cash assistance?	Do I have to report this change for food assistance?
(1) Starts to get money from a new source;	Yes	Yes
(2) Has unearned income that changed by more than twenty-five dollars from amount we budgeted;	Yes	Yes
(3) Moves into or out of your home, including new-borns or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes
(4) Moves to a new residence;	Yes	Yes
(5) Has a change in shelter costs;	Yes, but only if you went from having no shelter costs to having a shelter cost, or from having shelter costs to not having to pay anything. You don't have to report a change in the amount you pay.	Yes, report the change at your recertification. If your shelter costs go up, you could get more food assistance benefits. Report the change sooner to see if you will get more benefits.
(6) Gets married, divorced, or separated;	Yes	Yes
(7) Gets a vehicle;	Yes	Yes
(8) Has a disability that ends;	Yes	Yes

Type of change to report when you or anyone in your assistance unit AU):	Do I have to report this change for cash assistance?	Do I have to report this change for food assistance?
(9) Has countable resources that are more than the resource limits under WAC 388-470-0005;	Yes	Yes
(10) Gets a job or changes employers;	Yes	Yes
(11) Changes from part-time to full-time or full-time to part-time work. We use your employer's definition of part-time and full-time work;	Yes	Yes
(12) Has a change in hourly wage rate or salary;	Yes	Yes
(13) Stops working;	Yes	Yes
(14) Has a pregnancy that begins or ends;	Yes	No
(15) Has a change in uncovered medical expenses;	No	Yes, report this change only at your next eligibility review. If you are elderly or disabled and you have an increase in uncovered medical expenses, report this change sooner as you may be eligible to get more benefits.

EMERGENCY

Table 2 - Medical Assistance		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for family medical assistance (i.e., TANF((SFA))-related) and children's medical?	Do I have to report this change for ((children's medical and/or)) pregnancy medical?
(16) Starts to get money from a new source;	Yes	No
(17) Has unearned income that changed;	Yes	No
(18) Moves into or out of your home, including newborns or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes
(19) Moves to a new residence;	Yes	Yes
(20) Has a change in shelter costs;	No	No
(21) Gets married, divorced, or separated;	Yes	No
(22) Gets a vehicle;	No	No
(23) Has a disability that ends;	No	No
(24) Has countable resources that are more than the resource limits under WAC 388-470-0005;	No	No
(25) Gets a job or changes employers;	Yes	No
(26) Changes from part-time to full-time or full-time to part-time work. We use your employer's definition of part-time and full-time work;	Yes	No

Table 2 - Medical Assistance		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for family medical assistance (i.e., TANF((SFA))-related) and children's medical?	Do I have to report this change for ((children's medical and/or)) pregnancy medical?
(27) Has a change in hourly wage rate or salary;	Yes	No
(28) Stops working;	Yes	No
(29) Has a pregnancy that begins or ends;	Yes	Yes
(30) Has a change in uncovered medical expenses.	(No) Yes, but only if an AU member has spenddown.	Yes, but only if an AU member has a spenddown.

Table 3 - SSI-Related Medical Assistance and Long-Term Care		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for SSI-related medical assistance?	Do I have to report this change for long-term care (i.e., COPEs, CAP, or nursing home)
(31) Starts to get money from a new source;	Yes	Yes
(32) Has unearned income that changed;	Yes	Yes
(33) Has a change in earnings or stops working	Yes	Yes
(34) Moves into or out of your home, including newborns or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes
(35) Moves to a new residence;	Yes	Yes

EMERGENCY

Table 3 - SSI-Related Medical Assistance and Long-Term Care

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for SSI-related medical assistance?	Do I have to report this change for long-term care (i.e., COPEs, CAP, or nursing home)
(36) Has a change in shelter costs;	No, unless you went from paying rent to not paying any rent. You do not need to report if your rent amount changes.	Yes, if client or community spouse live in their own home
(37) Gets married, divorced, or separated;	Yes	Yes
(38) Gets a vehicle;	Yes, but only if that person or their spouse gets SSI-related medical	Yes, but only if that person gets long-term care
(39) Has a disability that ends;	Yes	Yes
(40) Has countable resources that are more than the resource limits, under WAC 388-470-0005 or 388-513-1350;	Yes, but only if that person or their spouse get SSI-related medical	Yes, but only if that person gets long-term care
(41) Has a change in uncovered medical expenses.	Yes, but only if an AU member has a spenddown.	Yes.

EMERGENCY

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-418-0025 Effect of changes on medical program eligibility. (1) ~~((A client continues))~~ You continue to be eligible for Medicaid until the department determines ~~((the client's))~~ your ineligibility or eligibility for another medical program. This applies to ~~((a client who))~~ you if, during a certification period, ~~((becomes))~~ you become ineligible for, ~~((is))~~ or are terminated from, or ~~((requests))~~ request termination from:

- (a) A CN Medicaid program; or
- (b) Any of the following cash grants:
 - (i) TANF;
 - (ii) SSI; or
 - (iii) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) ~~((A child remains continuously eligible for CN Medicaid for a period of twelve months from the date of certification for medical benefits or last review, whichever is later. This applies unless the child:~~

- ~~((a) Moves out of state;~~
- ~~((b) Loses contact with the department or the department does not know the child's whereabouts;~~
- ~~((c) Becomes an inmate of a public institution, including a correctional facility (refer to WAC 388-505-0210(5) for exceptions);~~
- ~~((d) Turns nineteen years of age;~~
- ~~((e) Dies; or~~
- ~~((f) Receives benefits under the state children's health insurance program (SCHIP) and:~~
 - ~~((i) Does not pay health insurance premiums for four consecutive months; or~~
 - ~~((ii) Is determined to have had creditable coverage at the time of application. Refer to chapter 388-542 WAC.~~

~~((3) When a client becomes))~~ If you become ineligible for refugee cash assistance, refugee medical assistance can be continued ~~((only))~~ through the eight-month limit, as described in WAC 388-400-0035(4).

~~((4) A client receiving medical benefits with))~~
 (3) If you receive a TANF cash grant or family medical ~~((program is)),~~ you are eligible for a medical extension, as described under WAC 388-523-0100, when ~~((the client's))~~ your cash grant or family medical program is terminated as a result of:

- (a) Earned income; or
- (b) Collection of child or spousal support.
- ~~((5))~~ (4) A change in income during a certification period does ~~((not))~~ affect eligibility for all medical programs except:
 - (a) Pregnant women's medical programs; ~~((or))~~
 - (b) Children's medical for newborns F05; or
 - (c) The first six months of the medical extension benefits.

~~((6))~~ (5) For a child receiving benefits under SCHIP as described in chapter 388-542 WAC, the department must redetermine eligibility for a Medicaid program when the family reports:

- (a) Family income has decreased to less than two hundred percent FPL;
- (b) The child becomes pregnant;
- (c) A change in family size; or
- (d) The child receives SSI.

AMENDATORY SECTION (Amending WSR 99-23-083, filed 11/16/99, effective 1/1/00)

WAC 388-434-0005 The department reviews each client's eligibility for benefits on a regular basis. (1) If you receive cash assistance, the department reviews your eligibility for assistance at least once every six months.

(2) When it is time for your eligibility review, the department requires you to complete a review form. We use the information you provide to determine your eligibility for all assistance programs.

(3) If you complete an interview for assistance with a department representative and sign the printed application for

benefits (AFB) form, you do not have to complete a separate review form.

(4) For cash assistance, the eligibility review form or the AFB must be dated and signed by both husband and wife, or both parents of a child in common when the parents live together.

(5) If you receive medical assistance only, the eligibility review form or the AFB must be signed by at least one parent when the parents live together.

(6) We may move the date of your eligibility review if we decide your circumstances need to be reviewed sooner.

(7) At your review, we look at:

(a) All eligibility requirements under WAC 388-400-0005 through 388-400-0035, 388-503-0505 through 388-503-0515, and 388-505-0210 through 388-505-0220;

(b) Changes that happened since we last determined your eligibility; and

(c) Changes that are anticipated to happen during the next review period.

(8) If you receive medical assistance only, we set your eligibility review date in advance under WAC 388-416-0005 through 388-416-0035. We will start the review process before your benefits end.

(9) Clients are responsible for attending an interview if one is required under WAC 388-452-0005.

(10) If you do not complete the eligibility review for cash assistance, you are considered to be withdrawing your request for continuing assistance.

(a) Your cash assistance benefits will end.

(b) Your medical assistance will continue for ~~((twelve))~~ six consecutive months from the last:

(i) Application;

(ii) Eligibility review; or

(iii) Food assistance application or recertification.

(11) We must send you written notice under WAC 388-458-0005, 388-458-0010, and 388-450-0015 before assistance can be suspended, terminated, or a benefit error is established as a result of your eligibility review.

(12) If you are currently receiving cash or medical assistance, and you are found to no longer be eligible for benefits, we will determine if you are eligible for other medical programs. Until we decide if you ~~((are))~~, eligible for ~~((other programs))~~ another program, your medical assistance will continue under WAC 388-418-0025 ~~((even if you request that your benefits end))~~.

(13) When a client is determined to need necessary supplemental accommodation (NSA) under WAC ~~((388-200-1300))~~ 388-472-0010, we will help the client meet the requirements of this section.

Purpose: The department is amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740 and 388-805-750, and implementing new WAC 388-805-035 and 388-805-040, regulating opiate substitution treatment programs. Emergency WAC adoptions were submitted to the Washington State Code Reviser's Office on March 8, 2002, July 5, 2002, November 1, 2002, and February 28, 2003, that modified Washington administrative codes to begin recognizing the Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA) certification standards and implement the requirements of SSB 5417, an act relating to opiate substitution treatment programs that amended chapter 70.96A RCW effective July 22, 2001. This emergency rule adoption will extend the current emergency rules, filed as WSR 03-06-059, for another one hundred twenty days. A preproposal statement of inquiry was filed as WSR 02-10-112. A proposed rule making notice (CR-102) was filed as WSR 03-12-066 on June 2, 2003, and the department is actively undertaking appropriate procedures to adopt the rules as permanent rules. A public hearing is scheduled for August 5, 2003.

Citation of Existing Rules Affected by this Order: Amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740, and 388-805-750.

Statutory Authority for Adoption: Chapter 70.96A RCW, and 42 Code of Federal Regulations (C.F.R.), Part 8.

Other Authority: SSB 5417 (chapter 242, Laws of 2001).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The CSAT, SAMHSA adopted 42 C.F.R., Part 8, Certification of Opioid Treatment Programs on January 17, 2001, effective May 18, 2001, regulating opiate substitution treatment programs. SSB 5417, an act relating to opiate substitution treatment programs, amended chapter 70.96A RCW effective July 22, 2001. Emergency rules are necessary to continue receiving federal CSAT grant funds, and to permit the department to certify eligible opioid treatment programs while permanent rules are being developed. A proposed rule making notice (CR-102) was filed as WSR 03-12-066 on June 2, 2003, and the department is actively undertaking appropriate procedures to adopt the rules as permanent rules. A public hearing on the proposed rules is scheduled for August 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 2, Amended 11, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

WSR 03-14-076

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed June 27, 2003, 2:03 p.m.]

Date of Adoption: June 17, 2003.

EMERGENCY

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 11, Repealed 0.

Effective Date of Rule: Immediately.

June 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-005 What definitions are important throughout this chapter? "Added service" means the adding of certification for chemical dependency levels of care to an existing certified agency at an approved location.

"Addiction counseling competencies" means the knowledge, skills, and attitudes of chemical dependency counselor professional practice as described in Technical Assistance Publication No. 21, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services 1998.

"Administrator" means the person designated responsible for the operation of the certified treatment service.

"Adult" means a person eighteen years of age or older.

"Alcoholic" means a person who has the disease of alcoholism.

"Alcoholism" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic.

"Approved supervisor" means a person who meets the education and experience requirements described in WAC 246-811-030 and 246-811-045 through 246-811-049 and who is available to the person being supervised.

"Area" means the county in which an opiate substitution treatment program applicant proposes to locate a certified program, and counties adjacent or near to the county in which the program is proposed to be located.

"Authenticated" means written, permanent verification of an entry in a patient treatment record by an individual, by means of an original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry. If patient records are maintained electronically, unique electronic passwords, biophysical or passcard equipment are acceptable methods of authentication.

"Authentication record" means a document that is part of a patient's treatment record, with legible identification of

all persons initialing entries in the treatment record, and includes:

- (1) Full printed name;
- (2) Signature including the first initial and last name; and
- (3) Initials and abbreviations indicating professional designation or job title.

"Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

"Branch site" means a physically separate certified site where qualified staff provides a certified treatment service, governed by a parent organization. The branch site is an extension of a certified provider's services to one or more sites.

"CSAT" means the Federal Center For Substance Abuse Treatment, a substance abuse service center of the Substance Abuse and Mental Health Services Administration.

"Certified treatment service" means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 388-805 WAC.

"Change in ownership" means one of the following conditions:

- (1) When the ownership of a certified chemical dependency treatment provider changes from one distinct legal entity (owner) to a distinct other;
- (2) When the type of business changes from one type to another; or
- (3) When the current ownership takes on a new owner of five percent or more of the organizational assets.

"Chemical dependency" means a person's alcoholism or drug addiction or both.

"Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques that are:

- (1) Led by a chemical dependency professional (CDP), or CDP trainee under supervision of a CDP;
- (2) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and
- (3) Directed toward a goal of abstinence for chemically dependent persons.

"Chemical dependency professional" means a person certified as a chemical dependency professional by the Washington state department of health under chapter 18.205 RCW.

"Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor.

"County coordinator" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program.

"Criminal background check" means a search by the Washington state patrol for any record of convictions or civil adjudication related to crimes against children or other per-

sons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol.

"Danger to self or others," for purposes of WAC 388-805-520, means a youth who resides in a chemical dependency treatment agency and creates a risk of serious harm to the health, safety, or welfare to self or others. Behaviors considered a danger to self or others include:

- (1) Suicide threat or attempt;
- (2) Assault or threat of assault; or
- (3) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

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

"Determination of need" means a process used by the department for opiate substitution treatment program certification applications as described in WAC 388-805-040.

"Detoxification" or **"detox"** means care and treatment of a person while the person recovers from the transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"Disability, a person with" means a person whom:

- (1) Has a physical or mental impairment that substantially limits one or more major life activities of the person;
- (2) Has a record of such an impairment; or
- (3) Is regarded as having such an impairment.

"Discrete treatment service" means a chemical dependency treatment service that:

- (1) Provides distinct chemical dependency supervision and treatment separate from any other services provided within the facility;
- (2) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and
- (3) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency treatment services.

"Domestic violence" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member; or
- (4) As defined in RCW 10.99.020, RCW 26.50.010, or other Washington state statutes.

"Drug addiction" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic.

"Essential requirement" means a critical element of chemical dependency treatment services that must be present in order to provide effective treatment.

"First steps" means a program available across the state for low-income pregnant women and their infants. First steps provides maternity care for pregnant and postpartum women and health care for infants and young children.

"Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service.

"HIV/AIDS brief risk intervention (BRI)" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission.

"HIV/AIDS education" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease.

"Medical practitioner" means a physician, advanced registered nurse practitioner (ARNP), or certified physician's assistant. ARNPs and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services.

"Misuse" means use of alcohol or other drugs by a person in:

- (1) Violation of any law; or
- (2) Breach of agency policies relating to the drug-free work place.

"Off-site treatment" means provision of chemical dependency treatment by a certified provider at a location where treatment is not the primary purpose of the site; such as in schools, hospitals, or correctional facilities.

"Opiate substitution treatment ((agency) program)" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate substitution. The agency is:

- (1) ~~((Approved by the Federal Food and Drug Administration))~~ Certified as an opioid treatment program by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration;
- (2) ~~((Registered with))~~ Licensed by the Federal Drug Enforcement Administration;
- (3) Registered ((with)) by the state board of pharmacy;
- (4) ~~((Licensed by the county in which it operates))~~ Accredited by an opioid treatment program accreditation body approved by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration; and
- (5) Certified as an opiate substitution treatment ((agency) program) by the department.

"Outcomes evaluation" means a system for determining the effectiveness and efficiency of results achieved by patients during or following service delivery, and patient satisfaction with those results for the purpose of program improvement.

"Patient" is a person receiving chemical dependency treatment services from a certified program.

"Patient contact" means time spent with a client or patient to do assessments, individual or group counseling, or education.

"Patient placement criteria (PPC)" means admission, continued service, and discharge criteria found in the Patient Placement Criteria for the Treatment of Substance-Related Disorders as published and revised by the American Society of Addiction Medicine (ASAM).

"Probation assessment officer (PAO)" means a person employed at a certified district or municipal court probation assessment service that meets the PAO requirements of WAC 388-805-220.

"Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality.

"Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery.

"Qualified personnel" means trained, qualified staff, consultants, trainees, and volunteers who meet appropriate legal, licensing, certification, and registration requirements.

"Registered counselor" means a person registered, or certified by the state department of health as required by chapter 18.19 RCW.

"Relocation" means change in location from one office space to a new office space, or moving from one office building to another.

"Remodeling" means expansion of existing office space to additional office space at the same address, or remodeling of interior walls and space within existing office space.

"Restraint," for purposes of WAC 388-805-520, means the use of methods, by a trained staff person, to prevent or limit free body movement in case of out-of-control behavior.

"Restraint" includes:

- (1) Containment or seclusion in an unlocked quiet room;
- (2) Physical restraint, meaning a person physically holds or restricts another person in a safe manner for a short time in an immediate crisis; or
- (3) Use of a safe and humane apparatus, which the person cannot release by oneself.

"SAMHSA" means the Federal Substance Abuse and Mental Health Services Administration.

"Service provider" or **"provider"** means a legally operated entity certified by the department to provide chemical dependency services. The components of a service provider are:

- (1) Legal entity/owner;
- (2) Facility; and
- (3) Staff and services.

"Sexual abuse" means sexual assault, incest, or sexual exploitation.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or treatment; or

- (2) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

"Substance abuse" means a recurring pattern of alcohol or other drug use that substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social.

"Summary suspension" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

"Supervision" means:

- (1) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

- (2) **"Direct supervision"** means the supervisor is on the premises and available for immediate consultation.

"Suspend" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement.

"TARGET" means the treatment and assessment report generation tool.

"Treatment services" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling that may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons.

"Urinalysis" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health:

- (1) **"Negative urine"** is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

- (2) **"Positive urine"** is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

"Vulnerable adult" means a person who lacks the functional, mental, or physical ability to care for oneself.

"Young adult" means an adult who is eighteen, nineteen, or twenty years old.

"Youth" means a person seventeen years of age or younger.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-030 ((How do I apply)) What are the requirements for opiate substitution treatment ((service)) program certification? Certification as an opiate substitution treatment program is contingent on the concurrent approval by applicable state regulatory authorities; certifica-

tion as an opioid treatment program by the Federal CSAT SAMHSA; accreditation by an opioid treatment program accreditation body approved by the Federal CSAT SAMHSA; and licensure by the Federal Drug Enforcement Administration. In addition to WAC 388-805-015 or 388-805-020 requirements, a potential opiate substitution treatment ((service)) program provider must submit to the department:

(1) ~~(Evidence of licensure from the county served, or evidence the county has authorized a specific certified agency to provide opiate substitution treatment, per RCW 70.96A.400 through 70.96A.420.~~

~~(2))~~ Documentation the provider has communicated with the county legislative authority and if applicable, the city legislative authority, in order to secure a location for the new opiate substitution treatment program that:

(a) Meets county or city land use ordinances; and

(b) Includes a plan to minimize the impact of the opiate substitution treatment programs upon the business and residential neighborhoods in which the program is located. The plan must include strategies used to:

(i) Obtain and document community input regarding the proposed location;

(ii) Strategies used to address any concerns identified by the community; and

(iii) An ongoing community relations plan to address new concerns expressed by community members as they arises.

(2) A copy of the application for a registration certificate from the Washington state board of pharmacy.

(3) A copy of the application for licensure to the Federal Drug Enforcement Administration.

(4) A copy of the application for certification to the Federal ~~(Food and Drug Administration))~~ CSAT SAMHSA.

(5) A copy of the application for accreditation by an accreditation body approved as an opioid treatment program accreditation body by the Federal CSAT SAMHSA.

(6) Policies and procedures identified under WAC 388-805-700 through 388-805-750.

~~((6) Certification for opiate substitution treatment is contingent on the concurrent approval by the applicable county, state, and federal regulatory authorities))~~

(7) Documentation that transportation systems will provide reasonable opportunities to persons in need of treatment to access the services of the program.

(8) At least three letters of support from other providers within the existing health care system in the area the applicant proposes to establish a new opiate substitution treatment program to demonstrate an appropriate relationship to the service area's existing health care system.

(9) A declaration to limit the number of individual program participants to three hundred fifty as specified in RCW 70.96A.410 (1)(e).

(10) For new applicants, who operate opiate substitution treatment programs in another state, copies of national and state accreditation documentation, and copies of all survey reports written by national and/or state certification or accreditation organizations for each site they have operated an opiate substitution program in over the past six years.

NEW SECTION

WAC 388-805-035 What are the responsibilities for the department when an applicant applies for approval? When making a decision on an application for certification of a program, the department must:

(1) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program. The department will request county and city legislative authorities to notify the department of any applicable requirements or other issues that the department should consider in order to fulfill the requirements of WAC 388-805-030 (6) and (7), or 388-805-040 (1) through (5);

(2) Not discriminate in its certification decision on the basis of the corporate structure of the applicant;

(3) Consider the size of the population in need of treatment in the area in which the program would be located and certify only applicants whose programs meet the necessary treatment needs of the population;

(4) Determine there is a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community as described in WAC 388-805-040;

(5) Consider whether the applicant has the capability, or has in the past demonstrated the capability to provide appropriate treatment services to assist persons in meeting legislative goals of abstinence from opiates and opiate substitutes, obtaining mental health treatment, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances;

(6) Hold at least one public hearing in the county in which the facility is proposed to be located and one hearing in the area or adjacent county with the largest population in which the facility is proposed to be located. The hearing must be held at a time and location most likely to permit the largest number of interested persons to attend and present testimony. The department must notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

NEW SECTION

WAC 388-805-040 How does the department determine there is a need in the community for opiate substitution treatment? The department will determine whether or not there is a demonstrated need in the community for opiate substitution treatment from information provided to the department by the applicant and through department consultation with city and county legislative authorities, and other appropriate community resources. A "determination of need" for a proposed program will include a review and evaluation of the following criteria:

(1) For the number of potential clients in an area, the department will consider the size of the population in need of treatment in the area in which the program would be located using adult population statistics from the most recent area population trend reports. The department will use the established ratio of .7 percent of the adult population as an esti-

mate for the number of potential clients in need of opiate substitution treatment program services.

(2) For the number of anticipated program slots in an area, the department will multiply the sum of the established ratio of .7 percent of the adult population in subsection (1) of this section by thirty-five percent to determine an estimate of the anticipated need for the number of opiate substitution treatment program slots in the area in which the program would be located.

(3) Demographic and trend data from the area in which the program would be located including the most recent department county trend data, TARGET admission data for opiate substitution treatment from the area, hospital and emergency department admission data from the area, needle exchange data from the area, and other relevant reports and data from city and county health organizations demonstrating the need for opiate substitution treatment program services.

(4) Availability of other opiate substitution treatment programs near the area of the applicant's proposed program. The department will determine the number of patients, capacity, and accessibility of existing opiate substitution treatment programs near the area of the applicant's proposed program and whether existing programs have the capacity to assume additional patients for treatment services.

(5) Whether the population served or to be served has need for the proposed program and whether other existing services and facilities of the type proposed are available or accessible to meet that need. The assessment will include, but not limited to, consideration of the following:

(a) The extent to which the proposed program meets the need of the population presently served;

(b) The extent to which the underserved need will be met adequately by the proposed program; and

(c) The impact of the service on the ability of low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups to obtain needed health care.

(6) The department will review agency policies and procedures that describe the cost of services to clients, sliding fee scales, and charity care policies, procedures, and goals.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-065 How does the department determine disqualification or denial of an application? The department must consider the ability of each person named in the application to operate in accord with this chapter before the department grants or renews certification of a chemical dependency service.

(1) The department must deny an applicant's certification when any of the following conditions occurred and was not satisfactorily resolved, or when any owner or administrator:

(a) Had a license or certification for a chemical dependency treatment service or health care agency denied, revoked, or suspended;

(b) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;

(c) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(d) Committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(e) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(f) Misappropriated patient property or resources;

(g) Failed to meet financial obligations or contracted service commitments that affect patient care;

(h) Has a history of noncompliance with state or federal regulations in an agency with which the applicant has been affiliated;

(i) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(i) The application or materials attached; and

(ii) Any matter under department investigation.

(j) Refused to allow the department access to records, files, books, or portions of the premises relating to operation of the chemical dependency service;

(k) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(l) Is in violation of any provision of chapter 70.96A RCW; or

(m) Does not meet criminal background check requirements.

(2) The department may deny certification when an applicant:

(a) Fails to provide satisfactory application materials; or

(b) Advertises itself as certified when certification has not been granted, or has been revoked or canceled.

(3) The department may deny an application for certification of an opiate substitution treatment program when:

(a) There is not a demonstrated need in the community for opiate substitution treatment and/or there is not a demonstrated need for more program slots justified by the need in that community;

(b) There is sufficient availability, accessibility, and capacity of other certified programs near the area in which the applicant proposes to locate the program;

(c) The applicant has not demonstrated in the past, the capability to provide the appropriate services to assist the persons who will utilize the program in meeting goals established by the legislature, including:

(i) Abstinence from opiates and opiate substitutes,

(ii) Obtaining mental health treatment,

(iii) Improving economic independence, and

(iv) Reducing adverse consequences associated with illegal use of controlled substances.

(4) The applicant may appeal department decisions in accord with chapter 34.05 RCW, the Washington Administrative Procedure Act and chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-145 What are the key responsibilities required of an agency administrator? (1) The administrator is responsible for the day-to-day operation of the certified treatment service, including:

- (a) All administrative matters;
- (b) Patient care services; and
- (c) Meeting all applicable rules and ethical standards.

(2) When the administrator is not on duty or on call, a staff person must be delegated the authority and responsibility to act in the administrator's behalf.

(3) The administrator must ensure administrative, personnel, and clinical policy and procedure manuals:

- (a) Are developed and adhered to; and
- (b) Are reviewed and revised as necessary, and at least annually.

(4) The administrator must employ sufficient qualified personnel to provide adequate chemical dependency treatment, facility security, patient safety and other special needs of patients.

(5) The administrator must ensure all persons providing counseling services are registered, certified or licensed by the department of health.

(6) The administrator must ensure full-time chemical dependency professionals (CDPs) or CDP trainees do not exceed one hundred twenty hours of patient contact per month.

(7) The administrator must assign the responsibilities for a clinical supervisor to a least one person within the organization.

(8) The administrator of a certified opiate substitution treatment program must ensure that the number of patients will not exceed three hundred and fifty unless authorized by the county in which the program is located.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-205 What are agency personnel file requirements? (1) The administrator must ensure that there is a current personnel file for each employee, trainee, student, and volunteer, and for each contract staff person who provides or supervises patient care.

(2) The administrator must designate a person to be responsible for management of personnel files.

(3) Each person's file must contain:

(a) A copy of the results of a tuberculin skin test or evidence the person has completed a course of treatment approved by a physician or local health officer if the results are positive;

(b) Documentation of training on bloodborne pathogens, including HIV/AIDS and hepatitis B for all employees, volunteers, students, and treatment consultants on contract;

(i) At the time of staff's initial assignment to tasks where occupational exposure may take place;

(ii) Annually thereafter for bloodborne pathogens;

(c) A signed and dated commitment to maintain patient confidentiality in accordance with state and federal confidentiality requirements; and

(d) A record of an orientation to the agency as described in WAC 388-805-200(5).

(4) For residential facilities, documentation of current cardiopulmonary resuscitation (CPR) and first aid training for at least one person on each shift.

(5) Documentation of health department training and approval for any staff administering or reading a TB test.

(6) Employees who are patients or have been patients of the agency must have personnel records:

(a) Separate from clinical records; and

(b) Have no indication of current or previous patient status.

(7) In addition, each patient care staff member's personnel file must contain:

(a) Verification of qualifications for their assigned position including:

(i) For a chemical dependency professional (CDP): A copy of the person's valid CDP certification issued by the department of health (DOH);

(ii) For approved supervisors: Documentation to substantiate the person meets the qualifications of an approved supervisor as defined in WAC 246-811-010.

(iii) For ~~(other persons providing counseling, a copy of a valid registration, certification, or license issued by the DOH)~~ each person engaged in the treatment of chemical dependency, including counselors, physicians, nurses, and other registered, certified, or licensed health care professionals, evidence they comply with the credentialing requirements of their respective professions.

(iv) For probation assessment officers (PAO): Documentation that the person has met the education and experience requirements described in WAC 388-805-220;

(v) For probation assessment officer trainees:

(A) Documentation that the person meets the qualification requirements described in WAC 388-805-225; and

(B) Documentation of the PAO trainee's supervised experience as described in WAC 388-805-230 including an individual education and experience plan and documentation of progress toward completing the plan.

(vi) For information school instructors:

(A) A copy of a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department; and

(B) Documentation of continuing education as specified in WAC 388-805-250.

(b) A copy of a current job description, signed and dated by the employee and supervisor which includes:

(i) Job title;

(ii) Minimum qualifications for the position;

(iii) Summary of duties and responsibilities;

(iv) For contract staff, formal agreements or personnel contracts, which describe the nature and extent of patient care services, may be substituted for job descriptions.

(c) A written performance evaluation for each year of employment:

(i) Conducted by the immediate supervisor of each staff member; and

- (ii) Signed and dated by the employee and supervisor.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-300 What must be included in the agency clinical manual? Each chemical dependency service provider must have and adhere to a clinical manual containing patient care policies and procedures, including:

(1) How the provider meets WAC 388-805-305 through 388-805-350 requirements.

(2) How the provider will meet applicable certified service requirements of WAC 388-805-400 through 388-805-840, including a description of each service offered, detailing:

(a) The number of hours of treatment and education for each certified service; and

(b) Allowance of up to twenty percent of education time to consist of film or video presentations.

(3) Identification of resources and referral options so staff can make referrals required by law and as indicated by patient needs.

(4) Assurance that there is an identified clinical supervisor who:

(a) Is a chemical dependency professional (CDP);

(b) Reviews a sample of patient records of each CDP quarterly; and

(c) Ensures implementation of assessment, treatment, continuing care, transfer and discharge plans in accord with WAC 388-805-315.

(5) Patient admission and discharge criteria using PPC.

(6) Policies and procedures to implement the following requirements:

(a) The administrator must not admit or retain a person unless the person's treatment needs can be met;

(b) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must assess and refer each patient to the appropriate treatment service; and

(c) A person needing detoxification must immediately be referred to a detoxification provider, unless the person needs acute care in a hospital.

((6)) (7) Additional requirements for opiate substitution treatment programs:

(a) A person under eighteen years of age needing opiate substitution treatment is required to have had two documented attempts at short-term detoxification or drug-free treatment within a twelve-month period. A waiting period of no less than seven days is required between the first and second short-term detoxification treatment.

(b) No person under eighteen years of age may be admitted to maintenance treatment unless a parent, legal guardian, or responsible adult designated by the relevant state authority consents in writing to treatment.

(c) Documentation in each patient's record that the service provider made a good faith effort to review if the patient is enrolled in any other opiate substitution treatment service.

(d) When the medical director or program physician of an opiate substitution treatment program provider in which the patient is enrolled determines that exceptional circumstances exist, the patient may be granted permission to seek

concurrent treatment at another opiate substitution treatment program provider. The justification for finding exceptional circumstances for double enrollment must be documented in the patient's record at both treatment program providers.

(8) Tuberculosis screening for prevention and control of TB in all detox, residential, and outpatient programs, including:

(a) Obtaining a history of preventive or curative therapy;

(b) Screening and related procedures for coordinating with the local health department; and

(c) Implementing TB control as provided by the department of health TB control program.

((7)) (9) HIV/AIDS information, brief risk intervention, and referral.

((8)) (10) Limitation of group counseling sessions to twelve or fewer patients.

((9)) (11) Counseling sessions with nine to twelve youths to include a second adult staff member.

((10)) (12) Provision of education to each patient on:

(a) Alcohol, other drugs, and chemical dependency;

(b) Relapse prevention; and

(c) HIV/AIDS, hepatitis, and TB.

((11)) (13) Provision of education or information to each patient on:

(a) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy;

(b) Emotional, physical, and sexual abuse; and

(c) Nicotine addiction.

((12)) (14) An outline of each lecture and education session included in the service, sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor.

((13)) (15) Assigning of work to a patient by a CDP when the assignment:

(a) Is part of the treatment program; and

(b) Has therapeutic value.

((14)) (16) Use of self-help groups.

((15)) (17) Patient rules and responsibilities, including disciplinary sanctions for noncomplying patients.

((16)) (18) If youth are admitted, a policy and procedure for assessing the need for referral to child welfare services.

((17)) (19) Implementation of the deferred prosecution program.

((18)) (20) Policy and procedures for reporting status of persons convicted under chapter 46.61 RCW to the department of licensing.

((19)) (21) Nonresidential providers must have policies and procedures on:

(a) Medical emergencies;

(b) Suicidal and mentally ill patients;

(c) Medical oversight, including provision of a physical examination by a medical practitioner, on a person who:

(i) Is at risk of withdrawal from barbiturates or benzodiazepines; or

(ii) Used intravenous drugs in the thirty days before admission;

(d) Laboratory tests;

(e) Services and resources for pregnant women:

(i) A pregnant woman who is not seen by a private physician must be referred to a physician or the local first steps maternity care program for determination of prenatal care needs; and

(ii) Services include discussion of pregnancy specific issues and resources.

(f) If using medication services:

(i) A medical practitioner must evaluate each patient who is taking disulfiram at least once every ninety days;

(ii) Patient medications are stored, disbursed, and recorded in accord with chapter 246-326 WAC; and

(iii) Only a licensed nurse or medical practitioner may administer medication.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-710 What are the requirements for opiate substitution medical management? (1) A program physician must provide oversight for determination of opiate physical addiction for each patient before admission unless the patient is exempted by the Federal ~~((Food and Drug Administration))~~ CSAT, SAMHSA, and:

(a) Be available for consultation when an opiate physical addiction determination is conducted by anyone other than the program physician; and

(b) Conduct the opiate physical addiction determination for all youth patients.

(2) A physical examination must be conducted on each patient:

(a) By a program physician or other medical practitioner; and

(b) Within ~~((twenty-one))~~ fourteen days of admission.

(3) Following the patient's initial dose of opiate substitution treatment, the physician must establish adequacy of dose, considering:

(a) Signs and symptoms of withdrawal;

(b) Patient comfort; and

(c) Side effects from over-medication.

(4) At the appropriate time, a program physician must approve an individual detoxification schedule for each patient being detoxified.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-720 What are the requirements for urinalysis in opiate substitution treatment? (1) The provider must obtain a urine sample from each patient for urinalysis:

(a) At least ~~((once each month))~~ eight times per year; and

(b) Randomly, without notice to the patient.

(2) Staff must observe the collection of each urine sample and use proper chain of custody techniques when handling each sample;

(3) When a patient refuses to provide a urine sample or initial the log of sample numbers, staff must consider the urine positive; and

(4) Staff must document a positive urine and discuss the findings with the patient ~~((in a))~~ at the next scheduled coun-

seling session ~~((within seven days of receiving the results of the test))~~.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-730 What are the requirements for opiate substitution treatment dispensaries? (1) Each opiate substitution treatment provider must comply with applicable portions of 21 CFR, Part 1301 requirements, as now or later amended.

(2) The administrator must ensure written policies and procedures to verify the identity of patients.

(3) Dispensary staff must maintain a file with a photograph of each patient. Dispensary staff must ensure pictures are updated when:

(a) The patient's physical appearance changes significantly; or

(b) Every two years, whichever comes first.

(4) In addition to notifying the ~~((Food and Drug))~~ Federal CSAT, SAMHSA and the Federal Drug Enforcement Administration, the administrator must immediately notify the department and the state board of pharmacy of any theft or significant loss of a controlled substance.

(5) The administrator must have a written diversion control plan that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use and that assigns specific responsibility to the medical and administrative staff members for carrying out the diversion control measures and functions described in the plan.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-740 What are the requirements for opiate substitution treatment counseling? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must provide individual or group counseling sessions once each:

(a) Week, for the first ninety days, for a new patient or a patient readmitted more than ninety days since the person's most recent discharge from opiate substitution treatment;

(b) Week, for the first month, for a patient readmitted within ninety days of the most recent discharge from opiate substitution treatment; and

(c) Month, for a patient transferring from another opiate substitution treatment ~~((agency))~~ program where the patient stayed for ninety or more days.

(2) A CDP, or a CDP trainee under supervision of a CDP, must conduct and document a continuing care review with each patient to review progress, discuss facts, and determine the need for continuing opiate substitution treatment:

(a) Between six and seven months after admission; and

(b) Once every six months thereafter.

(3) A CDP, or a CDP trainee under supervision of a CDP, must provide counseling in a location that is physically separate from other activities.

~~(4) ((The administrator must ensure at least one full-time CDP, or a CDP trainee under supervision of a CDP, for each fifty patients:~~

~~(a) A CDP with one or more CDP trainees may be assigned as primary counselor for up to seventy-five patients, including those assigned to the CDP trainee; and~~

~~(b) A CDP trainee may be assigned up to thirty-five patients:~~

~~(5)) A pregnant woman and any other patient who requests, must receive at least one-half hour of counseling and education each month on:~~

~~(a) Matters relating to pregnancy and street drugs;~~

~~(b) Pregnancy spacing and planning; and~~

~~(c) The effects of opiate substitution treatment on the woman and fetus, when opiate substitution treatment occurs during pregnancy.~~

~~((6)) (5) Staff must provide at least one-half hour of counseling on family planning with each patient through either individual or group counseling.~~

~~((7)) (6) The administrator must ensure there is one staff member who has training in family planning, prenatal health care, and parenting skills.~~

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-750 What are the requirements for opiate substitution treatment take-home medications? (1) An opiate substitution treatment provider may authorize take-home medications for a patient when:

(a) The medication is for a Sunday or legal holiday, as identified under RCW 1.16.050; or

(b) Travel to the facility presents a safety risk for patients or staff due to inclement weather.

(2) A service provider may permit take-home medications on other days for a stabilized patient who:

(a) Has received opiate substitution treatment medication for a minimum of ninety days; and

(b) Had negative urines for the last sixty days.

(3) The provider must meet ~~((2))~~ 42 CFR, Part ~~((29))~~ 8 requirements.

(4) The provider may arrange for opiate substitution treatment medication to be administered by licensed staff or self-administered by a pregnant woman receiving treatment at a certified residential treatment agency when:

(a) The woman had been receiving treatment medication for ninety or more days; and

(b) The woman's use of treatment medication can be supervised.

**WSR 03-15-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-147—Filed July 3, 2003, 8:23 a.m., effective July 4, 2003, 7:00 a.m.]

Date of Adoption: July 2, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000D; 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: Hard shell criteria have been met in these marine areas to allow recreational crab harvest. 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: July 4, 2003, 7:00 a.m.

July 2, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-33000E Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is unlawful to fish for crab for personal use in all waters of Puget Sound except as provided herein:

1) Effective immediately until further notice, Fridays through Mondays only, it is lawful to fish for crab for personal use in Marine Areas 8-1 and 8-2

2) Effective immediately, until further notice, it is lawful to fish for crab for personal use in Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 9, 10, 11, 12, and 13.

3) Effective 7:00 a.m. July 4, 2003, until further notice, it is lawful to fish for crab for personal use in the San Juan Islands and in the Anacortes to Bellingham portion of Marine Area 7 south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island and south and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island

and from the westernmost point of Patos Island due west to the international boundary."

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. July 4, 2003:

WAC 220-56-33000D Crab—Areas and seasons.
(03-128)

WSR 03-15-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-146—Filed July 3, 2003, 8:25 a.m.]

Date of Adoption: July 2, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05100D and 220-32-05100E; and
amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allows commercial sale of platform caught fish and tributary caught fish. The summer chinook run size has been updated to over 100,000. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on July 2, 2003. Conforms state rules with tribal 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 2, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for chinook salmon, steelhead, walleye, shad, carp, and sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

(1) Open Periods for SMCRA 1F, 1G, and 1H: - 6:00 a.m. July 3 to 6:00 p.m. July 16, 2003.

(2) Open Periods for Klickitat River and Big White Salmon River: Yakama Fishers only. Fish caught in the tributaries may be sold during the open periods.

(a) Klickitat River: 6:00 a.m. July 3 to 6:00 p.m. July 5, 2003

Noon July 8 to 6:00 p.m. July 12, 2003

Noon July 15 to 6:00 p.m. July 16, 2003

(b) Big White Salmon River: 6:00 a.m. July 3 to 6:00 p.m. July 16, 2003, except Sundays.

(3) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(4) Allowable sale includes: Chinook, steelhead, Walleye, shad and carp. Also sturgeon between four and five feet in length. Sockeye may not be sold, but may be kept for subsistence purposes.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100D Columbia River salmon seasons above Bonneville Dam.
(03-108)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 16, 2003:

WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam.

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WSR 03-15-011
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed July 3, 2003, 3:05 p.m.]

Date of Adoption: July 3, 2003.

Purpose: Adopting amended WAC 388-105-0005, 388-105-0030, and 388-105-0040 and new WAC 388-105-0045, to implement SSB 5579 (chapter 231, Laws of 2003). SSB 5579 requires the department to change its current bed hold process to the process described in the bill.

Citation of Existing Rules Affected by this Order: Amending WAC 388-105-0005, 388-105-0030, and 388-105-0040.

Statutory Authority for Adoption: Chapter 231, Laws of 2003.

Other Authority: Chapter 18.20 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Section 11 of SSB 5579 requires the department to adopt rules concerning the bed-hold process and applicable rates. And the legislature made the finding in section 12 of SSB 5579 that "this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 3, Repealed 0.

Effective Date of Rule: Immediately.

July 3, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0005 What are the daily Medicaid payment rates for contracted adult family home (AFH), adult residential care (ARC), and enhanced adult residential care (EARC) services? For contracted AFH, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

Four level payment system rates for AFHs, ARCs, & EARCs			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((46.06)) <u>45.70</u>	\$ ((44.79)) <u>44.43</u>	\$ ((44.79)) <u>44.43</u>
Level 2	\$ ((49.28)) <u>48.65</u>	\$ ((51.52)) <u>50.89</u>	\$ ((56.97)) <u>56.34</u>
Level 3	\$ ((57.07)) <u>56.32</u>	\$ ((59.51)) <u>58.76</u>	\$ ((65.76)) <u>65.01</u>
Level 4	\$ ((68.15)) <u>67.75</u>	\$ ((72.07)) <u>71.67</u>	\$ ((78.31)) <u>77.91</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0030 What are the daily Medicaid payment rates for contracted assisted living facilities (ALF) not receiving a capital rate add-on? For contracted ALF services for care of a Medicaid resident, the department pays the following daily rates:

COPES ALF Daily Payment Rates w/o Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((54.84)) <u>54.48</u>	\$ ((56.35)) <u>55.99</u>	\$ ((61.03)) <u>60.67</u>
Level 2	\$ ((61.14)) <u>60.51</u>	\$ ((62.92)) <u>62.29</u>	\$ ((68.52)) <u>67.89</u>
Level 3	\$ ((67.54)) <u>66.79</u>	\$ ((69.90)) <u>69.15</u>	\$ ((76.46)) <u>75.71</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

AMENDATORY SECTION (Amending WSR 02-22-058, filed 10/31/02, effective 12/1/02)

WAC 388-105-0040 What are the daily capital add-on rates for assisted living facilities (ALF) and the ALF daily payment rates with a capital add-on rate? For an ALF that qualifies for a capital add-on rate, the department will add the following amount to the per resident day payment rates in WAC 388-105-0030:

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COPEs ALF Add-on Rate July 1, 2002		
Non-metropolitan	Metropolitan*	King Co.
\$ 4.68	\$ 4.39	\$ 4.84

COPEs ALF Daily Payment Rates with a Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((59.52)) <u>59.16</u>	\$ ((60.74)) <u>60.38</u>	\$ ((65.87)) <u>65.51</u>
Level 2	\$ ((65.82)) <u>65.19</u>	\$ ((67.31)) <u>66.68</u>	\$ ((73.36)) <u>72.73</u>
Level 3	\$ ((72.22)) <u>71.47</u>	\$ ((74.29)) <u>73.54</u>	\$ ((81.30)) <u>80.55</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

NEW SECTION

WAC 388-105-0045 When a Medicaid resident is discharged from a facility for a hospital or nursing home stay, must the Adult Family Home (AFH) or a boarding home that contracts with the department to provide adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) under chapter 74.39A RCW hold the bed or unit for the residents return? (1) When an AFH, ARC, EARC, or AL contracts to provide services under chapter 74.39A RCW, the AFH, ARC, EARC, and AL provider must hold a Medicaid eligible resident's bed or unit when:

- (a) Short-term care is needed in a nursing home or hospital;
 - (b) The resident is likely to return to the AFH, ARC, EARC, or AL; and
 - (c) Payment is made under subsection (3) of this section.
- (2) When the department pays the provider to hold the Medicaid resident's bed or unit during the resident's short-term nursing home or hospital stay, the provider must hold the unit or bed for up to twenty days.

(3) The department will compensate the provider for holding the bed or unit for the:

- (a) First through seventh day at seventy percent of the daily rate paid for care of the resident before the hospital or nursing home stay; and
- (b) Eighth through the twentieth day, at ten dollars and forty-three cents a day.
- (4) The AFH, ARC, EARC, and AL provider may seek third-party payment to hold a bed or unit for twenty-one days or longer. The provider may only collect from the third-party a payment not exceeding eighty-five percent of the average daily rate paid to the facility.

(5) If third-party payment is not available and the returning Medicaid resident continues to meet the admission criteria under chapter 388-71-WAC, the Medicaid resident may return to the first available and appropriate bed or unit.

WSR 03-15-020
EMERGENCY RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES
 [Filed July 8, 2003, 2:15 p.m.]

Date of Adoption: July 1, 2003.
 Purpose: Rules need to be revised in the area of tuition charges for certain ungraded courses (Parent Ed) as a result in changes in tuition structure.

Citation of Existing Rules Affected by this Order: Amending WAC 131-28-026.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Emergency rule is needed in order to implement necessary changes for fall quarter 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: Immediately.

July 1, 2003
 DelRae Oderman
 Executive Assistant
 Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-22-062, filed 11/2/98, effective 12/3/98)

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025.

(2) Ungraded courses shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

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(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

- (a) Farm management and small business management;
- (b) Emergency medical technician and paramedic continuing education;
- (c) Retirement;
- (d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journeyperson training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: No charge.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge. ~~((Parent education students taking eleven to eighteen credits shall not be charged for those credits.))~~

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices indentured with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: Two-thirds reduction from the standard per credit tuition and services and activities fee charge. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may not deduct the tuition owed from training contract with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15-.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

WSR 03-15-028
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 8, 2003, 4:28 p.m.]

Date of Adoption: June 30, 2003.

Purpose: Adopting new WAC 388-14A-6105 to 388-14A-6125, to bring the rules of the DSHS Division of Child Support (DCS) into accord with the changes to chapter 388-02 WAC effective November 15, 2002 (WSR 02-21-061), eliminating administrative review via the DSHS Board of Appeals for all DCS hearings except for those concerning disclosure of address information under WAC 388-14A-2114 through 388-14A-2140; to clarify when the Office of Administrative Hearings (OAH) issues an initial decision and when OAH issues a final decision; to establish procedures for requesting reconsideration of a decision by OAH. DCS has filed a proposed rule-making notice, WSR 03-07-030, to adopt these rules as permanent, and public hearing is scheduled for August 5, 2003.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, and 74.20A.310.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Changes to chapter 388-02 WAC adopted effective November 15, 2002, under WSR 02-21-061 make it necessary for DCS to adopt rules regarding this subject to preserve due process rights of those affected by DCS rules. DCS has filed a proposed rule-making notice, WSR 03-07-030, to adopt these rules as permanent, and public hearing is scheduled for August 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 30, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-14A-6105 What is the difference between an initial order and a final order in a hearing involving the division of child support? (1) In an administrative hearing involving the DSHS division of child support (DCS), the administrative law judge (ALJ) enters either an initial order, which is subject to review, or a final order, which is not subject to review.

(2) The terms "initial order," "final order" and "review" are defined in WAC 388-02-0010, and those definitions are repeated here for ease of reference:

(a) "Initial order" is a hearing decision made by an ALJ that may be reviewed by a review judge pursuant to WAC 388-02-0215(4). An initial order is sometimes called an "initial decision."

(b) "Final order" means an order that is the final DSHS decision.

(c) "Review" means the act of reviewing initial orders and making the final agency decision as provided by RCW 34.05.464.

(3) WAC 388-14A-6110 and 388-14A-6115 describe how to determine what kind of order is entered. Whether the ALJ enters an initial order or a final order does not depend on the date the hearing is held or the date the order is entered.

(4) WAC 388-14A-6120 describes what you can do if you disagree with an initial order or final order.

(5) WAC 388-14A-6125 describes when DCS may take enforcement action on an initial order or final order.

NEW SECTION

WAC 388-14A-6110 When must an ALJ enter an initial order in a DCS hearing proceeding? An administrative law judge (ALJ) must enter an initial order in a division of child support (DCS) hearing proceeding if:

(1) The case involves the disclosure of a party's address under WAC 388-14A-2114 through 388-14A-2140;

(2) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request before November 15, 2002;

(3) A CP or NCP files a petition for modification with DCS or the office of administrative hearings (OAH) before November 15, 2002; or

(4) DCS petitions for modification of an administrative order, and either the NCP or the CP is served with the notice of hearing before November 15, 2002.

NEW SECTION

WAC 388-14A-6115 When must an ALJ enter a final order in a DCS hearing proceeding? Except for cases regarding address disclosure under WAC 388-14A-2114 through 388-14A-2140, an administrative law judge (ALJ) must enter a final order in a DCS hearing proceeding if:

(1) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request on or after November 15, 2002;

(2) An NCP or CP files a petition for modification with DCS or the office of administrative hearings (OAH) on or after November 15, 2002;

(3) DCS petitions for modification of an administrative order, and neither the NCP nor the CP is served before November 15, 2002.

NEW SECTION

WAC 388-14A-6120 What can I do if I do not agree with an initial order or final order entered by an administrative law judge? (1) Except for the DCS representative, any party to an initial order entered by an administrative law judge (ALJ) has the right to request review pursuant to chapter 388-02 WAC.

(2) No party may request administrative review of a final order entered by an ALJ.

(3) Any party to an initial order or a final order may petition to vacate an order of dismissal or default, pursuant to WAC 388-14A-3700 and 388-14A-6150.

(4) Any party to an initial order or final order may request correction of a clerical error in the order, pursuant to WAC 388-02-0540 through 388-02-0555.

(5) Any party to a final order may request reconsideration of the order, pursuant to WAC 388-02-0605 through 388-02-0635.

(6) Except for the DCS representative, any party to a final order may petition for judicial review, pursuant to RCW 34.05.510 through 34.05.598. You do not need to request reconsideration of the order before you petition for judicial review.

NEW SECTION

WAC 388-14A-6125 When does an initial order or final order entered by an ALJ become enforceable? (1) If no party requests review within twenty-one days of the date OAH mailed an initial order, the DSHS division of child support (DCS) may take enforcement action on the twenty-second day after OAH mailed the order.

(2) DCS may take enforcement action on a final order immediately upon entry of the order.

(a) Even if a party files a request for reconsideration, a request to correct a clerical error, a petition to vacate, or a petition for judicial review, DCS does not stop enforcement of the order.

(b) To stop DCS from enforcing a final order, you must obtain a court order staying (stopping) enforcement of the order.

WSR 03-15-033

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance)

[Filed July 9, 2003, 11:09 a.m.]

Date of Adoption: June 19, 2003.

Purpose: Adopt emergency rules to implement chapter 140, Laws of 2003 allowing nursing assistants to accept nurse delegation in the in-home care setting. Amends WAC 246-841-405 to make the rules consistent with the new laws.

Citation of Existing Rules Affected by this Order: Amending WAC 246-841-405.

Statutory Authority for Adoption: Chapter 18.88A RCW and chapter 140, Laws of 2003.

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: Chapter 140, Laws of 2003 allows nurse delegation to nursing assistants in the in-home care setting. This law has an emergency clause which makes the law effective immediately.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 12, 2003

Joanna Boatman, RN

Nursing Commission Chair

AMENDATORY SECTION (Amending WSR 96-06-029, filed 2/28/96, effective 3/30/96)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants may perform the following tasks, when delegated by a registered nurse, for residents in certified community residential programs for the developmentally disabled, residents in licensed adult family homes, ~~((and))~~ to residents of licensed boarding homes contracting to provide assisted living services, and to residents in an in-home care setting as defined by chapter 140, Laws of 2003:

- (a) Oral and topical medications and ointments;
- (b) Nose, ear, eye drops, and ointments;
- (c) Dressing changes and urinary catheterization using clean techniques;
- (d) Suppositories, enemas, and ostomy care in established and healed condition;
- (e) Blood glucose monitoring; and
- (f) Gastrostomy feedings in established and healed condition.

(2) Any nursing assistant who receives authority to perform such delegated nursing task must, before performing any delegated task:

(a) For nursing assistants-registered, complete both the basic caregiver training and core delegation training as established by the department of social and health services.

(b) For nursing assistants-certified, complete the core delegation training as established by the department of social and health services.

(c) Comply with requirements and protocol established by the nursing care quality assurance commission in WAC 246-840-910 through 246-840-980.

(3) Any nursing assistant performing a delegated nursing care task pursuant to this section, shall perform the task:

(a) Only for the specific resident who was the subject of the delegation;

(b) Only with the resident's consent; and

(c) In compliance with all requirements and protocols established by the nursing care quality assurance commission in WAC 246-840-910 through 246-840-980.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task listed in subsection (1) of this section, and shall be responsible for their own actions with regard to the decision to consent or refuse to consent and the performance of the delegated nursing care task.

WSR 03-15-034

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance)

[Filed July 9, 2003, 11:11 a.m.]

Date of Adoption: June 19, 2003.

Purpose: Adopt emergency rules to implement chapter 140, Laws of 2003 allowing nurse delegation in the in-home care setting and by registered nurses working for a home care or hospice agency. Amends WAC 246-840-700, 246-840-910, 246-840-930, and 246-840-940 to make the rules consistent with the new laws.

Citation of Existing Rules Affected by this Order: Amending WAC 246-840-700, 246-840-910, 246-840-930, and 246-840-940.

Statutory Authority for Adoption: Chapter 18.79 RCW and chapter 140, Laws of 2003.

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: Chapter 140, Laws of 2003 allows nurse delegation in the in-home care setting and by registered nurses working for a home care or hospice agency. This law has an emergency clause which makes the law effective immediately.

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 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 12, 2003

Joanna Boatman, RN

Nursing Commission Chair

AMENDATORY SECTION (Amending WSR 02-06-117, filed 3/6/02, effective 4/6/02)

WAC 246-840-700 Standards of nursing conduct or practice. (1) The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and 246-840-710 is to identify responsibilities of the professional registered nurse and the licensed practical nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action under chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the professional and ethical standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following;

(2) The nursing process is defined as a systematic problem solving approach to nursing care which has the goal of facilitating an optimal level of functioning and health for the client, recognizing diversity. It consists of a series of phases: Assessment and planning, intervention and evaluation with each phase building upon the preceding phases.

- (a) **Registered Nurse:**
Minimum standards for registered nurses include the following:
(i) **Standard I Initiating the Nursing Process:**
- (b) **Licensed Practical Nurse:**
Minimum standards for licensed practical nurses include the following:
(i) **Standard I - Implementing the Nursing Process:** The practical nurse assists in implementing the nursing process;

(A) **Assessment and Analysis:** The registered nurse initiates data collection and analysis that includes pertinent objective and subjective data regarding the health status of the clients. The registered nurse is responsible for ongoing client assessment, including assimilation of data gathered from licensed practical nurses and other members of the health care team;

(B) **Nursing Diagnosis/Problem Identification:** The registered nurse uses client data and nursing scientific principles to develop nursing diagnosis and to identify client problems in order to deliver effective nursing care;

(C) **Planning:** The registered nurse shall plan nursing care which will assist clients and families with maintaining or restoring health and wellness or supporting a dignified death;

(D) **Implementation:** The registered nurse implements the plan of care by initiating nursing interventions through giving direct care and supervising other members of the care team; and

(E) **Evaluation:** The registered nurse evaluates the responses of individuals to nursing interventions and is responsible for the analysis and modification of the nursing care plan consistent with intended outcomes;

(A) **Assessment:** The licensed practical nurse makes basic observations, gathers data and assists in identification of needs and problems relevant to the clients, collects specific data as directed, and, communicates outcomes of the data collection process in a timely fashion to the appropriate supervising person;

(B) **Nursing Diagnosis/Problem Identification:** The licensed practical nurse provides data to assist in the development of nursing diagnoses which are central to the plan of care;

(C) **Planning:** The licensed practical nurse contributes to the development of approaches to meet the needs of clients and families, and, develops client care plans utilizing a standardized nursing care plan and assists in setting priorities for care;

(D) **Implementation:** The licensed practical nurse carries out planned approaches to client care and performs common therapeutic nursing techniques; and

(E) **Evaluation:** The licensed practical nurse, in collaboration with the registered nurse, assists with making adjustments in the care plan. The licensed practical nurse reports outcomes of care to the registered nurse or supervising health care provider;

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(ii) **Standard II Delegation and Supervision:** The registered nurse is accountable for the safety of clients receiving nursing service by:

(A) Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence as defined in WAC 246-840-010(10);

(B) Supervising others to whom he/she has delegated nursing functions as defined in WAC 246-840-010(10);

(C) Evaluating the outcomes of care provided by licensed and other paraprofessional staff; ~~((and))~~

(D) The registered nurse may delegate certain additional acts to certain individuals in community-based long-term care settings as provided by WAC 246-840-910 through 246-840-980 and WAC 246-841-405; and

(E) A registered nurse working for a home health agency regulated under chapter 70.127 RCW may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care as described in WAC 246-840-010(10);

(iii) **Standard III Health Teaching.** The registered nurse assesses learning needs including learning readiness for patients and families, develops plans to meet those learning needs, implements the teaching plan and evaluates the outcome.

(ii) **Standard II Delegation and Supervision:** Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:

(A) The practical nurse may delegate selected nursing tasks to competent individuals in selected situations, in accordance with their education, credentials and competence as defined in WAC 246-840-010(10);

(B) The licensed practical nurse in delegating functions shall supervise the persons to whom the functions have been delegated;

(C) The licensed practical nurse reports outcomes of delegated nursing care tasks to the RN or supervising health care provider; and

(D) In community based long-term care settings as provided by WAC 246-840-910 through 246-840-980 and WAC 246-841-405, the practical nurse may delegate only personal care tasks to qualified care givers;

(iii) **Standard III Health Teaching.** The practical nurse assists in health teaching of clients and provides routine health information and instruction recognizing individual differences.

(3) **The following standards apply to registered nurses and licensed practical nurses:**

(a) The registered nurse and licensed practical nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care. Communication is defined as a process by which information is exchanged between individuals through a common system of speech, symbols, signs, and written communication or behaviors that serves as both a means of gathering information and of influencing the behavior, actions, attitudes, and feelings of others; and

(b) The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care given and the client's response to that care; and

(c) The registered nurse and licensed practical nurse act as client advocates in health maintenance and clinical care.

(4) **Other responsibilities:**

(a) The registered nurse and the licensed practical nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice;

(b) The registered nurse and the licensed practical nurse shall be responsible and accountable for his or her practice based upon and limited to the scope of his/her education, demonstrated competence, and nursing experience consistent with the scope of practice set forth in this document; and

(c) The registered nurse and the licensed practical nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or procedures which are in his/her scope of practice.

(d) The registered nurse and the licensed practical nurse shall be responsible for maintaining current knowledge in his/her field of practice; and

(e) The registered nurse and the licensed practical nurse shall respect the client's right to privacy by protecting confidential information and shall not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in the Health Care Information Act, chapter 70.02 RCW.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-910 Purpose. The purpose of this delegation protocol is to ensure that nursing care services have a consistent standard of practice upon which the public and profession may rely and to safeguard the authority of the registered nurse delegator to make independent professional decisions regarding the delegation of a nursing task. A licensed registered nurse may delegate specific nursing care tasks to nursing assistants who meet certain requirements and provide care to individuals served by certified community residential programs for the developmentally disabled, to residents in licensed adult family homes, ~~((and))~~ to residents of licensed boarding homes, and to individuals in an in-home care setting as defined by chapter 140, Laws of 2003. Before delegating a task, the registered nurse delegator must determine that specific criteria described in the protocol are met

and ensure that the patient is in a stable and predictable condition. Registered nurses delegating tasks are accountable to the Washington state nursing care quality assurance commission. The registered nurse delegator and nursing assistant are accountable for their own individual actions in the delegation process. No person may coerce a registered nurse into compromising patient safety by requiring the registered nurse to delegate if the registered nurse delegator determines it is inappropriate to do so. Registered nurse delegators cannot delegate the following care tasks under any circumstances:

(1) Administration of medications by injection (intramuscular, intradermal, subcutaneous, intraosseous and intravenous).

(2) Sterile procedures.

(3) Central line maintenance.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator must determine that it is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE:

ASSESS

(2) Determine that the setting allows delegation because it is a certified community residential program for the developmentally disabled, a licensed adult family home, ((e*)) a licensed boarding home, or an in-home care setting as defined by chapter 140, Laws of 2003.

(3) Assess the patient's nursing care needs and determine that the patient is in a stable and predictable condition.

(4) Determine that the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine that the task to be delegated can be properly and safely performed by the nursing assistant. The registered nurse delegator shall assess the potential risk of harm for the individual patient. Potential harm may include, but is not limited to, infection, hemorrhage, hypoxemia, nerve damage, physical injury, or psychological distress.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant to competently accomplish the task. The registered nurse delegator shall consider the psychomotor and cognitive skills required to perform the nursing task. More complex tasks may require additional training and supervision for the nursing assistant. The registered nurse delegator must identify and facilitate any additional training of the nursing assistant that is needed prior to delegation. The registered nurse delegator must ensure that the task to be delegated can be properly and safely performed by the nursing assistant.

(7) Assess the level of interaction required, considering language or cultural diversity that may affect communication or the ability to accomplish the task to be delegated, as well as methods to facilitate the interaction.

(8) Verify that the nursing assistant:

(a) Is currently registered or certified as a nursing assistant in Washington state and is in good standing without restriction;

(b) As required in WAC 246-841-405 (2)(a), nursing assistants registered must complete both the basic caregiver training and core delegation training before performing any delegated task;

(c) Has a certificate of completion issued by the department of social and health services indicating completion of nurse delegation for nursing assistants; and

(d) Is willing to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision to ensure that the nursing task can be properly and safely performed by the nursing assistant.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse must:

(a) Discuss the delegation process with the patient or authorized representative, including the level of training of the nursing assistant delivering care.

(b) Obtain patient consent. The patient, or authorized representative, must give written, informed consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within thirty days; electronic consent is an acceptable format.

(c) Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse or nursing assistant will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant with a copy maintained in the patient's record that include:

(a) The rationale for delegating the nursing task;

(b) That the delegated nursing task is specific to one patient and is not transferable to another patient;

(c) That the delegated nursing task is specific to one nursing assistant and is not transferable to another nursing assistant;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator will use to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document what teaching was done and that a return demonstration, or other method for verification of competency, was correctly done; and

(m) A plan of nursing supervision describing how frequently the registered nurse will supervise the performance of the delegated task by the nursing assistant and reevaluate the delegated nursing task. Supervision shall occur at least every ninety days.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator. The registered nurse delegator must provide written parameters specific to an individual patient which includes guidelines for the nursing assistant to follow in the decision-making process to administer a medication and the procedure to follow for such administration.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator must monitor the performance of the task(s) to assure compliance to established standards of practice, policies and procedures and to ensure appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator must evaluate the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator must supervise and evaluate the performance of the nursing assistant, including direct observation or other method of verification of competency of the nursing assistant to perform the delegated nursing task. The registered nurse delegator must also reevaluate the patient's condition, the care provided to the patient, the capability of the nursing assistant, the outcome of the task, and any problems.

(18) The registered nurse delegator must ensure safe and effective services are provided. Reevaluation and documentation must occur at least every ninety days. Frequency of supervision is at the discretion of the registered nurse delegator.

AMENDATORY SECTION (Amending WSR 02-02-047, filed 12/27/01, effective 1/27/02)

WAC 246-840-940 Washington state nursing care quality assurance commission community care setting delegation decision tree.

(1)	Does the patient reside in one of the following settings? A certified community residential program for the developmentally disabled, a licensed adult family home, a licensed boarding home, or an in-home care setting as defined by chapter 140, Laws of 2003	No →	Do not delegate
Yes ↓			
(2)	Has the patient or authorized representative given consent to the delegation?	No →	Obtain the written, informed consent
Yes ↓			
(3)	Is RN assessment of patient's nursing care needs completed?	No →	Do assessment, then proceed with a consideration of delegation
Yes ↓			
(4)	Is the task within the registered nurse's scope of practice?	No →	Do not delegate
Yes ↓			
(5)	Is the nursing assistant registered or certified and properly trained in the nurse delegation for nursing assistants?	No →	Do not delegate
Yes ↓			
(6)	Can the task be performed without requiring judgment based on nursing knowledge?	No →	Do not delegate
Yes ↓			
(7)	Are the results of the task reasonably predictable?	No →	Do not delegate
Yes ↓			
(8)	Can the task be safely performed according to exact, unchanging directions?	No →	Do not delegate
Yes ↓			
(9)	Can the task be performed without a need for complex observations or critical decisions?	No →	Do not delegate
Yes ↓			
(10)	Can the task be performed without repeated nursing assessments?	No →	Do not delegate
Yes ↓			
(11)	Can the task be performed improperly without life-threatening consequences?	No →	Do not delegate
Yes ↓			
(12)	Is appropriate supervision available?	No →	Do not delegate

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Yes ↓			
(13)	There are no specific laws or rules prohibiting the delegation?	No →	Do not delegate
Yes ↓			
(14)	Task is delegable		

**WSR 03-15-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-148—Filed July 10, 2003, 3:18 p.m.]

Date of Adoption: July 10, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100E and 220-32-05100F; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets additional treaty Indian commercial gillnet fishery. Allows commercial sale of platform caught fish and tributary caught fish. The summer chinook run size has been updated to over 100,000. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on July 8, 2003. Conforms state rules with tribal 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 10, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-32-05100F Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for chinook salmon, steelhead, walleye, shad, carp, and sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

(1) Open Periods: Immediately to 6:00 p.m. July 16, 2003

(a) Open Areas: SMCRA 1F, 1G, and 1H.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(2) Open Periods: Immediately to 6:00 p.m. July 12, 2003

6:00 a.m. July 14 to 6:00 p.m. July 16, 2003

(a) Open Area: Klickitat River - Yakama Fishers only. Fish caught in the tributaries may be sold during the open periods.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(3) Open Periods: Immediately to 6:00 p.m. July 16, 2003, except Sundays

(a) Open Area: Big White Salmon River - Yakama Fishers only. Fish caught in the tributaries may be sold during the open periods.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(4) Open Periods: 6:00 a.m. July 14 to 6:00 p.m. July 16, 2003

(a) Open Areas: SMCRA 1F, 1G, and 1H.

(b) Gear: Gillnets - 7.5" minimum mesh

(5) Allowable sale includes: Chinook, steelhead, Walleye, shad and carp. Also sturgeon between four and five feet in length. Sockeye may not be sold, but may be kept for subsistence purposes.

(6) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.

(7) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

(a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from

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the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

(8) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam. (03-146)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 16, 2003:

WAC 220-32-05100F Columbia River salmon seasons above Bonneville Dam.

WSR 03-15-043 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 03-149—Filed July 10, 2003, 3:20 p.m., effective July 12, 2003, 6:00 p.m.]

Date of Adoption: July 10, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700S and 220-32-05700T; and amending WAC 220-32-057.

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 conforms state rules with tribal rules and is consistent with compact action of July 8, 2003. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 12, 2003, 6:00 p.m.

July 10, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-32-05700T Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management

Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

1) Dates: 6:00 a.m. July 21, 2003 until 6:00 p.m. August 23, 2003.

2) Open area is 1F and 1H.

3) Gear: Setlines. Sturgeon caught in the platform fishery may be sold.

4) During the season specified in Section 1, it is unlawful to:

a) retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

b) sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 77.65, or to sell or barter sturgeon eggs at retail.

c) deliver to a wholesale dealer licensed under chapter RCW 77.65, any sturgeon that are not in the round with the head and tail intact.

3) During the season specified in Section 1, it is unlawful to use set line gear:

a) with more than 100 hooks per set line

b) with hooks less than the minimum size of 9/0

c) with treble hooks

d) without visible buoys attached and with buoys that do not specify operator and tribal identification

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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. July 12, 2003:

WAC 220-32-05700S Columbia River sturgeon seasons above Bonneville Dam. (03-118)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. August 23, 2003:

WAC 220-32-05700T Columbia River sturgeon seasons above Bonneville Dam.

**WSR 03-15-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-152—Filed July 11, 2003, 3:21 p.m., effective July 14, 2003]

Date of Adoption: July 11, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100A; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 14, 2003.

July 11, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-07100B Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Effective July 14, 2003 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2, 4 and 5 on July 14, 15, 16, 21, 22, 23, 28, 29, and August 4, 5, 11, 12, 2003, from 6:00 a.m. to one-half hour before official sunset of each day.

(2) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on July 12, 13, 19, 20, 26, 27, and August 2, 3, 9, and 10, 2003.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 14, 2003:

WAC 220-52-07100A Sea cucumbers. (03-135)

WSR 03-15-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-151—Filed July 11, 2003, 3:23 p.m.]

Date of Adoption: July 11, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-05100V; and 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: This rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements. Commercial shrimp quotas have been taken in the areas closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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.

July 11, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-05100W 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) Waters of Shrimp Management Areas 1A and 1C, and Crustacean Management Regions 2, 3, 4 and 6, are open

to the harvest of all shrimp species, except as provided below:

(i) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23A-S (south), 23D and 23A-E (east) are closed to the harvest of spot shrimp.

(ii) Waters of Shrimp Management Area 2E are closed to the harvest of all shrimp species other than spot shrimp.

(iii) Waters of Marine Fish-Shellfish Catch and Reporting Areas 26B-1 and 26C are closed to the harvest of all shrimp species.

(iv) Closures provided for in WAC 220-52-051 (2)(c) remain in effect.

(b) Effective immediately, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 1C, 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C or 29 (or any combination of these two areas), shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) 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 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.

(d) 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.

(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: open immediately, until further notice.

(3) It is unlawful to set or pull shrimp using 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 220-52-05100V Puget Sound shrimp pot and beam trawl fishery—Seasons. (03-144)

**WSR 03-15-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-153—Filed July 14, 2003, 4:28 p.m.]

Date of Adoption: July 14, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000V; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council and provide harvest of available stocks of bottomfish, while reserving brood stock for future fisheries. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0; Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 14, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-44-05000W Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050,

effective immediately until further notice: (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 68, No. 129, published July 7, 2003. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(a) Effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Effective immediately until further notice, it is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than forty percent of their total landing by weight, not to exceed 10,000 pounds.

(2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are

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landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000V Coastal bottomfish catch limits. (03-117)

WSR 03-15-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-150—Filed July 17, 2003, 8:55 a.m., effective July 19, 2003, 12:01 a.m.]

Date of Adoption: July 17, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500I; and 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: There is sufficient quota of halibut remaining for a one-day opening in Catch Record Card Areas 3 and 4. 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: July 19, 2003, 12:01 a.m.

July 17, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-56-25500J 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 immediately until further notice. 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 - Open immediately until further notice. The daily limit is one halibut of any size.

(3) Catch Record Card Areas 3 and 4 - Open 12:01 a.m. August 9, through 11:59 p.m. August 9, 2003. 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 immediately 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) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 18, 2003:

WAC 220-56-25500I Halibut—Seasons—Daily and possession limits. (03-130)

WSR 03-15-083
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-155—Filed July 17, 2003, 8:58 a.m., effective July 17, 2003, 9:00 p.m.]

Date of Adoption: July 16, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100W; and 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: This rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements. Commercial shrimp quotas have been taken in the areas closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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: July 17, 2003, 9:00 p.m.

July 16, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-52-05100X 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) Waters of Shrimp Management Areas 1A and 1C, and Crustacean Management Regions 2, 3, 4 and 6, are open to the harvest of all shrimp species, except as provided below:

(i) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23A-S (south), 23D and 26D are closed to the harvest of spot shrimp.

(ii) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23A-E (east), 26B-1 and 26C are closed to the harvest of all shrimp species.

(iii) Waters of Shrimp Management Area 2E are closed to the harvest of spot shrimp.

(iv) Closures provided for in WAC 220-52-051 (2)(c) remain in effect.

(b) Effective immediately, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Manage-

ment Regions 1C, 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C or 29 (or any combination of these two areas), shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) 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 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.

(d) 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.

(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: open immediately, until further notice.

(3) It is unlawful to set or pull shrimp using 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 effective 9:00 p.m. July 17, 2003:

WAC 220-52-05100W Puget Sound shrimp pot and beam trawl fishery—Seasons. (03-151)

WSR 03-15-084

EMERGENCY RULES

SECRETARY OF STATE

[Filed July 17, 2003, 11:07 a.m., effective July 27, 2003]

Date of Adoption: July 27 [16], 2003.

Purpose: Section 4, chapter 34, Laws of 2003, directs the Office of the Secretary of State to adopt a classification schedule for the filing of trademarks. This section further

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directs that to the extent possible, the schedule of classification should conform to the schedule adopted by the United States Patent and Trademark Office (USPTO). This rule making adopts the USPTO schedule of goods and services for use under chapter 19.77 RCW, the State Trademark Act. This rule making also repeals a hearing process that is no longer authorized by chapter 19.77 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-12-010 through 434-12-230.

Statutory Authority for Adoption: Section 4, chapter 34, Laws of 2003.

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: Chapter 34, Laws of 2003, repealed the existing system for classification of goods and services for trademark filing effective July 27, 2003, and directed the Office of the Secretary of State to adopt a new schedule. Failure to adopt a new schedule effective July 27 will result in the inability to file trademarks until a schedule is adopted. This will interfere with the growth and registration of businesses in Washington and would be contrary to both the public interest and welfare.

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 23.

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 23.

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: July 27, 2003.

July 16, 2003

Sam S. Reed

Secretary of State

NEW SECTION

WAC 434-12-015 Classification of goods and services. (1) The corporations division adopts the following table for classification of goods and services:

Goods

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

5. Pharmaceutical, veterinary, and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.

8. Hand tools and implements (hand-operated); cutlery; side arms; razors.

9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus.

10. Surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; suture materials.

11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air, or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

15. Musical instruments.

16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

19. Building materials (nonmetallic); nonmetallic rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; monuments, not of metal.

20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

23. Yarns and threads, for textile use.

24. Textiles and textile goods, not included in other classes; beds and table covers.

25. Clothing, footwear, headgear.

26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (nontextile).

28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.

30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.

32. Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

33. Alcoholic beverages (except beers).

34. Tobacco; smokers' articles; matches.

Services

35. Advertising; business management; business administration; office functions.

36. Insurance; financial affairs; monetary affairs; real estate affairs.

37. Building construction; repair; installation services.

38. Telecommunications.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.

43. Services for providing food and drink; temporary accommodations.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

45. Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

(2) This table is adopted from the schedule for classification of goods and services published by the United States Patent and Trademark Office.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-12-010	Authority and purpose.
WAC 434-12-020	Applicable statute.
WAC 434-12-030	Definitions.
WAC 434-12-040	Form of papers.
WAC 434-12-050	Caption.
WAC 434-12-060	Signing papers.
WAC 434-12-070	Verification.
WAC 434-12-080	Computation of time.
WAC 434-12-090	Appearance and practice before secretary.
WAC 434-12-100	Service of process.
WAC 434-12-110	Joinder, consolidation.
WAC 434-12-120	Withdrawal of petition.
WAC 434-12-130	Notice of hearing.
WAC 434-12-140	Hearing examiner.
WAC 434-12-150	Motions.
WAC 434-12-160	Discovery.
WAC 434-12-170	Subpoenas.

EMERGENCY

WAC 434-12-180	Prehearing conference.
WAC 434-12-200	Hearings are public.
WAC 434-12-210	Rules of evidence.
WAC 434-12-220	Record.
WAC 434-12-230	Form and content of decision.

Effective Date of Rule: July 29, 2003.

July 14, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services. This section describes how the department defines the resource standard and available resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for a single client; or

(b) Three thousand dollars for a legally married couple, unless subsection (2) applies.

(2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1)(a) to each spouse, unless doing so would make one of the spouses ineligible.

(3) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-470-0005, Resource eligibility and limits;

(b) WAC 388-470-0010, How to determine who owns a resource;

(c) WAC 388-470-0015, Availability of resources;

(d) WAC 388-470-0060(6), Resources of an alien's sponsor; and

(e) WAC 388-506-0620, SSI-related medical clients.

(4) For LTC services the department determines a client's nonexcluded resources as follows:

(a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-513-1360;

(b) For an SSI-related client who has a community spouse, the department:

(i) Excludes resources described in WAC 388-513-1360; and

(ii) Adds together the available resources of both spouses according to subsection (5)(a) or (b) as appropriate;

(c) For a client not described in subsection (4)(a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.

(5) The department determines available resources of a legally married client, when both spouses are institutionalized, by following WAC 388-506-0620 (5) and (6). For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of nonexcluded resources held in the name of:

(i) The institutionalized spouse; or

WSR 03-15-087

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 17, 2003, 4:33 p.m.]

Date of Adoption: July 14, 2003.

Purpose: To continue the emergency rule adopted on March 31, 2003, as WSR 03-08-064, while the department completes the permanent rule-making process which was begun with the filing of a preproposal statement of inquiry (WSR 03-08-082). This rule incorporates the federal standard increases that became effective January 1, 2003, and April 1, 2003.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.575.

Other Authority: Section 1924 of the Social Security Act (42 U.S.C. 1396R-5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The increase in the client standards was required to be effective April 1, 2003, to comply with federal requirements in 42 U.S.C., chapter 7. This emergency rule will expire at the end of July 31, 2003, and will be replaced by a new emergency rule incorporating new resource standards adopted by the 2003 legislature effective August 1, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

EMERGENCY

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

- (i) Either spouse; or
- (ii) Both spouses.

(6) If subsection (5)(b) applies, the department allocates the maximum amount of resources ordinarily allowed by law to the community spouse before determining nonexcluded resources used to establish eligibility for the institutionalized spouse. The maximum allocation amount is ~~((eighty-seven))~~ ninety thousand six hundred sixty dollars effective January 1, ~~((2001))~~ 2003.

(7) The amount of allocated resources described in subsection (6) can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC or by consent order, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(8) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (9)(a), (b), or (c) applies.

(9) A redetermination of the couple's resources as described in subsections (4)(b) or (c) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's nonexcluded resources exceed the standard described in subsection (1)(a), if subsection (5)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (6) or (7) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services. This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical facility, the department applies all subsections of this rule.

(2) For a client receiving waived services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, the department applies rules used for the community options program entry system (COPES).

(4) Excess resources are reduced in an amount equal to incurred medical expenses (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance charges;

(b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and

(c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395 (2)(a) or (b).

(5) The department allocates nonexcluded income up to a total of the medically needy income level (MNIL) in the following order:

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives a VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(b) Federal, state, or local income taxes ~~((incurred during the time period covered by the PNA, whether paid or unpaid))~~ owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnisheed for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ~~((2001))~~ 2003, two thousand ~~((one))~~ two hundred ~~((seventy-five))~~ sixty-seven dollars, unless a greater amount is allocated as described in subsection (8) of this section. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand ~~((four))~~ five hundred ~~((fifty-two))~~ fifteen dollars; and

(B) Excess shelter expenses as specified under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse who:

(i) Resides with the community spouse, equal to one-third of the amount that one thousand (~~four~~) five hundred (~~(fifty-two))~~ fifteen dollars exceeds the dependent family member's income.

(ii) Does not reside with the community spouse, equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption and reviews the client's circumstances after ninety days.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred (~~(thirty-six))~~ fifty-five dollars, effective April 1, (~~(2001))~~ 2003; and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

WSR 03-15-092
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-154—Filed July 18, 2003, 4:10 p.m.]

Date of Adoption: July 18, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of 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 intended to keep the recreational harvest of sturgeon in the John Day Reservoir and its tributaries within the established harvest guidelines. This maintains consistent regulations between Washington and Oregon. 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; and 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.

July 18, 2003

B. J. Bjork
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900R Exceptions to statewide rules—Columbia River (sturgeon). Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately through September 30, 2003, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from the mouth upstream to the Wauna power lines.

(2) Effective immediately until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam to John Day Dam.

(3) Effective 12:01 a.m. July 28, 2003, until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from John Day Dam to McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900Q Exceptions to statewide rules—Columbia River (sturgeon). (03-142)

WSR 03-15-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-156—Filed July 18, 2003, 4:12 p.m.]

Date of Adoption: July 18, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100G; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets second period of commercial fishing for summer chinook. Allows commercial sale of platform caught fish and tributary caught fish. The summer chinook run size is expected to be greater than 100,000. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on July 18, 2003. Conforms state rules with tribal 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.

July 18, 2003
Philip Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-32-05100G Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for chinook salmon, steelhead, walleye, shad, carp, and sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

(1) Open Periods: 6:00 a.m. July 21 to 6:00 p.m. July 26, 2003

(a) Open Areas: SMCRA 1F, 1G, and 1H.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(2) Open Periods: 6:00 a.m. July 21 to 6:00 p.m. July 26, 2003

(a) Open Area: Klickitat River - Yakama Nation members only. Fish caught in the tributaries may be sold during the open periods.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(3) Open Periods: 6:00 a.m. July 21 to 6:00 p.m. July 26, 2003

(a) Open Area: Big White Salmon River - Yakama Nation members only. Fish caught in the tributaries may be sold during the open periods.

(b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(4) Open Periods: 6:00 a.m. July 21 to 6:00 p.m. July 23, 2003

(a) Open Areas: SMCRA 1F, 1G, and 1H.

(b) Gear: Gillnets - 7 1/2 -inch minimum mesh.

(5) Allowable sale includes: Chinook, steelhead, Walleye, shad and carp. Sturgeon may not be sold, but sturgeon between four and five feet in length may be kept for subsistence purposes. Sockeye may not be sold, but may be kept for subsistence purposes.

(6) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

(7) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.

(6) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

(a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at

the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

(8) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 26, 2003:

WAC 220-32-05100G Columbia River salmon seasons above Bonneville Dam.

WSR 03-15-094 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 03-157—Filed July 18, 2003, 4:15 p.m.]

Date of Adoption: July 18, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700T and 220-32-05700U; and amending WAC 220-32-057.

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: Opens Bonneville and John Day pools for a sturgeon set line season. There is room on the guidelines in both areas to allow for a season, and harvestable numbers of sturgeon are available. Conforms state rules with tribal rules. Consistent with compact action of July 18, 2003. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 18, 2003
Philip Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-32-05700U Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

1) Dates: 6:00 a.m. July 28, 2003 until 6:00 p.m. August 23, 2003.

2) Open area is 1F and 1H.

3) Gear: Setlines. Sturgeon caught in the platform fishery may be sold.

4) During the season specified in Section 1, it is unlawful to:

a) retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

b) sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 77.65, or to sell or barter sturgeon eggs at retail.

c) deliver to a wholesale dealer licensed under chapter RCW 77.65, any sturgeon that are not in the round with the head and tail intact.

3) During the season specifies in Section 1, it is unlawful to use set line gear:

a) with more than 100 hooks per set line

b) with hooks less than the minimum size of 9/0

c) with treble hooks

d) without visible buoys attached and with buoys that do not specify operator and tribal identification

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05700T Columbia River sturgeon seasons above Bonneville Dam. (03-149)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. August 23, 2003:

WAC 220-32-05700U Columbia River sturgeon seasons above Bonneville Dam.

**WSR 03-15-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-158—Filed July 18, 2003, 4:18 p.m., effective July 25, 2003, 12:01 a.m.]

Date of Adoption: July 18, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000K; and amending WAC 232-28-620.

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 provide greater fishing opportunity for recreational fishers to harvest preseason quotas for chinook and coho. 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: July 25, 2003, 12:01 a.m.

July 18, 2003

Philip Anderson
for Jeff Koenings
Director

EMERGENCY

NEW SECTION

WAC 232-28-62000L Coastal salmon seasons. Notwithstanding the provisions of WAC 232-28-620, effective 12:01 a.m. July 25, 2003, until further notice, it is unlawful to fish for salmon in coastal waters during 2003 except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 1** - Open immediately until further notice - Daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(2) **Areas 2 and 2-1** - Open immediately until further notice - Daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(3) **Area 2-2** - waters west of the Buoy 13 line - Open immediately until further notice - Daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(4) **Area 3** - Open immediately until further notice - Daily limit 2 salmon not more than one of which may be a chinook and 1 additional pink, except release wild coho.

(5) Area 4:

(a) Open immediately until further notice - Daily limit 2 salmon not more than one of which may be a chinook and 1 additional pink, except release wild coho, release chinook east of the Bonilla-Tatoosh Line, and effective beginning August 1, release chum.

(i) Effective immediately through July 31, lawful to retain chinook east of the Bonilla-Tatoosh Line and west of a true north-south line through Sail Rock.

(ii) Effective immediately through July 31 closed to salmon angling east of a true north/south line through Sail Rock.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 25, 2003:

WAC 232-28-62000K Coastal salmon seasons - 2003 North of Falcon (03-84)

Without this rule amendment the Lotto rules will not correctly reflect the odds and prizes associated with the relaunched Lotto game. Washington Lottery staff will propose permanent adoption of this amendment at the Lottery Commission's November 13, 2003, meeting.

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 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 1, Repealed 1.

Effective Date of Rule: October 5, 2003.

July 21, 2003
Ceil Buddeke
Legal Counsel

AMENDMENTS TO WAC 315-34-040: Adopted at the Lottery Commission's July 17, 2003 meeting, on an emergency basis and effective October 5, 2003.

AMENDATORY SECTION (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)]

WAC 315-34-040 Prizes for Lotto. (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, and third prize categories are as follows:

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
All six winning numbers in one play	First Prize	Jackpot	1:13,983,816 <u>1:6,991,908</u>
Any five but not six winning numbers in one play	Second Prize	\$1,000	1:54,204 <u>1:27,100</u>
Any four but not five or six winning numbers in one play	Third Prize	\$35 <u>\$30</u>	1:1,033 <u>1:516</u>
Any three but not four, five or six winning numbers in one play	Fourth Prize	\$3	1:57 <u>1:28</u>

(2) Prize amounts.

(a) First prize (jackpot). The first prize will be the amount announced by the director as the Lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence).

(b) Second prize. The second prize will be \$1,000, which will be paid to each player who selected five of the six winning numbers in one play (in any sequence).

**WSR 03-15-110
EMERGENCY RULES**

WASHINGTON STATE LOTTERY

[Filed July 21, 2003, 3:28 p.m., effective October 5, 2003]

Date of Adoption: July 17, 2003.

Purpose: On November 13, 2003, the Lottery Commission amended WAC 315-34-040, on an emergency basis, to correctly reflect the prize and odds structure of the Lotto game that will be relaunched on October 5, 2003. The commission adopted the rule amendment effective October 5, 2003 (the date of the Lotto relaunch). At the commission's November 13, 2003, meeting the Washington Lottery intends to recommend permanent amendment of this rule, in the same form as the emergency rule.

Citation of Existing Rules Affected by this Order: Amending WAC 315-34-040 Prizes for Lotto.

Statutory Authority for Adoption: RCW 67.70.040(1).

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: Effective October 5, 2003, the Washington Lottery will relaunch the Lotto game. That game is governed by chapter 315-34 WAC, the rules governing the previous Lotto game. As of October 5, 2003, those rules will continue to be correct, with the exception of WAC 315-34-040 (the rule governing Lotto prizes and odds).

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(c) Third prize. The third prize will be ~~\$35~~ \$30, which will be paid to each player who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. A \$3.00 prize is to be paid to each player who selected three of the six winning numbers in one play (in any sequence).

(e) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(f) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

~~(3) The amendments to chapter 315-34 WAC, as adopted at the July 2001 lottery commission meeting, shall take effect on September 30, 2001, or on a date to be designated by the director and advertised to the public. The provisions of the existing chapter 315-36 WAC shall remain in effect until September 30, 2001, or until the date designated by the director for the commencement of this amended rule.~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 03-15-133

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed July 22, 2003, 3:15 p.m., effective September 1, 2003]

Date of Adoption: July 21, 2003.

Purpose: Amending WAC 388-71-0194, 388-71-0415, 388-71-0440, 388-72A-0060. These amendments are intended to:

- Comply with legislative and budget requirements in the 2003-05 operating budget - ESSB 5404, and in HB 1753;
- Achieve savings by raising functional eligibility requirements for Medicaid Personal Care (MPC) and by eliminating services for clients needing minimal assistance with one or two activities of daily living. (Persons currently receiving care in community residential settings who do not meet the higher eligibility standard will continue to be served, without the benefit of federal matching funds, but no new applicants with these lower levels of care will be admitted to residential care.);
- Make the rules consistent with emergency legislation (HB 1753) concerning practices in community-based and in-home care (nurse delegation).

The CR-101 (WSR 03-14-099) and subsequent notices stated that the department was repealing WAC 388-71-0405. This was incorrect - this rule will remain unchanged.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0194, 388-71-0415, 388-71-0440, and 388-72A-0060.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.04.050, 74.04.057, 74.04.-200, 74.09.520, 74.39.020, and 74.39A.090; ESSB 5404 (chapter 25, Laws of 2003); HB 1753 (chapter 140, Laws of 2003).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The legislature, in adopting ESSB 5404 the 2003-05 operating budget, has reduced funding for MPC by \$3,664,000. The legislature has directed the department to achieve these reductions by raising functional eligibility requirements for MPC and by eliminating services for clients needing minimal assistance with one or two activities of daily living. (Persons currently receiving care in community residential settings who do not meet the higher eligibility standard will continue to be served, without the benefit of federal matching funds, but no new applicants with these lower levels of care will be admitted to residential care.) These reductions must be adopted by September 1, 2003, under an emergency rule or the department will run out of appropriated MPC funds early in the fiscal year, which could result in many MPC-eligible persons losing home care services entirely;

- The legislature also adopted HB 1753 as emergency legislation concerning nurse delegation practices in community-based and in-home care.
- These emergency rules are needed to implement the legislative directives of ESSB 5404 and HB 1753 while the department proceeds with regular adoption of these rules. A notice of intent to adopt permanent rules has been filed as WSR 03-14-099.

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 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Effective Date of Rule: September 1, 2003.

July 21, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-13-052, filed 6/12/03, effective 7/13/03)

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)) (2) 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)).

(3) 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)) (4) The registered nurse providing this service will not perform skilled treatment except in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. 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)) other appropriate resource.~~~~

~~((6)) (5) 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 03-13-052, filed 6/12/03, effective 7/13/03)

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 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) 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;
- (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) Necessary for life support; 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 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 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.

(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

(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.

(14) Nurse delegation services if:

(a) You are living in your own home;

(b) You are eligible for COPES; and

(c) You are receiving personal care from a registered or certified nursing assistant who has completed Nurse Delegation Core Training;

(d) Your medical condition is considered stable and predictable by the delegating nurse; and

(e) Services are provided in compliance with WAC 246-840-901 through 246-840-970.

AMENDATORY SECTION (Amending WSR 02-23-063, filed 11/18/02, effective 12/19/02)

WAC 388-71-0440 Am I eligible for MPC-funded services? To be eligible for MPC-funded services you must:

(1) Have unmet need for substantial assistance with at least one (~~unmet~~) direct personal care task listed in WAC 388-71-0202; or have unmet needs for minimal assistance with three direct personal care tasks; and

(2) Be certified as Title 19 categorically needy, as defined in WAC 388-500-0005.

(3) Be assessed by department staff or designee using a department approved comprehensive assessment and have a determination of unmet needs for HCP services.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

WAC 388-72A-0060 Am I eligible for MPC-funded services? You are eligible for MPC-funded services when the department or its designee assesses your needs and determines that you meet all of the following criteria:

(1) Are certified as Title XIX categorically needy, as defined in WAC 388-500-0005.

(2) Have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) in at least (~~one~~) three or more of the following, as defined in WAC 388-72A-0040:

(a) Help/oversight one or two times during the last seven days plus setup in eating;

(b) Supervision in toileting;

(c) Supervision in bathing;

(d) Supervision in dressing;

(e) Supervision plus setup in transfer;

(f) Supervision plus setup in bed mobility;

(g) Supervision plus set up help in one of the following three tasks:

- (i) Walk in room, hallway and rest of immediate living environment;
- (ii) Locomotion in room and immediate living environment;
- (iii) Locomotion outside of immediate living environment including outdoors.
- (h) Assistance required in medication management;
- (i) Supervision in personal hygiene;
- (j) Assistance with body care, which means you need:
- (i) Application of ointment or lotions;
- (ii) Your toenails trimmed;
- (iii) Dry bandage changes; or
- (iv) Passive range of motion treatment.
- (3) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) with at least one or more of the following, as defined in WAC 388-72A-0040:
- (a) Extensive assistance plus one person physical assistance in toileting;
- (b) Extensive assistance plus one person physical assistance in one of the following three tasks:
- (i) Walk in room, hallway and rest of immediate living environment;
- (ii) Locomotion in room and immediate living environment;
- (iii) Locomotion outside of immediate living environment including outdoors.
- (c) Extensive assistance plus one person physical assistance in transfer;
- (d) Limited assistance plus one person physical assistance in bed mobility and need turning/repositioning;
- (e) Physical help limited to transfer plus one person physical assist in bathing;
- (f) Supervision plus one person physical assist in eating;
- or
- (g) Daily assistance required in medication management;
- or
- (h) Assistance with body care, which means you need:
- (i) Application of ointment or lotions;
- (ii) Your toenails trimmed;
- (iii) Dry bandage changes; or
- (iv) Passive range of motion treatment.
- (i) Extensive assistance plus one person physical assistance in dressing.
- (j) Extensive assistance plus one person physical assistance in personal hygiene.

**WSR 03-15-134
EMERGENCY RULES
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed July 22, 2003, 3:17 p.m., effective August 1, 2003]

Date of Adoption: July 22, 2003.

Purpose: These rules replace emergency rules filed as WSR 03-15-088 on July 17, 2003. As mandated by ESHB 2257, adopted in the 2003 legislative session, the department

is reducing the maximum resource allocation for a community spouse from \$90,660 to \$40,000 for clients institutionalized on or after August 1, 2003; and to continue the emergency adoption of federal standard increases that have been in effect since January 1, 2003, and April 1, 2003.

The department has initiated the regular rule-making process to adopt these emergency rules as permanent. A pre-proposal statement of inquiry was filed as WSR 03-15-049.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.575; ESHB 2257 (chapter 28, Laws of 2003).

Other Authority: Section 1924 of the Social Security Act (42 U.S.C. 1396R-5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Conditions have changed since the emergency rules were initially adopted. New state law (ESHB 2257 - chapter 28, Laws of 2003) requires the department to adopt the reduction in the resource allocation for a community spouse as of August 1, 2003. The increase in client standards was required to be effective January 1, 2003 (maximum resource allocation for the community spouse and community spouse monthly maintenance maximum), and April 1, 2003 (standard shelter allocation), to comply with federal requirements. These rules replace emergency rules filed as WSR 03-15-088 on July 17, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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: August 1, 2003.

July 21, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services. This section describes how the department defines the resource standard and available resources when determining a client's eligibil-

ity for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for:

(i) A single client; or

(ii) A legally married client with a community spouse, subject to the provisions described in subsections (5) through (8); or

(b) Three thousand dollars for a legally married couple, unless subsection (2) applies.

(2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1)(a) to each spouse, unless doing so would make one of the spouses ineligible.

(3) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-470-0005, Resource eligibility and limits;

(b) WAC 388-470-0010, How to determine who owns a resource;

(c) ~~(WAC 388-470-0015, Availability of resources;~~

~~(d))~~ WAC 388-470-0060(6), Resources of an alien's sponsor; and

~~((e))~~ (d) WAC 388-506-0620, SSI-related medical clients.

(4) For LTC services the department determines a client's nonexcluded resources as follows:

(a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-513-1360;

(b) For an SSI-related client who has a community spouse, the department:

(i) Excludes resources described in WAC 388-513-1360; and

(ii) Adds together the available resources of both spouses according to subsection (5)(a) or (b) as appropriate;

(c) For a client not described in subsection (4)(a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.

(5) The department determines available resources of a legally married client, when both spouses are institutionalized, by following WAC 388-506-0620 (5) and (6). For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of nonexcluded resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(6) If subsection (5)(b) applies, the department ~~((allocates the maximum))~~ determines the amount of resources ~~((ordinarily allowed by law))~~ that are allocated to the com-

munity spouse before determining nonexcluded resources used to establish eligibility for the institutionalized spouse (~~The maximum allocation amount is eighty-seven thousand dollars effective January 1, 2001.~~

~~(7))~~ , as follows:

(a) If the client's current period of institutional status began on or after October 1, 1989 and before August 1, 2003, the department allocates the maximum amount of resources ordinarily allowed by law. The maximum allocation amount is ninety thousand six hundred sixty dollars effective January 1, 2003; or

(b) If the client's current period of institutional status began on or after August 1, 2003, the department allocates the greater of:

(i) A spousal share equal to one-half of the couple's combined nonexcluded resources as of the beginning of the current period of institutional status, up to the amount described in subsection (6)(a); or

(ii) The state spousal resource standard of forty thousand dollars.

(7) The amount of the spousal share described in (6)(b)(i) is determined sometime between the date that the current period of institutional status began and the date that eligibility for LTC services is determined. The following rules apply to the determination of the spousal share:

(a) Prior to an application for LTC services, the couple's combined countable resources are evaluated from the date of the current period of institutional status at the request of either member of the couple. The determination of the spousal share is completed when necessary documentation and/or verification is provided; or

(b) The determination of the spousal share is completed as part of the application for LTC services if the client was institutionalized prior to the month of application, and declares the spousal share exceeds the state spousal resource standard. The client will be required to provide verification of the couple's combined countable resources held at the beginning of the current period of institutional status.

(8) The amount of allocated resources described in subsection (6) can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC or by consent order, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

~~((8))~~ (9) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection ((9))(10)(a), (b), or (c) applies.

~~((9))~~ (10) A redetermination of the couple's resources as described in subsections (4)(b) or (c) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's nonexcluded resources exceed the standard described in subsection (1)(a), if subsection (5)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (6) or ((7)) (8) to the com-

munity spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

- (i) The first regularly scheduled eligibility review; or
- (ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

AMENDATORY SECTION (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

WAC 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services. This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical facility, the department applies all subsections of this rule.

(2) For a client receiving waived services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, the department applies rules used for the community options program entry system (COPEs).

(4) Excess resources are reduced in an amount equal to incurred medical expenses (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

- (a) Health insurance and Medicare premiums, deductions, and co-insurance charges;
- (b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and
- (c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395(2)(a) or (b).

(5) The department allocates nonexcluded income up to a total of the medically needy income level (MNIL) in the following order:

- (a) A personal needs allowance (PNA) of:
 - (i) One hundred sixty dollars for a client living in a state veterans' home;
 - (ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives a VA improved pension and does not live in a state veterans' home; or
 - (iii) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(b) Federal, state, or local income taxes (~~incurred during the time period covered by the PNA, whether paid or unpaid~~) owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnisheed for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ~~((2001)) 2003~~, two thousand ~~((one)) two~~ hundred ~~((seventy-five)) sixty-seven~~ dollars, unless a greater amount is allocated as described in subsection (8) of this section. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand ~~((four)) five~~ hundred ~~((fifty-two)) fifteen~~ dollars; and

(B) Excess shelter expenses as specified under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse who:

(i) Resides with the community spouse, equal to one-third of the amount that one thousand ~~((four)) five~~ hundred ~~((fifty-two)) fifteen~~ dollars exceeds the dependent family member's income.

(ii) Does not reside with the community spouse, equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption and reviews the client's circumstances after ninety days.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred ~~((thirty-six))~~ fifty-five dollars, effective April 1, ~~((2004))~~ 2003; and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

WSR 03-15-136
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-159—Filed July 22, 2003, 4:32 p.m.]

Date of Adoption: July 21, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100X; and 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: This rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements. Commercial shrimp quotas have been taken in the areas closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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.

July 21, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-05100Y 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) Waters of Shrimp Management Areas 1A and 1C, and Crustacean Management Regions 2, 3, 4 and 6, are open to the harvest of all shrimp species, except as provided below:

(i) Waters of Shrimp Management Area 2-W (west), and Marine Fish-Shellfish Catch and Reporting Areas 23A-S (south), 23D and 26D are closed to the harvest of spot shrimp.

(ii) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23A-E (east), 26B-1 and 26C are closed to the harvest of all shrimp species.

(iii) Closures provided for in WAC 220-52-051 (2)(c) remain in effect.

(b) Effective immediately, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 1C, 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C or 29 (or any combination of these two areas), shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) 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 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.

(d) 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.

(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: open immediately, until further notice.

(3) It is unlawful to set or pull shrimp using 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.

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.

July 22, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-88C-04000B Coastal pilchard fishery—By catch and landing restrictions. Notwithstanding the provisions of WAC 220-88C-040, effective immediately until further notice, it is lawful for incidental landings of Pacific mackerel to exceed forty-five percent, by weight, of the total landing.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100X	Puget Sound shrimp pot and beam trawl fishery—Seasons. (03-155)
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WSR 03-15-137

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 03-160—Filed July 22, 2003, 4:34 p.m.]

Date of Adoption: July 22, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-88C-040.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The fishery for Pacific mackerel occurs in the EEZ (exclusive economic zone) and is managed coastwide under a federal fishery management plan. This emergency regulation brings state regulations into compliance with federal regulations adopted by the Pacific Fishery Management Council and implemented by the National Marine Fisheries Service. There is insufficient time to promulgate permanent rules.

WSR 03-15-001

ATTORNEY GENERAL'S OFFICE

[Filed July 2, 2003, 3:17 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by August 13, 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):

**03-07-01 Request by the Honorable Janice E. Ellis
Snohomish County Prosecuting Attorney**

1. Does Article XI, section 4 or 5 of the Washington Constitution bar the legislative authority of a charter county from applying campaign contribution limitations contained in a county ethics code to the office of prosecuting attorney? 2. If the answer to the first question is "no," does any other provision of state law bar application of county campaign contribution limitations to the office of prosecuting attorney? 3. Do campaign contribution limitations contained in state law apply to the office of prosecuting attorney? 4. Does state law bar a county legislative authority from imposing other requirements of a county ethics code on the prosecuting attorney? 5. Are prosecuting attorneys, deputy prosecuting attorneys, or other employees of a prosecuting attorney's office subject to the state ethics law codified in RCW 42.52?

WSR 03-15-005

AGENDA

DEPARTMENT OF CORRECTIONS

[Filed July 3, 2003, 9:03 a.m.]

Following is the Department of Corrections' semi-annual rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

DEPARTMENT OF CORRECTIONS
RULE DEVELOPMENT CALENDAR
June - December 31, 2003

<u>WAC Chapter or Section</u>	<u>Purpose</u>
137-09	Public disclosure, revise policies and procedures for disclosure of public records.
137-125	Correctional institutions, visits.
137-48	Offender mail.
137-57	Siting of community residential programs.
137-58	Guidelines for implementing the State Environmental Policy Act.
137-59	Facility siting.
137-70	Reimbursement for criminal justice costs and contingency plan expenses (pending OFM action).
137-75	Jail and medical cost reimbursement to cities and counties (pending OFM action).

John Nispel
Rules Coordinator

MISC.

WSR 03-15-008

AGENDA

PUBLIC EMPLOYMENT
RELATIONS COMMISSION

[Filed July 3, 2003, 1:35 p.m.]

RULES DEVELOPMENT AGENDA
OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION
July 3, 2003

This agenda is prepared pursuant to RCW 34.05.314. The commission adopted emergency and permanent rules on May 13, 2003. The emergency rules became effective on May 15, 2003, while the permanent rules became effective on June 16, 2003.

The emergency rules affect the following sections of chapter 391-25 WAC:

391-25-011 Special provision—Optional coverage of classified employees of institutions of

higher education under chapter 41.56 RCW.

391-25-426 Special provision—State civil service employees (merger of bargaining units).

The permanent rules affect the following section of chapter 391-08 WAC:

391-08-670 Decision numbering—Citation of cases—Indexing of decisions.

The permanent rules affect the following sections of chapter 391-25 WAC:

391-25-011 Special provision—Optional coverage of classified employees of institutions of higher education under chapter 41.56 RCW.

391-25-210 Bargaining unit configurations.

391-25-216 Special provision—State civil service employees (intervenor unit configuration).

391-25-426 Special provision—State civil service employees (merger of bargaining units).

The emergency rule for WAC 391-25-011 became effective on May 15, 2003. The permanent rule for WAC 391-25-011 became effective on June 16, 2003, and repeals this rule effective July 1, 2003.

Please contact Mark S. Downing, Rules Coordinator, at (360) 570-7305 if you have any questions concerning this matter.

WSR 03-15-009

AGENDA

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 3, 2003, 2:34 p.m.]

Following, in accordance with RCW 34.05.314, is the Department of Labor and Industries' Semi-annual Rules Development Agenda for July 1, 2003 - December 31, 2003.

Please contact Carmen Moore at (360) 902-4206 or e-mail me at moog235@lni.wa.gov, if you have any questions.

**The Department of Labor and Industries
Semi-annual Rules Development Agenda
(July 1, 2003 - December 31, 2003)**

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
DIVISION: INSURANCE SERVICES						
WAC 296-30-200	Definitions	Janice Deal Crime Victims Compensation (360) 902-5369	6/4/03.	To be determined	To be determined	Prior to 1986 if a worker (victim of crime) died from an unrelated condition while on permanent total disability their award went to their dependents. In 1986 RCW 51.32.067 took effect. This statute has the worker (victim) choose an option before being placed on permanent total disability. The worker (victim) may choose the full monthly calculation, which if the worker (victim) died from an unrelated condition, the award would cease or the worker (victim) may choose an actuarially reduced monthly award which would provide for their dependents should they die from an unrelated condition.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						RCW 51.32.067 establishes three options for permanent total disability awards based on actuarial lifetime calculations. RCW 7.68.070(13) establishes a maximum award of \$40,000 for permanent total disability which is calculated based on statute, not actuarial tables. The two statutes conflict. For this reason the crime victims compensation program has administered their permanent total disability under RCW 7.68.070 (13), not RCW 51.32.-067. The purpose of this rule making is to clarify how CVC implements RCW 7.68.070(13).
WAC 296-30-010	Definitions	Janice Deal Crime Victims Compensation (360) 902-5369	6/4/03	To be determined	To be determined	RCW 7.68.070(17) authorizes a benefit of counseling for immediate family members of a homicide victim. The statute refers to "immediate near term consequences of the related effects of the homicide." Currently the crime victims compensation program has an internal policy defining the language of RCW 7.68.070(17). The crime victims compensation program is considering a rule to replace the internal policy.
Chapter 296-17 WAC	General reporting rules, classifications, audit and record keeping, rates and rating system for workers' compensation insurance	Ken Woehl Employer Services (360) 902-4775	1/8/03	7/1/03	9/30/03	Temporary staffing industry, amend rules applicable to the temporary help staffing industry for changes to the general reporting rules and classification definitions for greater clarity and ease of understanding.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-17 WAC	General reporting rules, classifications, audit and record keeping, rates and rating system for workers' compensation insurance	Ken Woehl Employer Services (360) 902-4775	2/19/03	8/12/03	11/11/03	Amend general reporting rules and classification definitions for multiple industries as contained in the classification plan. Includes codifying reciprocal agreements and extra-territorial coverages into rule form, ownership coverage, rule changes for greater clarity, and housekeeping changes.
Chapter 296-17 WAC	General reporting rules, classifications, audit and record keeping, rates and rating system for workers' compensation insurance	Ken Woehl Employer Services (360) 902-4775	6/17/03	9/16/03	11/18/03	2004' rates filing, for calendar year 2004, adjust the state fund insurance base rate table for loss experience, update retro rating tables for premium adjustments, and amend/develop rules as needed to address acts of terrorism and catastrophic losses resulting from acts of terrorism.
Chapter 296-17 WAC	General reporting rules, classifications, audit and record keeping, rates and rating system for workers' compensation insurance	Frank Romero Retrospective Rating (360) 902-4835	8/03	1/04	7/04	Retrospective rating program rules, update rule to allow use of paperless record management systems such as microfiche or imaging in lieu of maintaining paper copies of contracts. Add rule that covers disqualified employer participants and continued participation in previously approved group.
Chapter 296-17 WAC	General reporting rules, classifications, audit and record keeping, rates and rating system for workers' compensation insurance	Frank Romero Retrospective Rating (360) 902-4835	6/03	9/03	11/03	Retrospective rating program rules, add a new rule to cover acts of terrorism; update retro group size table to reflect 2004 rate change and amend retro plans to reflect a January 1, 2004, effective date. These changes will be included in the 2004 rates filing.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-15 WAC	Workers' compensation self-insurance rules and regulations	George Picket Self Insurance (360) 902-6907	7/19/02	9/1/03	11/1/03	Modifications in the following areas: Certification requirements, including both financial requirements and claims administration structure requirements, vocational reporting requirements, including ninety day employability assessment report and rehabilitation outcome reporting, reporting requirements when initiating and terminating time loss, submissions of protests, appeals and reopening requests to the department, time frames for payment of penalties, and jurisdiction for claim closure.
Chapter 296-20 WAC	Medical aid rules— Consultations	Jami Lifka Office of the Medical Director (360) 902-4941	9/03	1/04	5/04	The department may amend WAC 296-20-01002 and 296-20-051 to make them consistent with current procedural terminology's (CPT) definitions of consultations.
Chapter 296-20 WAC	Medical aid rules— Proper and necessary	Jami Lifka Office of the Medical Director (360) 902-4941	9/03	1/04	5/04	Pursuant to ESHB 1299 of the 2003 Laws, the department will coordinate with other state agencies to amend WAC 296-20-01002 to make the definition of "proper and necessary" consistent, where possible, to the other agencies' definitions of "medical necessity."
Chapters 296-20, 296-21, 296-23, and 296-23A WAC	Medical aid rules, reimbursement policies, specialty providers, hospitals	Jami Lifka Office of the Medical Director (360) 902-4941	10/03	1/04	4/04	The department may reorganize and renumber these chapters on medical aid rules, reimbursement policies, specialty providers and hospitals so that information is easier to find.
Chapter 296-14 WAC	Industrial insurance—Mortality assumptions	Valerie Grimm Policy and Quality Coordination (360) 902-5005	6/20/01	9/03	3/04	This rule making will provide updates to mortality assumptions used to determine pension reserves and actuarial benefit reductions.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	8/02	10/03	4/04	This rule making will provide clarification on how to determine a worker's employment pattern at the time of injury or on the date of disease manifestation for the purpose of calculating the worker's wage.
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	11/03	5/04	11/04	This rule making will provide definitions for terms used within chapter 296-14 WAC and will identify and move definitions currently in chapter 296-20 WAC that need to be placed in chapter 296-14 WAC, such as total temporary disability. The rule will include amendment of the definition of temporary partial disability.
Chapter 296-14 WAC	Industrial insurance	Valerie Grimm Policy and Quality Coordination (360) 902-5005	8/03	1/04	7/04	This rule making will provide clarification on: <ul style="list-style-type: none"> • The required elements of a valid transitional/light duty job offered from the employer of record. • What is expected of the employer and worker? • How to determine a worker's entitlement to time-loss compensation and loss of earning power benefits when a transitional/light duty job is offered.
Chapter 296-19A WAC	Vocational rehabilitation	Blake Maresh Health Services Analysis Program Analysis and Development (360) 902-6564	Summer/ Fall 2003	Fall/Winter 2003-04	Spring/Summer 2004	To make improvements to service delivery in the ability to work assessment (AWA) and plan phases of vocational rehabilitation, performance measurement, and overall emphasis on return to work (RTW) outcomes. Amendments to the qualifications rules may also be made.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
WAC 296-19A-045, 296-19A-080, and 296-19A-120	Vocational rehabilitation	Mary Kaempfe Health Services Analysis Program Analysis and Development (360) 902-6811	CR-105 Expedited Rule making Summer 2003	N/A	TBD 9/03	To make technical amendments to three sections of chapter 296-19A WAC as a result of public comments received on rules adopted May 12, 2003 (WSR 03-11-009). The department plans to use an expedited process so that the rules become effective in February 2004. The changes will clarify that progress reports must be issued every thirty days from the date of the electronic referral and add the term calendar days to the rule.
DIVISION: WASHINGTON INDUSTRIAL SAFETY AND HEALTH (WISHA)						
Chapter 296-24 WAC, General safety and health standards	Cranes—Bridge style, mobile, tower/portal and derricks	Kimberly Johnson Policy and Quality Coordination (360) 902-5008 Sally Elliott Policy and Quality Coordination (360) 902-5484	4/17/02	6/27/03	11/4/03	These rules are being rewritten and organized for clarity and ease of use. The project will include bridge style, mobile, tower/portal, and derricks.
Chapter 296-24 WAC, General safety and health standards	Cranes—Personnel, lifting, hoist and helicopters	Kimberly Johnson Policy and Quality Coordination (360) 902-5008 Sally Elliott Policy and Quality Coordination (360) 902-5484	8/5/03	12/16/03	3/04	These rules are being rewritten and organized for clarity and ease of use. The project will include personnel lifting, hoist, and helicopters.
Chapter 296-24 WAC, General safety and health standards	Lockout/tagout	Jim Hughes Policy and Quality Coordination (360) 902-4504 Sally Elliott Policy and Quality Coordination (360) 902-5484	5/6/03	11/19/03	3/16/04	The requirements relating to the control of hazardous energy (lockout/tagout) in chapter 296-24 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-24 WAC, General safety and health standards	Machine safety	Cindy Ireland Policy and Quality Coordination (360) 902-5522 Sally Elliott Policy and Quality Coordination (360) 905-5484	2/21/01	9/2/03	To be determined	The machine safety rules in chapter 296-24 WAC are being rewritten and organized for clarity and ease of use and assigned to a new chapter. The project will include requirements for all machines, saws and cutting heads, conveyors, food processing, mechanical power press, abrasive wheels, forging, and

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						other specific machinery. Some requirements are being updated and revised, therefore the department will complete a small business economic impact statement and cost benefit analysis.
Chapter 296-24 WAC, General safety and health standards	Powered industrial trucks	Jim Hughes Policy and Quality Coordination (360) 902-4504 Sally Elliott Policy and Quality Coordination (360) 902-5484	5/6/03	12/16/03	To be determined	The powered industrial truck (forklift) rules in chapter 296-24 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-24 WAC, General safety and health standards	Scaffolds	Carol Stevenson Policy and Quality Coordination (360) 902-4778 Sally Elliott Policy and Quality Coordination (360) 902-5484	1/21/03	12/16/03	To be determined	The scaffold rules in chapter 296-24 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-45 WAC, Safety standards for electrical workers	Electrical	Sally Elliott Policy and Quality Coordination (360) 902-5484	3/18/03	5/6/03	8/19/03	To eliminate confusion about the location of a standby employee (s) when required, length of a hot stick, describe what constitutes a multi-phase electrical feed, update national consensus standards, and to correct some references.
Chapter 296-62 WAC, General occupational health standards	Access to records	Sally Elliott Policy and Quality Coordination (360) 902-5484	2/4/03	9/19/03	1/04	The employee's or designated representative's request access to records rules from chapter 296-62 WAC are being rewritten and organized for clarity and ease of use and assigned to a new chapter.
Chapter 296-62 WAC, General occupational health standards	Confined spaces	Carol Stevenson Policy and Quality Coordination (360) 902-4778 Sally Elliott Policy and Quality Coordination (360) 902-5484	6/19/02	8/19/03	12/2/03	The confined space rules from chapter 296-62 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-62 WAC, General occupational health standards	Hazardous waste	Jim Hughes Policy and Quality Coordination (360) 902-4504 Sally Elliott Policy and Quality Coordination (360) 902-5484	4/26/00	6/27/03	10/7/03	The hazardous waste rules from chapter 296-62 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-62 WAC, General occupational health standards	Respiratory hazards	Kimberly Johnson Policy and Quality Coordination (360) 902-5008 Sally Elliott Policy and Quality Coordination (360) 902-5484	4/1/03	5/20/03	9/16/03	The controlling and identifying respiratory hazards rules from chapter 296-62 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-62 WAC, General occupational health standards	Respirators	Kimberly Johnson Policy and Quality Coordination (360) 902-5008 Sally Elliott Policy and Quality Coordination (360) 902-5484	5/22/02	3/28/03	9/16/03	The respirator rules from chapter 296-62 WAC are being rewritten for clarity and ease of use and assigned to a new chapter.
Chapter 296-307 WAC, Safety standards for agriculture	Cholinesterase monitoring	Cindy Ireland Policy and Quality Coordination (360) 902-5522	3/6/02	7/9/03	To be determined	The Washington State Supreme Court ruling, <i>Rios v. Dept of Labor and Industries</i> , ordered the department to initiate rule making on a mandatory cholinesterase monitoring program for agricultural pesticide handlers.
Chapter 296-800 WAC, Safety and health core rules	Sanitation	Cindy Ireland Policy and Quality Coordination (360) 902-5522 Sally Elliott Policy and Quality Coordination (360) 905-5484	6/3/03 Expedited Rule making CR-105	N/A	9/2/03	The sanitation rules from chapter 296-24 WAC are being rewritten for clarity and ease of use and adopted into the safety and health core rules. Additional housekeeping changes will be made.
DIVISION: SPECIALTY COMPLIANCE SERVICES						
Chapter 296-46B WAC	Electrical safety standards, administration, and installation	Ron Fuller (360) 902-5249 Josh Swanson (360) 902-6411	6/17/03 CR-105 Expedited Rule Filing	N/A	8/19/03	The purpose of this rule making is to make minor technical corrections, including: <ul style="list-style-type: none"> • Correct an inappropriate reference in WAC 296-46B-905 (9)(a); • Correct a fee that was inadvertently increased in WAC 296-46B-905(3); and

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						<ul style="list-style-type: none"> Correct compliance dates in WAC 296-46B-930 and 296-46B-950 to ensure consistency with the compliance schedule established in these rules.
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	8/19/03 CR-105 Expedited Rule Filing	N/A	10/21/03	The purpose of this rule making is to make changes to the prevailing wage rules (chapter 296-127 WAC) based on the enactment of chapter 301, Laws of 2003 (an act relating to job order contracting for public works - SSB 1788).
Chapter 296-200A WAC	Contractor certificate of registration renewals—Security—Insurance	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	6/20/01	7/22/03	8/28/03	The purpose of this rule making is to: <ul style="list-style-type: none"> Make changes resulting from the enactment of chapter 159, Laws of 2001 (SSB 5101); Review the rules for possible substantive changes; Review the rules for possible fee increases; and Make clarifying and housekeeping changes.
Chapter 296-400A WAC	Plumber certification rules	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	7/22/03	10/21/03	11/26/03	The purpose of this rule making is to: <ul style="list-style-type: none"> Make changes resulting from the enactment of chapter 399, Laws of 2003 (ESSB 5713); Review the rules for possible substantive changes; Review the rules for possible fee increases; and Make clarifying and housekeeping changes.
Chapter 296-46B WAC	Electrical safety standards, administration and installation	Ron Fuller (360) 902-5249 Josh Swanson (360) 902-6411	7/22/03	3/2/04	4/20/04	The purpose of this rule making is to: <ul style="list-style-type: none"> Make changes resulting from the enactment of chapter 399, Laws of 2003 (ESSB 5713); Make changes resulting from the enactment of chapter 242, Laws of 2003 (SSB 5434); Make changes resulting from the enactment of chapter 211, Laws of 2003 (ESB 5210);

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						<ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 78, Laws of 2003 (SHB 1848); • Review the rules for possible substantive changes; • Review the rules for possible fee increases; and • Make clarifying and housekeeping changes.
Chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC	Washington administrative codes for factory assembled structures	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	7/22/03	To be determined	To be determined	The purpose of this rule making is to: <ul style="list-style-type: none"> • Adopt the most recent international building codes based on 2003 legislative changes (chapter 291, Laws of 2003 - SHB 1734) and other nationally recognized codes and standards; • Make clarifying and housekeeping changes; and • Review the rules for possible substantive changes.
Chapter 296-104 WAC	Board of boiler rules—Substantive	Robert Marvin (360) 902-5270 Josh Swanson (360) 902-6411	6/3/03	8/6/03	10/1/03	The purpose of this rule making is to make clarification and technical changes to the Board of Boiler Rules—Substantive (chapter 296-104 WAC) based on actions and requests of the Board of Boiler Rules.
Chapter 296-400A WAC	Plumber certification rules	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	4/17/02	8/19/03	9/24/03	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 82, Laws of 2002 (ESHB 2470); • Review the rules for possible substantive changes; and • Make clarifying and housekeeping changes.
Chapter 296-127 WAC	Prevailing wage	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	7/19/00	8/19/03	9/24/03	The purpose of this rule making is to repeal and/or revise WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-125 WAC	Nonagricultural employment of minors	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	9/19/01	8/19/03	9/24/03	The purpose of this rule making is to review these rules for possible changes to ensure conformity with federal laws pertaining to employment of minors where those laws are more restrictive.
Chapter 296-127 WAC	Prevailing wage		7/19/00	9/16/03	10/15/03	The purpose of this rule making is to make substantive changes to the scope of work description rules that were adopted July 19, 2000 (WSR 00-15-077) with the assistance of an advisory committee. Clear rule-writing principles will be applied to these rules.
Chapter 296-96 WAC	Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances	Dotty Stanlaske (360) 902-6128 Josh Swanson (360) 902-6411	1/2/02	12/3/03	1/30/04	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 98, Laws of 2002 (SHB 2629) and chapter 143, Laws of 2003 (ESSB 5942); • Make substantive changes to the elevator rules that were adopted on 12/22/00 (see WSR 01-02-026); and • Make clarifying and housekeeping change.
Chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, 296-150V, 296-96, 296-200A, 296-46B, 296-104, and 296-400A WAC	Washington administrative codes for factory assembled structures; safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances; contractor certificate of registration renewals, security, insurance; electrical safety standards, administration and installation; board of boiler rules—Substantive; and plumbers certification rules.	Josh Swanson (360) 902-6411	5/6/03	To be determined	To be determined	The purpose of this rule making is to review the fees for possible changes.

MISC.

Carmen Moore
Rules Coordinator

WSR 03-15-012
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE
 [Memorandum—July 2, 2003]

The Olympic College board of trustees' regular meeting set for Tuesday, July 22, 2003, has been cancelled.

If you have any questions, please do not hesitate to contact Asantewa Antobam, at (360) 475-7102.

WSR 03-15-013
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—July 1, 2003]

Following are two revisions to the meeting schedule of the Edmonds Community College board of trustees. These will both be scheduled as special meetings.

August 14 has been rescheduled to August 8.

September 11 has been rescheduled to September 23.

WSR 03-15-014
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE
 [Memorandum—June 30, 2003]

The location of the regular July board meeting, July 14, 5:00 p.m., has been changed from 11042 SR 525, #138, Clinton to 2405 East College Way, Mount Vernon (board room).

WSR 03-15-016
POLICY STATEMENT
UNIVERSITY OF WASHINGTON
 [Filed July 8, 2003, 8:54 a.m.]

The University of Washington has recently revised the following policy statements:

UW Executive Order No. 61, "Policy for Addressing Allegations of Scientific and Scholarly Misconduct," revised effective May 14, 2003.

Administrative Policy Statement 15.1, "Accountability for Tax-Free Ethyl Alcohol," revised effective June 16, 2003.

Administrative Policy Statement 47.2, "Personal Use of University Facilities, Computers, and Equipment by University Employees," revised effective April 14, 2003.

University Handbook, Volume 2, Part II, Chapter 24, Section 24-34, "Qualifications for Appointment at Specific Ranks and Titles," revised effective June 5, 2003.

University Handbook, Volume 4, Part III, Chapter 11, Section 3, "Honors Awards," revised effective June 20, 2003.

To view UW Executive Orders and University Handbook sections, 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* web-

site: <http://www.washington.edu/admin/adminpro/APS/APSIndex.html> or, for paper copies, contact Rebecca Goodwin Deardorff, Director, Administrative Procedures Office, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203, by e-mail at adminpro@u.washington.edu, and by fax (206) 616-6294.

WSR 03-15-017
AGENDA
UNIVERSITY OF WASHINGTON
 [Filed July 8, 2003, 8:55 a.m.]

The University of Washington's
Semiannual Agenda for Rules Under Development
(Per RCW 34.05.314)
July 2003

1. Rule making continues for chapter 478-04 WAC, Organization, during the second half of 2003.

2. Rule making will begin for WAC 478-136-030 Limitations on use, from chapter 478-136 WAC, Use of University of Washington facilities, during the second half of 2003.

3. Rule review for chapter 478-124 WAC, General conduct code for the University of Washington, is rescheduled for the second half of 2003.

4. Rule review for chapter 478-138 WAC, Use of university stadium boat moorage facilities, is scheduled for the second half of 2003.

5. Rule making for a new chapter concerning shared facilities at the University of Washington, Bothell and Cascadia Community College colocated campus is anticipated during the second half of 2003 or first half of 2004.

For more information concerning the above rules under review or development contact Rebecca Goodwin Deardorff, Director, Administrative Procedures Office, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6302, campus mail Box 355509, phone (206) 543-9199, fax (206) 616-6294, or e-mail adminpro@u.washington.edu.

WSR 03-15-018
OFFICE OF THE GOVERNOR
 [Filed July 8, 2003, 8:57 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 July 1, 2003, the Governor received an administrative appeal submitted by William H. Wright regarding the denial of his appeal to the Transportation Commission of changes made to WAC 468-300-010, 468-300-020, 468-300-040, 468-300-200, and 468-300-700 relating to ferry fares dated March 2003.

DATE: July 3, 2003

Jennifer Joly
General Counsel
to the Governor

WSR 03-15-031
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 9, 2003, 10:59 a.m.]

In accordance with RCW 34.05.230(12), following is a list of Policy and Interpretive Statements issued by the department in February 2003.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

LABOR AND INDUSTRIES POLICY
AND INTERPRETIVE STATEMENTS

Insurance Services Division
Health Service Analysis Program

Provider Bulletin 03-02 effective February 19, 2003, for state fund and self-insurance claims.

1. Coverage of Autologous Chondrocyte Implantation (ACI). ACI is a covered procedure for selected patients who meet specific criteria. Physicians must request authorization prior to conducting the procedure.

The surgical procedure is used to treat patients with cartilaginous defects of the femoral condyle. The ACI process involves:

- Obtaining healthy chondrocyte cells from a patient's knee.
- Culturing the cells through a process termed Carticel.
- Implanting the cultured chondrocytes back into the patient via a surgical procedure.

2. Coverage of Meniscal Allograft Transplantation. Meniscal allograft transplantation is a covered procedure for selected patients who meet specific criteria. Physicians must request authorization prior to conducting the procedure.

The surgical procedure involves grafting a donor meniscus into the knee of a patient who has failed a previous meniscal repair procedures for meniscectomy. The replacement meniscus may help reestablish load bearing, shock absorption, and joint stability.

3. Noncoverage of Microprocessor-controlled Prosthetic Knees. Microprocessor-controlled prosthetic knees, such as the Otto Bock C-Leg, Endolite Intelligent Prosthesis Plus, or Endolite Adoptive Prosthesis, are not covered devices at this time.

Microprocessor-controlled prosthetic knees for above-the-knee amputees use computers to enhance basic mechanical knee designs. They are intended to facilitate amputee response to changing conditions while ambulating. How-

ever, the small number of studies on computerized knee prostheses does not substantially show the devices' effectiveness for:

- Reducing energy expenditure.
- Improving ability to walk on uneven ground.
- Improving ability to climb and descend stairs.
- Increasing walking distance.

4. Noncoverage of the UniSpacer. The UniSpacer is not a covered device at this time because of an absence of clinical data and published literature regarding its safety and efficacy.

The UniSpacer is a small, kidney shaped insert made of cobalt chrome for patients with early stage osteoarthritis of the knee. The UniSpacer is intended to relieve pain and to improve joint stability by restoring ligament tension and normal knee alignment.

CONTACT PERSON (for a copy of the Provider Bulletin):
Grace Wang, MS 4321, phone (360) 902-4206.

Carmen Moore, Rules Coordinator
Legislative and Governmental Affairs Office

WSR 03-15-036
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE
[Memorandum—July 2, 2003]

The board of trustees of Bates Technical College has rescheduled its regularly scheduled meeting of July 16, 2003, to July 17, 2003. The regular meeting will begin at 3:00 p.m. in the Clyde Hupp Board Room, Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405.

If you have any questions, please feel free to contact Sally Cofchin.

WSR 03-15-037
POLICY STATEMENT
WASHINGTON STATE LOTTERY
[Filed July 9, 2003, 3:06 p.m.]

The Washington lottery has recently adopted or revised the following policies:

POL 220.016 - State-Sponsored Charge Cards (Revision)

To the sentence that said using the card inappropriately (for nonstate related travel expenses or allowing other individuals to use the card) may result in corrective or disciplinary action, added that the action can include loss of card privileges.

Signed February 5, 2003.

POL 230.006 - Receiving, Activating and Settling Scratch Tickets (Revision)

Now the lottery automatically puts packs of tickets into settled status when the pack has been in activated status for more than fifty days, or has had 80% of the low-tier prizes in

the pack validated, whichever comes first, regardless if all tickets have been sold.

Also, rather than saying retailers with tickets in received status more than ninety days will not receive any additional stock unless the director of sales approves it, stock will continue to be sent unless the director of sales determines circumstances justify not sending any more tickets.

Signed February 7, 2003.

POL 230.008 - Scratch Ticket Full Pack Returns (Revision)

Corrected the language re: The lottery recommending that retailers return packs of tickets to the lottery that they have not activated within thirty days of receipt, to those packs not activated within sixty days of receipt. (Thirty days was an incorrect note - POL 230.006 already said sixty days.) Updated titles.

Signed February 6, 2003.

POL 230.009 - Changing the Status of Scratch Ticket Packs (Revision)

Added that only full packs can be returned from settled to activated and activated to received.

Included the information that we automatically put packs of tickets in settled status fifty days after activation or when 80% of the low-tier prizes in the pack have been validated, whichever comes first, regardless if all tickets have been sold.

Signed February 6, 2003.

POL 310.017 - Installing/Repairing In-Counter Dispensers (Revision)

The reimbursement rates were updated. Regional sales managers can now approve reimbursements for higher than the standard rate. The procedure was removed.

Signed March 13, 2003.

POL 320.075 - Conducting the Lucky for Life Second Chance Drawing Event (Revision)

For the second event, the sealed container with the keys was Fed Ex'd to Region 1 for safekeeping before the event. Administrative services did not send a representative to the event. Using a test lock, the finalists walked through the door/lock procedures before the event. Keys were retested in the lock after the event.

Signed February 7, 2003.

POL 320.080 - Prize Payments for Scratch Game 444-Monthly Bonus (New)

This new policy outlines guidelines for paying prizes of Game 444-Monthly Bonus. Winners have the option of receiving a one-time payment, or receiving \$5,000 a month for two years. It lists specific information on how the prizes are paid and what happens if the winner dies before receiving the full payment. It also lists the responsibilities of customer service and regional designees, the information services director or designee, and the general accounting supervisor or designee/customer service supervisor or designee.

Signed February 4, 2003.

POL 320.081 - Prize Payments for "Monthly Bonus" Scratch Tickets (New)

Similar to 320.080 above, but is not specific to Game 444; applies to all "Monthly Bonus" Scratch tickets (after Game 444).

Signed April 7, 2003.

POL 320.082 - Mega Millions "Shopping Spree" Promotion (New)

This policy established guidelines for awarding a bonus prize to a player who purchased a \$5 Mega Millions Ticket as a single transaction during each week of the 4-week promotional period (June 1, 2003, through 7:45 p.m. June 29). In addition, the retailers who sold the tickets that generated the winning bonus tickets, received \$5,000.

Signed June 3, 2003.

POL 320.083 - Corvette® Cash Retailer Promotion (New)

For each top prize (Corvette® convertible) from Game 453 - Corvette® Cash, that is claimed at a lottery office, the retailer who sold the ticket will receive \$1,000.

Signed May 28, 2003.

POL 420.017 - Commuting Incentives (New)

This policy encourages employees to commute to work in other than a single-occupancy vehicle by offering an incentive. To qualify, at least 50% of the commute must be via other than a single-occupancy vehicle, and the employee must commute by a means other than a single-occupancy vehicle at least 50% of the days worked during the month. The employee receives \$2 for each day the alternative means was used. The incentive pay is included in the employee's taxable income. Employees who commute in state-owned vehicles (even if occupied by more than one person) do not qualify for an incentive.

Signed February 12, 2003; updated March 13, 2003 (to clarify salient points).

To receive a copy of these policies, contact Joan Reuell, Washington Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4818, fax (360) 664-4817.

WSR 03-15-040

**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER**

[Memorandum—July 9, 2003]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday, July 15, 2003, at 2:00 p.m.** in Room 3B of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

MISC.

WSR 03-15-046**NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF**

[Memorandum—July 8, 2003]

The Washington School for the Deaf Board will hold a retreat at the Wyndham Hotel, 18118 Pacific Highway South, Seattle, on July 27-28, 2003.

WSR 03-15-055**NOTICE OF PUBLIC MEETINGS
GUARANTEED EDUCATION
TUITION PROGRAM**

[Memorandum—July 11, 2003]

In accordance with RCW 4230075 [42.30.075], The Advanced College Tuition Program, known as Guaranteed Education Tuition Program has rescheduled the regular GET committee meeting scheduled for August 4, 2003, to August 1, 2003. The meeting is located in the Washington State SIB Board Room and will be from 10 a.m. - 12 p.m.

If anyone wishes to request disability accommodations, notice should be given to the Guaranteed Education Tuition Program at least ten days in advance of the meeting in question. Notice may be given by any of the following methods: Voice (360) 753-7860, TDD (360) 753-7809, or fax (360) 704-6260.

WSR 03-15-056**OFFICE OF THE GOVERNOR**

[Filed July 14, 2003, 10:43 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 July 7, 2003, the Governor received a petition for review of an emergency rule adopted by the Department of Social and Health Services, Health and Rehabilitative Services Administration and submitted by the City of Lynnwood.

DATE: July 10, 2003

Jennifer Joly
General Counsel
to the Governor

WSR 03-15-057**NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE**

[Memorandum—July 10, 2003]

The Walla Walla Community College board of trustees (District No. 20) will hold a special meeting (**retreat**) on Wednesday, July 16, 2003, at 9 a.m. The meeting will be held at the Strawberry Canyon Lodge, 9052 Mill Creek Road, Walla Walla, WA 99362.

The board of trustees will not hold a regular meeting the month of July.

WSR 03-15-058**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Commission on Pesticide Registration)**

[Memorandum—July 10, 2003]

**REGULAR MEETING DATES FOR
WASHINGTON STATE COMMISSION ON PESTICIDE REGIS-
TRATION**

The Washington State Commission on Pesticide Registration has determined a schedule for the fiscal year 2004. Per RCW 42.30.075, we are making this schedule available to the public through your office.

SCHEDULE FOR FISCAL YEAR 2004:

Tuesday September 9, 2003	Anacortes, Washington Fidalgo Country Inn
Wednesday - Thursday October 22-23, 2003	Yakima, Washington location to be determined
Tuesday - Wednesday January 13-14, 2004	Portland, Oregon location to be determined
Wednesday March 10, 2004	Pasco, Washington Franklin County PUD
Wednesday May 12, 2004	Moses Lake, Washington State Potato Commission Office

Meetings commence at 10:00 a.m. and are open to the public.

Proposals are accepted throughout the year but must be received thirty days prior to the meeting at which they will be presented. October and January meetings have been designated to hear proposals. A mechanism is in place to accept emergency requests at any time.

Examples available: <http://www.wscpr.org>. For information, call (509) 266-4305.

Should you have any further questions in regard to WSCPR proposals or meeting specifics, please contact Alan Schreiber, 2621 Ringold Road, Eltopia, WA 99330, aschreib@centurytel.net; or Amie Fowler, 2621 Ringold Road, Eltopia, WA 99330, atodd@centurytel.net.

WSR 03-15-070

DEPARTMENT OF AGRICULTURE

[Filed July 15, 2003, 12:55 p.m.]

PUBLIC NOTICE FOR SPARTINA TREATMENT IN WESTERN WASHINGTON

LEGAL NOTICE

The Washington State Department of Agriculture (WSDA) Plant Protection Division is hereby notifying the affected public that the herbicide Glyphosate (Rodeo® or Aquamaster®), 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 glyphosate to control the noxious weed Spartina on the saltwater tideflats of Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, and the north and west sides of the Olympic Peninsula.

Use of the herbicide, glyphosate, is one of the options used to control Spartina. These infestations may also be treated by 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 03-15-071

NOTICE OF PUBLIC MEETINGS

WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

[Memorandum—July 14, 2003]

BOARD RETREAT
JULY 30-31, 2003

Red Lion Hotel Vancouver at the Quay
100 Columbia Street
Vancouver, WA
(360) 750-4928

July 30, 2003

The Workforce Training and Education Coordinating Board will hold a retreat on July 30-31, 2003, at the Red Lion Hotel Vancouver Quay, 100 Columbia Street, Vancouver, WA. The board will take action on the Workforce Investment Act Section 503 Grant allocations to local areas.

9:30 a.m. to 5:00 p.m. Board retreat.

7:00 p.m. - 9:00 p.m. Informal dinner at Beaches Restaurant (no action will be taken).

July 31

8:30 a.m. to 1:30 p.m. Second day of the retreat.

People needing special accommodations please call Mary Reister at least ten days in advance at (360) 753-5660, e-mail mreister@wtb.wa.gov.

WSR 03-15-073

RULES OF COURT

STATE SUPREME COURT

[July 10, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF NEW GR 31) NO. 25700-A-772

The JIS Committee having recommended the adoption of proposed New GR 31, and the Court having approved the proposed new rule for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed new rule as attached hereto is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(d), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either 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 10th day of July 2003.

For the Court

Gerry L. Alexander

CHIEF JUSTICE

GR 31

ACCESS TO COURT RECORDS RULE

Purpose: The suggested access to court records rule sets forth the guidelines for access to court records in all state, district, and municipal courts in Washington. This rule informs and instructs the courts, practitioners, and the public about access to court records. The eventual placement of court records on public websites necessitates the adoption of this rule. The rule was developed with the understanding that courts are public institutions and that most court records

MISC.

should be available for public inspection whether the records are obtained at the court house or through the internet. However, the rule does recognize that certain court proceedings are not publicly accessible and records from these proceedings should not be available to the general public.

The rule was drafted by the data dissemination subcommittee of the JISC and approved by the JISC. The suggested rule contains a purpose section, scope section, definition section, and authorization section. It also indicates which records are accessible to the public and regulates the distribution of bulk and compiled court records. The suggested rule instructs the Administrative Office of the Courts to develop methods to notify the public of the accessibility of court records along with restrictions on accessibility. Finally, the suggested rule contains an appeals section.

GR 31

ACCESS TO COURT RECORDS

(a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy and not unduly burden the business of the courts.

(b) Scope. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a court record.

(2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation.

(4) "Compiled information" means information that is derived from the selection, aggregation, or reformulation by the court of some of the information from more than one individual court record.

(5) "Court record" includes, but is not limited to: i) Any document, information, or other thing that is collected, received, or maintained by a court in connection with a judicial proceeding. ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(6) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(7) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(8) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(9) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(10) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(11) "Public purpose agency" means governmental agencies included in the definition of "agency" in RCW 42.17.020 and other non-profit organizations whose principal function is to provide services to the public.

(d) Access.

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Except for cases that are sealed, confidential, or closed by statute, there shall be a publicly accessible indication of the existence of a court record to which access has been restricted. The publicly accessible indication shall not disclose the substance of the protected court record, including personal identifying information.

(3) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(e) Personal Identifiers Omitted or Redacted from Court Records

(1) Parties shall refrain from including, or shall redact, the following personal identifiers from their pleadings, whether filed electronically or on paper, unless otherwise ordered by the Court.

(A) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number should be used.

(B) Names of Minor Children. If the involvement of a minor child must be mentioned, only that child's initials should be used, unless otherwise necessary.

(C) Financial Account Numbers. If financial account numbers are relevant, only the last four digits should be recited in the document.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or

the Clerk will not review each pleading for compliance with this rule.

(f) Distribution of Court Records Not Publicly Accessible

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: i) the extent to which access will result in efficiencies in the operation of the judiciary; ii) the extent to which access will fulfill a legislative mandate; iii) the extent to which access will result in efficiencies in other parts of the justice system; and iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f)(1), the requestor has executed a dissemination contract that includes terms and conditions which: i) require the requester to specify provisions for the secure protection of any data that is confidential; ii) prohibit the disclosure of data in any form which identifies an individual; iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: i) specify the data to which access is granted; ii) specify the uses which the agency will make of the data; and iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) Bulk and Compiled Distribution of Court Records

(1) A disclaimer approved by the JIS Committee must accompany all bulk or compiled distribution of court records.

(2) A request for bulk distribution of court records or for compiled information may be denied if providing the information will create an undue burden on court operations

because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(3) The use of court records, distributed in bulk or in compiled form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) Notice. The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(i) Appeals. Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

**WSR 03-15-074
RULES OF COURT
STATE SUPREME COURT
[July 10, 2003]**

IN THE MATTER OF THE ADOP-) ORDER
TION OF NEW GR 30) NO. 25700-A-773

The JIS Committee having recommended the adoption of proposed New GR 30, and the Court having considered the new rule and comments submitted thereto, and having determined that the proposed new rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby ORDERED:

(a) That the proposed new rule as attached hereto is adopted.

(b) That the new rule will be published in the Washington Reports and will become effective September 1, 2003.

DATED at Olympia, Washington this 10th day of July 2003.

	Alexander, C.J.
_____ Johnson, J.	_____ Bridge, J.
_____ Madsen, J.	_____ Chambers, J.
_____ Sanders, J.	_____ Owens, J.
_____ Ireland, J.	_____ Fairhurst, J.

GR 30
ELECTRONIC FILING

GR 30.1 Definitions

(a) "Electronic Filing" is the electronic transmission of information to a court or clerk for case processing.

(b) "Electronic Document" is an electronic version of information traditionally filed in paper form, except for documents filed by facsimile which are addressed in GR 17.

(c) "Electronic Filing Technical Standards" are those standards adopted by the Judicial Information System Committee to implement electronic filing.

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GR 30.2 Electronic filing authorization, exception, service, and technology equipment.

(a) The clerk may accept for filing an electronic document that complies with the Court Rules and the electronic filing technical standards.

(b) A document that is required by law to be filed in non-electronic media may not be electronically filed.

COMMENT: Certain documents are required by law to be filed in non-electronic media. Examples are original wills, certified records of proceedings for purposes of appeal, negotiable instruments, and documents of foreign governments under official seal.

(c) Electronic Transmission from the Court. The clerk may electronically transmit notices, orders, or other documents to the party filing electronically, and to any other person who agrees to accept electronic documents from the court.

(d) Electronic Service by Parties. Parties may electronically serve documents on other parties of record only by agreement.

(e) Electronic filing is voluntary. An attorney, party, court, or clerk is not required to accept or file electronic documents.

GR 30.3 An electronic document has the same legal effect as a paper document.

GR 30.4 Time of Filing, Confirmation, and Rejection.

(a) An electronic document is filed when it is received by the clerk's designated computer during the clerk's business hours; otherwise the document is considered filed at the beginning of the next business day.

(b) The clerk shall issue confirmation to the filing party that an electronic document has been received.

(c) The clerk may reject a document that fails to comply with the court's filing requirements. The clerk must notify the filing party of the rejection.

GR 30.5. Authentication of Electronic Documents

(a) A person seeking to file or authenticate an electronic document must first apply either to the Administrative Office of the Courts or a clerk, approved by the Administrative Office of the Courts, for a password and personal identification number.

(b) All electronic documents must be filed using the password and personal identification number authorized in subsection (a). An electronic document is presumed to have been signed and authorized when the filer uses the authorized password and personal identification number to file the electronic document. The password and personal identification number cannot be used by, or on behalf of, anyone other than the person to whom it is assigned.

(c) A document that is required by law to be executed under penalty of perjury must be electronically authenticated by the affiant/declarant using the affiant/declarant's password and personal identification number authorized in subsection (a). The document must conform to the oath language requirements set forth in RCW 9A.72.085 and GR 13.

(d) An electronic document filed in accordance with this rule shall bind the Signatory and function as the Signatory's signature for any purpose, including CR 11. An electronic document shall be deemed the equivalent of an original

signed document if the filer and the affiant/declarant have complied with this rule.

GR 30.6. Filing fees, electronic filing fees.

(a) The clerk is not required to accept electronic documents that require a fee. If the clerk does accept electronic documents that require a fee, the local courts must develop procedures for fee collection that comply with the payment and reconciliation standards established by the Administrative Office of the Courts and the Washington State Auditor.

(b) Anyone entitled to waiver of non-electronic filing fees will not be charged electronic filing fees. The court or clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to non-electronic filing and filing fees.

WSR 03-15-075
RULES OF COURT
STATE SUPREME COURT
[July 10, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO APR 12,) NO. 25700-A-774
REGULATIONS 9, 11, 14, 15 AND 16)

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 12, Regulations 9, 11, 14, 15 and 16, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments to APR 12, Regulations 9, 11, 14, 15 and 16, will be published in the Washington Register, Washington State Bar Association and Administrative Office of the Court's websites and, in addition to the above, the amendment to APR 12 will also be published in the Washington Reports and is to become effective immediately.

DATED at Olympia, Washington this 10th day of July 2003.

Alexander, C. J.

Johnson, J.

Bridge, J.

Madsen, J.

Chambers, J.

Sanders, J.

Owens, J.

Ireland, J.

Fairhurst, J.

MISC.

SUGGESTED AMENDMENTS

REGULATIONS OF THE APR 12 LIMITED PRACTICE BOARD

REGULATION 1: IN GENERAL. [No change].

REGULATION 2: APPLICATION. [No change].

REGULATION 3: APPROVAL OR DENIAL OF APPLICATION. [No change].

REGULATION 4: DENIAL OF APPLICATION - RIGHT OF APPEAL. [No change].

REGULATION 5: ADMINISTRATION OF EXAMINATION. [No change].

REGULATION 6: EXAMINATION STANDARDS AND NOTIFICATION OF RESULTS. [No change].

REGULATION 7: REAPPLICATION FOR EXAMINATION. [No change].

REGULATION 8: CERTIFICATION OF RESULTS TO SUPREME COURT; OATH. [No change].

REGULATION 9: ANNUAL FEE

A. [No change].

B. The prorated annual fee for LPOs who pass the qualifying examination given in the spring and who request active status prior to July 1 of that same calendar year shall be \$40. LPOs shall pay the annual fee set forth in Regulation ~~10~~ 9 (A) to retain their active status after June 30 of the calendar year of their admission.

C. [No change].

REGULATION 10: REINSTATEMENT AFTER SUSPENSION FOR NONPAYMENT OF ANNUAL FEE. [No change].

REGULATION 11: FINANCIAL RESPONSIBILITY

Each LPO shall either be insured or covered under the financial statement of an employer or employer's parent company or other surety at all times as specified in Regulation 9 ~~8~~. If the LPO is covered under a financial statement, the LPO, employer, employer's parent company or other surety who has assumed such financial responsibility shall annually file with the Limited Practice Board, by July 1, the audited financial statement for the most-recent fiscal year of the financially responsible party indicating net worth.

Each LPO shall notify the Limited Practice Board of any cancellation or lapse in coverage. During any period that an LPO is not covered in accordance with these Regulations, or is not on inactive status pursuant to Regulation ~~14~~ 13, the license of the LPO shall be suspended. Each suspended LPO must demonstrate compliance with the requirements of Regulation ~~9~~ APR 12 within nine (9) months of the date of the suspension or the license of the suspended LPO will be revoked.

REGULATION 13: INACTIVE STATUS. [No change].

REGULATION 14: VOLUNTARY CERTIFICATION CANCELLATION

Any Limited Practice Officer may voluntarily surrender the LPO certificate by notifying the Limited Practice Board in writing of the desire to cancel and returning the LPO cer-

tificate with the request. The Limited Practice Board will notify the LPO of the effective date of the cancellation.

The former LPO shall then promptly notify by registered or certified mail, return receipt request, all clients being represented in pending matters, of the certification cancellation and the consequent inability to act as a Limited Practice Officer.

After entry of the cancellation order, the former LPO shall not accept any new clients or engage in work as an LPO in any matter.

Within ten (10) days after the effective date of the cancellation order, the former LPO shall file with the Limited Practice Board an affidavit showing:

1. The former LPO has fully complied with the provision of the order and with these Regulations;

2. The residence or other address of the former LPO for purposes of mailing or for service of process; and

3. Attaching to the affidavit a copy of the form of letter of notification sent to clients being represented in pending matters, together with a list of the names and addresses of all clients to whom the notice was sent.

The Board will cause a notice of the cancellation to be published in the Escrow Association of Washington newsletter and a newspaper of general circulation in the county in which the former LPO worked.

REGULATION 15: CHANGE IN STATUS

When an LPO is demonstrating financial responsibility by 1) an endorsement on the employer's Errors and Omissions insurance policy, or 2) submission of the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Limited Practice Board shall notify the employer when the LPO is transferred to one of the following statuses: inactive status, voluntary certification, cancellation, disability inactive status, or the license is suspended or revoked.

REGULATION 16: LPO NAME, SIGNATURE, AND NUMBER REQUIRED ON DISCLOSURE FORM

The documents, selected, prepared, and/or completed by the LPO shall be particularly identified on a disclosure which shall also include the name, signature, and number of the LPO.

REGULATION 17 RECORDS DISCLOSURE. [No change].

REGULATION 18: NOTICE AND FILING; ADMINISTRATION. [No change].

REGULATION 19: AMENDMENT. [No change].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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 03-15-076
RULES OF COURT
STATE SUPREME COURT
[July 11, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CrR 2.2, CrR) NO. 25700-A-775
3.3, CrR 4.1, JuCR 7.8, CrRLJ 2.2, CrRLJ)
3.3 AND CrRLJ 4.1)

The Board for Judicial Administration having recom-
mended the adoption of the proposed amendments to CrR
2.2, CrR 3.3, CrR 4.1, JuCR 7.8, CrRLJ 2.2, CrRLJ 3.3 and
CrRLJ 4.1, and the Court having considered the amendments
and comments submitted thereto, and having determined that
the proposed amendments will aid in the prompt and orderly
administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the Wash-
ington Reports and will become effective September 1, 2003.

DATED at Olympia, Washington this 11th day of July
2003.

Alexander, C.J.

Johnson, J.

Bridge, J.

Madsen, J.

Chambers, J.

Sanders, J.

Owens, J.

Ireland, J.

Fairhurst, J.

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 03-17 issue of the Register.

WSR 03-15-077
RULES OF COURT
STATE SUPREME COURT
[July 11, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO RAP 18.1(b)) NO. 25700-A-776

The Court having determined that a proposed amend-
ment to RAP 18.1(b) will aid in the prompt and orderly
administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That the amendment will be published in the Wash-
ington Reports and will become effective September 1, 2003.

DATED at Olympia, Washington this 11th day of July
2003.

Alexander, C.J.

Johnson, J.

Bridge, J.

Madsen, J.

Chambers, J.

Sanders, J.

Owens, J.

Ireland, J.

Fairhurst, J.

RAP 18.1
ATTORNEY FEES AND EXPENSES

(a) Generally. If applicable law grants to a party the
right to recover reasonable attorney fees or expenses on
review before either the Court of Appeals or Supreme Court,
the party must request the fees or expenses as provided in this
rule, unless a statute specifies that the request is to be directed
to the trial court.

(b) Argument in Brief. The party must devote a section
of the its opening brief to the request for the fees or expenses.
Requests made at the Court of Appeals will be considered as
continuing requests at the Supreme Court. The request
should not be made in the cost bill. In a motion on the merits
pursuant to rule 18.14, the request and supporting argument
must be included in the motion if the requesting party has not
yet filed a brief.

(c) - (j) Unchanged.

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

WSR 03-15-078

AGENDA

OFFICE OF THE
INTERAGENCY COMMITTEE

(Interagency Committee for Outdoor Recreation)

(Salmon Recovery Funding Board)

[Filed July 16, 2003, 2:33 p.m.]

SEMIANNUAL RULE DEVELOPMENT AGENDA
Interagency Committee for Outdoor Recreation (IAC)
Salmon Recovery Funding Board (SRFB)

To comply with RCW 34.05.314, IAC/SRFB has pre-
pared the following agenda for rules under development. As
required, filing will be made with the code reviser for publi-
cation in the State Register by January 31 and July 31 each
year. Within three days of publication, IAC/SRFB will pro-
vide copies to each person so requesting, the director of the
Office of Financial Management, the rules review committee,
and other state agencies that may reasonably be expected to
have an interest in this subject.

Contact Greg Lovelady, Rules Coordinator, (360) 902-
3008, GregL@IAC.WA.GOV.

Subject of possible rule making	Reasons why rules on this subject may be needed and what might be accomplished
286-26-100 NOVA Program.	1. Acquisition projects-reduce the minimum land acquisition lease period for consistency with the recently adopted NOVA plan. 2. Development projects-revise outdated IAC-federal agency master agreement provisions.
286-13-085(2) Retroactive and increased costs.	Authorizes IAC's director to grant a waiver of retroactivity (provides approval to incur reimbursable costs) for development costs when state budget office directives suspend or otherwise delay grant program funding. Without this amendment, the standard rule prohibits reimbursement for certain expenditures or costs incurred without prior IAC approval.

Greg Lovelady
Rules Coordinator

WSR 03-15-079
RULES OF COURT
STATE SUPREME COURT
[July 15, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO RPC 6.1) NO. 25700-A-777

The Washington State Bar Association having recommended the adoption of the proposed amendment to RPC 6.1, and the Court having considered the amendment and comments submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That the amendment will be published in the Washington Reports and will become effective September 1, 2003.

DATED at Olympia, Washington this 15th day of July 2003.

Alexander, C.J.

Johnson, J.

Bridge, J.

Madsen, J.

Chambers, J.

Owens, J.

Ireland, J.

Fairhurst, J.

RULES OF PROFESSIONAL RESPONSIBILITY (RPC)

RPC 6.1 PRO BONO PUBLICO SERVICE

[CURRENT RULE]

~~RPC 6.1 Pro Bono Publico Service. A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.~~

[PROPOSED AMENDMENTS]

The legal profession Every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year. In fulfilling this responsibility, the lawyers should:

(a) provide legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civil, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide pro bono publico service through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civil, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

~~In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.~~

Pro bono publico service may be reported on the annual fee statement furnished to the WSBA. Lawyers rendering a minimum of fifty (50) hours of pro bono publico service shall receive a recognition award for such service from the WSBA.

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.

MISC.

WSR 03-15-081

DEPARTMENT OF ECOLOGY

[Filed July 16, 2003, 4:05 p.m.]

**Ecology to Rewrite and Reissue Water Treatment Plant
General Permit**

The Washington State Department of Ecology (ecology) is beginning a process to update and reissue the water treatment plant general permit (WTP GP). The WTP GP is issued in compliance with the national pollutant discharge elimination system (NPDES), the Clean Water Act, and state law governing wastewater discharges. This permit authorizes the discharge of filter backwash from water treatment plants subject to the terms and conditions of the permit. This permit applies only to discharges to surface waters. A final draft permit is targeted for December 2003.

The current permit was issued on December 3, 1997, and expired on February 1, 2003. The permit has been administratively extended for those facilities with permit coverage. The rewrite of the permit will consider what was learned from data collection and site inspections during the first five years of the permit. The rewrite will consider the potential of discharges from these facilities to violate water quality standards and whether there are any changes in the industry standard for wastewater treatment prior to discharge.

The WTP GP is a statewide permit providing permit coverage for thirty water treatment plants. Water treatment plants under this permit treat water through filtration processes producing a finish water for drinking or for industrial activities. The filtration process removes dirt, organics, microorganisms, and other impurities, trapping this material in the filter. The filters must periodically be backflushed to remove the trapped material restoring filtration capacity. The wastewater from this industry is composed of the backflush water and periodic cleaning of any pretreatment chambers or devices. Potential pollutants include the dirt, organics, microorganisms and other impurities removed during filtration as well as additives. Additives may include chlorine, chemicals to adjust pH, and chemicals that enhance the removal of impurities in the water.

Parties interested in receiving information on the reissue process and participating in the rewrite should contact ecology through Keith Johnson, e-mail kjoh461@ecy.wa.gov, phone (360) 407-6442, Department of Ecology, P.O. Box 47600, Olympia, WA 98504; or Carey Cholski, e-mail cgru461@ecy.wa.gov, phone (360) 407-6279, Department of Ecology, P.O. Box 47775, Olympia, WA 98504.

Additional information on the current WTP GP, the fact sheet for the 1997 permit and ongoing releases of information on the reissue process and issues can be found on ecology's web page at <http://www.ecy.wa.gov/programs/wq/wtp>.

Ecology is an equal opportunity agency. If you have special accommodation needs or require information in an alternative format, please contact Keith Johnson at (360) 407-6442 or TDD (only) - (360) 407-6006.

WSR 03-15-089

OFFICE OF
REGULATORY ASSISTANCE

[Filed July 18, 2003, 9:42 a.m.]

Chapter 393, Laws of 2003, allows a project to request a designation as a "qualifying project" for purposes of appeal and review of permit decisions. Section 4 of the act requires the Office of Permit Assistance, now the Office of Regulatory Assistance, to provide notice of such designation to the code reviser for publication in the Washington State Register.

The following project has requested and been granted a designation as a qualifying project: Buckhorn Mountain Mine Project, Crown Resources Corporation, P.O. Box 1988, Oroville, WA 98844.

Claire Hesselholt
Director

WSR 03-15-091

POLICY STATEMENT
DEPARTMENT OF ECOLOGY

[Filed July 18, 2003, 3:12 p.m.]

Policy Statement

The following represents the Department of Ecology's policy regarding the limitations, and proper use of the Stormwater Management Manual for Western Washington (August 2001).

The Stormwater Management Manual for Western Washington is Not a Regulation: The manual does not have any independent regulatory authority and it does not establish new environmental regulatory requirements or standards. The manual is a guidance document which provides local governments, state and federal agencies, developers and project proponents with a set of stormwater management practices to assist in the design of stormwater site or pollution prevention plans. Other stormwater technical guidance documents have been prepared or approved by ecology, and the current list of approved stormwater technical guidance documents can be found on ecology's website, at <http://www.ecy.wa.gov>. If these practices are implemented correctly, ecology believes they should result in compliance with existing regulatory requirements for stormwater - including compliance with the Federal Clean Water Act, Federal Safe Drinking Water Act and State Water Pollution Control Act.

Presumptive vs. Demonstration Approach: Following the manual (the presumptive approach) or other technical guidance documents approved by ecology, is not the only way to properly manage stormwater runoff. The manual or other stormwater technical guidance documents approved by ecology, are intended to provide project proponents, regulatory agencies and others with technically sound stormwater management practices which are *presumed* to protect water quality and satisfy the state AKART requirement. All project proponents have the option of not following the stormwater management practices in the manual or other technical guidance documents approved by ecology. However, if a project

proponent chooses not to follow the practices in the manual or other technical guidance documents approved by ecology, then the project proponent may be required to individually *demonstrate* that the project will not adversely impact water quality and show that the alternative approach is protective of water quality and satisfies state and federal water quality laws. In this case, whether the project proponent is required to demonstrate compliance with environmental laws or not will depend on the underlying project approval or permit requirements established in federal, state and local laws, regulations and ordinances.

Included within the Stormwater Management Manual for Western Washington are provisions for adjustments to the minimum requirements in the manual (Volume 1, chapter 2.7). There are also provisions for exceptions and variances to the minimum requirements in the manual (Volume 1, chapter 2.8). The provisions for adjustments, exceptions and variances within the manual are available to all project proponents, including local governments, that follow the manual. In addition, project proponents or permittees may select best management practices (BMPs) which are functionally equivalent to BMPs in the manual in lieu of strict adherence to the manual BMPs. If required by a permit or other authorization, project proponents or permittees may be required to demonstrate functional equivalency.

Both the presumptive and demonstrative approaches are based on and result from existing federal and state laws that require stormwater treatment systems to be properly designed, constructed, maintained and operated to:

- Prevent pollution of state waters and protect water quality, including compliance with state water quality standards;
- Satisfy state requirements for all known available and reasonable methods of prevention, control and treatment (AKART) of wastes prior to discharge to waters of the state; and
- Satisfy the federal technology based treatment requirements under 40 C.F.R. part 125.3.

Under the demonstration approach, the expectations for providing technical justification of stormwater management practices will depend on the complexity of the individual project and the nature of the receiving environment. In each case, the project proponent may be asked to document to the satisfaction of the permitting agency or other approval authority that the practices they have selected will result in compliance with the water quality protection requirements of the permit or other local, state, or federal water-quality-based project approval condition.

When a discharge permit or other water-quality-based project approval is required from the Department of Ecology, project proponents are required to document the technical basis for the design criteria used to design their stormwater management BMPs. This includes: How stormwater BMPs were selected; the pollutant removal performance expected from the selected BMPs; the technical basis for the performance claims for the selected BMPs; and an assessment of how the selected BMPs will comply with state water quality standards and satisfy state AKART requirements under chap-

ter 90.48 RCW and the federal technology-based treatment requirements.

Project proponents who choose to follow the stormwater management practices contained in approved stormwater technical manuals are presumed by ecology to have satisfied this demonstration requirement and in most cases will not be required to provide technical justification to support the selection of BMPs for the project. Following the stormwater management practices in this manual or other technical guidance documents approved by ecology means adhering to the guidance provided for proper selection, design, construction, implementation, operation and maintenance of BMPs.

How is the manual implemented? Local government staff may use the manual as a reference for developing stormwater requirements for new development and redevelopment, reviewing stormwater site plans; checking source control, runoff treatment and flow control facility designs; and for providing technical advice in general. Private industry may use the manual for information on how to develop and implement stormwater site plans and as a reference for technical specifications of best management practices (BMPs) to prevent and control stormwater pollution.

The manual itself has no independent regulatory authority. The minimum requirements in chapter 2 and technical guidance in the manual only become required through:

- Ordinances and rules established by local governments; and
- Permits and other authorizations issued by local, state, and federal authorities.

In the absence of a permit or other regulatory requirement local jurisdictions may adopt and apply all or a portion of the minimum requirements, thresholds, definitions, BMP selection processes, and BMP design criteria of this manual through local ordinances. Local jurisdictions adopting only portions of the manual or other technical guidance documents approved by ecology may consider adopting an alternative approach similar to the demonstration approach described in this statement. Staff at local governments and agencies with permitting jurisdiction may use this manual or other technical guidance documents approved by ecology in reviewing stormwater site plans, checking BMP designs, and providing technical advice to project proponents. Such use by local governments may consider local stormwater issues and allow for site-specific analyses and the application of professional judgment.

Federal, state, and local permits may refer to this manual or the BMPs contained in this manual. In those cases, elements of the manual or the manual itself may become permit requirement only if the authorities and standards under which the permit is issued support such a requirement. It is not permissible or appropriate to include the minimum requirements, thresholds, definitions, BMP selection processes, and BMP design criteria of this manual as permit conditions or use the manual as a review standard solely because they are published in the manual or part of the manual.

Questions? If there are questions about the proper use and application of Ecology's Stormwater Management Man-

ual for Western Washington please contact the Department of Ecology's Water Quality Program at (360) 407-6400.

July 16, 2003

Megan White, P.E., Manager
Water Quality Program

WSR 03-15-100
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD

[Memorandum—July 17, 2003]

COUNTY ROAD ADMINISTRATION BOARD

- MEETING NOTICE: October 9, 2003
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
1:00 p.m. to 5:00 p.m.
- PUBLIC HEARING: October 9, 2003
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
2:00 p.m.
- MEETING NOTICE: October 10, 2003
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
9:00 a.m. to 12:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

WSR 03-15-101

NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—July 21, 2003]

The board of trustees of Bellingham Technical College will hold a study session to discuss educational access, campus master plan, and partnerships and educational transitions on Tuesday, July 22, 2003, 8:00 a.m. to 4:00 p.m., at 2825 Roeder Avenue, Bellingham, WA. No action will be taken. Call 738-3105 ext. 334 for information.

WSR 03-15-102
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGES
OF SPOKANE

[Memorandum—July 16, 2003]

Pursuant to RCW 42.30.075, please be advised the August 19, 2003, meeting of the board of trustees of Washington State Community College District 17 has been canceled.

If you have any questions regarding this memo, please contact Christine Pearl, Executive Assistant to the Chancellor/CEO and Liaison to the Board of Trustees, at (509) 434-5006.

WSR 03-15-107
AGENDA
DEPARTMENT OF HEALTH

[Filed July 21, 2003, 11:28 a.m.]

State Board of Health and Department of Health
July 2003 Rules Agenda

This report details the anticipated rule-making activities of the State Board of Health and the Department of Health for the next six months. If you have any questions regarding this report or Department of Health rule-making activities, please contact Michelle Davis at (360) 236-4044. If you have any questions regarding State Board of Health rule-making activities please contact Don Sloma at (360) 236-4102.

State Board of Health Rules

WAC	RCW	Authority	Subject	SBOH Staff and DOH Program Contact	WSR/Date
Pre CR-101 (State Board of Health Rules)					
246-272B	43.20.050	State Board of Health	Large onsite sewage systems	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	Anticipate CR-101 by 10/03

MISC.

WAC	RCW	Authority	Subject	SBOH Staff and DOH Program Contact	WSR/Date
CR-101 Filed (State Board of Health Rules)					
246-xxx	70.83 43.20	State Board of Health Department of Health Joint Rules	Storage, retention and use of specimens in public health lab	Don Sloma (360) 236-4102 State Board of Health Michelle Davis (360) 236-4044 Department of Health	03-02-101 1/2/03
246-100-166	28A.210.140	State Board of Health	Immunization of child care and school children	Craig McLaughlin (360) 236-4106 State Board of Health Michelle Davis (360) 236-4044 Department of Health	03-09-126 4/23/03
246-215	43.20.050	State Board of Health	Food service	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	01-23-096 11/21/01
246-217-010, 246- 217-015	69.06	State Board of Health	Food worker cards	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	02-20-075 9/30/02
246-260	70.90.120 70.90.150 43.20.050	State Board of Health	Water recreation facilities	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	00-22-112 11/1/00
246-272	43.20.050	State Board of Health	On-site wastewater sewage systems	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	02-03-137 1/23/02
246-290	70.90 70.119	State Board of Health	Group A public water system	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	03-07-103 3/19/03
246-291	43.20.050	State Board of Health	Group B public water system	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	02-19-060 9/12/02
246-650	70.83 43.20	State Board of Health	Newborn screening	Doreen Garcia (360) 236-4101 State Board of Health Michelle Davis (360) 236-4044 Department of Health	02-03-136 1/23/02
Pending Adoption (State Board of Health Rules)					
246-277	43.20.050	State Board of Health	Large onsite sewage system Hearing date: 7/9/03	Marianne Seifert (360) 236-4103 State Board of Health Michelle Davis (360) 236-4044 Department of Health	03-12-089 6/4/03

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Department of Health Rules

CR-105 Expedited Rule Making					
WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-12-040	43.70.280	Secretary	Renew credential	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-09-024 4/12/02
246-919-100 through 246-919-150, 246-919- 350, 246-919-720	18.71.017	Medical Quality Assur- ance Commission	Panel composition	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-12-091 6/4/03
Pre CR-101					
246-292	43.70.040	Secretary	Water operation certifica- tion	Environmental Health Programs Jan Haywood (360) 236-3011	Anticipate CR-101 by 9/03
246-817-130, 246-817- 135, 246-817-140, 246-817-186	Chapter 57, Laws of 2003	Dental Commission	Increasing the supply of dentists	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 10/03
246-817-560	Chapter 257, Laws of 2003	Dental Commission	Dental hygienists placing antimicrobials	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 10/03
246-840-700, 246-840- 910, 246-840-930, 246-840-940,	Chapter 140, Laws of 2003	Nursing Commission	Nurse delegation in the in- home care setting	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 8/03
246-841-405	Chapter 140, Laws of 2003	Nursing Commission	Allowing nursing assistants to accept nurse delegation in the in-home care setting	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 8/03
246-887	18.64.005 69.50	Pharmacy Board	Updating controlled sub- stances act	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 10/03
246-887-220 through 246-887-280	Chapter 175, Laws of 2003 18.64.005	Pharmacy Board	Chemical capture programs	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 8/03
246-888	HB 1753 18.64.005	Pharmacy Board	Amending medication assistance rules	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	Anticipate CR-101 by 8/03
CR-101 Filed					
246-225, 246-227, 246-228	70.98	Secretary	Radiation protection	Environmental Health Programs Jan Haywood (360) 236-3011	00-16-106 8/2/03
246-247	43.70.040 43.70.080	Secretary	Radiation protection	Environmental Health Programs Jan Haywood (360) 236-3011	03-10-016 4/28/03
246-249-080	70.98.050 70.98.080	Secretary	Naturally occurring radio- active materials	Environmental Health Programs Jan Haywood (360) 236-3011	96-11-129 5/22/96
246-294	70.119	Secretary	Drinking water operating permits	Environmental Health Programs Jan Haywood (360) 236-3011	03-04-044 1/28/03

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WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-314-990	43.70.250 43.20B.020	Secretary	Construction review fees	Facilities and Services Licensing Yvette Harrison (360) 236-2928	01-10-123 5/2/01
246-323, 246-325, 246-326	71.12	Secretary	Residential treatment facilities	Facilities and Services Licensing Yvette Harrison (360) 236-2928	00-05-097 2/16/00
246-380	43.70.040 43.70.130	Secretary	Sanitation and health care standards for state institutions	Facilities and Services Licensing Yvette Harrison (360) 236-2928	98-15-085 7/16/98
246-562, J-1 Visa Waiver	70.185	Secretary	J-1 visa waiver	Community and Rural Health Jennell Prentice (360) 236-2813	03-09-017 4/7/03
246-808	18.130.050	Chiropractic Commission	Independent chiropractic exams	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	00-22-123 11/1/00
246-809	18.225	Secretary	Confidential communications for licensed counselors, therapist, and social workers	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-04-032 1/25/02
246-809	18.225	Secretary	Boundary requirements for counselors	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-04-042 1/29/02
246-809	18.225	Secretary	Disclosure information for counselors	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-04-043 1/29/02
246-809	18.225	Secretary	Licensed counselor—Experience requirements	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-22-068 11/1/01
246-809-600, 246-809- 650	18.225	Secretary	CE for mental health counselor, marriage and family therapist, and social worker	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-22-067 11/1/01
246-815-020, 246-815- 050, 246-815-100, 246-815-110, 246-815- 115	18.29.120	Secretary	Dental hygiene, exam, application, licensure	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02/19/083 9/16/02
246-817-110, 246-817- 120	18.32.0365 18.32.040	Dental Commission	Dental licensure—Initial eligibility and application requirements	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-15-160 7/23/02
246-828	18.35.40	Hearing and Speech Board	Fitter/dispenser program	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-02-043 12/27/01
246-828-510	18.35.090	Hearing and Speech Board	Hearing/speech—Continuing education requirements	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	97-15-097 7/21/97
246-828-990	43.70.280	Secretary	Hearing and speech fees and renewal cycle	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-02-042 12/27/01

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WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-830	18.108.025	Secretary	Massage therapy examinations	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-21-080 10/21/98
246-834	18.130.050	Secretary	Midwifery standards of practice	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-17-052 8/18/02
246-834	18.122.140	Secretary	Reactivation of midwifery license	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-21-081 10/21/98
246-834	18.130.250	Secretary	Retired active status—Midwives	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-06-090 3/3/99
246-834-220, 246-834-230, 246-834-240	18.50.040	Secretary	Educational requirements for nonlicensed midwives	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	97-22-024 10/29/97
246-834-250	18.50.115	Secretary	Legend drugs and devices	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-17-053 8/15/053 [8/15/03]
246-834-990	18.50.135	Secretary	Midwifery fees	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-13-126 6/18/03
246-840	18.79.110	Nursing Commission	Telenursing	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-11-033 5/13/99
246-840-010 through 246-840-900	Chapter 246, Laws of 2003	Nursing Commission	Nursing technician	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-12-087 6/4/03
246-840-010, 246-840-020, 246-840-565, 246-840-760, 246-840-920	18.79.110	Nursing Commission	Nursing definitions	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-11-032 5/13/99
246-840-020, 246-840-030, 246-840-040, 246-840-050, 246-840-060, 246-840-070	18.79.110	Nursing Commission	Nursing licensing rules	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-04-033 1/25/02
246-840-080, 246-840-090	18.79.110	Nursing Commission	Licensure of graduates of foreign schools and licensure by interstate endorsement	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-04-031 1/25/02
246-840-500 to 246-840-575	18.70.110	Nursing Commission	Approval of RN and PN education	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	00-11-163 5/24/00
246-841-400 through 246-841-510	18.88A	Secretary	Nursing assistants	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	00-03-072 1/19/00
246-847-010	18.59.130	Occupational Therapy	Occupational therapy definitions	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-08-031 3/27/03

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WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-847-065	18.59.130	Occupational Therapy	Occupational therapy competency	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-05-029 3/27/03
246-847-120	18.59.130	Occupational Therapy	Foreign trained applicants	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-08-092 3/27/03
246-847-170	18.59.130	Occupational Therapy	Occupational therapy code of ethics	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-08-030 3/27/03
246-851	18.54.070	Optometry Board	Optometry training requirement	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-13-125 6/18/03
246-851	18.54.070	Optometry Board	Optometry—Schedule III-V	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-12-124 6/18/03
246-851-160, 246-851-170	18.54.070	Optometry Board	Optometry—Continue education	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-04-043 1/28/03
246-853	18.57.080 18.57.005 18.130.050	Osteopathic Board	Comspex—USA exam	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-11-035 5/13/99
246-853	18.57.005 18.57.020	Osteopathic Board	Approved schools of osteopathic medicine	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-13-020 6/7/99
246-853-225	18.57.005 18.57.020	Osteopathic Board	Osteopathic pain management guidelines	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-22-086 11/3/98
246-854	18.57A.020	Osteopathic Board	Review of controlled substances issued by physician assistants	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-02-078 3/17/98
246-865 246-869 246-887	69.50.301 18.64.005	Pharmacy Board	Faxing of prescriptions	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-14-090 7/5/01
246-873-090	18.64.005(7)	Pharmacy Board	Hospital standards—Administration of drugs	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	02-12-101 6/5/02
246-879-090	18.64.005 18.64.046	Pharmacy Board	Exporting drugs wholesaler	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-09-087 4/18/01
246-883-030	18.64.450	Pharmacy Board	Ephedrine prescription restrictions	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	97-10-033 4/30/97
246-887	18.64.005	Pharmacy Board	Adding soma to schedule IV	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-09-124 4/23/03

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WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-915	18.74.023	Physical Therapy Board	Sexual misconduct—Physical therapist	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-13-106 6/17/98
246-915-010, 246-915-078, 246-915-140 - 246-915-170	18.74.023	Physical Therapy Board	Defining professional responsibilities—Physical therapists	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-13-104 6/17/02
246-915-010, 246-915-085	18.74.023	Physical Therapy Board	Continuing competency—Physical therapists	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-15-088 7/16/98
246-915-020, 246-915-030, 246-915-120	18.74.023 18.74.035	Physical Therapy Board	Application requirements—Physical therapists	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-13-107 6/17/98
246-915-150	18.74.023 18.74.010	Physical Therapy Board	Physical therapy supervision ratio	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-13-105 6/17/98
246-915-210 to 246-915-280	18.74.023 18.130.070	Physical Therapy Board	Mandatory reporting—Physical therapists	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-13-103 6/17/98
246-918-120	18.71A	Medical Commission	Physician assistant remote site criteria	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-15-089 7/18/01
246-919	18.71.017	Medical Commission	Oversight of office-based surgery	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-08-032 3/27/03
246-922-195	18.22.015	Podiatry Board	Podiatry pain management	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-22-084 11/3/98
246-924-354	18.83	Psychology Board	Maintenance and retention of records	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-05-020 2/10/03
246-924-370	18.83.050 18.83.121	Psychology Board	Child custody evaluations	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	98-22-087 11/3/98
246-926	18.84.040	Secretary	Radiologic technologist—General	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-14-144 7/2/03
246-926-020, 246-926-140, 246-926-180, 246-926-190	18.84.040	Secretary	Radiologic technologist—Training	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-14-032 6/23/03
246-927	70.24.27	Secretary	Aids education and training for recreation therapy	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-02-020 12/23/02
246-930-010, 246-930-030, 246-930-040, 246-930-200, 246-930-410	18.155.040	Secretary	Education and exams requirements for sex offender treatment provider program	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	00-08-099 4/5/00

MISC.

WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-930-050	18.155.040	Secretary	Sex offender treatment provider	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-24-103 12/5/01
246-930-330	18.155.040 18.13.050	Secretary	Standards for treatment sexual offender treatment providers	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-14-001 6/23/99
246-933-255	18.92.030 [18.92.]070	Veterinary Board	Exams for out-of-state veterinarians	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	00-11-157 5/24/00
246-935	18.92.030	Veterinary Board	Continuing education and competency for animal technicians	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	99-15-102 7/21/99
246-935-070	18.92.030	Veterinary Board	Examination for registration as animal technician	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	01-21-133 10/24/01
246-976-021	18.71.205	Secretary	EMS-training requirements	Emergency Medical & Trauma Prevention Tami Schweppe (360) 705-6748	03-06-125 4/23/03
246-976-161, 246-976-171	18.71.205	Secretary	CE, skills maintenance, and ongoing training and evaluation	Emergency Medical & Trauma Prevention Tami Schweppe (360) 705-6748	02-11-077 5/13/02
246-976-485 through 246-976-885, 246-976-890	70.168.060p	Secretary	Designation standards for trauma care	Emergency Medical & Trauma Prevention Tami Schweppe (360) 705-6748	02-23-069 11/19/02
Pending Hearing, CR-102 Filed					
246-282-990	43.70.250	Secretary	Sanitary control of shellfish fees Hearing date: 8/19/03	Environmental Health Programs Jan Haywood (360) 236-3011	03-14-145 03-14-145 [7/2/03]
246-828-020	43.70.280	Hearing and Speech Board	Examinations hearing and speech Hearing date: 8/15/03	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-14-033 6/23/03
246-850	18.200	Secretary	Continuing competency for orthotists and prosthetist Hearing date: 7/28/03	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-12-088 6/4/03
246-870	18.64.005	Pharmacy Board	Electronic transfer of prescription information Hearing date: 7/23/03	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-11-092 5/21/03
Pending Adoption					
246-260, 246-262	43.70.250	Secretary	Water recreation facilities fees	Environmental Health Programs Jan Haywood (360) 236-3011	03-11-030 5/15/03
246-310	70.38	Secretary	Certificate of need—Cardiac methodologies	Facilities and Services Licensing Yvette Harrison (360) 236-2928	03-01-112 12/18/02
246-310-290, 246-310-295, 246-310-990	70.127 70.38	Secretary	Certificate of need—Hospice methodology and hospice care center fees	Facilities and Services Licensing Yvette Harrison (360) 236-2928	03-03-097 1/17/03

Emergency					
WAC	RCW	Authority	Subject	Program/Contact	WSR/Date
246-840-700, 246-840-910, 246-840-930, 246-840-940	Chapter 140, Laws of 2003	Nursing Commission	Nurse delegation in the in-home care setting	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-15-034 7/9/034 [7/9/03]
246-841-405	Chapter 140, Laws of 2003	Nursing Commission	Allowing nursing assistants to accept nurse delegation in the in-home care setting	Health Professions Quality Assurance Pam Lovinger (360) 236-4984	03-15-034 7/9/034 [7/9/03]

KEY:

CR-101 Filed: The statement of inquiry has been filed with the Code Reviser's Office.

Pending Hearing: The CR-102 has been filed but the hearing has not been held yet.

Pending Adoption: The hearing has been held OR the rule qualifies under the expedited repeal or adoption processes (RCW 34.05.354 and 34.05.356), but the CR-103 has not been filed.

WSR 03-15-135

**INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE**

[Filed July 22, 2003, 4:18 p.m.]

ISSUANCE OF INTERPRETIVE STATEMENT

This announcement of the issuance of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has issued the following Excise Tax Advisory:

ETA 2015.27 Measure of the Enhanced Food Fish Tax for Persons with a Direct Retail Endorsement. Chapter 301, Laws of 2002, amended chapter 77.65 RCW to create a direct retail endorsement to a commercial fishing license. The direct retail endorsement entitles the commercial fisher to sell retail-eligible species directly to consumers, restaurants, or other similar food service businesses, provided that the commercial fisher meets certain regulatory requirements. This document explains the method for determining the measure of tax for the enhanced food fish tax when the fish is sold pursuant to a direct retail endorsement.

A copy of this document is available via the internet at http://dor.wa.gov/content/rules_laws/eta/eta.htm or a request for copies may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 664-0693.

Alan R. Lynn
Rules Coordinator

WSR 03-15-122

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
SERVICES FOR THE BLIND**

[Memorandum—July 21, 2003]

The date and location for the next Washington State Department of Services for the Blind State Rehabilitation Council meeting is Saturday, September 6, 2003, 9 a.m. - 3 p.m., Red Lion Hotel, Chelan Room, 1225 North Wenatchee Avenue, Wenatchee, WA 98801.

Agendas and information relating to specific agenda items, taped agendas, agendas in Braille, or interpreters are provided on request by contacting Marla Oughton at the Department of Services for the Blind, e-mail marough-ton@dsb.wa.gov or telephone 1-800-552-7103 or in Seattle at (206) 721-6430. The meeting site is barrier free, including the restrooms.

WSR 03-15-123

**NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION**

[Memorandum—July 21, 2003]

Following is a change in meeting dates for the August 2003 state board meeting.

August 20-21, 2001 [2003]
Edison Elementary School
Centralia School District
607 H Street
Centralia, WA 98531-4693
For Directions to the School: (360) 330-7600
For Information on the Meeting: (360) 725-6025

WSR 03-15-143

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—July 23, 2003]

The board of trustees of Bellingham Technical College will meet on Tuesday, July 22, 2003, 1:00 p.m., at 2825 Roeder Avenue, Bellingham, WA, in executive session to discuss pending litigation and possible real estate acquisition. Final action may be taken, if necessary, as a result of items discussed. Call 738-3105 ext. 334 for information.

MISC.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
 - E = Emergency action
 - P = Proposed action
 - S = Supplemental notice
 - W = Withdrawal of proposed action
 - X = Expedited rule making
 - XA = Expedited adoption
 - XR = Expedited repeal
 - No suffix means permanent action
- WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.
- WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
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3- 20-100	REP	03-09-144	16-200-7401	NEW	03-02-100	16-238-100	REP	03-12-040
3- 20-200	NEW-P	03-05-101	16-200-7402	NEW	03-02-100	16-238-110	REP-P	03-07-082
3- 20-200	NEW	03-09-144	16-200-7403	NEW	03-02-100	16-238-110	REP	03-12-040
3- 20-300	NEW-P	03-05-101	16-200-7404	NEW	03-02-100	16-239-010	NEW-P	03-07-082
3- 20-300	NEW	03-09-144	16-200-7405	NEW	03-02-100	16-239-010	NEW	03-12-040
4- 25	PREP	03-12-052	16-200-7406	NEW	03-02-100	16-239-020	NEW-P	03-07-082
4- 25-622	PREP	03-12-083	16-200-7407	NEW	03-02-100	16-239-020	NEW	03-12-040
4- 25-720	AMD-P	03-09-051	16-219-016	REP-X	03-09-088	16-239-030	NEW-P	03-07-082
4- 25-720	AMD-S	03-10-036	16-219-016	REP	03-14-044	16-239-030	NEW	03-12-040
4- 25-721	PREP	03-05-012	16-228-1231	AMD-P	03-02-099	16-239-040	NEW-P	03-07-082
4- 25-721	AMD-P	03-09-052	16-228-1231	AMD	03-05-034	16-239-040	NEW	03-12-040
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16-100-010	REP-X	03-13-130	16-228-1266	NEW	03-05-033	16-239-061	NEW	03-12-040
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16-157-100	REP	03-03-044	16-229-200	AMD-W	03-09-035	16-239-063	NEW	03-12-040
16-157-110	REP	03-03-044	16-231-107	AMD-X	03-07-037	16-239-064	NEW-P	03-07-082
16-157-200	REP	03-03-044	16-231-107	AMD	03-11-097	16-239-064	NEW	03-12-040
16-157-220	AMD	03-03-044	16-237-170	PREP	03-12-086	16-239-065	NEW-P	03-07-082
16-157-230	AMD	03-03-044	16-237-170	AMD-P	03-15-090	16-239-065	NEW	03-12-040
16-157-240	AMD	03-03-044	16-238-010	REP-P	03-07-082	16-239-070	NEW-P	03-07-082
16-157-245	NEW	03-03-044	16-238-010	REP	03-12-040	16-239-070	NEW	03-12-040
16-157-250	AMD	03-03-044	16-238-020	REP-P	03-07-082	16-239-071	NEW-P	03-07-082
16-157-255	AMD	03-03-044	16-238-020	REP	03-12-040	16-239-071	NEW	03-12-040
16-157-260	AMD	03-03-044	16-238-030	REP-P	03-07-082	16-239-072	NEW-P	03-07-082
16-157-270	AMD	03-03-044	16-238-030	REP	03-12-040	16-239-072	NEW	03-12-040
16-157-280	REP	03-03-044	16-238-060	REP-P	03-07-082	16-239-073	NEW-P	03-07-082
16-157-290	AMD	03-03-044	16-238-060	REP	03-12-040	16-239-073	NEW	03-12-040
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Table of WAC Sections Affected

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16-239-080	NEW	03-12-040	16-301-005	AMD-P	03-15-145	16-319-041	AMD	03-06-006
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16-239-0802	NEW	03-12-040	16-301-055	AMD-P	03-15-145	16-321-010	REP	03-08-018
16-239-0803	NEW-P	03-07-082	16-302-045	PREP	03-12-085	16-321-020	REP-X	03-03-124
16-239-0803	NEW	03-12-040	16-302-045	AMD-P	03-15-145	16-321-020	REP	03-08-018
16-239-0804	NEW-P	03-07-082	16-302-110	PREP	03-12-085	16-321-030	REP-X	03-03-124
16-239-0804	NEW	03-12-040	16-302-110	AMD-P	03-15-145	16-321-030	REP	03-08-018
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16-239-0806	NEW-P	03-07-082	16-302-155	PREP	03-12-085	16-321-050	REP-X	03-03-124
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16-239-0811	NEW-P	03-07-082	16-303-200	PREP	03-12-084	16-321-100	REP-X	03-03-124
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16-239-0813	NEW	03-12-040	16-303-210	AMD-P	03-15-144	16-321-120	REP	03-08-018
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16-239-090	NEW	03-12-040	16-303-220	REP-P	03-15-144	16-328-008	AMD	03-10-080
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16-401-060	NEW	03-09-112	118-65-030	REP	03-10-014	132F-104-816	REP-P	03-06-067
16-403-280	PREP	03-15-120	118-65-040	REP-P	03-04-108	132F-104-817	REP-P	03-06-067
16-406-001	PREP	03-15-118	118-65-040	REP	03-10-014	132F-104-818	REP-P	03-06-067
16-406-025	PREP	03-15-118	118-65-050	REP-P	03-04-108	132F-104-819	REP-P	03-06-067
16-449	PREP	03-14-142	118-65-050	REP	03-10-014	132F-108	AMD-P	03-06-067
16-459	PREP	03-14-142	118-65-060	REP-P	03-04-108	132F-108	AMD-C	03-10-078
16-461-010	PREP	03-15-119	118-65-060	REP	03-10-014	132F-108-020	AMD-P	03-06-067
16-461-015	PREP	03-15-119	118-65-070	REP-P	03-04-108	132F-108-050	AMD-P	03-06-067
16-465-001	REP	03-05-079	118-65-070	REP	03-10-014	132F-108-070	AMD-P	03-06-067
16-465-060	REP	03-05-079	118-65-081	REP-P	03-04-108	132F-108-080	AMD-P	03-06-067
16-470-905	AMD-P	03-07-092	118-65-081	REP	03-10-014	132F-108-100	AMD-P	03-06-067
16-470-905	AMD	03-10-082	118-65-090	REP-P	03-04-108	132F-108-120	AMD-P	03-06-067
16-470-911	REP-P	03-07-092	118-65-090	REP	03-10-014	132F-108-130	AMD-P	03-06-067
16-470-911	REP	03-10-082	118-66-010	NEW-P	03-04-108	132F-108-140	AMD-P	03-06-067
16-470-912	AMD-P	03-07-092	118-66-010	NEW	03-10-014	132F-120	REP-P	03-06-067
16-470-912	AMD	03-10-082	118-66-020	NEW-P	03-04-108	132F-120	AMD-C	03-10-078
16-470-916	REP-P	03-07-092	118-66-020	NEW	03-10-014	132F-120-020	REP-P	03-06-067
16-470-916	REP	03-10-082	118-66-020	NEW	03-10-014	132F-120-030	REP-P	03-06-067
16-470-917	AMD-P	03-07-092	118-66-030	NEW-P	03-04-108	132F-120-040	REP-P	03-06-067
16-470-917	AMD	03-10-082	118-66-030	NEW	03-10-014	132F-120-041	REP-P	03-06-067
16-470-921	AMD-P	03-07-092	118-66-040	NEW-P	03-04-108	132F-120-042	REP-P	03-06-067
16-470-921	AMD	03-10-082	118-66-040	NEW	03-10-014	132F-120-043	REP-P	03-06-067
16-536-040	AMD-C	03-06-101	118-66-042	NEW-P	03-04-108	132F-120-043	REP-P	03-06-067
16-536-040	AMD-W	03-12-042	118-66-042	NEW	03-10-014	132F-120-050	REP-P	03-06-067
16-600-001	REP-X	03-13-129	118-66-045	NEW-P	03-04-108	132F-120-060	REP-P	03-06-067
16-600-010	REP-X	03-13-129	118-66-045	NEW	03-10-014	132F-120-061	REP-P	03-06-067
16-603-010	AMD-X	03-08-088	118-66-050	NEW-P	03-04-108	132F-120-070	REP-P	03-06-067
16-603-010	AMD	03-13-005	118-66-050	NEW	03-10-014	132F-120-080	REP-P	03-06-067
16-607	PREP	03-13-128	118-66-080	NEW-P	03-04-108	132F-120-090	REP-P	03-06-067
16-657	PREP	03-03-122	118-66-080	NEW	03-10-014	132F-120-100	REP-P	03-06-067
16-659	PREP	03-03-122	118-66-081	NEW-P	03-04-108	132F-120-110	REP-P	03-06-067
16-662-100	AMD-X	03-03-123	118-66-081	NEW	03-10-014	132F-120-120	REP-P	03-06-067
16-662-100	AMD	03-08-017	118-66-085	NEW-P	03-04-108	132F-120-130	REP-P	03-06-067
16-662-105	AMD-X	03-03-123	118-66-085	NEW	03-10-014	132F-120-140	REP-P	03-06-067
16-662-105	AMD	03-08-017	118-66-090	NEW-P	03-04-108	132F-120-150	REP-P	03-06-067
16-662-110	AMD-X	03-03-123	118-66-090	NEW	03-10-014	132F-120-160	REP-P	03-06-067
16-662-110	AMD	03-08-017	131	PREP	03-09-043	132F-120-170	REP-P	03-06-067
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16-752-305	AMD-X	03-11-098	132A-150-010	AMD	03-13-133	132F-121-050	NEW-P	03-06-067
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16-752-320	AMD-X	03-11-098	132A-320-010	AMD	03-13-133	132F-121-070	NEW-P	03-06-067
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132F-121-130	NEW-P	03-06-067	132Q-02-080	NEW-P	03-13-081	132Q-04-190	REP-P	03-13-082
132F-121-140	NEW-P	03-06-067	132Q-02-090	NEW-P	03-13-081	132Q-04-200	REP-P	03-13-082
132F-121-150	NEW-P	03-06-067	132Q-02-100	NEW-P	03-13-081	132Q-04-210	REP-P	03-13-082
132F-121-160	NEW-P	03-06-067	132Q-02-110	NEW-P	03-13-081	132Q-04-220	REP-P	03-13-082
132F-121-170	NEW-P	03-06-067	132Q-02-120	NEW-P	03-13-081	132Q-04-230	REP-P	03-13-082
132F-121-180	NEW-P	03-06-067	132Q-02-130	NEW-P	03-13-081	132Q-04-240	REP-P	03-13-082
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132F-121-200	NEW-P	03-06-067	132Q-02-150	NEW-P	03-13-081	132Q-04-260	REP-P	03-13-082
132F-121-210	NEW-P	03-06-067	132Q-02-160	NEW-P	03-13-081	132Q-04-270	REP-P	03-13-082
132F-121-220	NEW-P	03-06-067	132Q-02-170	NEW-P	03-13-081	132Q-04-280	REP-P	03-13-082
132F-121-230	NEW-P	03-06-067	132Q-02-180	NEW-P	03-13-081	132Q-05	PREP	03-09-094
132F-121-240	NEW-P	03-06-067	132Q-02-190	NEW-P	03-13-081	132Q-05-010	REP-P	03-13-082
132F-121-250	NEW-P	03-06-067	132Q-02-200	NEW-P	03-13-081	132Q-05-020	REP-P	03-13-082
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132H-120-030	AMD-P	03-08-021	132Q-02-260	NEW-P	03-13-081	132Q-05-060	REP-P	03-13-082
132H-120-030	AMD	03-14-015	132Q-02-270	NEW-P	03-13-081	132Q-05-070	REP-P	03-13-082
132H-120-040	AMD-P	03-08-021	132Q-02-280	NEW-P	03-13-081	132Q-05-080	REP-P	03-13-082
132H-120-040	AMD	03-14-015	132Q-02-290	NEW-P	03-13-081	132Q-05-090	REP-P	03-13-082
132H-120-050	AMD-P	03-08-021	132Q-02-300	NEW-P	03-13-081	132Q-05-100	REP-P	03-13-082
132H-120-050	AMD	03-14-015	132Q-02-310	NEW-P	03-13-081	132Q-05-110	REP-P	03-13-082
132H-120-200	AMD-P	03-08-021	132Q-02-320	NEW-P	03-13-081	132Q-05-120	REP-P	03-13-082
132H-120-200	AMD	03-14-015	132Q-02-330	NEW-P	03-13-081	132Q-06	PREP	03-09-094
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132H-120-220	AMD	03-14-015	132Q-02-350	NEW-P	03-13-081	132Q-06-015	REP-P	03-13-082
132H-120-300	AMD-P	03-08-021	132Q-02-360	NEW-P	03-13-081	132Q-06-016	REP-P	03-13-082
132H-120-300	AMD	03-14-015	132Q-02-370	NEW-P	03-13-081	132Q-06-020	REP-P	03-13-082
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132H-155-030	NEW-P	03-08-020	132Q-04	PREP	03-09-094	132Q-20-010	AMD-P	03-13-082
132H-155-030	NEW	03-14-013	132Q-04-010	REP-P	03-13-082	132Q-20-020	REP-P	03-13-082
132H-155-040	NEW-P	03-08-020	132Q-04-020	REP-P	03-13-082	132Q-20-040	AMD-P	03-13-082
132H-155-040	NEW	03-14-013	132Q-04-030	REP-P	03-13-082	132Q-20-050	AMD-P	03-13-082
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132H-155-050	NEW-P	03-08-020	132Q-04-076	REP-P	03-13-082	132Q-20-070	AMD-P	03-13-082
132H-155-050	NEW	03-14-013	132Q-04-077	REP-P	03-13-082	132Q-20-080	AMD-P	03-13-082
132H-155-060	NEW-P	03-08-020	132Q-04-078	REP-P	03-13-082	132Q-20-090	AMD-P	03-13-082
132H-155-060	NEW	03-14-013	132Q-04-097	REP-P	03-13-082	132Q-20-110	AMD-P	03-13-082
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132Q-02-030	NEW-P	03-13-081	132Q-04-140	REP-P	03-13-082	132Q-20-180	AMD-P	03-13-082
132Q-02-040	NEW-P	03-13-081	132Q-04-150	REP-P	03-13-082	132Q-20-190	AMD-P	03-13-082
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132Q- 20-230	AMD-P	03-13-082	132R- 04-070	REP-P	03-11-006	132R-136-055	NEW-P	03-11-006
132Q- 20-240	AMD-P	03-13-082	132R- 04-070	REP	03-15-063	132R-136-055	NEW	03-15-063
132Q- 20-250	AMD-P	03-13-082	132R- 04-080	REP-P	03-11-006	132R-136-060	NEW-P	03-11-006
132Q- 20-260	AMD-P	03-13-082	132R- 04-080	REP	03-15-063	132R-136-060	NEW	03-15-063
132Q- 20-265	AMD-P	03-13-082	132R- 04-090	REP-P	03-11-006	132R-136-070	NEW-P	03-11-006
132Q- 20-270	AMD-P	03-13-082	132R- 04-090	REP	03-15-063	132R-136-070	NEW	03-15-063
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132Q- 94-020	AMD-P	03-13-082	132R- 04-110	REP-P	03-11-006	132R-144-010	AMD-P	03-11-006
132Q- 94-030	AMD-P	03-13-082	132R- 04-110	REP	03-15-063	132R-144-010	AMD	03-15-063
132Q- 94-130	AMD-P	03-13-082	132R- 04-112	NEW-P	03-11-006	132R-144-020	AMD-P	03-11-006
132Q- 94-150	AMD-P	03-13-082	132R- 04-112	NEW	03-15-063	132R-144-020	AMD	03-15-063
132Q- 94-160	NEW-P	03-13-082	132R- 04-115	NEW-P	03-11-006	132R-150-030	REP-P	03-11-006
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132Q-108-020	AMD-P	03-13-082	132R- 04-117	NEW	03-15-063	132R-150-050	AMD	03-15-063
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132R- 02-080	AMD	03-15-063	132R- 04-150	AMD	03-15-063	132R-175-030	AMD	03-15-063
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132R- 04-010	AMD	03-15-063	132R- 04-165	NEW	03-15-063	132R-175-060	AMD	03-15-063
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132R- 04-017	NEW	03-15-063	132R- 05-010	AMD	03-15-063	132R-175-090	AMD	03-15-063
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132R- 04-019	NEW	03-15-063	132R- 12-010	AMD	03-15-063	132R-175-100	AMD	03-15-063
132R- 04-020	REP-P	03-11-006	132R- 12-020	AMD-P	03-11-006	132R-175-110	AMD-P	03-11-006
132R- 04-020	REP	03-15-063	132R- 12-020	AMD	03-15-063	132R-175-110	AMD	03-15-063
132R- 04-030	REP-P	03-11-006	132R- 116-070	AMD-P	03-11-006	132R-175-120	AMD-P	03-11-006
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132R- 04-040	AMD	03-15-063	132R-117	AMD	03-15-063	132R-175-140	AMD	03-15-063
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132R- 04-042	NEW	03-15-063	132R-117-010	AMD	03-15-063	132R-190-010	AMD	03-15-063
132R- 04-047	NEW-P	03-11-006	132R-117-020	NEW-P	03-11-006	132R-190-020	AMD-P	03-11-006
132R- 04-047	NEW	03-15-063	132R-117-020	NEW	03-15-063	132R-190-020	AMD	03-15-063
132R- 04-050	REP-P	03-11-006	132R-118-010	AMD-P	03-11-006	132R-190-030	AMD-P	03-11-006
132R- 04-050	REP	03-15-063	132R-118-010	AMD	03-15-063	132R-190-030	AMD	03-15-063
132R- 04-055	REP-P	03-11-006	132R-118-020	AMD-P	03-11-006	132R-190-035	AMD-P	03-11-006
132R- 04-055	REP	03-15-063	132R-118-020	AMD	03-15-063	132R-190-035	AMD	03-15-063
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132R- 04-056	NEW	03-15-063	132R-118-030	AMD	03-15-063	132R-190-040	AMD	03-15-063
132R- 04-057	NEW-P	03-11-006	132R-118-040	AMD-P	03-11-006	132R-190-050	AMD-P	03-11-006
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173-314-200	REP-X	03-05-095	180-10-010	REP-W	03-03-060	180-79A-155	AMD	03-04-022
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173-314-220	REP	03-10-020	180-10-035	REP-W	03-03-060	180-79A-231	AMD-E	03-12-038
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173-314-310	REP	03-10-020	180-24-00701	AMD-E	03-14-117	180-81	PREP	03-10-076
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182- 12-132	AMD-P	03-13-138	212- 12-350	NEW	03-06-063	220- 33-01000Y	REP-E	03-04-033
182- 12-145	AMD-P	03-13-138	212- 12-360	NEW	03-06-063	220- 33-01000Z	NEW-E	03-04-033
182- 12-220	AMD-P	03-13-138	212- 12-370	NEW	03-06-063	220- 33-01000Z	REP-E	03-04-033
182- 25-010	AMD-P	03-14-097	212- 12-380	NEW	03-06-063	220- 33-01000Z	REP-E	03-04-078
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220-100-058	NEW-P	03-06-080	232- 12-051	AMD-P	03-06-104	232- 28-02203	REP	03-06-110
220-100-058	NEW	03-10-038	232- 12-051	AMD	03-13-047	232- 28-02204	REP-P	03-02-103

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232- 28-02205	REP-P	03-02-103	232- 28-619	AMD	03-05-057	232- 28-61900P	NEW-E	03-14-073
232- 28-02205	REP	03-06-110	232- 28-619	AMD-X	03-12-094	232- 28-61900Q	REP-E	03-05-003
232- 28-02206	REP-P	03-02-103	232- 28-61900A	NEW-E	03-10-053	232- 28-61900Q	NEW-E	03-07-064
232- 28-02206	REP	03-06-110	232- 28-61900A	REP-E	03-10-053	232- 28-61900Q	REP-E	03-07-064
232- 28-02220	REP-P	03-06-112	232- 28-61900B	REP-E	03-04-047	232- 28-61900Q	NEW-E	03-14-093
232- 28-02220	REP	03-13-047	232- 28-61900B	NEW-E	03-11-001	232- 28-61900Q	REP-E	03-15-092
232- 28-02240	REP-P	03-06-112	232- 28-61900B	REP-E	03-11-001	232- 28-61900R	NEW-E	03-07-068
232- 28-02240	REP	03-13-047	232- 28-61900B	REP-E	03-13-001	232- 28-61900R	REP-E	03-07-068
232- 28-02280	REP-P	03-02-103	232- 28-61900C	NEW-E	03-03-004	232- 28-61900R	NEW-E	03-15-092
232- 28-02280	REP	03-06-110	232- 28-61900C	REP-E	03-03-004	232- 28-61900S	NEW-E	03-08-054
232- 28-248	AMD-P	03-06-108	232- 28-61900C	NEW-E	03-11-037	232- 28-61900S	REP-E	03-08-054
232- 28-248	AMD	03-13-047	232- 28-61900C	REP-E	03-11-082	232- 28-61900T	NEW-E	03-09-001
232- 28-266	AMD-P	03-06-066	232- 28-61900D	NEW-E	03-03-098	232- 28-61900T	REP-E	03-09-001
232- 28-266	AMD	03-10-009	232- 28-61900D	REP-E	03-03-098	232- 28-61900T	REP-E	03-10-033
232- 28-271	AMD	03-03-016	232- 28-61900D	NEW-E	03-11-051	232- 28-61900U	NEW-E	03-09-016
232- 28-272	AMD-P	03-06-108	232- 28-61900D	REP-E	03-11-051	232- 28-61900U	REP-E	03-09-016
232- 28-272	AMD	03-13-047	232- 28-61900E	NEW-E	03-04-047	232- 28-61900V	NEW-E	03-10-001
232- 28-273	AMD-P	03-06-105	232- 28-61900E	REP-E	03-04-047	232- 28-61900V	REP-E	03-10-001
232- 28-273	AMD	03-13-047	232- 28-61900E	NEW-E	03-11-082	232- 28-61900V	REP-E	03-12-041
232- 28-276	REP-P	03-06-106	232- 28-61900E	REP-E	03-12-022	232- 28-61900W	NEW-E	03-10-015
232- 28-276	REP	03-13-047	232- 28-61900F	NEW-E	03-05-003	232- 28-61900W	REP-E	03-11-037
232- 28-278	REP-P	03-06-113	232- 28-61900F	REP-E	03-05-003	232- 28-61900X	NEW-E	03-10-032
232- 28-278	REP	03-13-047	232- 28-61900F	NEW-E	03-12-022	232- 28-61900X	REP-E	03-10-032
232- 28-279	REP-P	03-06-114	232- 28-61900F	REP-E	03-13-068	232- 28-61900X	REP-E	03-11-037
232- 28-279	REP	03-13-047	232- 28-61900G	NEW-E	03-05-038	232- 28-61900Y	NEW-E	03-10-039
232- 28-282	AMD	03-03-016	232- 28-61900G	REP-E	03-05-038	232- 28-61900Y	REP-E	03-10-039
232- 28-282	AMD-P	03-13-141	232- 28-61900G	NEW-E	03-12-041	232- 28-61900Y	REP-E	03-10-053
232- 28-291	AMD-P	03-06-105	232- 28-61900G	REP-E	03-12-041	232- 28-61900Z	NEW-E	03-10-033
232- 28-291	AMD-P	03-12-077	232- 28-61900H	NEW-E	03-05-037	232- 28-61900Z	REP-E	03-10-033
232- 28-291	AMD	03-13-047	232- 28-61900H	REP-E	03-05-037	232- 28-620	AMD-X	03-12-095
232- 28-331	NEW-P	03-02-103	232- 28-61900H	REP-E	03-09-001	232- 28-62000K	NEW-E	03-10-039
232- 28-331	NEW	03-06-110	232- 28-61900H	NEW-E	03-13-003	232- 28-62000K	REP-E	03-10-039
232- 28-331	AMD-P	03-13-117	232- 28-61900H	REP-E	03-13-003	232- 28-62000K	REP-E	03-15-095
232- 28-332	NEW-P	03-02-103	232- 28-61900I	NEW-E	03-06-009	232- 28-62000L	NEW-E	03-15-095
232- 28-332	NEW	03-06-110	232- 28-61900I	REP-E	03-06-009	232- 28-621	AMD	03-05-057
232- 28-332	AMD-P	03-13-118	232- 28-61900I	NEW-E	03-13-013	232- 28-621	AMD-X	03-12-095
232- 28-333	NEW-P	03-02-103	232- 28-61900I	REP-E	03-13-013	232- 28-62100K	NEW-E	03-10-039
232- 28-333	NEW	03-06-110	232- 28-61900J	NEW-E	03-06-008	232- 28-62100K	REP-E	03-10-039
232- 28-333	AMD-P	03-13-121	232- 28-61900J	REP-E	03-06-008	236- 12-480	NEW-E	03-08-006
232- 28-334	NEW-P	03-02-103	232- 28-61900J	NEW-E	03-13-001	236- 12-480	REP-E	03-09-030
232- 28-334	NEW	03-06-110	232- 28-61900J	REP-E	03-13-001	242- 02-010	AMD-X	03-10-069
232- 28-334	AMD-P	03-13-119	232- 28-61900K	NEW-E	03-06-028	242- 02-010	AMD	03-15-047
232- 28-335	NEW-P	03-02-103	232- 28-61900K	REP-E	03-06-028	242- 02-052	AMD-X	03-10-069
232- 28-335	NEW	03-06-110	232- 28-61900K	NEW-E	03-13-069	242- 02-052	AMD	03-15-047
232- 28-335	AMD-P	03-13-120	232- 28-61900K	REP-E	03-14-028	242- 02-070	AMD-X	03-10-069
232- 28-336	NEW-P	03-02-103	232- 28-61900L	NEW-E	03-07-001	242- 02-070	AMD	03-15-047
232- 28-336	NEW	03-06-110	232- 28-61900L	REP-E	03-07-001	242- 02-072	AMD-X	03-10-069
232- 28-337	NEW-P	03-06-112	232- 28-61900L	REP-E	03-11-037	242- 02-072	AMD	03-15-047
232- 28-337	NEW	03-13-047	232- 28-61900L	NEW-E	03-13-068	242- 02-076	NEW-X	03-10-069
232- 28-341	NEW-P	03-06-106	232- 28-61900L	REP-E	03-14-073	242- 02-076	NEW	03-15-047
232- 28-341	NEW	03-13-047	232- 28-61900M	NEW-E	03-07-016	242- 02-834	AMD-X	03-10-069
232- 28-341	AMD-P	03-13-116	232- 28-61900M	REP-E	03-07-016	242- 02-834	AMD	03-15-047
232- 28-351	NEW-P	03-06-113	232- 28-61900M	REP-E	03-11-037	242- 04-050	AMD-X	03-10-069
232- 28-351	NEW	03-13-047	232- 28-61900M	NEW-E	03-13-094	242- 04-050	AMD	03-15-047
232- 28-352	NEW-P	03-06-114	232- 28-61900M	REP-E	03-13-094	246- 01-001	AMD-X	03-04-105
232- 28-352	NEW	03-13-047	232- 28-61900N	NEW-E	03-07-023	246- 01-001	AMD	03-11-032
232- 28-426	REP-P	03-13-115	232- 28-61900N	REP-E	03-07-023	246- 01-040	REP-X	03-04-105
232- 28-42600C	NEW-E	03-03-102	232- 28-61900N	NEW-E	03-14-028	246- 01-040	REP	03-11-032
232- 28-42600C	REP-E	03-03-102	232- 28-61900N	REP-E	03-14-093	246- 01-070	REP-X	03-04-105
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246-01-090	AMD	03-11-032	246-272B-03001	NEW-P	03-12-089	246-290-634	AMD-P	03-03-079
246-01-100	REP-X	03-04-105	246-272B-08001	NEW-P	03-12-089	246-290-634	AMD	03-08-037
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246-100-055	NEW	03-05-048	246-272B-20501	NEW-P	03-12-089	246-290-666	AMD	03-08-037
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246-100-065	NEW	03-05-048	246-272B-26001	NEW-P	03-12-089	246-290-672	AMD	03-08-037
246-100-070	NEW	03-05-048	246-272B-27001	NEW-P	03-12-089	246-290-674	AMD-P	03-03-079
246-100-166	PREP	03-09-126	246-272B-28001	NEW-P	03-12-089	246-290-674	AMD	03-08-037
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246-205-990	AMD-P	03-08-033	246-282-990	AMD	03-14-037	246-290-676	AMD	03-08-037
246-205-990	AMD	03-13-123	246-282-990	AMD-P	03-14-145	246-290-690	AMD-P	03-03-079
246-243-150	AMD-P	03-07-094	246-290	PREP	03-04-044	246-290-690	AMD	03-08-037
246-243-150	AMD	03-12-062	246-290	PREP-W	03-07-101	246-290-691	AMD-P	03-03-079
246-244-020	AMD-P	03-07-094	246-290	PREP-W	03-07-102	246-290-691	AMD	03-08-037
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246-244-030	AMD	03-12-062	246-290-002	AMD	03-08-037	246-290-694	AMD-P	03-03-079
246-244-080	AMD-P	03-07-094	246-290-010	AMD-P	03-03-079	246-290-694	AMD	03-08-037
246-244-080	AMD	03-12-062	246-290-010	AMD	03-08-037	246-290-696	AMD-P	03-03-079
246-244-110	AMD-P	03-07-094	246-290-025	AMD-P	03-03-079	246-290-696	AMD	03-08-037
246-244-110	AMD	03-12-062	246-290-025	AMD	03-08-037	246-290-71001	NEW-P	03-03-079
246-244-115	NEW-P	03-07-094	246-290-060	AMD-P	03-03-078	246-290-71001	NEW	03-08-037
246-244-115	NEW	03-12-062	246-290-060	AMD-P	03-03-079	246-290-71002	NEW-P	03-03-079
246-244-160	AMD-P	03-07-094	246-290-060	AMD	03-08-037	246-290-71002	NEW	03-08-037
246-244-160	AMD	03-12-062	246-290-100	AMD-P	03-03-079	246-290-71003	NEW-P	03-03-079
246-244-240	AMD-P	03-07-094	246-290-100	AMD	03-08-037	246-290-71003	NEW	03-08-037
246-244-240	AMD	03-12-062	246-290-105	AMD-P	03-03-079	246-290-71004	NEW-P	03-03-079
246-247-075	AMD-P	03-15-104	246-290-105	AMD	03-08-037	246-290-71004	NEW	03-08-037
246-247-110	PREP	03-10-016	246-290-125	AMD-P	03-03-079	246-290-71005	NEW-P	03-03-079
246-247-110	AMD-P	03-15-104	246-290-125	AMD	03-08-037	246-290-71005	NEW	03-08-037
246-247-120	PREP	03-10-016	246-290-220	AMD-P	03-03-079	246-290-71006	NEW-P	03-03-079
246-247-120	AMD-P	03-15-104	246-290-220	AMD	03-08-037	246-290-71006	NEW	03-08-037
246-247-130	PREP	03-10-016	246-290-300	AMD-P	03-03-079	246-290-71007	NEW-P	03-03-079
246-247-130	AMD-P	03-15-104	246-290-300	AMD	03-08-037	246-290-71007	NEW	03-08-037
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246-254-053	AMD	03-13-122	246-290-310	AMD	03-08-037	246-290-72001	AMD	03-08-037
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246-254-070	AMD	03-14-034	246-290-320	AMD	03-08-037	246-290-72005	AMD	03-08-037
246-254-080	AMD-P	03-08-035	246-290-416	AMD-P	03-03-079	246-290-72007	AMD-P	03-03-079
246-254-080	AMD	03-14-034	246-290-416	AMD	03-08-037	246-290-72007	AMD	03-08-037
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246-254-090	AMD	03-14-034	246-290-451	AMD	03-08-037	246-290-72010	AMD	03-08-037
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246-254-100	AMD	03-14-034	246-290-480	AMD	03-08-037	246-290-72012	AMD	03-08-037
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246-260-9901	AMD	03-14-146	246-290-490	AMD	03-08-037	246-290-990	AMD	03-13-028
246-262-990	AMD-P	03-11-030	246-290-495	REP-P	03-03-079	246-292	PREP	03-04-044
246-262-990	AMD	03-14-146	246-290-495	REP	03-08-037	246-292-160	AMD-P	03-08-036
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246-310-262	AMD-W	03-14-137	246-828-055	REP-P	03-15-106	246-870-040	NEW-P	03-11-092
246-310-263	NEW-W	03-14-137	246-828-061	REP-P	03-15-106	246-870-050	NEW-P	03-11-092
246-310-290	NEW-P	03-03-097	246-828-070	REP-P	03-15-106	246-870-060	NEW-P	03-11-092
246-310-290	NEW	03-07-096	246-828-075	AMD-P	03-15-106	246-870-070	NEW-P	03-11-092
246-310-295	NEW-P	03-03-097	246-828-090	AMD-P	03-15-106	246-870-080	NEW-P	03-11-092
246-310-295	NEW	03-07-096	246-828-095	AMD-P	03-15-106	246-870-090	NEW-P	03-11-092
246-310-990	AMD-P	03-03-097	246-828-100	AMD-P	03-15-106	246-887	PREP	03-09-124
246-310-990	AMD	03-07-096	246-828-105	AMD-P	03-15-106	246-887	PREP	03-15-103
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246-320-010	AMD-W	03-14-016	246-828-270	AMD-P	03-15-106	246-887-165	NEW-X	03-03-096
246-320-370	NEW-P	03-12-090	246-828-290	AMD-P	03-15-106	246-887-165	NEW	03-09-064
246-320-370	NEW-W	03-14-016	246-828-320	AMD-P	03-15-106	246-889-050	NEW-P	03-06-002
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246-323-990	AMD	03-14-147	246-828-350	AMD-P	03-15-106	246-919	PREP	03-08-032
246-455-001	AMD-P	03-05-024	246-828-500	AMD-P	03-15-106	246-919-100	REP-X	03-12-091
246-455-001	AMD-S	03-09-127	246-828-550	AMD-P	03-15-106	246-919-110	AMD-X	03-15-068
246-455-001	AMD	03-13-029	246-828-990	AMD-P	03-15-106	246-919-120	REP-X	03-12-091
246-455-010	AMD-P	03-05-024	246-830-005	AMD	03-11-033	246-919-130	REP-X	03-12-091
246-455-010	AMD-S	03-09-127	246-830-435	NEW	03-11-033	246-919-140	REP-X	03-12-091
246-455-010	AMD	03-13-029	246-830-990	AMD-P	03-03-077	246-919-150	REP-X	03-12-091
246-455-020	AMD-P	03-05-024	246-830-990	AMD	03-07-095	246-919-320	AMD-X	03-15-068
246-455-020	AMD-S	03-09-127	246-834-990	PREP	03-13-126	246-919-330	AMD-X	03-15-068
246-455-020	AMD	03-13-029	246-836-990	AMD-P	03-03-077	246-919-350	REP-X	03-12-091
246-455-030	AMD-P	03-05-024	246-836-990	AMD	03-07-095	246-919-360	AMD-X	03-15-068
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246-455-040	AMD-P	03-05-024	246-840-700	AMD-E	03-15-034	246-926-020	PREP	03-14-032
246-455-040	AMD-S	03-09-127	246-840-840	PREP	03-12-087	246-926-100	AMD	03-10-100
246-455-040	AMD	03-13-029	246-840-840	AMD-E	03-13-143	246-926-100	PREP	03-14-144
246-455-070	AMD-P	03-05-024	246-840-850	PREP	03-12-087	246-926-110	PREP	03-14-144
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260- 48-630	AMD	03-07-057	284- 30-3910	NEW	03-14-092	296- 13-100	REP	03-09-111
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296- 13-270	REP	03-09-111	296- 17-757	PREP	03-03-026	296- 19A-245	NEW	03-11-009
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296- 13-280	REP	03-09-111	296- 17-758	PREP	03-03-026	296- 19A-270	AMD	03-11-009
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296- 13-290	REP	03-09-111	296- 17-759	PREP	03-03-026	296- 19A-350	AMD	03-11-009
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296- 13-300	REP	03-09-111	296- 17-760	PREP	03-03-026	296- 19A-440	AMD	03-11-009
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296-24-24015	REP-P	03-14-075	296-45-255	AMD-P	03-10-067	296-46A-500	REP-P	03-05-074
296-24-24017	REP-P	03-14-075	296-45-325	AMD-P	03-10-067	296-46A-500	REP	03-09-111
296-24-24019	REP-P	03-14-075	296-45-48535	AMD-X	03-12-072	296-46A-514	REP-P	03-05-074
296-24-245	REP-P	03-14-075	296-46A	PREP	03-04-098	296-46A-514	REP	03-09-111
296-24-24501	REP-P	03-14-075	296-46A-090	REP-P	03-05-074	296-46A-517	REP-P	03-05-074
296-24-24503	REP-P	03-14-075	296-46A-090	REP	03-09-111	296-46A-517	REP	03-09-111
296-24-24505	REP-P	03-14-075	296-46A-092	REP-P	03-05-074	296-46A-550	REP-P	03-05-074
296-24-24507	REP-P	03-14-075	296-46A-092	REP	03-09-111	296-46A-550	REP	03-09-111
296-24-24509	REP-P	03-14-075	296-46A-095	REP-P	03-05-074	296-46A-553	REP-P	03-05-074
296-24-24511	REP-P	03-14-075	296-46A-095	REP	03-09-111	296-46A-553	REP	03-09-111
296-24-24513	REP-P	03-14-075	296-46A-100	REP-P	03-05-074	296-46A-600	REP-P	03-05-074
296-24-24515	REP-P	03-14-075	296-46A-100	REP	03-09-111	296-46A-600	REP	03-09-111
296-24-24517	REP-P	03-14-075	296-46A-102	REP-P	03-05-074	296-46A-680	REP-P	03-05-074
296-24-24519	REP-P	03-14-075	296-46A-102	REP	03-09-111	296-46A-680	REP	03-09-111
296-24-650	REP	03-09-009	296-46A-104	REP-P	03-05-074	296-46A-700	REP-P	03-05-074
296-24-65003	REP	03-09-009	296-46A-104	REP	03-09-111	296-46A-700	REP	03-09-111
296-24-65005	REP	03-09-009	296-46A-110	REP-P	03-05-074	296-46A-702	REP-P	03-05-074
296-24-65007	REP	03-09-009	296-46A-110	REP	03-09-111	296-46A-702	REP	03-09-111
296-24-655	REP	03-09-009	296-46A-130	REP-P	03-05-074	296-46A-900	REP-P	03-05-074
296-24-65501	REP	03-09-009	296-46A-130	REP	03-09-111	296-46A-900	REP	03-09-111
296-24-657	REP	03-09-009	296-46A-140	REP-P	03-05-074	296-46A-910	REP-P	03-05-074
296-24-65701	REP	03-09-009	296-46A-140	REP	03-09-111	296-46A-910	REP	03-09-111
296-24-65703	REP	03-09-009	296-46A-155	REP-P	03-05-074	296-46A-915	REP-P	03-05-074
296-24-660	REP	03-09-009	296-46A-155	REP	03-09-111	296-46A-915	REP	03-09-111
296-24-66001	REP	03-09-009	296-46A-21052	REP-P	03-05-074	296-46A-920	REP-P	03-05-074
296-24-66003	REP	03-09-009	296-46A-21052	REP	03-09-111	296-46A-920	REP	03-09-111
296-24-66005	REP	03-09-009	296-46A-215	REP-P	03-05-074	296-46A-930	REP-P	03-05-074
296-24-66007	REP	03-09-009	296-46A-215	REP	03-09-111	296-46A-930	REP	03-09-111
296-24-66009	REP	03-09-009	296-46A-220	REP-P	03-05-074	296-46A-931	REP-P	03-05-074
296-24-66011	REP	03-09-009	296-46A-220	REP	03-09-111	296-46A-931	REP	03-09-111
296-24-663	REP	03-09-009	296-46A-22530	REP-P	03-05-074	296-46A-932	REP-P	03-05-074
296-24-66301	REP	03-09-009	296-46A-22530	REP	03-09-111	296-46A-932	REP	03-09-111
296-24-66303	REP	03-09-009	296-46A-23001	REP-P	03-05-074	296-46A-933	REP-P	03-05-074
296-24-66305	REP	03-09-009	296-46A-23001	REP	03-09-111	296-46A-933	REP	03-09-111
296-24-66307	REP	03-09-009	296-46A-23028	REP-P	03-05-074	296-46A-934	REP-P	03-05-074
296-24-66309	REP	03-09-009	296-46A-23028	REP	03-09-111	296-46A-934	REP	03-09-111
296-24-66311	REP	03-09-009	296-46A-23040	REP-P	03-05-074	296-46A-935	REP-P	03-05-074
296-24-66313	REP	03-09-009	296-46A-23040	REP	03-09-111	296-46A-935	REP	03-09-111
296-24-66315	REP	03-09-009	296-46A-23062	REP-P	03-05-074	296-46A-940	REP-P	03-05-074
296-24-66317	REP	03-09-009	296-46A-23062	REP	03-09-111	296-46A-940	REP	03-09-111
296-24-66319	REP	03-09-009	296-46A-250	REP-P	03-05-074	296-46A-950	REP-P	03-05-074
296-24-66321	REP	03-09-009	296-46A-250	REP	03-09-111	296-46A-950	REP	03-09-111
296-24-665	REP	03-09-009	296-46A-300	REP-P	03-05-074	296-46A-960	REP-P	03-05-074
296-24-66501	REP	03-09-009	296-46A-300	REP	03-09-111	296-46A-960	REP	03-09-111
296-24-66503	REP	03-09-009	296-46A-30011	REP-P	03-05-074	296-46B	PREP	03-10-065
296-24-66505	REP	03-09-009	296-46A-30011	REP	03-09-111	296-46B	PREP	03-15-116
296-24-66507	REP	03-09-009	296-46A-324	REP-P	03-05-074	296-46B-005	NEW-P	03-05-074
296-24-66509	REP	03-09-009	296-46A-324	REP	03-09-111	296-46B-005	NEW	03-09-111
296-24-670	REP	03-09-009	296-46A-348	REP-P	03-05-074	296-46B-010	NEW-P	03-05-074
296-24-67001	REP	03-09-009	296-46A-348	REP	03-09-111	296-46B-010	NEW	03-09-111
296-24-67003	REP	03-09-009	296-46A-365	REP-P	03-05-074	296-46B-020	NEW-P	03-05-074

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296-46B-030	NEW	03-09-111	296-46B-905	NEW	03-09-111	296-52-67065	AMD	03-06-073
296-46B-040	NEW-P	03-05-074	296-46B-905	AMD-X	03-13-100	296-52-67160	AMD	03-06-073
296-46B-040	NEW	03-09-111	296-46B-910	NEW-P	03-05-074	296-52-68060	AMD	03-06-073
296-46B-110	NEW-P	03-05-074	296-46B-910	NEW	03-09-111	296-52-69010	AMD	03-06-073
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296-46B-225	NEW	03-09-111	296-46B-930	NEW-P	03-05-074	296-52-71045	AMD	03-06-073
296-46B-230	NEW-P	03-05-074	296-46B-930	NEW	03-09-111	296-54	PREP	03-10-064
296-46B-230	NEW	03-09-111	296-46B-930	AMD-X	03-13-100	296-54	PREP	03-10-066
296-46B-250	NEW-P	03-05-074	296-46B-935	NEW-P	03-05-074	296-54-51130	AMD	03-11-060
296-46B-250	NEW	03-09-111	296-46B-935	NEW	03-09-111	296-56	PREP	03-03-110
296-46B-300	NEW-P	03-05-074	296-46B-940	NEW-P	03-05-074	296-56	PREP	03-10-066
296-46B-300	NEW	03-09-111	296-46B-940	NEW	03-09-111	296-56-60001	AMD	03-11-060
296-46B-314	NEW-P	03-05-074	296-46B-945	NEW-P	03-05-074	296-59	PREP	03-03-110
296-46B-314	NEW	03-09-111	296-46B-945	NEW	03-09-111	296-59	PREP	03-10-064
296-46B-334	NEW-P	03-05-074	296-46B-950	NEW-P	03-05-074	296-59-090	AMD	03-11-060
296-46B-334	NEW	03-09-111	296-46B-950	NEW	03-09-111	296-62	PREP	03-04-097
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296-46B-394	NEW-P	03-05-074	296-46B-951	NEW	03-09-111	296-62-054	REP	03-10-068
296-46B-394	NEW	03-09-111	296-46B-955	NEW-P	03-05-074	296-62-05402	REP-X	03-04-100
296-46B-410	NEW-P	03-05-074	296-46B-955	NEW	03-09-111	296-62-05402	REP	03-10-068
296-46B-410	NEW	03-09-111	296-46B-960	NEW-P	03-05-074	296-62-05404	REP-X	03-04-100
296-46B-422	NEW-P	03-05-074	296-46B-960	NEW	03-09-111	296-62-05404	REP	03-10-068
296-46B-422	NEW	03-09-111	296-46B-965	NEW-P	03-05-074	296-62-05406	REP-X	03-04-100
296-46B-430	NEW-P	03-05-074	296-46B-965	NEW	03-09-111	296-62-05406	REP	03-10-068
296-46B-430	NEW	03-09-111	296-46B-970	NEW-P	03-05-074	296-62-05408	REP-X	03-04-100
296-46B-450	NEW-P	03-05-074	296-46B-970	NEW	03-09-111	296-62-05408	REP	03-10-068
296-46B-450	NEW	03-09-111	296-46B-971	NEW-P	03-05-074	296-62-05410	REP-X	03-04-100
296-46B-501	NEW-P	03-05-074	296-46B-971	NEW	03-09-111	296-62-05410	REP	03-10-068
296-46B-501	NEW	03-09-111	296-46B-975	NEW-P	03-05-074	296-62-05412	REP-X	03-04-100
296-46B-514	NEW-P	03-05-074	296-46B-975	NEW	03-09-111	296-62-05412	REP	03-10-068
296-46B-514	NEW	03-09-111	296-46B-980	NEW-P	03-05-074	296-62-070	REP-X	03-04-100
296-46B-517	NEW-P	03-05-074	296-46B-980	NEW	03-09-111	296-62-070	REP	03-10-068
296-46B-517	NEW	03-09-111	296-46B-985	NEW-P	03-05-074	296-62-07001	REP-X	03-04-100
296-46B-520	NEW-P	03-05-074	296-46B-985	NEW	03-09-111	296-62-07001	REP	03-10-068
296-46B-520	NEW	03-09-111	296-46B-990	NEW-P	03-05-074	296-62-07003	REP-X	03-04-100
296-46B-527	NEW-P	03-05-074	296-46B-990	NEW	03-09-111	296-62-07003	REP	03-10-068
296-46B-527	NEW	03-09-111	296-46B-995	NEW-P	03-05-074	296-62-07005	REP-X	03-04-100
296-46B-550	NEW-P	03-05-074	296-46B-995	NEW	03-09-111	296-62-07005	REP	03-10-068
296-46B-550	NEW	03-09-111	296-46B-998	NEW-P	03-05-074	296-62-071	AMD-P	03-08-044
296-46B-553	NEW-P	03-05-074	296-46B-998	NEW	03-09-111	296-62-07308	AMD-X	03-12-072
296-46B-553	NEW	03-09-111	296-46B-999	NEW-P	03-05-074	296-62-07336	AMD-X	03-12-072
296-46B-555	NEW-P	03-05-074	296-46B-999	NEW	03-09-111	296-62-07342	AMD-X	03-12-072
296-46B-555	NEW	03-09-111	296-52-60020	AMD	03-06-073	296-62-07347	AMD-X	03-12-072
296-46B-600	NEW-P	03-05-074	296-52-60130	AMD	03-06-073	296-62-07419	AMD-X	03-12-072
296-46B-600	NEW	03-09-111	296-52-61040	AMD-X	03-05-073	296-62-07460	AMD-X	03-12-072
296-46B-680	NEW-P	03-05-074	296-52-61040	AMD	03-10-037	296-62-075	AMD-P	03-11-059
296-46B-680	NEW	03-09-111	296-52-62005	AMD-X	03-05-073	296-62-07521	AMD-X	03-12-072
296-46B-700	NEW-P	03-05-074	296-52-62005	AMD	03-10-037	296-62-07719	AMD-X	03-12-072
296-46B-700	NEW	03-09-111	296-52-63005	AMD-X	03-05-073	296-62-080	REP-X	03-04-100
296-46B-800	NEW-P	03-05-074	296-52-63005	AMD	03-10-037	296-62-080	REP	03-10-068
296-46B-800	NEW	03-09-111	296-52-65005	AMD-X	03-05-073	296-62-08001	AMD	03-09-110
296-46B-900	NEW-P	03-05-074	296-52-65005	AMD	03-10-037	296-62-09015	AMD	03-11-060

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296-62-11021	REP	03-10-068	296-150M-0049	AMD-P	03-09-109	296-150V	PREP	03-10-065
296-62-130	REP-X	03-04-100	296-150M-0049	AMD	03-12-044	296-150V	PREP	03-15-115
296-62-130	REP	03-10-068	296-150M-0050	AMD-P	03-09-109	296-150V-0020	AMD-P	03-09-109
296-62-20015	AMD-X	03-12-072	296-150M-0050	AMD	03-12-044	296-150V-0020	AMD	03-12-044
296-62-300	AMD-P	03-14-074	296-150M-0051	NEW-P	03-09-109	296-150V-0800	AMD-P	03-09-109
296-62-31020	AMD-X	03-12-072	296-150M-0051	NEW	03-12-044	296-150V-0800	AMD	03-12-044
296-62-31335	AMD-X	03-12-072	296-150M-0302	AMD-P	03-09-109	296-150V-1090	AMD-P	03-09-109
296-78	PREP	03-10-064	296-150M-0302	AMD	03-12-044	296-150V-1090	AMD	03-12-044
296-78	PREP	03-10-066	296-150M-0320	AMD-P	03-09-109	296-150V-1220	REP-P	03-09-109
296-78-56505	AMD	03-06-076	296-150M-0320	AMD	03-12-044	296-150V-1220	REP	03-12-044
296-78-71001	AMD	03-06-076	296-150M-0322	NEW-P	03-09-109	296-150V-1530	AMD-P	03-09-109
296-78-71011	AMD	03-06-076	296-150M-0322	NEW	03-12-044	296-150V-1530	AMD	03-12-044
296-78-835	AMD	03-06-076	296-150M-0360	AMD-P	03-09-109	296-150V-1600	NEW-P	03-09-109
296-79	PREP	03-03-110	296-150M-0360	AMD	03-12-044	296-150V-1600	NEW	03-12-044
296-79	PREP	03-10-064	296-150M-0705	NEW-P	03-09-109	296-150V-3000	AMD-P	03-09-108
296-79	PREP	03-10-066	296-150M-0705	NEW	03-12-044	296-150V-3000	AMD	03-12-045
296-96	PREP	03-04-098	296-150M-0715	NEW-P	03-09-109	296-155	PREP	03-04-097
296-96	PREP	03-10-065	296-150M-0715	NEW	03-12-044	296-155	PREP	03-10-064
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296-96-01005	AMD	03-12-045	296-150M-0725	NEW	03-12-044	296-155-145	AMD	03-11-060
296-96-01030	AMD-P	03-09-108	296-150M-0800	NEW-P	03-09-109	296-155-210	AMD	03-11-060
296-96-01030	AMD	03-12-045	296-150M-0800	NEW	03-12-044	296-155-300	AMD	03-06-075
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296-96-01050	AMD	03-12-045	296-150M-0805	NEW	03-12-044	296-155-310	AMD	03-06-075
296-96-01055	AMD-P	03-09-108	296-150M-0810	NEW-P	03-09-109	296-155-315	AMD	03-06-075
296-96-01055	AMD	03-12-045	296-150M-0810	NEW	03-12-044	296-200A	PREP	03-10-065
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296-104	PREP	03-12-081	296-150M-0815	NEW	03-12-044	296-200A-025	AMD-P	03-15-117
296-104-055	AMD-P	03-08-076	296-150M-0820	NEW-P	03-09-109	296-200A-030	NEW-P	03-15-117
296-104-055	AMD	03-12-051	296-150M-0820	NEW	03-12-044	296-200A-035	AMD-P	03-15-117
296-104-700	AMD-P	03-08-076	296-150M-0830	NEW-P	03-09-109	296-200A-040	AMD-P	03-15-117
296-104-700	AMD	03-12-051	296-150M-0830	NEW	03-12-044	296-200A-060	AMD-P	03-15-117
296-115-050	AMD-X	03-12-072	296-150M-0835	NEW-P	03-09-109	296-200A-065	NEW-P	03-15-117
296-128-500	AMD	03-03-109	296-150M-0835	NEW	03-12-044	296-200A-070	AMD-P	03-15-117
296-128-532	NEW	03-03-109	296-150M-0840	NEW-P	03-09-109	296-200A-080	AMD-P	03-15-117
296-128-533	NEW	03-03-109	296-150M-0840	NEW	03-12-044	296-200A-090	AMD-P	03-15-117
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296-130-020	AMD	03-03-010	296-150M-0845	NEW	03-12-044	296-200A-112	AMD-P	03-15-117
296-130-030	AMD	03-03-010	296-150M-0855	NEW-P	03-09-109	296-200A-300	AMD-P	03-15-117
296-130-035	AMD	03-03-010	296-150M-0855	NEW	03-12-044	296-200A-305	AMD-P	03-15-117
296-130-040	AMD	03-03-010	296-150M-0860	NEW-P	03-09-109	296-200A-310	AMD-P	03-15-117
296-130-050	AMD	03-03-010	296-150M-0860	NEW	03-12-044	296-200A-320	AMD-P	03-15-117
296-130-060	AMD	03-03-010	296-150M-0865	NEW-P	03-09-109	296-200A-330	AMD-P	03-15-117
296-130-065	AMD	03-03-010	296-150M-0865	NEW	03-12-044	296-200A-340	AMD-P	03-15-117
296-130-070	AMD	03-03-010	296-150M-3000	AMD-P	03-09-109	296-200A-360	AMD-P	03-15-117
296-130-080	AMD	03-03-010	296-150M-3000	AMD	03-12-044	296-200A-370	AMD-P	03-15-117
296-130-100	NEW	03-03-010	296-150P	PREP	03-10-065	296-200A-380	AMD-P	03-15-117
296-130-500	REP	03-03-010	296-150P	PREP	03-15-115	296-200A-390	AMD-P	03-15-117
296-150C	PREP	03-10-065	296-150P-0020	AMD-P	03-09-109	296-200A-400	AMD-P	03-15-117
296-150C	PREP	03-15-115	296-150P-0020	AMD	03-12-044	296-200A-405	AMD-P	03-15-117
296-150C-0150	NEW-P	03-09-109	296-150P-3000	AMD-P	03-09-108	296-200A-500	REP-P	03-15-117
296-150C-0150	NEW	03-12-044	296-150P-3000	AMD	03-12-045	296-200A-510	REP-P	03-15-117
296-150C-3000	AMD-P	03-09-108	296-150R	PREP	03-10-065	296-200A-900	AMD-P	03-15-117
296-150C-3000	AMD	03-12-045	296-150R	PREP	03-15-115	296-304-01001	AMD	03-04-099
296-150F	PREP	03-10-065	296-150R-0020	AMD-P	03-09-109	296-304-01003	AMD	03-04-099
296-150F	PREP	03-15-115	296-150R-0020	AMD	03-12-044	296-304-02007	AMD	03-04-099
296-150F-3000	AMD-P	03-09-109	296-150R-3000	AMD-P	03-09-108	296-304-02009	AMD	03-04-099
296-150F-3000	AMD	03-12-044	296-150R-3000	AMD	03-12-045	296-304-03007	AMD	03-04-099
296-150M	PREP	03-10-065	296-150T	PREP	03-10-065	296-304-04001	AMD	03-04-099
296-150M	PREP	03-15-115	296-150T	PREP	03-15-115	296-304-05001	AMD	03-04-099
296-150M-0020	AMD-P	03-09-109	296-150T-3000	AMD-P	03-09-108	296-304-05003	AMD	03-04-099

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-304-05005	AMD	03-04-099	296-307-45007	REP	03-10-068	296-307-460	NEW	03-10-068
296-304-05009	AMD	03-04-099	296-307-45009	REP-X	03-04-100	296-307-46005	NEW-X	03-04-100
296-304-05013	AMD	03-04-099	296-307-45009	REP	03-10-068	296-307-46005	NEW	03-10-068
296-304-06003	AMD	03-04-099	296-307-45010	NEW-X	03-04-100	296-307-46025	NEW-X	03-04-100
296-304-07009	AMD	03-04-099	296-307-45010	NEW	03-10-068	296-307-46025	NEW	03-10-068
296-304-07011	AMD	03-04-099	296-307-45011	REP-X	03-04-100	296-307-46030	NEW-X	03-04-100
296-304-07013	AMD	03-04-099	296-307-45011	REP	03-10-068	296-307-46030	NEW	03-10-068
296-304-08001	AMD	03-04-099	296-307-45013	REP-X	03-04-100	296-307-465	NEW-X	03-04-100
296-304-08009	AMD	03-11-060	296-307-45013	REP	03-10-068	296-307-465	NEW	03-10-068
296-304-09009	AMD	03-11-060	296-307-45015	AMD-X	03-04-100	296-307-55030	AMD-X	03-04-100
296-304-09017	AMD	03-04-099	296-307-45015	AMD	03-10-068	296-307-55030	AMD	03-10-068
296-304-09021	AMD	03-04-099	296-307-45017	REP-X	03-04-100	296-307-560	NEW-X	03-04-100
296-304-09023	AMD	03-04-099	296-307-45017	REP	03-10-068	296-307-560	NEW	03-10-068
296-304-10003	AMD	03-04-099	296-307-45019	REP-X	03-04-100	296-307-56005	NEW-X	03-04-100
296-304-10007	AMD	03-04-099	296-307-45019	REP	03-10-068	296-307-56005	NEW	03-10-068
296-305	PREP	03-04-097	296-307-45020	NEW-X	03-04-100	296-307-56010	NEW-X	03-04-100
296-305	PREP	03-10-066	296-307-45020	NEW	03-10-068	296-307-56010	NEW	03-10-068
296-305-01515	AMD	03-09-110	296-307-45021	REP-X	03-04-100	296-307-56015	NEW-X	03-04-100
296-305-02005	AMD	03-11-060	296-307-45021	REP	03-10-068	296-307-56015	NEW	03-10-068
296-305-02501	AMD	03-09-110	296-307-45023	REP-X	03-04-100	296-307-56020	NEW-X	03-04-100
296-305-05503	AMD	03-11-060	296-307-45023	REP	03-10-068	296-307-56020	NEW	03-10-068
296-307	PREP	03-10-064	296-307-45025	AMD-X	03-04-100	296-307-56025	NEW-X	03-04-100
296-307	PREP	03-10-066	296-307-45025	AMD	03-10-068	296-307-56025	NEW	03-10-068
296-307-009	AMD-X	03-04-100	296-307-45027	REP-X	03-04-100	296-307-56030	NEW-X	03-04-100
296-307-009	AMD	03-10-068	296-307-45027	REP	03-10-068	296-307-56030	NEW	03-10-068
296-307-018	AMD-X	03-04-100	296-307-45029	REP-X	03-04-100	296-307-56035	NEW-X	03-04-100
296-307-018	AMD	03-10-068	296-307-45029	REP	03-10-068	296-307-56035	NEW	03-10-068
296-307-03930	NEW-X	03-04-100	296-307-45030	NEW-X	03-04-100	296-307-56040	NEW-X	03-04-100
296-307-03930	NEW	03-10-068	296-307-45030	NEW	03-10-068	296-307-56040	NEW	03-10-068
296-307-03935	NEW-X	03-04-100	296-307-45035	NEW-X	03-04-100	296-307-56045	NEW-X	03-04-100
296-307-03935	NEW	03-10-068	296-307-45035	NEW	03-10-068	296-307-56045	NEW	03-10-068
296-307-03940	NEW-X	03-04-100	296-307-45045	NEW-X	03-04-100	296-307-56050	NEW-X	03-04-100
296-307-03940	NEW	03-10-068	296-307-45045	NEW	03-10-068	296-307-56050	NEW	03-10-068
296-307-03945	NEW-X	03-04-100	296-307-45050	NEW-X	03-04-100	296-400A	PREP	03-10-065
296-307-03945	NEW	03-10-068	296-307-45050	NEW	03-10-068	296-400A	PREP	03-15-114
296-307-148	NEW-P	03-15-032	296-307-455	NEW-X	03-04-100	296-400A-045	AMD-P	03-09-108
296-307-14805	NEW-P	03-15-032	296-307-455	NEW	03-10-068	296-400A-045	AMD	03-12-045
296-307-14810	NEW-P	03-15-032	296-307-45505	NEW-X	03-04-100	296-401B-092	REP-P	03-05-074
296-307-14815	NEW-P	03-15-032	296-307-45505	NEW	03-10-068	296-401B-092	REP	03-09-111
296-307-14820	NEW-P	03-15-032	296-307-45510	NEW-X	03-04-100	296-401B-100	REP-P	03-05-074
296-307-14825	NEW-P	03-15-032	296-307-45510	NEW	03-10-068	296-401B-100	REP	03-09-111
296-307-14830	NEW-P	03-15-032	296-307-45515	NEW-X	03-04-100	296-401B-110	REP-P	03-05-074
296-307-14835	NEW-P	03-15-032	296-307-45515	NEW	03-10-068	296-401B-110	REP	03-09-111
296-307-14840	NEW-P	03-15-032	296-307-45520	NEW-X	03-04-100	296-401B-120	REP-P	03-05-074
296-307-14845	NEW-P	03-15-032	296-307-45520	NEW	03-10-068	296-401B-120	REP	03-09-111
296-307-40013	AMD-X	03-04-100	296-307-45525	NEW-X	03-04-100	296-401B-130	REP-P	03-05-074
296-307-40013	AMD	03-10-068	296-307-45525	NEW	03-10-068	296-401B-130	REP	03-09-111
296-307-40015	AMD-X	03-04-100	296-307-45535	NEW-X	03-04-100	296-401B-140	REP-P	03-05-074
296-307-40015	AMD	03-10-068	296-307-45535	NEW	03-10-068	296-401B-140	REP	03-09-111
296-307-40027	AMD-X	03-04-100	296-307-45540	NEW-X	03-04-100	296-401B-180	REP-P	03-05-074
296-307-40027	AMD	03-10-068	296-307-45540	NEW	03-10-068	296-401B-180	REP	03-09-111
296-307-445	NEW-X	03-04-100	296-307-45545	NEW-X	03-04-100	296-401B-200	REP-P	03-05-074
296-307-445	NEW	03-10-068	296-307-45545	NEW	03-10-068	296-401B-200	REP	03-09-111
296-307-450	AMD-X	03-04-100	296-307-45550	NEW-X	03-04-100	296-401B-250	REP-P	03-05-074
296-307-450	AMD	03-10-068	296-307-45550	NEW	03-10-068	296-401B-250	REP	03-09-111
296-307-45001	REP-X	03-04-100	296-307-45555	NEW-X	03-04-100	296-401B-260	REP-P	03-05-074
296-307-45001	REP	03-10-068	296-307-45555	NEW	03-10-068	296-401B-260	REP	03-09-111
296-307-45003	REP-X	03-04-100	296-307-45560	NEW-X	03-04-100	296-401B-270	REP-P	03-05-074
296-307-45003	REP	03-10-068	296-307-45560	NEW	03-10-068	296-401B-270	REP	03-09-111
296-307-45005	AMD-X	03-04-100	296-307-45565	NEW-X	03-04-100	296-401B-300	REP-P	03-05-074
296-307-45005	AMD	03-10-068	296-307-45565	NEW	03-10-068	296-401B-300	REP	03-09-111
296-307-45007	REP-X	03-04-100	296-307-460	NEW-X	03-04-100	296-401B-310	REP-P	03-05-074

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296-402A-590	REP	03-09-111	296-807-14005	NEW	03-09-009	296-817-02005	NEW-W	03-13-096
296-402A-600	REP-P	03-05-074	296-807-14010	NEW	03-09-009	296-817-02010	NEW-W	03-13-096
296-402A-600	REP	03-09-111	296-807-14015	NEW	03-09-009	296-817-02015	NEW-W	03-13-096
296-402A-610	REP-P	03-05-074	296-807-14020	NEW	03-09-009	296-817-030	NEW-W	03-13-096
296-402A-610	REP	03-09-111	296-807-14025	NEW	03-09-009	296-817-03005	NEW-W	03-13-096
296-402A-620	REP-P	03-05-074	296-807-14030	NEW	03-09-009	296-817-03010	NEW-W	03-13-096
296-402A-620	REP	03-09-111	296-807-14035	NEW	03-09-009	296-817-03015	NEW-W	03-13-096
296-402A-630	REP-P	03-05-074	296-807-14040	NEW	03-09-009	296-817-03020	NEW-W	03-13-096
296-402A-630	REP	03-09-111	296-807-150	NEW	03-09-009	296-817-03025	NEW-W	03-13-096
296-402A-640	REP-P	03-05-074	296-807-15005	NEW	03-09-009	296-817-03030	NEW-W	03-13-096
296-402A-640	REP	03-09-111	296-807-15010	NEW	03-09-009	296-817-03035	NEW-W	03-13-096
296-402A-650	REP-P	03-05-074	296-807-15015	NEW	03-09-009	296-817-040	NEW-W	03-13-096
296-402A-650	REP	03-09-111	296-807-15020	NEW	03-09-009	296-817-04005	NEW-W	03-13-096
296-402A-660	REP-P	03-05-074	296-807-15025	NEW	03-09-009	296-817-04010	NEW-W	03-13-096
296-402A-660	REP	03-09-111	296-807-15030	NEW	03-09-009	296-817-04015	NEW-W	03-13-096
296-402A-670	REP-P	03-05-074	296-807-15035	NEW	03-09-009	296-817-04020	NEW-W	03-13-096
296-402A-670	REP	03-09-111	296-807-15040	NEW	03-09-009	296-817-04025	NEW-W	03-13-096
296-402A-675	REP-P	03-05-074	296-807-15045	NEW	03-09-009	296-817-050	NEW-W	03-13-096
296-402A-675	REP	03-09-111	296-807-15050	NEW	03-09-009	296-817-100	NEW	03-11-060
296-402A-680	REP-P	03-05-074	296-807-15055	NEW	03-09-009	296-817-200	NEW	03-11-060
296-402A-680	REP	03-09-111	296-807-160	NEW	03-09-009	296-817-20005	NEW	03-11-060
296-402A-690	REP-P	03-05-074	296-807-16005	NEW	03-09-009	296-817-20010	NEW	03-11-060
296-402A-690	REP	03-09-111	296-807-16010	NEW	03-09-009	296-817-20015	NEW	03-11-060
296-800	PREP	03-04-097	296-807-16015	NEW	03-09-009	296-817-20020	NEW	03-11-060
296-800-110	AMD-X	03-12-072	296-807-16020	NEW	03-09-009	296-817-20025	NEW	03-11-060
296-800-11030	AMD-X	03-12-072	296-807-16025	NEW	03-09-009	296-817-20030	NEW	03-11-060
296-800-15005	AMD	03-09-110	296-807-16030	NEW	03-09-009	296-817-20035	NEW	03-11-060
296-800-170	AMD-X	03-12-072	296-807-16035	NEW	03-09-009	296-817-20040	NEW	03-11-060
296-800-17005	AMD-X	03-12-072	296-807-170	NEW	03-09-009	296-817-300	NEW	03-11-060
296-800-17007	NEW-X	03-12-072	296-807-17005	NEW	03-09-009	296-817-30005	NEW	03-11-060
296-800-17015	AMD-X	03-12-072	296-807-17010	NEW	03-09-009	296-817-30010	NEW	03-11-060
296-800-17020	AMD-X	03-12-072	296-807-17015	NEW	03-09-009	296-817-30015	NEW	03-11-060
296-800-230	AMD-X	03-12-072	296-807-17020	NEW	03-09-009	296-817-400	NEW	03-11-060
296-800-23005	AMD-X	03-12-072	296-807-180	NEW	03-09-009	296-817-40005	NEW	03-11-060
296-800-23010	AMD-X	03-12-072	296-807-18005	NEW	03-09-009	296-817-40010	NEW	03-11-060
296-800-23020	AMD-X	03-12-072	296-807-18010	NEW	03-09-009	296-817-40015	NEW	03-11-060
296-800-23025	AMD-X	03-12-072	296-807-18015	NEW	03-09-009	296-817-40020	NEW	03-11-060
296-800-23030	REP-X	03-12-072	296-807-18020	NEW	03-09-009	296-817-40025	NEW	03-11-060
296-800-23035	REP-X	03-12-072	296-807-18025	NEW	03-09-009	296-817-40030	NEW	03-11-060
296-800-23040	NEW-X	03-12-072	296-807-18030	NEW	03-09-009	296-817-40035	NEW	03-11-060
296-800-23045	NEW-X	03-12-072	296-807-18035	NEW	03-09-009	296-817-500	NEW	03-11-060
296-800-23050	NEW-X	03-12-072	296-807-18040	NEW	03-09-009	296-817-50005	NEW	03-11-060
296-800-23055	NEW-X	03-12-072	296-807-18045	NEW	03-09-009	296-817-50010	NEW	03-11-060
296-800-23060	NEW-X	03-12-072	296-807-18050	NEW	03-09-009	296-817-50015	NEW	03-11-060
296-800-23065	NEW-X	03-12-072	296-807-18055	NEW	03-09-009	296-817-50020	NEW	03-11-060
296-800-23070	NEW-X	03-12-072	296-807-18060	NEW	03-09-009	296-817-50025	NEW	03-11-060
296-800-23075	NEW-X	03-12-072	296-807-18065	NEW	03-09-009	296-817-600	NEW	03-11-060
296-800-31050	AMD-X	03-12-072	296-807-18070	NEW	03-09-009	296-823-100	NEW	03-09-110
296-800-350	AMD-X	03-12-072	296-807-18075	NEW	03-09-009	296-823-110	NEW	03-09-110
296-800-35038	AMD-X	03-12-072	296-807-18080	NEW	03-09-009	296-823-11005	NEW	03-09-110
296-800-35040	AMD-X	03-12-072	296-807-18085	NEW	03-09-009	296-823-11010	NEW	03-09-110
296-800-35062	AMD-X	03-12-072	296-807-190	NEW	03-09-009	296-823-120	NEW	03-09-110
296-800-35064	AMD-X	03-12-072	296-817-010	NEW-W	03-13-096	296-823-12005	NEW	03-09-110
296-800-370	AMD-X	03-12-072	296-817-01005	NEW-W	03-13-096	296-823-12010	NEW	03-09-110
296-807-100	NEW	03-09-009	296-817-01010	NEW-W	03-13-096	296-823-12015	NEW	03-09-110
296-807-110	NEW	03-09-009	296-817-01015	NEW-W	03-13-096	296-823-130	NEW	03-09-110
296-807-11005	NEW	03-09-009	296-817-01020	NEW-W	03-13-096	296-823-13005	NEW	03-09-110
296-807-120	NEW	03-09-009	296-817-01025	NEW-W	03-13-096	296-823-13010	NEW	03-09-110
296-807-12005	NEW	03-09-009	296-817-01030	NEW-W	03-13-096	296-823-13015	NEW-W	03-14-136
296-807-130	NEW	03-09-009	296-817-01035	NEW-W	03-13-096	296-823-13020	NEW-W	03-14-136
296-807-13005	NEW	03-09-009	296-817-01040	NEW-W	03-13-096	296-823-13025	NEW-W	03-14-136
296-807-140	NEW	03-09-009	296-817-020	NEW-W	03-13-096	296-823-13030	NEW-W	03-14-136

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296-831-53010	NEW-P	03-14-075	296-843-100	NEW-P	03-14-074	308-20-110	AMD	03-14-046
296-831-53015	NEW-P	03-14-075	296-843-110	NEW-P	03-14-074	308-20-120	AMD-P	03-05-058
296-831-53020	NEW-P	03-14-075	296-843-11005	NEW-P	03-14-074	308-20-120	AMD	03-08-043
296-831-53025	NEW-P	03-14-075	296-843-11010	NEW-P	03-14-074	308-20-120	AMD-P	03-10-085
296-831-53030	NEW-P	03-14-075	296-843-120	NEW-P	03-14-074	308-20-120	AMD	03-14-046
296-831-53035	NEW-P	03-14-075	296-843-12005	NEW-P	03-14-074	308-20-180	REP-P	03-10-085
296-831-53040	NEW-P	03-14-075	296-843-130	NEW-P	03-14-074	308-20-180	REP	03-14-046
296-831-53045	NEW-P	03-14-075	296-843-13005	NEW-P	03-14-074	308-20-210	AMD-P	03-03-119
296-831-53050	NEW-P	03-14-075	296-843-13010	NEW-P	03-14-074	308-20-210	AMD	03-06-054
296-831-53055	NEW-P	03-14-075	296-843-140	NEW-P	03-14-074	308-20-210	AMD-P	03-10-085
296-831-540	NEW-P	03-14-075	296-843-14005	NEW-P	03-14-074	308-20-210	AMD	03-14-046
296-831-54005	NEW-P	03-14-075	296-843-150	NEW-P	03-14-074	308-20-520	AMD-P	03-10-085
296-831-54010	NEW-P	03-14-075	296-843-15005	NEW-P	03-14-074	308-20-520	AMD	03-14-046
296-831-54015	NEW-P	03-14-075	296-843-15010	NEW-P	03-14-074	308-20-530	REP-P	03-10-085
296-831-54020	NEW-P	03-14-075	296-843-15015	NEW-P	03-14-074	308-20-530	REP	03-14-046
296-831-900	NEW-P	03-14-075	296-843-160	NEW-P	03-14-074	308-20-550	AMD-P	03-10-085
296-841	PREP	03-08-073	296-843-16005	NEW-P	03-14-074	308-20-550	AMD	03-14-046
296-841-100	NEW-P	03-11-059	296-843-170	NEW-P	03-14-074	308-20-560	AMD-P	03-10-085
296-841-200	NEW-P	03-11-059	296-843-17005	NEW-P	03-14-074	308-20-560	AMD	03-14-046
296-841-20005	NEW-P	03-11-059	296-843-180	NEW-P	03-14-074	308-20-570	AMD-P	03-10-085
296-841-20010	NEW-P	03-11-059	296-843-18005	NEW-P	03-14-074	308-20-570	AMD	03-14-046
296-841-20015	NEW-P	03-11-059	296-843-18010	NEW-P	03-14-074	308-20-575	NEW-P	03-10-085
296-841-20020	NEW-P	03-11-059	296-843-18015	NEW-P	03-14-074	308-20-575	NEW	03-14-046
296-841-300	NEW-P	03-11-059	296-843-18020	NEW-P	03-14-074	308-20-600	AMD-P	03-10-085
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296-842-105	NEW-P	03-08-044	296-843-19005	NEW-P	03-14-074	308-20-710	AMD-P	03-10-085
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388- 27-0190	AMD-E	03-11-067	388- 71-0415	AMD-E	03-05-098	388- 71-05923	AMD-P	03-15-126
388- 27-0190	PREP	03-11-090	388- 71-0415	AMD-P	03-09-042	388- 71-0600	AMD-E	03-05-044
388- 27-0195	AMD-E	03-11-067	388- 71-0415	AMD-E	03-13-007	388- 71-0600	AMD-E	03-05-098
388- 27-0195	PREP	03-11-090	388- 71-0415	AMD	03-13-052	388- 71-0600	AMD-P	03-09-042
388- 27-0200	AMD-E	03-11-067	388- 71-0415	PREP	03-14-099	388- 71-0600	AMD-E	03-13-007
388- 27-0200	PREP	03-11-090	388- 71-0415	AMD-E	03-15-133	388- 71-0600	AMD	03-13-052
388- 27-0210	AMD-E	03-11-067	388- 71-0420	AMD-E	03-05-044	388- 71-0605	AMD-E	03-05-044
388- 27-0210	PREP	03-11-090	388- 71-0420	AMD-E	03-05-098	388- 71-0605	AMD-E	03-05-098
388- 27-0215	AMD-E	03-11-067	388- 71-0420	AMD-P	03-09-042	388- 71-0605	AMD-P	03-09-042
388- 27-0215	PREP	03-11-090	388- 71-0420	AMD-E	03-13-007	388- 71-0605	AMD-E	03-13-007
388- 27-0220	AMD-E	03-11-067	388- 71-0420	AMD	03-13-052	388- 71-0605	AMD	03-13-052
388- 27-0220	PREP	03-11-090	388- 71-0425	AMD-E	03-05-044	388- 71-0610	AMD-E	03-05-044
388- 27-0225	REP-E	03-11-067	388- 71-0425	AMD-E	03-05-098	388- 71-0610	AMD-E	03-05-098
388- 27-0225	PREP	03-11-090	388- 71-0425	AMD-P	03-09-042	388- 71-0610	AMD-P	03-09-042
388- 27-0230	AMD-E	03-11-067	388- 71-0425	AMD-E	03-13-007	388- 71-0610	AMD-E	03-13-007
388- 27-0235	REP-E	03-11-067	388- 71-0425	AMD	03-13-052	388- 71-0610	AMD	03-13-052
388- 27-0235	PREP	03-11-090	388- 71-0430	AMD-E	03-05-044	388- 71-0702	NEW	03-06-024
388- 27-0240	REP-E	03-11-067	388- 71-0430	AMD-E	03-05-098	388- 71-0704	NEW	03-06-024
388- 27-0240	PREP	03-11-090	388- 71-0430	AMD-P	03-09-042	388- 71-0706	NEW	03-06-024
388- 27-0245	REP-E	03-11-067	388- 71-0430	AMD-E	03-13-007	388- 71-0708	NEW	03-06-024
388- 27-0245	PREP	03-11-090	388- 71-0430	AMD	03-13-052	388- 71-0710	NEW	03-06-024
388- 27-0270	REP-E	03-11-067	388- 71-0435	AMD-E	03-05-044	388- 71-0712	NEW	03-06-024
388- 27-0270	PREP	03-11-090	388- 71-0435	AMD-E	03-05-098	388- 71-0714	NEW	03-06-024
388- 32-0025	PREP	03-03-056	388- 71-0435	AMD-P	03-09-042	388- 71-0716	NEW	03-06-024
388- 32-0025	AMD-E	03-03-069	388- 71-0435	AMD-E	03-13-007	388- 71-0718	NEW	03-06-024
388- 32-0025	AMD-E	03-11-024	388- 71-0435	AMD	03-13-052	388- 71-0720	NEW	03-06-024
388- 32-0025	AMD-P	03-14-100	388- 71-0440	PREP	03-14-099	388- 71-0722	NEW	03-06-024
388- 32-0030	PREP	03-03-056	388- 71-0440	AMD-E	03-15-133	388- 71-0724	NEW	03-06-024
388- 32-0030	AMD-E	03-03-069	388- 71-0442	NEW-E	03-05-044	388- 71-0726	NEW	03-06-024
388- 32-0030	AMD-E	03-11-024	388- 71-0442	NEW-E	03-05-098	388- 71-0728	NEW	03-06-024
388- 32-0030	AMD-P	03-14-100	388- 71-0442	NEW-P	03-09-042	388- 71-0730	NEW	03-06-024
388- 71-0194	AMD-E	03-05-044	388- 71-0442	NEW-E	03-13-007	388- 71-0732	NEW	03-06-024
388- 71-0194	AMD-E	03-05-098	388- 71-0442	NEW	03-13-052	388- 71-0734	NEW	03-06-024
388- 71-0194	AMD-P	03-09-042	388- 71-0445	AMD-E	03-05-044	388- 71-0736	NEW	03-06-024
388- 71-0194	PREP	03-11-088	388- 71-0445	AMD-E	03-05-098	388- 71-0738	NEW	03-06-024
388- 71-0194	AMD-E	03-13-007	388- 71-0445	AMD-P	03-09-042	388- 71-0740	NEW	03-06-024
388- 71-0194	AMD	03-13-052	388- 71-0445	AMD-E	03-13-007	388- 71-0742	NEW	03-06-024
388- 71-0194	PREP-W	03-14-098	388- 71-0445	AMD	03-13-052	388- 71-0744	NEW	03-06-024
388- 71-0194	PREP	03-14-099	388- 71-0460	AMD-E	03-05-044	388- 71-0746	NEW	03-06-024
388- 71-0194	AMD-E	03-15-133	388- 71-0460	AMD-E	03-05-098	388- 71-0748	NEW	03-06-024
388- 71-0202	AMD-E	03-05-044	388- 71-0460	AMD-P	03-09-042	388- 71-0750	NEW	03-06-024
388- 71-0202	AMD-E	03-05-098	388- 71-0460	AMD-W	03-11-025	388- 71-0752	NEW	03-06-024
388- 71-0202	AMD-P	03-09-042	388- 71-0460	AMD-P	03-11-066	388- 71-0754	NEW	03-06-024
388- 71-0202	AMD-E	03-13-007	388- 71-0460	AMD	03-15-010	388- 71-0756	NEW	03-06-024
388- 71-0202	AMD	03-13-052	388- 71-0465	AMD-E	03-05-044	388- 71-0758	NEW	03-06-024
388- 71-0203	AMD-E	03-05-044	388- 71-0465	AMD-E	03-05-098	388- 71-0760	NEW	03-06-024
388- 71-0203	AMD-E	03-05-098	388- 71-0465	AMD-P	03-09-042	388- 71-0762	NEW	03-06-024
388- 71-0203	AMD-P	03-09-042	388- 71-0465	AMD-E	03-13-007	388- 71-0764	NEW	03-06-024
388- 71-0203	AMD-E	03-13-007	388- 71-0465	AMD	03-13-052	388- 71-0766	NEW	03-06-024
388- 71-0203	AMD	03-13-052	388- 71-0470	AMD-E	03-05-044	388- 71-0768	NEW	03-06-024
388- 71-0405	AMD-E	03-05-044	388- 71-0470	AMD-E	03-05-098	388- 71-0770	NEW	03-06-024
388- 71-0405	AMD-E	03-05-098	388- 71-0470	AMD-P	03-09-042	388- 71-0772	NEW	03-06-024
388- 71-0405	AMD-P	03-09-042	388- 71-0470	AMD-E	03-13-007	388- 71-0774	NEW	03-06-024
388- 71-0405	AMD-E	03-13-007	388- 71-0470	AMD	03-13-052	388- 71-0776	NEW	03-06-024
388- 71-0405	AMD	03-13-052	388- 71-0475	REP-P	03-06-093	388- 71-0800	AMD-P	03-09-091
388- 71-0405	PREP	03-14-099	388- 71-0475	REP	03-09-092	388- 71-0800	AMD	03-13-091
388- 71-0410	AMD-E	03-05-044	388- 71-0480	AMD-E	03-05-044	388- 71-0805	AMD-P	03-09-091

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 71-0805	AMD	03-13-091	388- 78A-0180	NEW-P	03-03-018	388- 78A-0700	NEW-P	03-03-018
388- 71-0810	AMD-P	03-09-091	388- 78A-0190	NEW-P	03-03-018	388- 78A-0710	NEW-P	03-03-018
388- 71-0810	AMD	03-13-091	388- 78A-020	REP-P	03-03-018	388- 78A-0720	NEW-P	03-03-018
388- 71-0815	AMD-P	03-09-091	388- 78A-0200	NEW-P	03-03-018	388- 78A-0730	NEW-P	03-03-018
388- 71-0815	AMD	03-13-091	388- 78A-0210	NEW-P	03-03-018	388- 78A-0740	NEW-P	03-03-018
388- 71-0820	AMD-P	03-09-091	388- 78A-0220	NEW-P	03-03-018	388- 78A-0750	NEW-P	03-03-018
388- 71-0820	AMD	03-13-091	388- 78A-0230	NEW-P	03-03-018	388- 78A-0760	NEW-P	03-03-018
388- 71-0825	AMD-P	03-09-091	388- 78A-0240	NEW-P	03-03-018	388- 78A-0770	NEW-P	03-03-018
388- 71-0825	AMD	03-13-091	388- 78A-0250	NEW-P	03-03-018	388- 78A-0780	NEW-P	03-03-018
388- 71-0835	AMD-P	03-09-091	388- 78A-0260	NEW-P	03-03-018	388- 78A-0790	NEW-P	03-03-018
388- 71-0835	AMD	03-13-091	388- 78A-0270	NEW-P	03-03-018	388- 78A-080	REP-P	03-03-018
388- 71-0840	AMD-P	03-09-091	388- 78A-0280	NEW-P	03-03-018	388- 78A-0800	NEW-P	03-03-018
388- 71-0840	AMD	03-13-091	388- 78A-0290	NEW-P	03-03-018	388- 78A-0810	NEW-P	03-03-018
388- 71-0845	AMD-P	03-09-091	388- 78A-030	REP-P	03-03-018	388- 78A-0820	NEW-P	03-03-018
388- 71-0845	AMD	03-13-091	388- 78A-0300	NEW-P	03-03-018	388- 78A-0830	NEW-P	03-03-018
388- 72A-0005	NEW	03-05-097	388- 78A-0310	NEW-P	03-03-018	388- 78A-0840	NEW-P	03-03-018
388- 72A-0010	NEW	03-05-097	388- 78A-0320	NEW-P	03-03-018	388- 78A-0850	NEW-P	03-03-018
388- 72A-0015	NEW	03-05-097	388- 78A-0330	NEW-P	03-03-018	388- 78A-0860	NEW-P	03-03-018
388- 72A-0020	NEW	03-05-097	388- 78A-0340	NEW-P	03-03-018	388- 78A-0870	NEW-P	03-03-018
388- 72A-0025	NEW	03-05-097	388- 78A-0350	NEW-P	03-03-018	388- 78A-0880	NEW-P	03-03-018
388- 72A-0030	NEW	03-05-097	388- 78A-0360	NEW-P	03-03-018	388- 78A-0890	NEW-P	03-03-018
388- 72A-0035	NEW	03-05-097	388- 78A-0370	NEW-P	03-03-018	388- 78A-090	REP-P	03-03-018
388- 72A-0040	NEW	03-05-097	388- 78A-0380	NEW-P	03-03-018	388- 78A-0900	NEW-P	03-03-018
388- 72A-0045	NEW	03-05-097	388- 78A-0390	NEW-P	03-03-018	388- 78A-0910	NEW-P	03-03-018
388- 72A-0050	NEW	03-05-097	388- 78A-040	REP-P	03-03-018	388- 78A-0920	NEW-P	03-03-018
388- 72A-0055	NEW	03-05-097	388- 78A-0400	NEW-P	03-03-018	388- 78A-0930	NEW-P	03-03-018
388- 72A-0060	NEW	03-05-097	388- 78A-0410	NEW-P	03-03-018	388- 78A-0940	NEW-P	03-03-018
388- 72A-0060	PREP	03-14-099	388- 78A-0420	NEW-P	03-03-018	388- 78A-0950	NEW-P	03-03-018
388- 72A-0060	AMD-E	03-15-133	388- 78A-0430	NEW-P	03-03-018	388- 78A-0960	NEW-P	03-03-018
388- 72A-0065	NEW	03-05-097	388- 78A-0440	NEW-P	03-03-018	388- 78A-0970	NEW-P	03-03-018
388- 72A-0070	NEW	03-05-097	388- 78A-045	REP-P	03-03-018	388- 78A-0980	NEW-P	03-03-018
388- 72A-0075	NEW	03-05-097	388- 78A-0450	NEW-P	03-03-018	388- 78A-0990	NEW-P	03-03-018
388- 72A-0080	NEW	03-05-097	388- 78A-0460	NEW-P	03-03-018	388- 78A-100	REP-P	03-03-018
388- 72A-0085	NEW	03-05-097	388- 78A-0470	NEW-P	03-03-018	388- 78A-1000	NEW-P	03-03-018
388- 72A-0090	NEW	03-05-097	388- 78A-0480	NEW-P	03-03-018	388- 78A-1010	NEW-P	03-03-018
388- 72A-0095	NEW	03-05-097	388- 78A-0490	NEW-P	03-03-018	388- 78A-1020	NEW-P	03-03-018
388- 72A-0100	NEW	03-05-097	388- 78A-050	REP-P	03-03-018	388- 78A-1030	NEW-P	03-03-018
388- 72A-0105	NEW	03-05-097	388- 78A-0500	NEW-P	03-03-018	388- 78A-1040	NEW-P	03-03-018
388- 72A-0110	NEW	03-05-097	388- 78A-0510	NEW-P	03-03-018	388- 78A-1050	NEW-P	03-03-018
388- 76-655	AMD-P	03-10-090	388- 78A-0520	NEW-P	03-03-018	388- 78A-1060	NEW-P	03-03-018
388- 76-655	AMD	03-14-018	388- 78A-0530	NEW-P	03-03-018	388- 78A-1070	NEW-P	03-03-018
388- 76-675	PREP	03-12-055	388- 78A-0540	NEW-P	03-03-018	388- 78A-1080	NEW-P	03-03-018
388- 78A	REP-P	03-03-018	388- 78A-055	REP-P	03-03-018	388- 78A-1090	NEW-P	03-03-018
388- 78A	AMD-C	03-07-088	388- 78A-0550	NEW-P	03-03-018	388- 78A-110	REP-P	03-03-018
388- 78A-0010	NEW-P	03-03-018	388- 78A-0560	NEW-P	03-03-018	388- 78A-1100	NEW-P	03-03-018
388- 78A-0020	NEW-P	03-03-018	388- 78A-0570	NEW-P	03-03-018	388- 78A-1110	NEW-P	03-03-018
388- 78A-0030	NEW-P	03-03-018	388- 78A-0580	NEW-P	03-03-018	388- 78A-1120	NEW-P	03-03-018
388- 78A-0040	NEW-P	03-03-018	388- 78A-0590	NEW-P	03-03-018	388- 78A-1130	NEW-P	03-03-018
388- 78A-0050	NEW-P	03-03-018	388- 78A-060	REP-P	03-03-018	388- 78A-1140	NEW-P	03-03-018
388- 78A-0060	NEW-P	03-03-018	388- 78A-0600	NEW-P	03-03-018	388- 78A-1150	NEW-P	03-03-018
388- 78A-0070	NEW-P	03-03-018	388- 78A-0605	NEW-P	03-03-018	388- 78A-1160	NEW-P	03-03-018
388- 78A-0080	NEW-P	03-03-018	388- 78A-0610	NEW-P	03-03-018	388- 78A-1170	NEW-P	03-03-018
388- 78A-0090	NEW-P	03-03-018	388- 78A-0620	NEW-P	03-03-018	388- 78A-1180	NEW-P	03-03-018
388- 78A-010	REP-P	03-03-018	388- 78A-0630	NEW-P	03-03-018	388- 78A-1190	NEW-P	03-03-018
388- 78A-0100	NEW-P	03-03-018	388- 78A-0635	NEW-P	03-03-018	388- 78A-120	REP-P	03-03-018
388- 78A-0110	NEW-P	03-03-018	388- 78A-0640	NEW-P	03-03-018	388- 78A-1200	NEW-P	03-03-018
388- 78A-0120	NEW-P	03-03-018	388- 78A-0650	NEW-P	03-03-018	388- 78A-1210	NEW-P	03-03-018
388- 78A-0130	NEW-P	03-03-018	388- 78A-0660	NEW-P	03-03-018	388- 78A-1220	NEW-P	03-03-018
388- 78A-0140	NEW-P	03-03-018	388- 78A-0670	NEW-P	03-03-018	388- 78A-1230	NEW-P	03-03-018
388- 78A-0150	NEW-P	03-03-018	388- 78A-0680	NEW-P	03-03-018	388- 78A-130	REP-P	03-03-018
388- 78A-0160	NEW-P	03-03-018	388- 78A-0690	NEW-P	03-03-018	388- 78A-140	REP-P	03-03-018
388- 78A-0170	NEW-P	03-03-018	388- 78A-070	REP-P	03-03-018	388- 78A-150	REP-P	03-03-018

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388-78A-160	REP-P	03-03-018	388-140-0075	NEW-E	03-04-035	388-140-0230	NEW-E	03-04-035
388-78A-170	REP-P	03-03-018	388-140-0075	NEW-E	03-12-004	388-140-0230	NEW-E	03-12-004
388-78A-180	REP-P	03-03-018	388-140-0080	NEW-E	03-04-035	388-140-0235	NEW-E	03-04-035
388-78A-190	REP-P	03-03-018	388-140-0080	NEW-E	03-12-004	388-140-0235	NEW-E	03-12-004
388-78A-200	REP-P	03-03-018	388-140-0085	NEW-E	03-04-035	388-140-0240	NEW-E	03-04-035
388-78A-210	REP-P	03-03-018	388-140-0085	NEW-E	03-12-004	388-140-0240	NEW-E	03-12-004
388-78A-220	REP-P	03-03-018	388-140-0090	NEW-E	03-04-035	388-140-0245	NEW-E	03-04-035
388-78A-230	REP-P	03-03-018	388-140-0090	NEW-E	03-12-004	388-140-0245	NEW-E	03-12-004
388-78A-240	REP-P	03-03-018	388-140-0095	NEW-E	03-04-035	388-140-0250	NEW-E	03-04-035
388-78A-250	REP-P	03-03-018	388-140-0095	NEW-E	03-12-004	388-140-0250	NEW-E	03-12-004
388-78A-260	REP-P	03-03-018	388-140-0100	NEW-E	03-04-035	388-140-0255	NEW-E	03-04-035
388-78A-265	REP-P	03-03-018	388-140-0100	NEW-E	03-12-004	388-140-0255	NEW-E	03-12-004
388-78A-268	REP-P	03-03-018	388-140-0105	NEW-E	03-04-035	388-140-0260	NEW-E	03-04-035
388-78A-280	REP-P	03-03-018	388-140-0105	NEW-E	03-12-004	388-140-0260	NEW-E	03-12-004
388-78A-280	REP-P	03-03-018	388-140-0110	NEW-E	03-04-035	388-140-0265	NEW-E	03-04-035
388-78A-290	REP-P	03-03-018	388-140-0110	NEW-E	03-12-004	388-140-0265	NEW-E	03-12-004
388-78A-300	REP-P	03-03-018	388-140-0115	NEW-E	03-04-035	388-140-0270	NEW-E	03-04-035
388-78A-310	REP-P	03-03-018	388-140-0115	NEW-E	03-12-004	388-140-0270	NEW-E	03-12-004
388-78A-320	REP-P	03-03-018	388-140-0120	NEW-E	03-04-035	388-140-0275	NEW-E	03-04-035
388-78A-330	REP-P	03-03-018	388-140-0120	NEW-E	03-12-004	388-140-0275	NEW-E	03-12-004
388-78A-335	REP-P	03-03-018	388-140-0120	NEW-E	03-04-035	388-140-0275	NEW-E	03-04-035
388-78A-340	REP-P	03-03-018	388-140-0125	NEW-E	03-12-004	388-140-0280	NEW-E	03-04-035
388-78A-340	REP-P	03-03-018	388-140-0125	NEW-E	03-04-035	388-140-0280	NEW-E	03-12-004
388-78A-990	REP-P	03-03-018	388-140-0125	NEW-E	03-12-004	388-140-0285	NEW-E	03-04-035
388-79-010	AMD-P	03-06-094	388-140-0130	NEW-E	03-04-035	388-140-0285	NEW-E	03-12-004
388-79-020	AMD-P	03-06-094	388-140-0130	NEW-E	03-12-004	388-140-0290	NEW-E	03-04-035
388-79-030	AMD-P	03-06-094	388-140-0135	NEW-E	03-04-035	388-140-0290	NEW-E	03-12-004
388-79-040	AMD-P	03-06-094	388-140-0135	NEW-E	03-12-004	388-140-0295	NEW-E	03-04-035
388-79-050	NEW-P	03-06-094	388-140-0140	NEW-E	03-04-035	388-140-0295	NEW-E	03-12-004
388-96	PREP	03-07-031	388-140-0140	NEW-E	03-12-004	388-140-0300	NEW-E	03-04-035
388-97-076	PREP	03-12-056	388-140-0145	NEW-E	03-04-035	388-140-0300	NEW-E	03-12-004
388-105	PREP	03-15-050	388-140-0145	NEW-E	03-12-004	388-140-0305	NEW-E	03-04-035
388-105-0005	AMD-E	03-15-011	388-140-0150	NEW-E	03-04-035	388-140-0305	NEW-E	03-12-004
388-105-0030	AMD-E	03-15-011	388-140-0150	NEW-E	03-12-004	388-140-0310	NEW-E	03-04-035
388-105-0040	AMD-E	03-15-011	388-140-0155	NEW-E	03-04-035	388-140-0310	NEW-E	03-12-004
388-105-0045	NEW-E	03-15-011	388-140-0155	NEW-E	03-12-004	388-140-0315	NEW-E	03-04-035
388-140-0005	NEW-E	03-04-035	388-140-0160	NEW-E	03-04-035	388-140-0315	NEW-E	03-12-004
388-140-0005	NEW-E	03-12-004	388-140-0160	NEW-E	03-12-004	388-140-0320	NEW-E	03-04-035
388-140-0010	NEW-E	03-04-035	388-140-0165	NEW-E	03-04-035	388-140-0320	NEW-E	03-12-004
388-140-0010	NEW-E	03-12-004	388-140-0165	NEW-E	03-12-004	388-140-0325	NEW-E	03-04-035
388-140-0015	NEW-E	03-04-035	388-140-0170	NEW-E	03-04-035	388-140-0325	NEW-E	03-12-004
388-140-0015	NEW-E	03-12-004	388-140-0170	NEW-E	03-12-004	388-140-0330	NEW-E	03-04-035
388-140-0020	NEW-E	03-04-035	388-140-0175	NEW-E	03-04-035	388-140-0330	NEW-E	03-12-004
388-140-0020	NEW-E	03-12-004	388-140-0175	NEW-E	03-12-004	388-140-0335	NEW-E	03-04-035
388-140-0025	NEW-E	03-04-035	388-140-0180	NEW-E	03-04-035	388-140-0335	NEW-E	03-12-004
388-140-0025	NEW-E	03-12-004	388-140-0180	NEW-E	03-12-004	388-140-0340	NEW-E	03-04-035
388-140-0030	NEW-E	03-04-035	388-140-0185	NEW-E	03-04-035	388-140-0340	NEW-E	03-12-004
388-140-0030	NEW-E	03-12-004	388-140-0185	NEW-E	03-12-004	388-140-0345	NEW-E	03-04-035
388-140-0035	NEW-E	03-04-035	388-140-0190	NEW-E	03-04-035	388-140-0345	NEW-E	03-12-004
388-140-0035	NEW-E	03-12-004	388-140-0190	NEW-E	03-12-004	388-140-0350	NEW-E	03-04-035
388-140-0040	NEW-E	03-04-035	388-140-0195	NEW-E	03-04-035	388-140-0350	NEW-E	03-12-004
388-140-0040	NEW-E	03-12-004	388-140-0195	NEW-E	03-12-004	388-140-0355	NEW-E	03-04-035
388-140-0045	NEW-E	03-04-035	388-140-0200	NEW-E	03-04-035	388-140-0355	NEW-E	03-12-004
388-140-0045	NEW-E	03-12-004	388-140-0200	NEW-E	03-12-004	388-140-0360	NEW-E	03-04-035
388-140-0050	NEW-E	03-04-035	388-140-0205	NEW-E	03-04-035	388-140-0360	NEW-E	03-12-004
388-140-0050	NEW-E	03-12-004	388-140-0205	NEW-E	03-12-004	388-140-0365	NEW-E	03-04-035
388-140-0055	NEW-E	03-04-035	388-140-0210	NEW-E	03-04-035	388-140-0365	NEW-E	03-12-004
388-140-0055	NEW-E	03-12-004	388-140-0210	NEW-E	03-12-004	388-140-0370	NEW-E	03-04-035
388-140-0060	NEW-E	03-04-035	388-140-0215	NEW-E	03-04-035	388-140-0370	NEW-E	03-12-004
388-140-0060	NEW-E	03-12-004	388-140-0215	NEW-E	03-12-004	388-140-0375	NEW-E	03-04-035
388-140-0065	NEW-E	03-04-035	388-140-0220	NEW-E	03-04-035	388-140-0375	NEW-E	03-12-004
388-140-0065	NEW-E	03-12-004	388-140-0220	NEW-E	03-12-004	388-140-0380	NEW-E	03-04-035
388-140-0070	NEW-E	03-04-035	388-140-0225	NEW-E	03-04-035	388-140-0380	NEW-E	03-12-004
388-140-0070	NEW-E	03-12-004	388-140-0225	NEW-E	03-12-004			

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-145-0870	NEW	03-08-026	388-148-0270	AMD-E	03-14-012	388-148-1145	NEW-E	03-14-012
388-145-0880	NEW	03-08-026	388-148-0335	AMD-E	03-05-099	388-148-1150	NEW-E	03-05-099
388-145-0890	NEW	03-08-026	388-148-0335	AMD-E	03-14-012	388-148-1150	NEW-E	03-14-012
388-145-0900	NEW	03-08-026	388-148-0345	AMD-E	03-05-099	388-148-1155	NEW-E	03-05-099
388-145-0910	NEW	03-08-026	388-148-0345	AMD-E	03-14-012	388-148-1155	NEW-E	03-14-012
388-145-0920	NEW	03-08-026	388-148-0350	AMD-E	03-05-099	388-148-1160	NEW-E	03-05-099
388-145-0930	NEW	03-08-026	388-148-0350	AMD-E	03-14-012	388-148-1160	NEW-E	03-14-012
388-145-0940	NEW	03-08-026	388-148-0395	AMD-E	03-05-099	388-148-1165	NEW-E	03-05-099
388-145-0950	NEW	03-08-026	388-148-0395	AMD-E	03-14-012	388-148-1165	NEW-E	03-14-012
388-145-0960	NEW	03-08-026	388-148-0427	NEW-E	03-05-099	388-148-1170	NEW-E	03-05-099
388-145-0970	NEW	03-08-026	388-148-0427	NEW-E	03-14-012	388-148-1170	NEW-E	03-14-012
388-145-0980	NEW	03-08-026	388-148-0460	AMD-E	03-05-099	388-148-1175	NEW-E	03-05-099
388-145-0990	NEW	03-08-026	388-148-0460	AMD-E	03-14-012	388-148-1175	NEW-E	03-14-012
388-145-1000	NEW	03-08-026	388-148-0462	NEW-E	03-05-099	388-148-1180	NEW-E	03-05-099
388-145-1010	NEW	03-08-026	388-148-0462	NEW-E	03-14-012	388-148-1180	NEW-E	03-14-012
388-145-1020	NEW	03-08-026	388-148-0520	AMD-E	03-05-099	388-148-1185	NEW-E	03-05-099
388-145-1030	NEW	03-08-026	388-148-0520	AMD-E	03-14-012	388-148-1185	NEW-E	03-14-012
388-145-1040	NEW	03-08-026	388-148-0542	NEW-E	03-05-099	388-148-1190	NEW-E	03-05-099
388-145-1050	NEW	03-08-026	388-148-0542	NEW-E	03-14-012	388-148-1190	NEW-E	03-14-012
388-145-1060	NEW	03-08-026	388-148-0560	AMD-E	03-05-099	388-148-1205	NEW-E	03-06-091
388-145-1070	NEW	03-08-026	388-148-0560	AMD-E	03-14-012	388-148-1210	NEW-E	03-06-091
388-145-1080	NEW	03-08-026	388-148-0585	AMD-E	03-05-099	388-148-1215	NEW-E	03-06-091
388-145-1090	NEW	03-08-026	388-148-0585	AMD-E	03-14-012	388-148-1220	NEW-E	03-06-091
388-145-1100	NEW	03-08-026	388-148-0630	AMD-E	03-05-099	388-148-1225	NEW-E	03-06-091
388-145-1110	NEW	03-08-026	388-148-0630	AMD-E	03-14-012	388-148-1230	NEW-E	03-06-091
388-145-1120	NEW	03-08-026	388-148-0700	AMD-E	03-05-099	388-148-1235	NEW-E	03-06-091
388-145-1130	NEW	03-08-026	388-148-0700	AMD-E	03-14-012	388-148-1240	NEW-E	03-06-091
388-145-1140	NEW	03-08-026	388-148-0720	AMD-E	03-05-099	388-148-1245	NEW-E	03-06-091
388-145-1150	NEW	03-08-026	388-148-0720	AMD-E	03-14-012	388-148-1250	NEW-E	03-06-091
388-145-1160	NEW	03-08-026	388-148-0722	NEW-E	03-05-099	388-148-1255	NEW-E	03-06-091
388-145-1170	NEW	03-08-026	388-148-0722	NEW-E	03-14-012	388-148-1260	NEW-E	03-06-091
388-145-1180	NEW	03-08-026	388-148-0725	AMD-E	03-05-099	388-148-1265	NEW-E	03-06-091
388-145-1190	NEW	03-08-026	388-148-0725	AMD-E	03-14-012	388-148-1270	NEW-E	03-06-091
388-145-1200	NEW	03-08-026	388-148-0785	AMD-E	03-05-099	388-148-1275	NEW-E	03-06-091
388-145-1210	NEW	03-08-026	388-148-0785	AMD-E	03-14-012	388-148-1280	NEW-E	03-06-091
388-145-1220	NEW	03-08-026	388-148-0880	AMD-E	03-05-099	388-148-1285	NEW-E	03-06-091
388-148-0035	AMD-E	03-14-012	388-148-0880	AMD-E	03-14-012	388-148-1290	NEW-E	03-06-091
388-148-0040	AMD-E	03-05-099	388-148-0892	NEW-E	03-05-099	388-148-1295	NEW-E	03-06-091
388-148-0040	AMD-E	03-14-012	388-148-0892	NEW-E	03-14-012	388-148-1300	NEW-E	03-06-091
388-148-0045	AMD-E	03-05-099	388-148-0915	AMD-E	03-05-099	388-150-005	REP-P	03-09-005
388-148-0045	AMD-E	03-14-012	388-148-0915	AMD-E	03-14-012	388-150-005	REP	03-14-110
388-148-0050	AMD-E	03-05-099	388-148-0995	AMD-E	03-05-099	388-150-010	REP-P	03-09-005
388-148-0050	AMD-E	03-14-012	388-148-0995	AMD-E	03-14-012	388-150-010	REP	03-14-110
388-148-0058	NEW-E	03-05-099	388-148-1060	AMD-E	03-05-099	388-150-020	REP-P	03-09-005
388-148-0058	NEW-E	03-14-012	388-148-1060	AMD-E	03-14-012	388-150-020	REP	03-14-110
388-148-0060	AMD-E	03-05-099	388-148-1070	AMD-E	03-05-099	388-150-040	REP-P	03-09-005
388-148-0060	AMD-E	03-14-012	388-148-1070	AMD-E	03-14-012	388-150-040	REP	03-14-110
388-148-0065	AMD-E	03-05-099	388-148-1076	NEW-E	03-05-099	388-150-050	REP-P	03-09-005
388-148-0065	AMD-E	03-14-012	388-148-1076	NEW-E	03-14-012	388-150-050	REP	03-14-110
388-148-0095	AMD-E	03-14-012	388-148-1077	NEW-E	03-05-099	388-150-060	REP-P	03-09-005
388-148-0120	AMD-E	03-05-099	388-148-1077	NEW-E	03-14-012	388-150-060	REP	03-14-110
388-148-0120	AMD-E	03-14-012	388-148-1078	NEW-E	03-05-099	388-150-070	REP-P	03-09-005
388-148-0125	AMD-E	03-05-099	388-148-1078	NEW-E	03-14-012	388-150-070	REP	03-14-110
388-148-0125	AMD-E	03-14-012	388-148-1079	NEW-E	03-05-099	388-150-080	REP-P	03-09-005
388-148-0140	AMD-E	03-05-099	388-148-1079	NEW-E	03-14-012	388-150-080	REP	03-14-110
388-148-0140	AMD-E	03-14-012	388-148-1115	AMD-E	03-05-099	388-150-085	REP-P	03-09-005
388-148-0170	AMD-E	03-14-012	388-148-1115	AMD-E	03-14-012	388-150-085	REP	03-14-110
388-148-0220	AMD-E	03-05-099	388-148-1120	AMD-E	03-05-099	388-150-090	REP-P	03-09-005
388-148-0220	AMD-E	03-14-012	388-148-1120	AMD-E	03-14-012	388-150-090	REP	03-14-110
388-148-0260	AMD-E	03-05-099	388-148-1140	NEW-E	03-05-099	388-150-092	REP-P	03-09-005
388-148-0260	AMD-E	03-14-012	388-148-1140	NEW-E	03-14-012	388-150-092	REP	03-14-110
388-148-0270	AMD-E	03-05-099	388-148-1145	NEW-E	03-05-099	388-150-093	REP-P	03-09-005

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-150-093	REP	03-14-110	388-150-340	REP	03-14-110	388-273-0025	PREP	03-13-044
388-150-094	REP-P	03-09-005	388-150-350	REP-P	03-09-005	388-273-0030	AMD-E	03-12-057
388-150-094	REP	03-14-110	388-150-350	REP	03-14-110	388-273-0030	PREP	03-13-044
388-150-095	REP-P	03-09-005	388-150-360	REP-P	03-09-005	388-273-0035	AMD-E	03-12-057
388-150-095	REP	03-14-110	388-150-360	REP	03-14-110	388-273-0035	PREP	03-13-044
388-150-096	REP-P	03-09-005	388-150-370	REP-P	03-09-005	388-290-0075	AMD-E	03-06-045
388-150-096	REP	03-14-110	388-150-370	REP	03-14-110	388-290-0075	AMD-E	03-14-061
388-150-097	REP-P	03-09-005	388-150-380	REP-P	03-09-005	388-290-0085	AMD-E	03-06-045
388-150-097	REP	03-14-110	388-150-380	REP	03-14-110	388-290-0085	AMD-E	03-14-061
388-150-098	REP-P	03-09-005	388-150-390	REP-P	03-09-005	388-290-0130	AMD-E	03-12-026
388-150-098	REP	03-14-110	388-150-390	REP	03-14-110	388-290-0190	AMD-E	03-06-045
388-150-100	REP-P	03-09-005	388-150-400	REP-P	03-09-005	388-290-0190	AMD-E	03-14-061
388-150-100	REP	03-14-110	388-150-400	REP	03-14-110	388-290-0210	REP-E	03-06-045
388-150-110	REP-P	03-09-005	388-150-410	REP-P	03-09-005	388-290-0210	REP-E	03-14-061
388-150-110	REP	03-14-110	388-150-410	REP	03-14-110	388-292-0001	NEW-P	03-09-033
388-150-120	REP-P	03-09-005	388-150-420	REP-P	03-09-005	388-292-0001	NEW	03-14-109
388-150-120	REP	03-14-110	388-150-420	REP	03-14-110	388-292-0003	NEW-P	03-09-033
388-150-130	REP-P	03-09-005	388-150-430	REP-P	03-09-005	388-292-0003	NEW	03-14-109
388-150-130	REP	03-14-110	388-150-430	REP	03-14-110	388-292-0005	NEW-P	03-09-033
388-150-140	REP-P	03-09-005	388-150-440	REP-P	03-09-005	388-292-0005	NEW	03-14-109
388-150-140	REP	03-14-110	388-150-440	REP	03-14-110	388-292-0010	NEW-P	03-09-033
388-150-150	REP-P	03-09-005	388-150-450	REP-P	03-09-005	388-292-0010	NEW	03-14-109
388-150-150	REP	03-14-110	388-150-450	REP	03-14-110	388-292-0015	NEW-P	03-09-033
388-150-160	REP-P	03-09-005	388-150-460	REP-P	03-09-005	388-292-0015	NEW	03-14-109
388-150-160	REP	03-14-110	388-150-460	REP	03-14-110	388-292-0020	NEW-P	03-09-033
388-150-165	REP-P	03-09-005	388-150-470	REP-P	03-09-005	388-292-0020	NEW	03-14-109
388-150-165	REP	03-14-110	388-150-470	REP	03-14-110	388-292-0025	NEW-P	03-09-033
388-150-170	REP-P	03-09-005	388-150-480	REP-P	03-09-005	388-292-0025	NEW	03-14-109
388-150-170	REP	03-14-110	388-150-480	REP	03-14-110	388-292-0030	NEW-P	03-09-033
388-150-180	REP-P	03-09-005	388-150-490	REP-P	03-09-005	388-292-0030	NEW	03-14-109
388-150-180	REP	03-14-110	388-150-490	REP	03-14-110	388-292-0035	NEW-P	03-09-033
388-150-190	REP-P	03-09-005	388-150-500	REP-P	03-09-005	388-292-0035	NEW	03-14-109
388-150-190	REP	03-14-110	388-150-500	REP	03-14-110	388-292-0040	NEW-P	03-09-033
388-150-200	REP-P	03-09-005	388-150-990	REP-P	03-09-005	388-292-0040	NEW	03-14-109
388-150-200	REP	03-14-110	388-150-990	REP	03-14-110	388-292-0045	NEW-P	03-09-033
388-150-210	REP-P	03-09-005	388-150-991	REP-P	03-09-005	388-292-0045	NEW	03-14-109
388-150-210	REP	03-14-110	388-150-991	REP	03-14-110	388-292-0050	NEW-P	03-09-033
388-150-220	REP-P	03-09-005	388-150-992	REP-P	03-09-005	388-292-0050	NEW	03-14-109
388-150-220	REP	03-14-110	388-150-992	REP	03-14-110	388-292-0055	NEW-P	03-09-033
388-150-230	REP-P	03-09-005	388-150-993	REP-P	03-09-005	388-292-0055	NEW	03-14-109
388-150-230	REP	03-14-110	388-150-993	REP	03-14-110	388-292-0060	NEW-P	03-09-033
388-150-240	REP-P	03-09-005	388-155-070	AMD-P	03-06-092	388-292-0060	NEW	03-14-109
388-150-240	REP	03-14-110	388-155-070	AMD	03-09-074	388-292-0065	NEW-P	03-09-033
388-150-250	REP-P	03-09-005	388-155-090	AMD-P	03-06-092	388-292-0065	NEW	03-14-109
388-150-250	REP	03-14-110	388-155-090	AMD	03-09-074	388-292-0070	NEW-P	03-09-033
388-150-260	REP-P	03-09-005	388-165-130	REP-P	03-09-033	388-292-0070	NEW	03-14-109
388-150-260	REP	03-14-110	388-165-130	REP	03-14-109	388-292-0075	NEW-P	03-09-033
388-150-270	REP-P	03-09-005	388-180-0100	NEW	03-04-013	388-292-0075	NEW	03-14-109
388-150-270	REP	03-14-110	388-180-0110	NEW	03-04-013	388-292-0080	NEW-P	03-09-033
388-150-280	REP-P	03-09-005	388-180-0120	NEW	03-04-013	388-292-0080	NEW	03-14-109
388-150-280	REP	03-14-110	388-180-0130	NEW	03-04-013	388-292-0085	NEW-P	03-09-033
388-150-290	REP-P	03-09-005	388-180-0140	NEW	03-04-013	388-292-0085	NEW	03-14-109
388-150-290	REP	03-14-110	388-180-0150	NEW	03-04-013	388-292-0090	NEW-P	03-09-033
388-150-295	REP-P	03-09-005	388-180-0160	NEW	03-04-013	388-292-0090	NEW	03-14-109
388-150-295	REP	03-14-110	388-180-0170	NEW	03-04-013	388-292-0095	NEW-P	03-09-033
388-150-310	REP-P	03-09-005	388-180-0180	NEW	03-04-013	388-292-0095	NEW	03-14-109
388-150-310	REP	03-14-110	388-180-0190	NEW	03-04-013	388-292-0100	NEW-P	03-09-033
388-150-320	REP-P	03-09-005	388-180-0200	NEW	03-04-013	388-292-0100	NEW	03-14-109
388-150-320	REP	03-14-110	388-180-0210	NEW	03-04-013	388-292-0102	NEW-P	03-09-033
388-150-330	REP-P	03-09-005	388-180-0220	NEW	03-04-013	388-292-0102	NEW	03-14-109
388-150-330	REP	03-14-110	388-180-0230	NEW	03-04-013	388-292-0105	NEW-P	03-09-033
388-150-340	REP-P	03-09-005	388-273-0025	AMD-E	03-12-057	388-292-0105	NEW	03-14-109

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-295-5040	NEW-P	03-09-005	388-406-0010	PREP	03-15-024	388-450-0185	PREP	03-13-034
388-295-5040	NEW	03-14-110	388-406-0015	PREP-W	03-03-112	388-450-0190	PREP	03-13-034
388-295-5050	NEW-P	03-09-005	388-406-0015	PREP	03-15-024	388-450-0195	PREP	03-13-034
388-295-5050	NEW	03-14-110	388-406-0021	PREP	03-15-024	388-452-0005	PREP	03-07-042
388-295-5060	NEW-P	03-09-005	388-406-0035	PREP	03-15-024	388-452-0005	AMD-P	03-15-026
388-295-5060	NEW	03-14-110	388-406-0040	PREP	03-15-024	388-460-0001	PREP	03-15-023
388-295-5070	NEW-P	03-09-005	388-406-0055	PREP	03-15-024	388-460-0005	AMD	03-03-072
388-295-5070	NEW	03-14-110	388-406-0060	PREP	03-15-024	388-460-0005	PREP	03-15-023
388-295-5080	NEW-P	03-09-005	388-406-0065	PREP	03-15-024	388-460-0010	PREP	03-15-023
388-295-5080	NEW	03-14-110	388-408-0005	AMD-P	03-13-090	388-460-0015	PREP	03-15-023
388-295-5090	NEW-P	03-09-005	388-408-0034	PREP	03-06-056	388-468-0005	PREP	03-14-080
388-295-5090	NEW	03-14-110	388-408-0035	PREP	03-06-056	388-470-0005	AMD	03-05-015
388-295-5100	NEW-P	03-09-005	388-408-0040	PREP	03-06-056	388-470-0010	REP	03-05-015
388-295-5100	NEW	03-14-110	388-408-0045	PREP	03-06-056	388-470-0012	AMD	03-05-015
388-295-5110	NEW-P	03-09-005	388-408-0050	PREP	03-06-056	388-470-0015	REP	03-05-015
388-295-5110	NEW	03-14-110	388-410-0030	PREP	03-07-040	388-470-0020	REP	03-05-015
388-295-5120	NEW-P	03-09-005	388-412-0015	PREP	03-15-023	388-470-0025	REP	03-05-015
388-295-5120	NEW	03-14-110	388-412-0020	PREP	03-15-023	388-470-0030	REP	03-05-015
388-295-5140	NEW-P	03-09-005	388-412-0025	PREP	03-15-023	388-470-0035	REP	03-05-015
388-295-5140	NEW	03-14-110	388-412-0040	PREP	03-15-023	388-470-0045	AMD	03-05-015
388-295-5150	NEW-P	03-09-005	388-416-0005	PREP	03-15-024	388-470-0050	REP	03-05-015
388-295-5150	NEW	03-14-110	388-416-0015	AMD-E	03-14-060	388-470-0055	AMD	03-05-015
388-295-5160	NEW-P	03-09-005	388-416-0015	PREP	03-14-077	388-470-0065	REP	03-05-015
388-295-5160	NEW	03-14-110	388-416-0035	PREP-W	03-15-051	388-474	PREP	03-15-048
388-295-5170	NEW-P	03-09-005	388-418	PREP	03-13-035	388-474-0012	NEW	03-03-114
388-295-5170	NEW	03-14-110	388-418-0005	AMD-E	03-14-060	388-475	PREP	03-12-054
388-295-6010	NEW-P	03-09-005	388-418-0005	PREP	03-14-077	388-475-1250	PREP-W	03-15-051
388-295-6010	NEW	03-14-110	388-418-0025	AMD-E	03-14-060	388-476-0005	PREP	03-04-086
388-295-6020	NEW-P	03-09-005	388-418-0025	PREP	03-14-077	388-478-0015	PREP	03-15-125
388-295-6020	NEW	03-14-110	388-424-0005	PREP	03-03-007	388-478-0055	AMD	03-03-114
388-295-6030	NEW-P	03-09-005	388-424-0010	PREP	03-03-007	388-478-0060	PREP	03-13-034
388-295-6030	NEW	03-14-110	388-424-0015	PREP	03-03-007	388-478-0075	PREP	03-06-058
388-295-6040	NEW-P	03-09-005	388-424-0020	AMD	03-05-029	388-478-0075	AMD-E	03-08-066
388-295-6040	NEW	03-14-110	388-424-0025	AMD	03-05-029	388-478-0075	AMD-P	03-12-068
388-295-6050	NEW-P	03-09-005	388-434-0005	AMD-E	03-14-060	388-478-0075	AMD	03-15-088
388-295-6050	NEW	03-14-110	388-434-0005	PREP	03-14-077	388-478-0080	PREP	03-08-085
388-295-6060	NEW-P	03-09-005	388-436-0002	AMD-E	03-04-067	388-478-0085	AMD-E	03-08-065
388-295-6060	NEW	03-14-110	388-436-0002	PREP	03-11-089	388-478-0085	PREP	03-08-081
388-295-7010	NEW-P	03-09-005	388-438-0002	AMD-E	03-12-027	388-478-0085	PREP-W	03-10-051
388-295-7010	NEW	03-14-110	388-438	PREP	03-12-054	388-478-0085	PREP-W	03-15-051
388-295-7020	NEW-P	03-09-005	388-438	PREP-W	03-15-051	388-480-0001	PREP	03-15-025
388-295-7020	NEW	03-14-110	388-438-0100	PREP-W	03-14-058	388-482-0005	PREP	03-15-025
388-295-7030	NEW-P	03-09-005	388-438-0100	REP-E	03-14-104	388-484-0005	AMD	03-06-046
388-295-7030	NEW	03-14-110	388-438-0110	PREP	03-10-088	388-492	PREP	03-07-087
388-295-7040	NEW-P	03-09-005	388-438-0110	AMD-E	03-14-104	388-492-0040	PREP	03-13-034
388-295-7040	NEW	03-14-110	388-440	PREP-W	03-15-051	388-492-0070	PREP	03-13-034
388-295-7050	NEW-P	03-09-005	388-444	PREP	03-13-035	388-500	PREP	03-08-086
388-295-7050	NEW	03-14-110	388-444-0035	AMD	03-05-031	388-500-0005	AMD-W	03-13-095
388-295-7060	NEW-P	03-09-005	388-448	PREP	03-13-033	388-501	PREP	03-08-086
388-295-7060	NEW	03-14-110	388-448-0130	AMD-P	03-08-079	388-502	PREP	03-08-086
388-295-7070	NEW-P	03-09-005	388-448-0140	AMD-P	03-08-079	388-502-0010	PREP	03-03-017
388-295-7070	NEW	03-14-110	388-450	PREP	03-13-035	388-502-0010	AMD-E	03-03-027
388-295-7080	NEW-P	03-09-005	388-450-0020	PREP	03-08-083	388-502-0010	AMD-P	03-10-091
388-295-7080	NEW	03-14-110	388-450-0045	AMD	03-03-071	388-502-0010	AMD-E	03-10-092
388-310-0800	AMD-E	03-04-066	388-450-0050	AMD-P	03-03-008	388-502-0010	AMD	03-14-106
388-310-0800	PREP	03-11-087	388-450-0050	AMD	03-06-095	388-503	PREP	03-08-086
388-310-0800	AMD-E	03-12-025	388-450-0080	PREP	03-06-057	388-503-0505	AMD-E	03-14-104
388-310-0800	AMD-E	03-14-105	388-450-0080	AMD-P	03-09-073	388-505	PREP	03-08-086
388-310-1800	AMD-E	03-14-105	388-450-0080	AMD	03-13-045	388-505	PREP	03-14-079
388-400-0040	AMD	03-05-028	388-450-0085	AMD-P	03-09-073	388-505-0110	PREP	03-12-054
388-400-0045	AMD	03-05-028	388-450-0085	AMD	03-13-045	388-505-0210	PREP	03-06-055
388-406-0005	PREP	03-15-024	388-450-0156	AMD	03-05-030	388-505-0210	AMD-P	03-10-048

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388-506	PREP	03-08-086	388-532-530	NEW-P	03-12-067	388-540-065	NEW-P	03-14-103
388-510	PREP	03-08-086	388-532-540	NEW-P	03-12-067	388-540-101	NEW-P	03-14-103
388-510-1005	REP-X	03-10-093	388-532-550	NEW-P	03-12-067	388-540-105	NEW-P	03-14-103
388-511	PREP	03-08-086	388-533	PREP	03-08-086	388-540-110	NEW-P	03-14-103
388-512	PREP	03-08-086	388-533	PREP	03-11-085	388-540-120	NEW-P	03-14-103
388-513	PREP	03-08-086	388-533	PREP	03-15-124	388-540-130	NEW-P	03-14-103
388-513-1340	PREP	03-08-083	388-533-1000	AMD-P	03-14-101	388-540-140	NEW-P	03-14-103
388-513-1350	AMD-E	03-08-064	388-534	PREP	03-08-086	388-540-150	NEW-P	03-14-103
388-513-1350	PREP	03-08-082	388-535	PREP	03-08-086	388-540-160	NEW-P	03-14-103
388-513-1350	PREP-W	03-15-022	388-535	PREP	03-12-054	388-540-170	NEW-P	03-14-103
388-513-1350	PREP	03-15-049	388-535	PREP-W	03-15-051	388-540-180	NEW-P	03-14-103
388-513-1350	AMD-E	03-15-087	388-535-1050	AMD-P	03-15-127	388-540-190	NEW-P	03-14-103
388-513-1350	AMD-E	03-15-134	388-535-1060	AMD-P	03-15-127	388-540-200	NEW-P	03-14-103
388-513-1364	NEW	03-06-048	388-535-1065	NEW-P	03-15-127	388-540-210	NEW-P	03-14-103
388-513-1364	AMD-X	03-13-112	388-535-1070	AMD-P	03-15-127	388-542	PREP	03-08-086
388-513-1365	AMD-P	03-09-117	388-535-1080	AMD-P	03-15-128	388-543	PREP	03-08-086
388-513-1365	AMD	03-14-038	388-535-1100	AMD-P	03-15-128	388-543-1100	AMD-X	03-05-054
388-513-1365	PREP-W	03-15-051	388-535-1120	REP-P	03-15-138	388-543-1100	AMD	03-12-005
388-513-1380	AMD-E	03-08-064	388-535-1200	AMD-P	03-15-128	388-543-1225	NEW	03-05-051
388-513-1380	PREP	03-08-082	388-535-1220	AMD-P	03-15-128	388-544	PREP	03-08-086
388-513-1380	PREP-W	03-15-022	388-535-1230	AMD-P	03-15-128	388-544	PREP	03-12-054
388-513-1380	PREP	03-15-049	388-535-1240	AMD-P	03-15-129	388-544	PREP-W	03-15-051
388-513-1380	AMD-E	03-15-087	388-535-1255	NEW-P	03-15-129	388-545	PREP	03-08-086
388-513-1380	AMD-E	03-15-134	388-535-1265	NEW-P	03-15-129	388-546	PREP	03-04-087
388-515	PREP	03-08-086	388-535-1270	NEW-P	03-15-138	388-546	PREP	03-08-023
388-515-1530	REP	03-08-067	388-535-1280	NEW-P	03-15-138	388-546	PREP	03-08-086
388-515-1540	NEW-E	03-05-044	388-535-1290	NEW-P	03-15-138	388-550	PREP	03-08-086
388-515-1540	NEW-E	03-05-098	388-535-1350	AMD-P	03-15-138	388-550	PREP	03-10-050
388-515-1540	NEW-P	03-09-042	388-535-1400	AMD-P	03-15-138	388-550-1050	AMD-P	03-14-102
388-515-1540	NEW-E	03-13-007	388-535-1450	AMD-P	03-15-138	388-550-1300	PREP	03-10-050
388-515-1540	NEW	03-13-052	388-535A	PREP	03-08-086	388-550-1300	AMD-P	03-15-130
388-517	PREP	03-08-086	388-537	PREP	03-08-086	388-550-1350	NEW-P	03-15-130
388-517-0300	PREP-W	03-15-051	388-538	PREP	03-08-086	388-550-1400	PREP	03-10-050
388-519	PREP	03-08-086	388-538	PREP	03-10-086	388-550-1400	AMD-P	03-15-131
388-519-0120	PREP-W	03-14-058	388-538-050	AMD-P	03-14-064	388-550-1500	PREP	03-10-050
388-523	PREP	03-08-086	388-538-060	AMD-P	03-14-064	388-550-1500	AMD-P	03-15-132
388-523-0120	PREP	03-04-085	388-538-067	AMD-P	03-14-067	388-550-2501	AMD	03-06-047
388-523-0120	AMD-P	03-10-089	388-538-070	AMD-P	03-14-064	388-550-2511	AMD	03-06-047
388-523-0120	AMD	03-14-108	388-538-080	REP-P	03-14-064	388-550-2521	AMD	03-06-047
388-526	PREP	03-08-086	388-538-095	AMD-P	03-14-064	388-550-2531	AMD	03-06-047
388-527	PREP	03-08-086	388-538-100	AMD-P	03-14-065	388-550-2541	AMD	03-06-047
388-529	PREP	03-08-086	388-538-110	AMD-P	03-14-065	388-550-2551	AMD	03-06-047
388-529	PREP-W	03-15-051	388-538-111	NEW-P	03-14-065	388-550-2561	AMD	03-06-047
388-530	PREP	03-08-086	388-538-112	NEW-P	03-14-065	388-550-2800	PREP	03-04-087
388-530-1270	NEW	03-05-043	388-538-130	AMD-P	03-14-066	388-550-3381	AMD	03-06-047
388-530-1300	PREP	03-11-086	388-538-140	AMD-P	03-14-066	388-550-3401	REP	03-06-047
388-530-1850	PREP	03-14-078	388-539	PREP	03-08-086	388-550-3700	AMD-P	03-09-118
388-531	PREP	03-04-087	388-540	PREP	03-08-086	388-550-3700	AMD	03-13-053
388-531	PREP	03-08-084	388-540	AMD-P	03-14-103	388-550-4500	AMD-P	03-06-111
388-531	PREP	03-08-086	388-540-001	AMD-P	03-14-103	388-550-4500	AMD	03-13-055
388-531-0050	AMD	03-06-049	388-540-005	AMD-P	03-14-103	388-550-4800	PREP	03-04-087
388-532	PREP	03-08-086	388-540-010	REP-P	03-14-103	388-550-4800	PREP	03-13-089
388-532-001	NEW-P	03-12-067	388-540-015	NEW-P	03-14-103	388-550-4900	AMD-P	03-06-111
388-532-050	AMD-P	03-12-067	388-540-020	REP-P	03-14-103	388-550-4900	AMD	03-13-055
388-532-100	AMD-P	03-12-067	388-540-025	NEW-P	03-14-103	388-550-5000	AMD-P	03-06-111
388-532-110	NEW-P	03-12-067	388-540-030	REP-P	03-14-103	388-550-5000	AMD	03-13-055
388-532-120	NEW-P	03-12-067	388-540-035	NEW-P	03-14-103	388-550-5100	AMD-P	03-06-111
388-532-130	NEW-P	03-12-067	388-540-040	REP-P	03-14-103	388-550-5100	AMD	03-13-055
388-532-140	NEW-P	03-12-067	388-540-045	NEW-P	03-14-103	388-550-5150	AMD-P	03-06-111
388-532-500	NEW-P	03-12-067	388-540-050	REP-P	03-14-103	388-550-5150	AMD	03-13-055
388-532-510	NEW-P	03-12-067	388-540-055	NEW-P	03-14-103	388-550-5200	AMD-P	03-06-111

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388-550-5200	AMD	03-13-055	388-805-075	AMD-P	03-12-066	388-805-925	REP-P	03-12-066
388-550-5400	AMD-P	03-06-111	388-805-085	AMD-P	03-12-066	388-805-930	REP-P	03-12-066
388-550-5400	AMD	03-13-055	388-805-090	AMD-P	03-12-066	388-805-935	REP-P	03-12-066
388-550-5450	PREP	03-04-087	388-805-100	AMD-P	03-12-066	388-818-001	REP	03-05-100
388-550-5600	AMD-P	03-06-111	388-805-120	AMD-P	03-12-066	388-818-0010	NEW	03-05-100
388-550-5600	AMD	03-13-055	388-805-130	AMD-P	03-12-066	388-818-002	REP	03-05-100
388-550-6000	PREP	03-04-087	388-805-140	AMD-P	03-12-066	388-818-0020	NEW	03-05-100
388-550-6000	PREP	03-10-050	388-805-145	AMD-E	03-06-059	388-818-003	REP	03-05-100
388-550-6000	AMD-P	03-15-130	388-805-145	AMD-P	03-12-066	388-818-0030	NEW	03-05-100
388-550-6100	AMD-P	03-14-102	388-805-145	AMD-E	03-14-076	388-818-0040	NEW	03-05-100
388-550-6150	AMD-P	03-14-102	388-805-150	AMD-P	03-12-066	388-818-005	REP	03-05-100
388-550-6200	AMD-P	03-14-102	388-805-205	AMD-E	03-06-059	388-818-0050	NEW	03-05-100
388-550-6400	AMD-P	03-14-102	388-805-205	AMD-P	03-12-066	388-818-0060	NEW	03-05-100
388-550-6800	NEW-P	03-06-111	388-805-205	AMD-E	03-14-076	388-818-0070	NEW	03-05-100
388-550-6800	NEW	03-13-055	388-805-210	AMD-P	03-12-066	388-818-0080	NEW	03-05-100
388-550-6900	NEW-P	03-06-111	388-805-220	AMD-P	03-12-066	388-818-0090	NEW	03-05-100
388-550-6900	NEW	03-13-055	388-805-250	AMD-P	03-12-066	388-818-010	REP	03-05-100
388-551	PREP	03-08-086	388-805-300	AMD-E	03-06-059	388-818-0100	NEW	03-05-100
388-552	PREP	03-08-086	388-805-300	AMD-P	03-12-066	388-818-0110	NEW	03-05-100
388-555	PREP	03-08-086	388-805-300	AMD-E	03-14-076	388-818-0120	NEW	03-05-100
388-556	PREP	03-08-086	388-805-305	AMD-P	03-12-066	388-818-0130	NEW	03-05-100
388-557-5000	NEW-P	03-09-119	388-805-310	AMD-P	03-12-066	388-818-0140	NEW	03-05-100
388-557-5000	NEW	03-13-054	388-805-315	AMD-P	03-12-066	388-818-0150	NEW	03-05-100
388-557-5050	NEW-P	03-09-119	388-805-320	AMD-P	03-12-066	388-818-0160	NEW	03-05-100
388-557-5050	NEW	03-13-054	388-805-325	AMD-P	03-12-066	388-818-0170	NEW	03-05-100
388-557-5100	NEW-P	03-09-119	388-805-350	AMD-P	03-12-066	388-818-0180	NEW	03-05-100
388-557-5100	NEW	03-13-054	388-805-400	AMD-P	03-12-066	388-818-0190	NEW	03-05-100
388-557-5150	NEW-P	03-09-119	388-805-410	AMD-P	03-12-066	388-818-020	REP	03-05-100
388-557-5150	NEW	03-13-054	388-805-500	AMD-P	03-12-066	388-818-0200	NEW	03-05-100
388-557-5200	NEW-P	03-09-119	388-805-520	AMD-P	03-12-066	388-818-0210	NEW	03-05-100
388-557-5200	NEW	03-13-054	388-805-530	AMD-P	03-12-066	388-818-0220	NEW	03-05-100
388-557-5250	NEW-P	03-09-119	388-805-540	AMD-P	03-12-066	388-818-0230	NEW	03-05-100
388-557-5250	NEW	03-13-054	388-805-550	AMD-P	03-12-066	388-818-0240	NEW	03-05-100
388-557-5300	NEW-P	03-09-119	388-805-600	AMD-P	03-12-066	388-818-0250	NEW	03-05-100
388-557-5300	NEW	03-13-054	388-805-610	AMD-P	03-12-066	388-818-0260	NEW	03-05-100
388-561	PREP	03-08-086	388-805-625	NEW-P	03-12-066	388-818-0270	NEW	03-05-100
388-561-0001	AMD	03-06-048	388-805-700	AMD-P	03-12-066	388-818-0280	NEW	03-05-100
388-561-0100	AMD-P	03-09-117	388-805-710	AMD-E	03-06-059	388-818-0290	NEW	03-05-100
388-561-0100	AMD	03-13-113	388-805-710	AMD-P	03-12-066	388-818-030	REP	03-05-100
388-561-0100	AMD-W	03-15-066	388-805-710	AMD-E	03-14-076	388-818-0300	NEW	03-05-100
388-730-0010	AMD	03-03-070	388-805-715	NEW-P	03-12-066	388-818-0310	NEW	03-05-100
388-730-0060	AMD	03-03-070	388-805-720	AMD-E	03-06-059	388-818-0320	NEW	03-05-100
388-730-0065	AMD	03-03-070	388-805-720	AMD-P	03-12-066	388-818-0330	NEW	03-05-100
388-730-0070	AMD	03-03-070	388-805-720	AMD-E	03-14-076	388-818-0340	NEW	03-05-100
388-730-0090	AMD	03-03-070	388-805-730	AMD-E	03-06-059	388-818-0350	NEW	03-05-100
388-805-005	AMD-E	03-06-059	388-805-730	AMD-P	03-12-066	388-818-0360	NEW	03-05-100
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388-805-005	AMD-E	03-14-076	388-805-740	AMD-E	03-06-059	388-818-0380	NEW	03-05-100
388-805-010	AMD-P	03-12-066	388-805-740	AMD-P	03-12-066	388-818-0390	NEW	03-05-100
388-805-015	AMD-P	03-12-066	388-805-740	AMD-E	03-14-076	388-818-040	REP	03-05-100
388-805-030	AMD-E	03-06-059	388-805-750	AMD-E	03-06-059	388-818-0400	NEW	03-05-100
388-805-030	AMD-P	03-12-066	388-805-750	AMD-P	03-12-066	388-818-050	REP	03-05-100
388-805-030	AMD-E	03-14-076	388-805-750	AMD-E	03-14-076	388-818-060	REP	03-05-100
388-805-035	NEW-E	03-06-059	388-805-800	AMD-P	03-12-066	388-818-070	REP	03-05-100
388-805-035	NEW-P	03-12-066	388-805-810	AMD-P	03-12-066	388-818-080	REP	03-05-100
388-805-035	NEW-E	03-14-076	388-805-820	AMD-P	03-12-066	388-818-090	REP	03-05-100
388-805-040	NEW-E	03-06-059	388-805-850	AMD-P	03-12-066	388-818-110	REP	03-05-100
388-805-040	NEW-P	03-12-066	388-805-900	REP-P	03-12-066	388-818-130	REP	03-05-100
388-805-040	NEW-E	03-14-076	388-805-905	REP-P	03-12-066	388-820-020	AMD-E	03-03-115
388-805-065	AMD-E	03-06-059	388-805-910	REP-P	03-12-066	388-820-020	AMD-E	03-10-026
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388-825-020	AMD-E	03-10-027	388-825-600	NEW-E	03-03-115	388-865-0436	PREP	03-08-077
388-825-055	AMD-E	03-03-115	388-825-600	NEW-E	03-10-027	388-865-0440	PREP	03-08-077
388-825-055	AMD-E	03-10-027	388-850-035	AMD-E	03-03-115	388-865-0445	PREP	03-08-077
388-825-100	AMD-E	03-03-115	388-850-035	AMD-E	03-10-027	388-865-0450	PREP	03-08-077
388-825-100	AMD-E	03-10-027	388-850-045	AMD-E	03-03-115	388-865-0452	PREP	03-08-077
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388-825-120	AMD-E	03-10-027	388-865-0100	PREP	03-08-077	388-865-0456	PREP	03-08-077
388-825-180	AMD-E	03-03-115	388-865-0105	PREP	03-08-077	388-865-0458	PREP	03-08-077
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388-825-252	AMD-E	03-03-115	388-865-0150	PREP	03-08-077	388-865-0466	PREP	03-08-077
388-825-252	AMD-E	03-10-027	388-865-0200	PREP	03-08-077	388-865-0468	PREP	03-08-077
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388-825-505	NEW-E	03-10-027	388-865-0217	NEW-E	03-14-081	388-865-0480	PREP	03-08-077
388-825-510	NEW-E	03-03-115	388-865-0220	PREP	03-08-077	388-865-0482	PREP	03-08-077
388-825-510	NEW-E	03-10-027	388-865-0221	PREP	03-08-077	388-865-0484	PREP	03-08-077
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388-892-0310	NEW-P	03-15-035	391- 35-026	NEW	03-03-064	392-142-200	REP	03-13-049
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388-892-0420	NEW-P	03-15-035	391- 35-347	NEW	03-03-064	392-142-213	AMD	03-13-049
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388-892-0440	NEW-P	03-15-035	391- 45-001	AMD	03-03-064	392-142-225	AMD	03-13-049
388-892-0450	NEW-P	03-15-035	391- 45-002	AMD	03-03-064	392-142-230	REP-P	03-09-050
388-892-0500	NEW-P	03-15-035	391- 45-056	NEW	03-03-064	392-142-230	REP	03-13-049
388-892-0510	NEW-P	03-15-035	391- 55-001	AMD	03-03-064	392-142-235	REP-P	03-09-050
388-892-0520	NEW-P	03-15-035	391- 55-002	AMD	03-03-064	392-142-235	REP	03-13-049
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390	PREP	03-13-104	391- 65-001	AMD	03-03-064	392-142-240	AMD	03-13-049
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390- 16-245	AMD	03-12-033	391- 65-110	AMD	03-03-064	392-142-245	AMD	03-13-049
390- 17-100	AMD	03-08-052	391- 95-001	AMD	03-03-064	392-142-250	AMD-P	03-09-050
390- 17-110	NEW-S	03-04-094	391- 95-010	AMD	03-03-064	392-142-250	AMD	03-13-049
390- 17-110	NEW	03-08-050	392-121-124	PREP	03-13-009	392-142-255	AMD-P	03-09-050
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391- 25-136	NEW	03-03-064	392-142-125	AMD	03-13-049	415- 02-520	NEW-P	03-05-042
391- 25-137	NEW	03-03-064	392-142-140	REP-P	03-09-050	415- 02-520	NEW	03-12-014
391- 25-197	NEW	03-03-064	392-142-140	REP	03-13-049	415- 02-520	PREP	03-13-026
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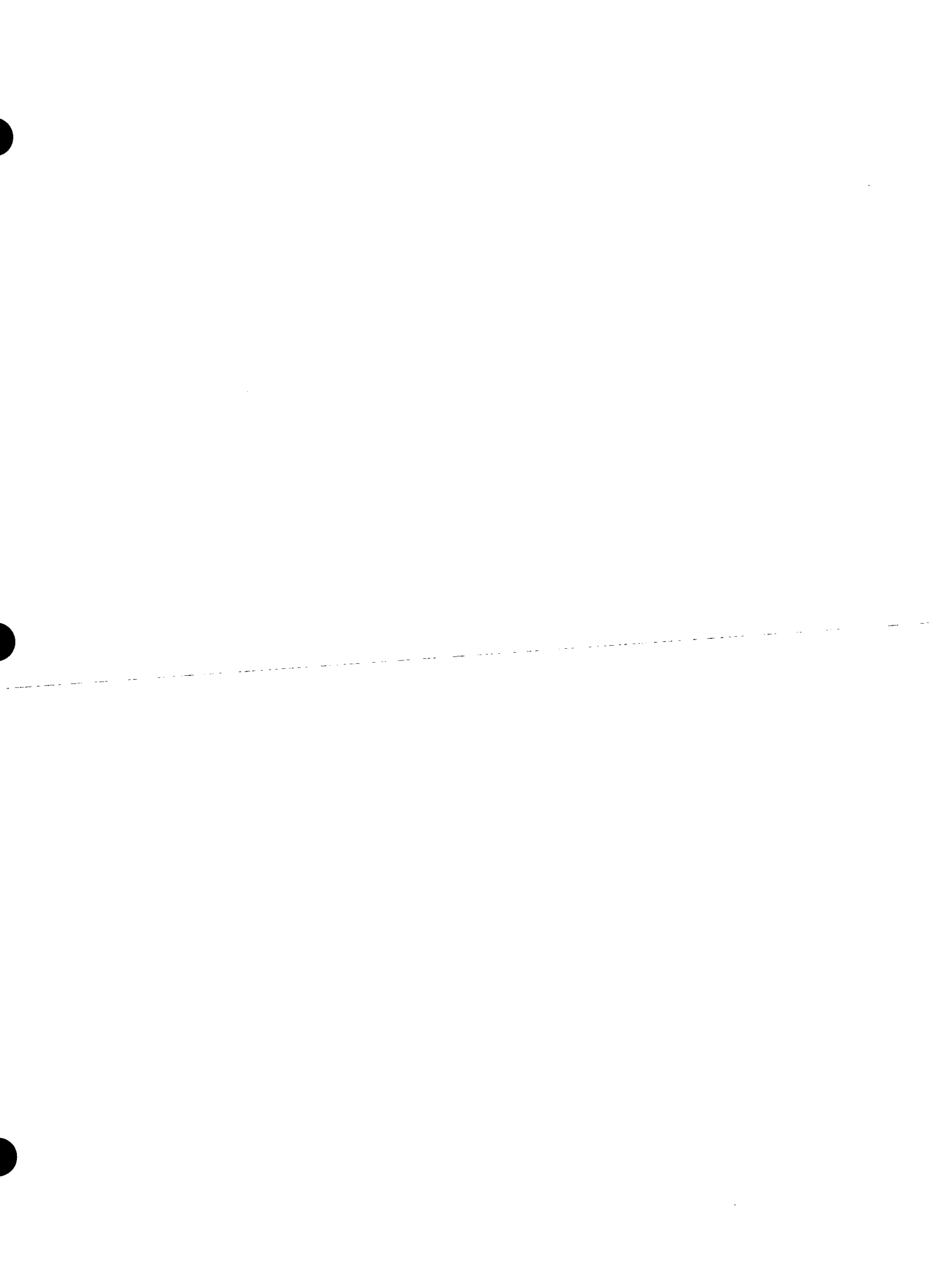












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