

Washington State Register

March 17, 2004

OLYMPIA, WASHINGTON

ISSUE 04-06



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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.

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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 March 2004 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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Chair, Statute Law Committee

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Editor

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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].

2003-2004

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
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>			<i>Count 20 days from -</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
03 - 17	Jul 23, 03	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 23, 03	Oct 21, 03
03 - 18	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 7, 03	Nov 4, 03
03 - 19	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 21, 03	Nov 18, 03
03 - 20	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 15, 03	Nov 4, 03	Dec 2, 03
03 - 21	Sep 24, 03	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 25, 03	Dec 23, 03
03 - 22	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 19, 03	Dec 9, 03	Jan 6, 04
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
04 - 01	Nov 26, 03	Dec 10, 03	Dec 24, 03	Jan 7, 04	Jan 27, 04	Feb 24, 04
04 - 02	Dec 10, 03	Dec 24, 03	Jan 7, 04	Jan 21, 04	Feb 10, 04	Mar 9, 04
04 - 03	Dec 24, 03	Jan 7, 04	Jan 21, 04	Feb 4, 04	Feb 24, 04	Mar 23, 04
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04 - 05	Jan 21, 04	Feb 4, 04	Feb 18, 04	Mar 3, 04	Mar 23, 04	Apr 20, 04
04 - 06	Feb 4, 04	Feb 18, 04	Mar 3, 04	Mar 17, 04	Apr 6, 04	May 4, 04
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04 - 23	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 21, 04	Jan 18, 05
04 - 24	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 15, 04	Jan 4, 05	Feb 1, 05

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;

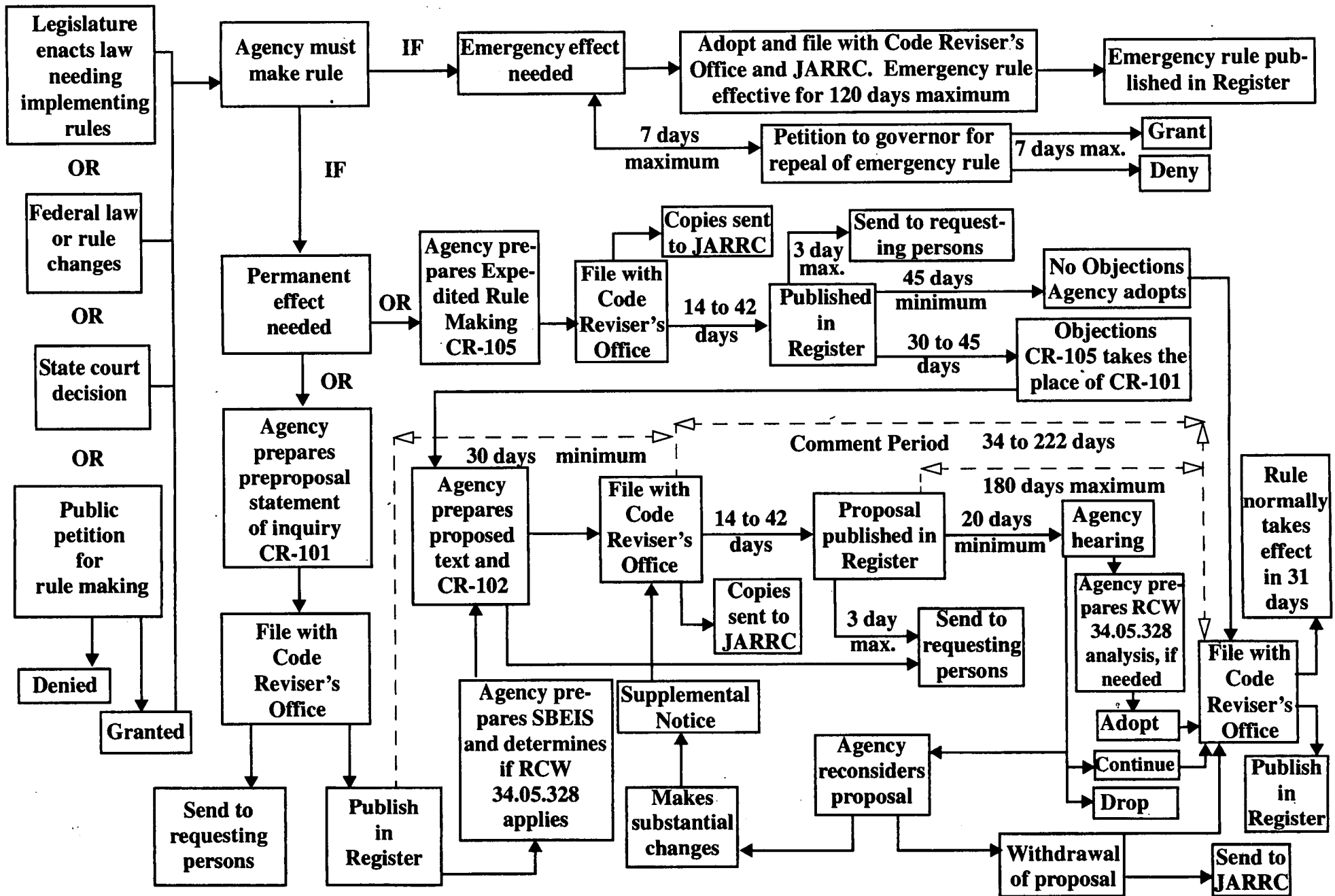
There is less than minor economic impact on business;

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 04-06-020
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF HEALTH

[Filed February 23, 2004, 2:40 p.m.]

The State Board of Health is withdrawing the CR-101 for chapter 246-217 WAC, which was filed September 30, 2002, and published as WSR 02-20-075. The original proposal was to consider revising these two rule sections in order to make the food worker card rule applicable to the providers and resident managers, rather than all food handlers, in adult family homes. Since the filing of WSR 02-20-075, there has not been agreement among agencies and other stakeholders regarding how to best address the food worker card requirement for adult family home staff, given the statutory requirements of chapter 69.06 RCW.

Individuals requiring information on this rule should contact Marianne Seifert, SBOH Health Policy Advisor, at (360) 236-4103.

Don Sloma
 Executive Director

Process for Developing New Rule: During rule making draft language will be shared with the local watershed planning unit, Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. A focus sheet will be written and distributed to mailing lists and e-mail lists. A public hearing will be held to solicit comments from interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Doug Rushton, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6513, drus461@ecy.wa.gov, fax (360) 407-6574. For the latest updates on water resources issues, including the Samish Basin rule making sign up for the Department of Ecology water resources e-mail list: <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at: <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

February 12, 2004

Joe Stohr

Water Resources
 Program Manager

WSR 04-06-027
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 04-01—Filed February 24, 2004, 11:34 a.m.]

Subject of Possible Rule Making: This rule making will amend chapter 173-503 WAC, Instream resources protection program—Lower and Upper Skagit water resources inventory area (WRIAs 3 and 4), to include new rule language that will set instream flows and may include tools for managing water in the Samish subbasin.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.82 RCW, Watershed planning; chapter 90.54 RCW, Water Resources Act of 1971; chapter 90.22 RCW, Minimum water flows and levels; chapter 90.03 RCW, Water code; chapter 90.44 RCW, Regulation of public ground waters; and chapter 77.55 RCW, Construction projects in state waters (hydraulic code).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The possible adoption of these rule amendments is needed to protect instream values within the Samish subbasin of water resources inventory area 3, including ESA listed fish (Chinook are threatened; Coho are candidate).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology has exclusive statutory authority under chapter 90.22 RCW to establish minimum instream water flows. Consultation will occur with the Washington Department of Fish and Wildlife and tribes. In establishing instream flows, RCW 90.03.247 directs "ecology shall to consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community, trade, and economic development, the department of agriculture, and representatives of the affected Indian tribes." We will also coordinate with the appropriate federal agencies.

WSR 04-06-030
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed February 24, 2004, 3:40 p.m.]

Subject of Possible Rule Making: Amendment of WAC 308-13-150 Landscape architect fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.96.080 Fees; 43.24.086 Fee policy for professions, occupations and businesses; requires fees to be at a sufficient level to defray the cost of administering the program.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The examination vendor for national examinations is the Council of Landscape Architect Registration Boards (CLARB). CLARB will increase their examination fees yearly. This rule is needed to increase the charge that candidates pay for the examination and the department collects on the vendor's behalf. This is a national driven fee increase and not the request of the department.

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

Process for Developing New Rule: Agency study; and review of all rules pursuant to the governor's Executive Order 97-02. Notification by the examination vendor that fees will increase in December 2004. Fees are collected from candidates by the department of licensing, held in a pass-through account, and then reimbursed to the exam vendor after the exam has been conducted.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting George Twiss, Department of Licensing, Business and Professions Division, Landscape Architect

Registration Board, P.O. Box 9045, Olympia, WA 98507-9045, (360) 664-1565, fax (360) 664-2551.

February 20, 2004
George A. Twiss
Administrator

WSR 04-06-043

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed March 1, 2004, 10:44 a.m.]

Subject of Possible Rule Making: Chapter 246-01 WAC, Description and organization and chapter 246-08 WAC, Practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220, 42.17.250, chapters 43.70, 70.02 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules need to be updated to reflect current agency practice and policy, and to improve clarity and readability. Additionally, a section within chapter 246-01 WAC was inadvertently deleted during the last revision of the chapter 246-01 WAC in 2003, and the department has received a request to replace the deleted language.

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

Process for Developing New Rule: The department will invite comment on draft revisions from interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michelle Davis at the Department of Health, P.O. Box 47890, Olympia, WA 98504-7890, or by e-mail Michelle.davis@doh.wa.gov, or by fax (360) 586-2171.

February 27, 2004

B. White
for Mary C. Selecky
Secretary

WSR 04-06-044

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed March 1, 2004, 10:47 a.m.]

Subject of Possible Rule Making: To implement water use efficiency requirements, to Group A public water supplies, chapter 246-290 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.119A RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To fulfill the requirements of the Municipal water supply—Efficiency requirements, chapter 5, Laws of 2003 1st sp.s., the Department of Health (department) is directed to develop rules to ensure efficient use of drinking water supplies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Ecology (ecology) has overall responsibility for managing the states water resources. Several ecology statutes highlight the need to use water efficiently. A close working relationship with ecology will occur throughout the development of the conservation regulation. Coordination activities will include interagency staff meetings and participation on the advisory committee that will be created (required by statute) to assist in the creation of the water use efficiency regulations.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is creating a subcommittee of the Water Supply Advisory Committee (WSAC) as directed by the Municipal Water Supply-Efficiency Requirements Act which includes involvement of public system customers, environmental interest groups, business interest groups, a representative cross-section of municipal water suppliers, tribal governments, ecology, and others. The department expects to convene the subcommittee in February or March of 2004. The meetings of both the WSAC and subcommittee are open to the public. The department will provide additional opportunities to provide input into the process, such as mailings, news articles in the Office of Drinking Water's water tap, public forums, etc. Information on conservation regulation activities (meeting dates, draft subcommittee recommendations and department regulations, etc.) will be posted on the drinking water website <http://www.doh.wa.gov/ehp/dw/>.

February 27, 2004

B. White

for Mary Selecky
Secretary

WSR 04-06-048

**PREPROPOSAL STATEMENT OF INQUIRY
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed March 1, 2004, 11:03 a.m.]

Subject of Possible Rule Making: WAC 392-136-020 Conversion of sick leave upon retirement or death.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.400.210 for school districts.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revision of the WAC is needed to address the effect of changes in law made by the legislature. Rule revision is needed to address sick leave cash out for employees returning to work pursuant to the retire-rehire legislation and those employees returning after termination and cash out.

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

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TTY (360) 664-3631. For telephone assistance contact Ron Stead, (360) 725-6302.

February 23, 2004
Dr. Terry Bergeson
Superintendent of
Public Instruction

WSR 04-06-053
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 1, 2004, 1:07 p.m.]

Subject of Possible Rule Making: Amendments to chapter 388-14A WAC: WAC 388-14A-3810 Once a child support order is entered how long does the support obligation last?, 388-14A-1020 What definitions apply to the rules regarding child support enforcement? (definition of "dependent child"), and other amendments and/or new rules as required, concerning the duration of an administrative support order and when a support obligation can continue after the child turns eighteen.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220(1), 74.08.090, 74.20A.056, 74.20A.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, and 74.20A.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Division of Child Support (DCS) seeks to bring its rules into accord with the temporary assistance to needy families (TANF) regulations dealing with a child's eligibility for TANF after age eighteen, so that both the child support program and the TANF program have the same definition of "dependent child."

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

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS/DCS headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's policy review website, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and will send the proposal to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, e-mail nkoptur@dshs.wa.gov, 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011.

February 27, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistant Unit

WSR 04-06-054
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed March 1, 2004, 1:08 p.m.]

Subject of Possible Rule Making: Chapter 388-529 WAC, Scope of medical services.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Updating the scope of medical services chart that shows what medical services are covered under the department's medical assistance 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: 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 Kevin Sullivan, Rules Coordinator, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, e-mail sullikm@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

February 27, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-06-055
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed March 1, 2004, 1:09 p.m.]

Subject of Possible Rule Making: Amending WAC 388-97-125 Nursing homes—Physician services, and other related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.51.070 and 74.42.620.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of amending this rule is to be consistent with recent federal clarification on the regulatory differences concerning physician delegation of tasks in skilled nursing facilities and nursing facilities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This proposal for amendment is based upon federal clarification by the federal agency. Centers for Medicare and Medicaid Services (CMS). CMS has outlined their clarification through a memo to all state survey agencies.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file a proposed rule with the Office of the Code Reviser with a notice of proposed rule making, and send a copy of the proposal to everyone currently on the 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 by contacting Lisa NH Yanagida, Program Manager, 640 Woodland Square Loop S.E., P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2589, 1-800-422-3263, fax (360) 438-7903, TTY (360) 493-2637, e-mail yanagln2@dshs.wa.gov.

February 27, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 04-06-057

PREPROPOSAL STATEMENT OF INQUIRY CRIMINAL JUSTICE TRAINING COMMISSION

[Filed March 1, 2004, 2:20 p.m.]

Subject of Possible Rule Making: WAC 139-10-210 Requirement of basic corrections training.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 and 43.101.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Several courses were reconfigured to meet specific constituent needs. New titles and descriptions more accurately describe course focus and job classifications served.

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 Sharon M. Tolton, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148-2055, phone (206) 835-7345, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise of the intended rule amendments. Proposal also listed on the agency website.

February 27, 2004

Sharon M. Tolton
Deputy Director

WSR 04-06-063

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 2, 2004, 12:34 p.m.]

Subject of Possible Rule Making: Prevailing wage, chapter 296-127 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 39.12 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is to clarify which scope of work description is appropriate for asphalt and other road repair and replacement associated with outside telephone line construction and installation.

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 Prevailing Wage Advisory Committee will be utilized in the development of these rules. Other interested parties and the public may also participate by providing written comments or giving verbal 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) 902-5330, fax (360) 902-5300, e-mail swaj235@lni.wa.gov.

March 2, 2004

Paul Trause
Director

WSR 04-06-064

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed March 2, 2004, 12:58 p.m.]

Subject of Possible Rule Making: WAC 458-40-660 Timber excise tax—Stumpage value tables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values on which the timber excise tax is calculated.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington State Department of Natural Resources both regulate forest practices, neither is involved in valuation for purposes of taxation. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

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 the proposed changes is available upon request on or after April 9, 2004. Written comments on and/or requests for copies of the draft may be directed to Gilbert Brewer, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6133, e-mail gilb@dor.wa.gov, fax (360) 664-0693.

Location and Date of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 14, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact April Thompson no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7500.

March 2, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

WSR 04-06-065

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed March 2, 2004, 1:00 p.m.]

Subject of Possible Rule Making: WAC 458-40-640 Timber excise tax—Stumpage value area (map).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-40-640 provides a map that identifies stumpage value areas and hauling distance zones. The stumpage value areas are established to identify geographic areas that reflect similar growing, harvesting, and market conditions. Haul zones are established to reflect the distance to market under the assumption that timber is hauled to the nearest market. The recent closure of a mill in north-eastern Washington requires revisions to the hauling distance zones.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington State Department of Natural Resources both regulate forest practices, neither is involved in valuation for purposes of taxation. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the revisions to the stumpage value areas provided in this rule.

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 the proposed changes is available upon request on or after April 9, 2004. Written comments on and/or requests for copies of the draft may be directed to Gilbert Brewer, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6133, e-mail gilb@dor.wa.gov, fax (360) 664-0693.

Location and Date of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 14, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact April Thompson no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7500.

March 2, 2004

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

WSR 04-06-072

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 2, 2004, 4:17 p.m.]

Subject of Possible Rule Making: The department is considering amending chapter 388-78A WAC in order to conform to 2004 legislation and to add certain necessary definitions, to clarify requirements regarding resident assessments, administrator training, the extent of services that must be and may be provided in a boarding home, family assistance with medications, negotiated service agreements, resident-arranged services, food service, the disclosure of such services, and related issues. The department is also considering correcting grammatical and spelling errors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.20.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 388-78A WAC may be amended to:

- Ensure the chapter is consistent with 2004 legislation.
- Correct grammatical and spelling errors.
- Clarify possible inconsistencies within the chapter.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Department of Health is responsible for food service requirements, and review of construction plans through construction review services. Department of Health will be asked to comment on draft and proposed rules that might affect relevant subjects.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser for public comment and a public hearing, and send a copy to everyone currently on the 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 by contacting Denny McKee, Program Manager, 640 Woodland Square Loop S.E., P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2590, 1-800-422-3263, fax (360) 438-7903, TTY (360) 493-2637, e-mail McKeeDD@dshs.wa.gov.

March 2, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560, e-mail tmaxwell@agr.wa.gov, phone (360) 902-2026, fax (360) 902-2093.

March 3, 2004

Bob Arrington
Assistant Director

WSR 04-06-074

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed March 3, 2004, 8:35 p.m.]

Subject of Possible Rule Making: The department will propose amending WAC 16-250-155 Tonnage fee requirements and 16-252-155 Tonnage fee required, to increase the current inspection fees for commercial feed and pet food/specialty pet food from nine cents/ton to twelve cents/ton.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.53.9018, section 309(2), chapter 25, Laws of 2003 1st sp.s. (ESSB 5404) and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will propose increasing the inspection fees in WAC 16-250-155 and 16-252-155 in order to reduce a feed program funding deficit. The feed program is funded entirely from fees (registration fees, license fees, and inspection fees). From January 1980 to the present, inspection fees have increased from eight cents/ton to nine cents/ton. The one-cent/ton increase occurred in 1996 and was used to support the feed program's share of the department's administrative costs. The 1996 one-cent/ton fee increase was not used to fund program activities. The three-cent/ton increase that the department will propose will not completely address the feed program funding deficit, but it will give the department and its feed advisory committee sufficient time to address long-term program funding needs and solutions. Section 309(2), chapter 25, Laws of 2003 1st sp.s. (ESSB 5404) authorizes the department to propose a fee increase in excess of the Office of Financial Management (OFM) fiscal growth rate factor.

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

Process for Developing New Rule: The proposed feed inspection fee increases will be sent to the affected stakeholders and other interested parties for review and comment before the department files a CR-102. In addition, the proposed increase will continue to be discussed by an ad hoc committee of the department's feed advisory committee. When a CR-102 is filed, interested parties will be able to submit written comment during the public comment period and will be able to give oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ted Maxwell, Program Manager,

WSR 04-06-078

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 3, 2004, 9:02 a.m.]

Subject of Possible Rule Making: Chapter 296-24 WAC, Safety standards for general safety and health, WAC 296-78-710 Construction and isolated equipment, 296-301-020 General safety requirements, 296-800-11045 Protect employees from biological agents, and 296-800-35052 Tag cited moveable equipment to warn employees of a hazard.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite and clarify requirements relating to signs and color codes. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department may eliminate unnecessary requirements and outdated terminology. In addition, the department may move requirements from this rule to another WISHA rule to increase usability. References will also be updated through other WISHA rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies, other than Occupational Safety and Health Administration (OSHA), are known that regulate this subject.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jamie Scibelli, Administrative Regulations Analyst, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, (360) 902-4568, fax (360) 902-5529, e-mail Scij235@lni.wa.gov.

March 3, 2004

Paul Trause
Director

WSR 04-06-079

**PREPROPOSAL STATEMENT OF INQUIRY
GROWTH MANAGEMENT
HEARINGS BOARDS**

[Filed March 3, 2004, 9:08 a.m.]

Subject of Possible Rule Making: Practice and procedure before the Growth Management Hearings Boards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 36.70A.270(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The boards were created in 1991 and adopted rules of practice and procedure in the following year. After over ten years of practice under the existing rules, the boards are seeking recommendations from interested parties for any rule changes or additions that would improve board administrative procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies regulate board proceedings.

Process for Developing New Rule: In addition to the existing board procedures for rule making (WAC 242-02-052 and 242-02-054), the boards will hold a series of public meetings in the spring of 2004 to elicit suggestions for rule changes. The boards will respond in writing to specific suggestions received by the end of April 2004. The boards will formulate those suggestions that are deemed appropriate for a rule change into proposed rule changes. The public will be notified of any resulting proposed rule changes and will be given the opportunity to comment prior to the boards' adoption of any such proposed rule changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may also submit specific suggestions for rule changes in writing by April 30, 2004, to Margery Hite, Rules Coordinator, Western Washington Growth Management Hearings Board, P.O. Box 40953, Olympia, WA 98504-0953. Responses will be given only to those who sign their proposals and provide a return address.

Three public meetings will be held in the spring of 2004, one in the jurisdictional area of each board:

Meeting Date and Time	Meeting Location	Board Jurisdiction
April 14, 2004, from 3:00 to 4:30 p.m.	Best Western Hallmark Inn 3000 Marina Drive Moses Lake, WA	Eastern Washington Board
April 20, 2004, from 10:00 a.m. to 1:00 p.m.	Everett Public Library 2702 Hoyt Avenue Everett, WA 98201	Central Puget Sound Board
April 29, 2004, from 3:30 to 5:30 p.m. and from 7:00 to 9:00 p.m.	General Administration Building 210 11th Avenue S.W. Olympia, WA 98504	Western Board

March 3, 2004
Margery Hite
Rules Coordinator

WSR 04-06-080

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 3, 2004, 10:29 a.m.]

Subject of Possible Rule Making: New WAC, this proposal would establish standards, fees and other provisions for a planting stock certification program for some types of nursery stock, such as rhododendrons.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.14, 17.24 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state has experienced several instances of entry into or presence in this state of nursery stock infested with invasive, exotic pests, including plant diseases and insects. At some time, one or more of these organisms may become established in the state. A certification program would enable nursery stock growers in this state to produce certified stock that has met established standards for quality and plant health and may facilitate access to interstate and international market opportunities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None. Currently, planting stock certification is not a federal activity, and no other state agency conducts such programs.

Process for Developing New Rule: Department staff will discuss the proposal with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

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

March 3, 2004
Mary A. Martin Toohey
Assistant Director

WSR 04-06-081

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 3, 2004, 10:31 a.m.]

Subject of Possible Rule Making: New WAC, this proposal may establish quarantine to exclude and isolate infestations of *Phytophthora ramorum*, the causative organism of the exotic plant disease sudden oak death. It may restrict or prohibit the movement or import into the state of certain nursery stock and other plants and plant products.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state has experienced several instances of entry into or presence in this state of plants infested with Phytophthora [Phytophthora] ramorum, the causative organism of the invasive, exotic plant disease sudden oak death. Sudden oak death has a wide host range, including native species such as rhododendrons, Douglas fir and bigleaf maple and other common species such as camellia and pieris. Although evidence indicates the disease is not at this time established in the state outside a few regulated nurseries, it is a serious economic and environmental threat to several industries, including timber, Christmas trees, and nursery stock. A quarantine may be necessary to exclude this disease from the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington Department of Natural Resources has authorities in matters of forest pests and will be consulted throughout the rules process. United States Department of Agriculture Animal and Plant Health Inspection Service regulates sudden oak death host material at the federal level and will be informed of the proposed rule making.

Process for Developing New Rule: Department staff will discuss the proposal with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov; or Brad White, PhD, Pest Program Manager, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2071, fax (360) 902-2094, e-mail bwhite@agr.wa.gov.

March 3, 2004
Mary A. Martin Toohey
Assistant Director

WSR 04-06-082

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed March 3, 2004, 10:32 a.m.]

Subject of Possible Rule Making: Chapter 16-401 WAC, this proposal may establish reporting and record-keeping requirements for licensed nurseries for shipments of plants from outside the state. The proposal may also establish mandatory holding periods before plants from outside the state may be sold, distributed, or transported or delivered to another location, to allow for their inspection.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington state has experienced several instances of entry into or presence in this state of nursery stock infested with Phytophthora [Phytophthora] ramorum, the causative organism of the invasive, exotic plant disease sudden oak death. Sudden oak death has a wide host range, including native species such as rhododendrons, Douglas fir and bigleaf maple and other common species such as camellia and pieris. Although evidence indicates the disease is not at this time established outside a few regulated nurseries, it is a serious economic and environmental threat. It may be necessary to implement inspection requirements for nursery stock entering the state, in order to locate and eradicate populations of the organism before they can become established.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agencies regulate this subject. Although United States Department of Agriculture Animal and Plant Health Inspection Service regulates certain aspects of sudden oak death exclusion and eradication, the federal agency has no reporting requirements of this nature.

Process for Developing New Rule: Department staff will discuss the proposal with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

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

March 3, 2004
Mary A. Martin Toohey
Assistant Director

WSR 04-06-085

PREPROPOSAL STATEMENT OF INQUIRY BOARD OF ACCOUNTANCY

[Filed March 3, 2004, 11:41 a.m.]

Subject of Possible Rule Making: WAC 4-25-530 Fees. Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.065, 18.04.105(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board anticipates examination fee changes may occur due to changes in the national exam sections fees (American Institute of Certified Public Accountants (AICPA), the National Association of State

Board of Accountancy (NASBA), and Prometric) and the associated administrative fee.

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 writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 586-0163, fax (360) 664-9190, e-mail danam@cpaboard.wa.gov.

March 2, 2004
Dana M. McInturff, CPA
Executive Director

WSR 04-06-088
PREPROPOSAL STATEMENT OF INQUIRY
PARKS AND RECREATION
COMMISSION

[Filed March 3, 2004, 11:44 a.m.]

Subject of Possible Rule Making: The Washington State Parks and Recreation Commission is considering rule making related to the process of certification of recreational conveyances as defined in chapter 352-44 WAC and specifically under the provisions of WAC 352-44-020, which includes the certification of such devices as ski lifts, ski tows, j-bars, t-bars, ski mobiles, chair lifts, and similar devices and equipment used in snow ski areas.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79A.05.030, 79A.05.070, 79A.40.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington State Parks and Recreation Commission is responsible for the certification of safe and adequate facilities operated for the conveyance of persons generally associated with winter sports activities. The commission is reviewing current rules to determine the need to amend these rules to better accommodate the annual certification of recreational conveyances.

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. To obtain additional information to participate in the decisions on rule making or to comment on the commission rules being reviewed, contact Dale Broyles, Construction and Maintenance Superintendent, Washington State Parks, P.O. Box 42650, 7150 Cleanwater Lane, Olympia, WA 98504-2650, phone (360) 902-8543, fax (360) 664-0278, e-mail Dale.Broyles@parks.wa.gov.

March 3, 2004
Jim French
Chief of Policy Research
and Program Development

WSR 04-06-089

PREPROPOSAL STATEMENT OF INQUIRY
PARKS AND RECREATION
COMMISSION

[Filed March 3, 2004, 11:45 a.m.]

Subject of Possible Rule Making: The Washington State Parks and Recreation Commission is considering rule making related to public harvesting of seaweed. The commission will conduct a review of the provisions of chapter 352-32 WAC, Public use of state park areas, to determine the need for revision of existing or the adoption of new rules to protect park resources. Other relevant rule-making actions may result from this review.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79A.05.030, 79A.05.035, 79A.05.055, and 79A.05.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington State Parks and Recreation Commission is responsible for protecting those natural resources under its jurisdiction while simultaneously monitoring appropriate public enjoyment of renewable resources. This proposed rule-making action is intended to provide a definition of seaweed, clarify the application of statutes and regulations under the jurisdiction of the state Department of Natural Resources to inform the public of the director's authority to take special actions to reduce seaweed harvest to prevent environmental damage and to specify the method of posting restrictions and closures of state park areas for seaweed harvesting. Additional benefits may result from this proposed rule-making action.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: As specified in RCW 79.96.210, the Department of Natural Resources in cooperation with the Department of Fish and Wildlife may establish seaweed harvest limits. The state Parks and Recreation Commission coordinate the regulations related with natural resource harvesting on state park properties with these agencies.

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. To obtain additional information to participate in the decisions on rule making or to comment on the commission rules being review, contact Rob Fimbel, Chief, Resources Stewardship, Washington State Parks, P.O. Box 42650, 7150 Cleanwater Lane, Olympia, WA 98504-2650, phone (360) 902-8592, fax (360) 902-8517, e-mail Rob.Fimbel@parks.wa.gov.

March 3, 2004
Jim French
Chief of Policy Research
and Program Development



WSR 04-05-083
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed February 17, 2004, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-15-124.

Title of Rule: Chapter 388-533 WAC, Maternity related services, amending WAC 388-533-0300 Enhanced benefits for pregnant women and repealing WAC 388-533-0350.

Maternity support services, new sections WAC 388-533-0310 Purpose, 388-533-0315 Definitions, 388-533-0320 Client eligibility, 388-533-0325 Provider requirements, 388-533-0330 Covered services, 388-533-0340 Noncovered services, and 388-533-0345 Reimbursement.

Infant case management, new sections WAC 388-533-0360 Purpose/scope, 388-533-0365 Definitions, 388-533-0370 Client eligibility, 388-533-0375 Provider requirements, 388-533-0380 Covered services, 388-533-0385 Noncovered services, and 388-533-0386 Reimbursement.

Childbirth education (CBE) classes, new section WAC 388-533-0390.

Purpose: The Medical Assistance Administration (MAA) is redesigning its maternity services and First Steps program to improve quality of services offered and to contain expenditure growth.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.09.760 through 74.09.910 (Maternity Care Access Act of 1989).

Summary: The proposed changes will:

- Merge the maternity support services and maternity case management programs;
- Establish rules for infant case management;
- Establish rules for childbirth education classes; and
- Reduce staffing requirement barriers for tribes and rural counties.

Reasons Supporting Proposal: These rules are needed to meet the requirements in the Maternity Care Access Act of 1989, that requires the MAA to evaluate the maternity care access system to determine effectiveness and need for modification.

Name of Agency Personnel Responsible for Drafting: Wendy Boedigheimer, MAA, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and Enforcement: Diane Tiffany, MAA, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1655.

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

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

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

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The MAA has analyzed

the proposed rule and concludes that the rule change does not impose additional costs or administrative burdens on MSS/ICM providers and will not place a more than minor impact on small businesses.

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 person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on April 6, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by April 2, 2004, 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., April 6, 2004.

Date of Intended Adoption: Not sooner than April 7, 2004.

February 11, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-14-068, filed 7/5/00, effective 8/5/00)

WAC 388-533-0300 Enhanced benefits for pregnant women. Pursuant to the 1989 Maternity Care Access Act, also known as First Steps, the medical assistance administration (MAA) provides enhanced services to eligible women during and after their pregnancy((-

~~(1) Refer to WAC 388-462-0015 for client eligibility requirements.~~

~~(2) MAA requires providers to have specific MAA approval prior to becoming an approved maternity support services (MSS) provider. MSS services must be provided by professionals from all of the following fields:~~

~~(a) Community health nursing;~~

~~(b) Nutrition; and~~

~~(c) Social work.~~

~~(3) MAA allows paraprofessional community health workers to provide MSS services to eligible clients when both of the following are met:~~

~~(a) The services are provided under the supervision of one of the qualified professionals described in subsection (2) of this section; and~~

~~(b) The services provided are limited to basic health education.~~

~~(4) A client may choose to receive MSS services from any MAA approved MSS provider.~~

~~(5) In addition to the client's standard scope of care, MAA covers the following enhanced benefits (MSS) for eligible women during and after their pregnancy:~~

~~(a) One childbirth education course per pregnancy (see subsection (9) in this section);~~

(b) Assessment, counseling, education, and interventions by those qualified professionals described in subsections (2) and (3) of this section; and

(c) Child care for the client's children (see subsection (7) of this section);

(6) MSS providers refer a client who may need chemical dependency assessment to a provider who is contracted with the division of alcohol and substance abuse (DASA) (see chapter 440-22 WAC). Enhanced benefits for eligible pregnant women through DASA include:

(a) Assessment for alcohol/drug use;

(b) Parenting education; and

(c) Treatment for alcohol/drug use.

(7) MAA requires the MSS provider to do the following for child care under this section:

(a) Screen for the eligible woman's need for child care;

(b) Discuss and encourage a safe and healthy child care plan; and

(c) Authorize the child care. The MSS provider may authorize child care for any of the following reasons:

(i) Health care appointments for the client;

(ii) The maternity services medical provider ordered bed rest for the client; or

(iii) Other circumstances that the MSS provider considers necessary and are specifically approved by MAA.

(8) MAA covers up to ten MSS visits. If it is determined that a client is at high risk for a poor birth outcome (see the maternity case management program), MAA may cover up to twenty visits. The MSS provider must maintain documentation of the high risk circumstances in the client's file.

(9) MAA allows a provider to bill only once per client per pregnancy for childbirth education. The provider must document that the client attended at least one childbirth education session in order for MAA to reimburse for the service.

(10) MAA publishes MSS program billing instructions that contain specific process requirements for the MSS program). The enhanced services include:

(1) Maternity support services (see WAC 388-533-0310 through 388-533-0345);

(2) Infant case management services (see WAC 388-533-0360 through 388-533-0386);

(3) Alcohol and drug assessment and treatment services (see WAC 388-533-0701);

(4) Childbirth education classes (see WAC 388-533-0390); and

(5) Childcare services (see WAC 388-533-1000).

MATERNITY SUPPORT SERVICES

NEW SECTION

WAC 388-533-0310 Maternity support services—

Purpose. The integrated Maternity Support Services (MSS) program provides enhanced preventive health and education services to eligible pregnant women and their families during the maternity cycle. The purpose of the enhanced services is to improve birth outcomes and respond to clients' individual risks and needs. MSS is collaboratively managed by the department of health and the medical assistance administra-

tion. This MSS program combines the previous MSS and maternity case management programs.

NEW SECTION

WAC 388-533-0315 Maternity support services—
Definitions. The following definitions and those found in WAC 388-500-0005 apply to the Maternity Support Services (MSS) program.

"Advocacy" - For the purposes of the MSS program, means actions taken to support the parent(s) in accessing needed services or goods and helping the parent(s) to develop skills to access services.

"Assurances document" - A signed agreement documenting that the provider understands and agrees to maintain certain required program elements; and to work toward integrating other specifically recommended practices. Also referred to as the MSS/ICM assurances document.

"Basic health messages" - or the purposes of the MSS program, means the preventative health education messages designed to promote healthy pregnancies, healthy newborns and healthy parenting during the first year of life.

"Case management" - For the purposes of the MSS program, means services to assist individuals who are eligible under the Medicaid state plan, to gain access to needed medical, social, educational, and other services.

"Childbirth education classes (CBE)" - A series of educational sessions offered in a group setting and led by an approved instructor to prepare a pregnant woman and her support person for an upcoming childbirth.

"Childcare"

"DASA (division of alcohol and substance abuse)" - Childcare for women attending DASA-funded outpatient alcohol or drug treatment services that may be provided through the treatment facility.

"First Steps" - Childcare funded through the First Steps Program for the care of children of pregnant or postpregnant women who are attending appointments for Medicaid-covered services, pregnant women on physician ordered bed rest, and for visits to the Neonatal Intensive Care Unit (NICU) after delivery.

"Community and family health (CFH)" - Refers to the division within the state department of health whose mission is to improve the health and well-being of Washington residents with a special focus on infants, children, youth, pregnant woman, and prospective parents.

"Consultation" - For the purposes of the MSS program, means the practice of conferring with other professionals to share knowledge and problem solve with the intent of providing the best possible care to clients.

"Core services" - For the purposes of the MSS program, means the services that provide the framework for interdisciplinary, client-centered maternity support services and infant case management. These services include: client screening, basic health messages, basic linkages, and minimum interventions.

"Department of health (DOH)" - The agency whose mission is to protect and improve the health of people in Washington state.

"Department of social and health services (DSHS)" - The state agency that administers social and health services programs for the state of Washington.

"First Steps" - The 1989 Maternity Care Access Act, known as First Steps. This program provides enhanced maternity care for pregnant and postpregnant women, and health care for infants. The program is managed collaboratively by DSHS and DOH. First Steps maternity care consists of obstetrical care, maternity support services, childbirth education classes, and infant case management.

"First Steps Childcare" - See Childcare.

"Home visit" - For the purposes of the MSS program, means services delivered in the client's place of residence or other setting as described in the medical assistance administration's published MSS/ICM billing instructions.

"Infant case management (ICM)" - A program that provides case management services to eligible high-risk infants and their families. Eligibility for ICM may be established at the end of the maternity cycle and up to the infant's first birthday.

"Interagency agreement" - A written letter of agreement between two agencies for the exchange of referrals or service provision (e.g., a written agreement in letter format that agrees to an exchange of referrals or services for MSS/ICM clients).

"Interdisciplinary team" - Members from different professions and occupations that work closely together and communicate frequently to optimize care for the client (pregnant woman and infant). Each team member contributes specialized knowledge, skills and experience to support and augment the contributions of the other team members.

"Linkages" - Networking and/or collaboration between agencies in order to assure proper referral of clients and avoid duplication of services.

"Maternal and infant health (MIH)" - A section within the state department of health. MIH works collaboratively with DSHS to provide clinical consultation, oversight and monitoring of the MSS/ICM programs.

"Maternity cycle" - An eligibility period for maternity support services that begins during pregnancy and continues to the end of the month in which the sixtieth-day postpregnancy occurs.

"Maternity support services (MSS)" - Preventive health services for pregnant/postpregnant women including: professional observation, assessment, education, intervention and counseling. MSS services are provided by an interdisciplinary team consisting of at minimum, a community health nurse, a nutritionist, and a behavioral health specialist. Additional MSS services may be provided by community health workers.

"Medical assistance administration (MAA)" - The administration within DSHS authorized to administer medical assistance programs.

"Minimum interventions" - Defined levels of client assessment, education, intervention and outcome evaluation for specific risk factors found in client screening for MSS/ICM services, or identified during ongoing services.

"Performance measure" - An indicator used to measure the results of a focused intervention or initiative.

"Risk factors" - The biopsychosocial factors that could lead to negative pregnancy or parenting outcomes. The MSS/ICM program design identifies specific risk factors and corresponding minimum interventions.

"Service plan" - The written plan of care that must be developed and maintained throughout the eligibility period for each client in the MSS/ICM programs.

"Staff" - For the purposes of the MSS program, means the personnel employed by providers.

"Unit of service" - Fifteen minutes of one-to-one service delivered face-to-face.

NEW SECTION

WAC 388-533-0320 Maternity support services—Client eligibility. (1) To be eligible for Maternity Support Services (MSS), a client must be:

(a) Covered under one of the following medical assistance administration programs:

(i) Categorically needy program (CNP);

(ii) Categorically needy program—Children's health insurance program; (CNP-Children's health insurance program); or

(iii) Categorically needy program—Emergency medical only (CNP-Emergency medical only); and

(b) Pregnant or still within the maternity cycle.

(2) Clients meeting the eligibility criteria in WAC 388-533-0320(1) who are enrolled in an MAA managed care plan, are eligible for MSS services outside their plan. MSS services delivered outside the managed care plan are reimbursed on a fee-for-service basis and subject to the same program rules as apply to nonmanaged care clients.

NEW SECTION

WAC 388-533-0325 Maternity support services—Provider requirements. (1) Services under this program are provided only by approved Maternity Support Services (MSS)/Infant Case Management (ICM) providers. Representatives from the medical assistance administration (MAA) and the department of health (DOH) recruit and approve providers using the following criteria:

(a) Services are to be delivered in area of geographic need as determined by MAA/DOH; and

(b) Providers must:

(i) Deliver both MSS and ICM services;

(ii) Provide services in both office and home visit settings; and

(iii) Assure maintenance of staffing requirements and delivery of core services according to program design.

(2) To participate in the MSS program, a provider must:

(a) Comply with the clinical supervision/clinical consultation guidelines as required in the assurances document;

(b) Notify the appropriate state discipline-specific consultant when a staff person joins or leaves a designated position;

(c) Ensure that all newly hired staff receive an orientation to First Steps as soon as possible, but no later than sixty days from the hire date;

(d) Refer clients who may need chemical dependency assessment and/or treatment to a provider contracted with the

division of alcohol and substance abuse (DASA) (see chapter 440-22 WAC);

(e) Authorize First Steps childcare for the MSS client as appropriate to facilitate MSS and First Step objectives (see WAC 388-533-1000 for rules governing First Steps childcare);

(f) Complete and document case conferencing activities.

(3) To be reimbursed by MAA for MSS, providers must:

(a) Meet the requirements in chapter 388-502 WAC, Administration of medical programs—Providers rules;

(b) Have a completed, approved MSS/ICM assurance document, signed by an officer or employee qualified to sign on behalf of the provider, on file with MAA;

(c) Meet the DOH/MAA requirements for a qualified MSS interdisciplinary team as prescribed in the assurances document;

(d) Ensure that staff meet the minimum qualifications for the MSS rules they perform; and

(e) Submit billings as instructed in MAA's published MSS/ICM billing instructions.

NEW SECTION

WAC 388-533-0330 Maternity support services—Covered services. (1) The medical assistance administration (MAA) covers services under the Maternity Support Services (MSS) program subject to the restrictions and limitations in this section and other applicable published WAC.

(2) Covered services include:

(a) Community health nursing visits;

(b) Nutrition visits;

(c) Behavioral health visits; and

(d) Community health worker visits under the direction of a professional member of the team.

(3) The services listed in WAC 388-533-0330(2) are covered under this program only when the services are:

(a) Documented in the client's record;

(b) Provided on an individual basis in a face-to-face encounter;

(c) Delivered by a qualified staff person acting within her/his area of expertise; and

(d) Used for the purposes of the MSS program to provide:

(i) Risk screening;

(ii) Education that relates to improving pregnancy and parenting outcomes;

(iii) Brief counseling;

(iv) Interventions for identified risk factors;

(v) Basic health messages;

(vi) Referral and linkages to other services; or

(vii) Family planning screening.

NEW SECTION

WAC 388-533-0340 Maternity support services—Noncovered services. (1) The following are considered non-covered services under the MSS program. Any service:

(a) Not within the scope of the program;

(b) Not listed in WAC 388-533-0330; or

(c) Any service provided by staff not qualified to deliver the service.

(2) MAA evaluates requests for services listed as non-covered under the provisions of WAC 388-501-0165.

NEW SECTION

WAC 388-533-0345 Maternity support services—Reimbursement. Services provided under the Maternity Support Services (MSS) program are reimbursed on a fee-for-service basis subject to the following limitations:

(1) MAA reimburses under this program only for services billed using approved procedure codes and modifiers as identified in MAA's published MSS/ICM billing instructions;

(2) MAA reimburses MSS services in units of time with one unit being equal to fifteen minutes of service;

(3) MAA reimburses a maximum of:

(a) Six units per client, per day for any combination of office or home visits;

(b) Sixty total units per client, from all disciplines, over the maternity cycle; and

(c) A one-time-only fee per client for the family planning performance measures.

INFANT CASE MANAGEMENT SERVICES

NEW SECTION

WAC 388-533-0360 Infant case management—Purpose. The Infant Case Management (ICM) program serves high-risk infants and their families. The goal of ICM is to improve self-sufficiency of the parent(s) in gaining access to needed medical, social, educational, and other services (SSA 1915(g)).

NEW SECTION

WAC 388-533-0365 Infant case management—Definitions. The following definitions and those found in WAC 388-500-0005, Medical definitions and 388-533-0315, Maternity support services definitions apply to this section:

"Infant case management (ICM)" - The program that provides case management services to eligible high-risk infants and their families. Eligibility for ICM may be established at the end of the maternity cycle up to the end of the month of the baby's first birthday.

NEW SECTION

WAC 388-533-0370 Infant case management—Eligibility. (1) To be eligible for Infant Case Management (ICM):

(a) The infant must be covered under one of the medical programs listed in WAC 388-533-0320 (1)(a) of this chapter;

(b) The parent(s) must need assistance in accessing or providing care for the infant; and

(c) The parent or infant must meet at least one of the criteria described in the department of social and health services (DSHS) ICM intake form (DSHS 13-658).

(2) Clients meeting the eligibility criteria in WAC 388-533-0370(1) who are enrolled in an MAA managed care plan are eligible for ICM services outside their plan. ICM services delivered outside the managed care plan are reimbursed on a

fee-for-service basis and subject to the same program rules as apply to nonmanaged care clients.

NEW SECTION

WAC 388-533-0375 Infant case management—Provider requirements. (1) Services under this program are provided only by approved integrated Maternity Support Services (MSS)/Infant Case Management (ICM) providers. Representatives from the department of health (DOH) and the department of social and health services' (DSHS) medical assistance administration (MAA) recruit and approve providers using the following criteria:

(a) Services are to be delivered in area of geographic need as determined by MAA/DOH; and

(b) Provider must:

(i) Deliver both MSS and ICM services;

(ii) Provide services in both office and home visit settings; and

(iii) Assure maintenance of staffing requirements and delivery of service according to program design.

(2) To participate in the ICM program, a provider must:

(a) Comply with the clinical supervision/clinical guidelines as prescribed in the assurances document;

(b) Notify the MAA program manager when there is a staff change in a designated position;

(c) Ensure that all newly hired staff receive an orientation to First Steps services as soon as possible, but not later than sixty days from the hire date; and

(d) Submit billings as instructed in MAA's published MSS/ICM billing instructions.

(3) To be reimbursed by MAA for ICM, a provider must:

(a) Meet the requirements in chapter 388-502 WAC, Administration of medical programs—Providers rules;

(b) Have a completed, approved MSS/ICM assurances document, signed by an officer or employee qualified to sign on behalf of the provider, on file with MAA; and

(c) Ensure that staff meet the minimum qualifications for the ICM roles they perform.

NEW SECTION

WAC 388-533-0380 Infant case management—Covered services. (1) The medical assistance administration (MAA) covers services under the Infant Case Management (ICM) program subject to the restrictions and limitations in this section and other applicable published WAC.

(2) The ICM program reimburses approved providers for case management including:

(a) Assessing risk and need;

(b) Reviewing and updating the infant and parent(s) service plan;

(c) Referring and linking the client to other agencies; and

(d) Advocating for the client with other agencies.

(3) The case management activities listed in WAC 388-533-0380(2) are covered under the ICM program only when:

(a) Documented in the client's record;

(b) Provided on an individual basis in a face-to-face encounter;

(c) Performed by a qualified staff person acting within her/his area of expertise; and

(d) Provided according to program design as described in the MSS/ICM assurances document.

NEW SECTION

WAC 388-533-0385 Infant case management—Non-covered services. (1) The following are considered noncovered services under the Infant Case Management (ICM) program:

(a) Any direct delivery of services other than case management activities listed in WAC 388-533-0380(2); and

(b) Any service provided by staff not qualified to deliver the service.

(2) MAA evaluates requests for services listed as noncovered under the provisions of WAC 388-501-0165.

NEW SECTION

WAC 388-533-0386 Infant case management services—Reimbursement. The medical assistance administration (MAA) reimburses for Infant Case Management (ICM) services on a fee-for-service basis subject to the following terms and limitations:

(1) ICM is reimbursed in units of service with one unit being equal to fifteen minutes of service;

(2) MAA reimburses:

(a) No more than six ICM units per month, per client; and

(b) No more than forty ICM units total per client through the end of the month of the baby's first birthday; and

(c) Only for services billed using the approved ICM procedure code and modifier identified in MAA's published MSS/ICM billing instructions.

NEW SECTION

WAC 388-533-0390 Childbirth education classes (CBE). (1) Purpose. The childbirth education services described in this section are intended to help prepare the pregnant client and her support person for labor and delivery.

(2) Definitions. The following definitions apply to WAC 388-533-0390:

(a) Approved instructor - A childbirth instructor meeting specific criteria set by the Washington department of health (DOH) maternal and infant health section and approved by the DOH health education consultant to provide childbirth education to pregnant clients.

(b) Childbirth education classes (CBE) - A series of educational sessions offered in a group setting; with a minimum of eight hours of instruction and led by an approved instructor to prepare a pregnant woman and her support person for an upcoming childbirth.

(c) Social services payment systems (SSPS) - The payment method used by the department of social and health services (DSHS) for certain social services and independent providers.

(3) Client eligibility. Childbirth education classes under WAC 388-533-0390 are available to women who are:

(a) Pregnant; and

(b) Covered under one of the following medical assistance administration (MAA) programs:

PROPOSED

- (i) Categorically needy program (CNP);
- (ii) Categorically needy program - Children's health insurance program; (CNP-Children's health insurance program); or
- (iii) Categorically needy program emergency medical only (CNP-Emergency medical only).

(4) Provider requirements. A childbirth educator providing services under WAC 388-533-0390 must:

(a) Be an approved CBE provider (individual or agency) with an assigned SSPS/CBE billing number, and a signed program assurances document on file with MAA;

(b) Deliver CBE services in group sessions;

(c) Bill the medical assistance administration (MAA):

(i) Using the assigned SSPS/CBE billing number; and

(ii) According to the form and instruction requirements in MAA's CBE billing instructions; and

(d) Accept the MAA fee as final and complete payment for a client.

(5) Covered services. MAA covers childbirth education when the instruction is:

(a) Provided to clients eligible under WAC 388-533-0390(3);

(b) Delivered in group sessions with a minimum of eight hours of instruction; and

(c) Delivered according to a curriculum approved by the MAA/DOH program managers.

(6) Noncovered services. The following are considered noncovered services under childbirth education:

(a) Any services beyond the scope of CBE; and

(b) Any education about childbirth that is provided during a one-to-one home or office visit. (CBE provided in a one-to-one home or office visit must be billed according to WAC 388-533-0340 and 388-533-0345, Maternity Support Services rules.)

(7) Reimbursement. MAA reimburses CBE services subject to the following terms and limitations:

(a) Reimbursement:

(i) Is limited to one series per client, per pregnancy;

(ii) Must be for the clients specifically enrolled in the session; and

(iii) Includes all classes, core materials, publications and educational materials provided throughout the class series. (MAA clients must receive the same materials as are offered to other attendees.)

(b) A client must attend at least one CBE session in order for the provider to be reimbursed for the CBE services to the client.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-533-0350 Maternity case management.

WSR 04-05-084
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed February 17, 2004, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-062.

Title of Rule: Minimum licensing requirements for child care centers, chapter 388-295 WAC.

Purpose: The following sections of chapter 388-295 WAC are being revised to correct errors made in the most recent rule filing, and to make other sections more clear: WAC 388-295-0020, 388-295-0060, 388-295-0070, 388-295-0090, 388-295-0100, 388-295-0110, 388-295-1070, 388-295-1110, 388-295-2010, 388-295-2090, 388-295-2100, 388-295-3010, 388-295-4010, 388-295-4100, 388-295-5030, 388-295-5150, 388-295-7010, 388-295-7040, and 388-295-7050.

Statutory Authority for Adoption: Chapters 74.12 and 74.15 RCW.

Statute Being Implemented: Chapters 74.12 and 74.15 RCW.

Summary: The rules are being revised to correct typographical and other errors and to provide more clarity to some rules.

Reasons Supporting Proposal: To provide clear, concise rules to licensed child care providers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carla Gira, Policy Unit Lead, 1009 College S.E., Lacey, WA 98504, (360) 413-3268.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule: WAC 388-295-0020, to remove information regarding exempt providers; this information is in RCW 74.15.020(2), and does not need to be repeated in WAC.

Changes to the remaining sections in this filing are to correct typographical and other errors and provide clarity to the rules. See Purpose, Summary, and Reasons Supporting Proposal above.

Purpose and Effect: The rules are being revised to ensure the department provides accurate and clear rules to licensed child care providers.

Proposal Changes the Following Existing Rules: See Purpose and Explanation of Rule above. The proposed changes correct typographical and other errors and provide clarity to the rules and do not change the intent of the rules currently in effect.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not impose more than minor costs on small businesses. This rule revision does not contain any requirements that would result in an increase in costs to the licensed child care providers that are not already in the rules that are currently in effect. A small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. These rules do not meet the definition of "significant legislative rule" per RCW 34.05.328 (5)(c)(iii). The proposed rules clarify existing requirements and correct errors.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on April 6, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by April 1, 2004, 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., April 6, 2004.

Date of Intended Adoption: Not earlier than April 7, 2004.

February 10, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0020 Who needs to become licensed?

~~(1) ((The person or organization operating a child care center is subject to licensing by authority under chapter 74.15 RCW.)) Individuals, entities and agencies that provide care for children must be licensed unless specifically ~~((exempted by))~~ exempt under RCW 74.15.020(2). ~~((Exemptions include:~~~~

- ~~(a) Blood relatives;~~
- ~~(b) Adoptive parents;~~
- ~~(c) Stepparents or stepsiblings;~~
- ~~(d) "Extended family members" as defined by law or custom of the Indian child's tribe;~~
- ~~(e) Legal guardians;~~
- ~~(f) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours a day;~~
- ~~(g) Seasonal day camps of three months' or less duration engaged primarily in recreational or educational activities;~~
- ~~(h) Private schools or kindergartens;~~
- ~~(i) An agency located on a military reservation;~~
- ~~(j) An agency operated by a unit of local, state, or federal government;~~
- ~~(k) An agency licensed by an Indian tribe, located within the boundaries of a federally recognized Indian reservation; and~~
- ~~(l) A facility where the parent remains on the premises for reasons other than employment.))~~

(2) The person or organization ~~((operating a child care center and qualifying for an exemption to licensing under RCW 74.15.020(2) is not subject to licensure. The person or organization))~~ claiming an exemption must provide us with proof of right to the exemption if we request it.

~~(3) ((RCW 74.15.020 (2)(d) exempts facilities from licensing where parents on a mutually cooperative basis exchange care of one another's children. To qualify for this cooperative exemption:~~

~~(a) At least one parent or guardian of each child attending the facility regularly must be involved in the direct care of children at the facility;~~

~~(b) Parents or guardians must be involved in the direct care of children on a relatively equal basis; and~~

~~(c) A person other than a parent or guardian of a child at the facility must not be involved in the care of children or the operation of the facility.~~

~~(4))~~ We do not license a center that is legally exempt from licensing per RCW 74.15.020(2). However, if the applicant requests it, we follow all licensing regulations to investigate and may certify the center as meeting licensing and other pertinent requirements. In such a case, all our licensing requirements and procedures apply equally to certification.

~~((5))~~ (4) We may certify a child care center for payment without further investigation if the center is:

(a) Licensed by an Indian tribe;

(b) Certified by the Federal Department of Defense; or

(c) Approved by the superintendent of public instruction's office.

~~((6))~~ (5) The center listed in subsection ~~((5))~~ (4)(a), (b), or (c) of this section must be licensed, certified, or approved in accordance with national or state standards, or standards approved by us. It must be operated on the premises where the entity operating the center has jurisdiction.

~~((7))~~ (6) We must not license a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:

(a) Licensing or certification process;

(b) Placement of a child in a licensed or certified center;

or

(c) Authorization of payment for the child in care.

~~((8))~~ (7) We may license a center located in a private family residence when the portion of the residence accessible to the child is:

(a) Used exclusively for the child during the center's operating hours or while the child is in care; or

(b) Separate from the family living quarters.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0060 What are the requirements for applying for a license to operate a child care center? (1) To apply or reapply for a license to operate a child care center you must:

(a) Be twenty-one years of age or older;

(b) The applicant ~~((and))~~, director and program supervisor must attend the orientation programs ~~((the))~~ that we provide, arrange or approve;

(c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).

(2) The application package must include the following attachments:

(a) The annual licensing fee. The fee is based on your licensed capacity, and is forty-eight dollars for the first twelve children plus four dollars for each additional child;

(b) ~~((A completed criminal history and background inquiry form for yourself and for each staff person or volunteer who has regular or unsupervised access to the children in care; and~~

(e)) If the center is solely owned by you, a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(c) If the center is owned by a corporation, verification of the corporation's employer identification number:

(d) An employment and education resume for:

(i) The person responsible for the active management of the center; and

(ii) The program supervisor.

(e) Diploma or education transcript copies of the program supervisor;

(f) Three professional references each, for yourself, the director, and the program supervisor;

(g) Articles of incorporation if you choose to be incorporated;

(h) List of staff (form is provided in the application);

(i) Written parent communication (child care handbook);

(j) Copy of transportation insurance policy (liability and medical);

(k) In-service training program (for ~~((agencies))~~ facilities employing more than five persons);

(l) A floor plan of the facility drawn to scale;

(m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;

(n) A copy of your policies and procedures that you give to parents; and

(o) A copy of your occupancy permit.

(3) You must submit to the department's background check central unit a completed criminal history and background inquiry form for yourself and for each staff person or volunteer who has regular or unsupervised access to the children in care; and

(4) You must submit your application and reapplication ninety or more calendar days before the date:

(a) ~~((The date))~~ You expect to open your new center;

(b) ~~((The expiration date of))~~ Your current license is scheduled to expire;

(c) ~~((The date))~~ You expect to relocate your center;

(d) ~~((The date))~~ You expect to change licensee; or

(e) ~~((The date))~~ You expect a change in your license category.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0070 What personal characteristics do my volunteers, all staff and I need to provide care to children? (1) You must have the following personal characteristics in order to operate or work in a child care facility:

(a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional, and social needs of the children under your care;

(b) Be qualified by our background inquiry check ~~((chapter 388-06-WAC))~~ prior to having unsupervised access to children. To "be qualified" means that you have not been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/policy.shtml>. This includes your not having committed or been convicted of child abuse or any crime involving harm to another person; and

(c) Be able to furnish the child in your care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.

(2) If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household or any other person having access to the child in care if any of those individuals may be unable to meet the requirements in chapter 388-295 WAC. This could include:

(a) Sexual deviancy evaluations;

(b) Substance abuse evaluations;

(c) Psychiatric evaluations; and

(d) Medical evaluations.

(3) Any evaluation requested under WAC 388-295-0070 (2)(a) through (d) will be at the expense of the person being evaluated.

(4) You must give us permission to speak with the evaluator in WAC 388-295-0070 (2)(a) through (d) prior to and after the evaluation.

(5) We investigate staff and volunteers, including accessing criminal histories and law enforcement files.

(6) We can also investigate members of your household and members of your staffs and volunteers households. This includes accessing criminal histories and law enforcement files.

(7) We can investigate any other person who has access to a child in care, including accessing criminal history and law enforcement files.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0090 When ~~((will))~~ does the department issue ~~((me an))~~ initial ~~((license))~~ and full licenses, and when are licensing fees due? We may issue an initial license to centers that have not yet begun providing care, but are accepting application for potential clients.

(1) We may issue an initial license when you can show that you are following the rules regarding the child's health and safety.

(2) We may issue an initial license if you have not yet opened for business, and so are not yet able to show that you are complying with the rules pertaining to:

(a) Staff to child interactions;

(b) Group size and staff to child ratios;

(c) Behavior management and discipline;

(d) Activity programs;

(e) Child records and information; and

(f) Other rules that require us to observe your facility's ability to comply with rules.

(3) You must provide us with a plan to comply with the rules listed in subsection (2)(a) through (f) of this section. We must approve of that plan.

(4) We may issue an initial license to an applicant for a period not to exceed six months, renewable for a period not to exceed two years.

(5) When you have an initial license we:

(a) Evaluate your ability to comply with all rules contained in this chapter (~~(during the period of initial licenser)~~) prior to issuing a full license(~~(:~~

~~(6) We~~);

(b) May issue a full license to you when you have demonstrated compliance with chapter 388-295 WAC (~~(at any time during the period of initial licenser.~~

~~(7) We~~); and

(c) Do not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in chapter 388-295 WAC (~~(during the initial licenser)~~).

~~((8))~~ (6) You must pay licensing fees at the time you apply for an initial license and when your license is being renewed.

~~((9))~~ (7) We do not process your application until you have paid the required fee.

~~((10))~~ (8) You can pay licensing fees for:

(a) A minimum of one year; or

(b) The entire length of your license.

~~((11))~~ (9) You pay your fee by mailing a check or money order for the required amount to the department of social and health services, according to instructions on the licensing application.

~~((12))~~ (10) If you pay your fee one time per year, you pay the annual rate each time. The annual fee is due thirty days before each annual anniversary date of the license.

~~((13))~~ (11) If you pay for more than one year, the total fee you pay is based on the annual fee rate. For example, if you are licensed for three years and want to pay the licensing fee for the entire period at once, you multiply the annual fee by three years, and pay that amount at the time of your license application or renewal.

~~((14))~~ (12) If there is a change in your facility that places your facility in a higher fee category, we prorate the additional fee amount over the remainder of the license period.

~~((15))~~ (13) If you withdraw your application before we deny or issue a license, we refund one-half of the fee.

~~((16))~~ (14) If there is a change that requires a new license, we refund any fee that remains after your next licensing date. A new license requires a new application and fee.

~~((17))~~ (15) If we deny, revoke, or suspend your license, we do not refund your licensing fee.

~~((18))~~ (16) If you reapply for a license after we revoke or suspend your license, you must pay a new license fee.

~~((19))~~ (17) If you do not pay licensing fees when they are due, we suspend or deny your license.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-0100 **When can my license application be denied and when can my license be suspended or revoked?** (1) If you do not meet the requirements in chapter 388-295 WAC we (~~(will)~~) deny your license application or suspend or revoke your license.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility:

(a) We consider qualifications separately and together.

(b) We deny the license application, or suspend or revoke the license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, sexually exploited, abandoned a child or allowed such persons on the premises as defined in chapter 26.44 RCW;

(b) Have (~~(a disqualifying criminal history as listed in chapter 388-06 WAC)~~) been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www.dshs.wa.gov/esa/dccel/policy.shtml>;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. However, if you demonstrate by clear and convincing evidence that you have taken enough corrective action and rehabilitation to justify the public trust to operate the center according to the rules of this chapter, we (~~(will)~~) consider issuing you a license;

(d) Commit or allow an illegal act to be committed on the licensed premises;

(e) Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs;

(g) Use alcohol to the extent that it interferes with your ability to provide care for the children as required by this chapter;

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office with official identification to:

(i) Inspect the premises;

(ii) Access your records related to the centers operation;

or

(iii) Interview staff or children in care.

(i) Refuse to provide us a copy of your:

(i) Photo identification issued by a government entity;

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with children in care;

(d) Fail to provide adequate supervision to children in care;

(e) Do not exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises that has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information requested by us;

(h) Fail to pay fees when due;

(i) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW; or

(j) Provide care on the premises for children of an age different from the ages for which the center is licensed.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03).

WAC 388-295-0110 When can I be fined for not following the minimum licensing requirements? (1) We notify you in writing of our intention to impose a civil fine. We may use personal service, including by our licensor, or certified mail. The letter will include:

(a) A description of the violation and a quote of the law or rule that you have failed to meet;

(b) A statement of what you must do to come into compliance;

(c) The date by which we require compliance;

(d) Information about the maximum allowable penalty we can impose if you do not come into compliance by the given date;

(e) How you can get technical assistance services provided by us or by others; and

(f) Information about how you can ((t)) request an extension to the date you must be in compliance, if we decide you have a good reason.

(2) The length of time we establish for you to come into compliance depends on:

(a) The seriousness of the violation;

(b) The potential threat to the health, safety and welfare of children in your care; or

(c) If you have had previous opportunities to correct the deficiency and have not done so.

(3) We use the following criteria to determine if we impose a civil fine based on, but not limited to, these reasons:

(a) The child care center has previously been subject to an enforcement action for the same or similar type of violation for the same statute or rule; or

(b) The child care center has previously been given notice of the same or similar type of violation of the same law or rule; or

(c) The violation represents a potential threat to the health, safety, and/or welfare of children in care.

(4) We can impose a civil fine in addition to or at the same time as other disciplinary actions against a child care center. These include probation, suspension, or other action.

(5) You must pay any civil fines no more than twenty-eight days after you receive the notice that you have a fine. We may specify a later date.

(6) We can waive the fine if your center comes into compliance during the notification period.

(7) You must post the final notice of a civil fine in a noticeable place in your center. The notice must remain posted until we notify you that we have received your payment.

(8) Each violation of a law or rule is a separate violation. We can penalize each violation. We can impose a penalty for each day the violation continues or as a flat amount of the maximum allowable penalty.

(9) If you fail to pay your fine within ten days after the assessment becomes final, we can suspend, revoke, or not renew your license.

(10) You have the right to a hearing when we assess a civil fine under RCW 43.20A.215.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03).

WAC 388-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff? (1) The director, program supervisor and lead teachers must complete ten clock hours or one college credit of continuing education yearly after completing the initial training required in WAC 388-295-1010.

(2) The director and program supervisor must have five of the ten hours in program management and administration for the first two years in ((the director position)) their respective positions. Each additional year, three of the ten hours required must be in program management and administration.

(3) Agencies or organizations that have been approved by the Washington State Training and Registry System (STARS) may offer up to six clock hours of continuing education each year to their employees. The remaining four hours must be obtained from other training offered in the community.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03).

WAC 388-295-1110 Who must have Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS) and bloodborne pathogen training? (1) Every employee who is included in the staff to child ratio must have written proof of HIV/AIDS and bloodborne pathogen training that includes prevention, transmission, treatment and confidentiality issues.

(2) You must comply with applicable Washington Industrial Safety and Health Act (WISHA)/labor and industries safety and health regulations under chapter 296-823 WAC that apply to you.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2010 What types of play materials, equipment and activities must I provide for the children?

You must:

(1) Provide a variety of easily accessible learning and play materials of sufficient quantity to implement the centers program and meet the developmental needs of children in care.

(2) Have a current daily schedule of activities and lesson plans that are designed to meet the children's developmental, cultural, and individual needs. The toys, equipment and schedule must be:

(a) Specific for each age group of children; and

(b) Include at least one activity daily for each of the following (you can combine several of the following for one activity):

- (i) Child initiated activity (free play);
- (ii) Staff initiated activity (organized play);
- (iii) Individual choices for play;
- (iv) Creative expression;
- (v) Group activity;
- (vi) Quiet activity;
- (vii) Active activity;
- (viii) Large and small muscle activities; and
- (ix) Indoor and outdoor play.

(3) You must ensure the lesson plan, daily schedule of events, available toys and equipment contains a range of learning experiences to allow each child the opportunity to:

- (a) Gain self-esteem, self-awareness, self-control, and decision-making abilities;
- (b) Develop socially, emotionally, intellectually, and physically;
- (c) Learn about nutrition, health, and personal safety; and
- (d) Experiment, create, and explore.

(4) Post the daily schedule and lesson plan in each room for easy reference by parents and by caregivers;

(5) Keep the daily schedule of events and lesson plans for the past six months on site for inspection;

(6) Maintain staff-to-child ratios and group size during transitions from one activity to another during the day;

(7) Plan for smooth transitions by:

- (a) Establishing familiar routines; and
- (b) Using transitions as a learning experience.

(8) Ensure the center's program affords the child daily opportunities for small and large muscle activities, outdoor play, and exposure to language development and books; and

(9) Afford staff classroom planning time.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2090 What are the required staff to child ratios and maximum group sizes for my center? (1)

You must ensure the required staff to child ratios are met at all times when children are in your care. In centers licensed for thirteen or more children, the licensee must conduct group activities within the group size and staff to child ratio requirements, according to the age of the children:

If the age of the children is:	Then the staff to child ratio is:	And the maximum group size is:
(a) One month, through 11 months (infant)	1:4	8
(b) Twelve months through 29 months (toddler)	1:7	14
(c) Thirty months through 5 years (preschooler)	1:10	20
(d) Five years ((and) through 12 years (school-age child)	1:15	30

(2) In centers licensed for twelve or fewer children, you may combine children of different age groups, provided you:

(a) Maintain the staff-to-child ratio designated for the youngest child in the mixed group; and

(b) Provide a separate care area when four or more infants are in care. In such case the maximum group size ((shall be)) is eight infants.

(3) You must conduct activities for each group in a specific room or other defined space within a larger area.

(4) You must ensure each group is under the direct supervision of a qualified staff person or team of staff involved in directing the child's activities.

(5) We may approve reasonable variations to group size limitations if you maintain required staff-to-child ratios, dependent on:

- (a) Staff qualifications;
- (b) Program structure; and
- (c) Useable square footage.

(6) After consulting with the child's parent, you may place the individual child in a different age group and serve the child within the different age group's required staff-to-child ratio based on the child's:

- (a) Developmental level; and
- (b) Individual needs.

(7) You may combine children of different age groups for no more than one hour, provided you maintain the staff-to-child ratio and group size designated for the youngest child in the mixed group.

(8) In centers licensed for thirteen or more children, you may group ambulatory children between one year and two years of age with older children, provided:

- (a) The total number of children in the group does not exceed twelve; and
- (b) Two staff are assigned to the group.

(9) You must ensure the staff person providing direct care and supervision of the child is free of other duties at the time of care.

(10) You must maintain required staff-to-child ratios indoors, outdoors, on field trips, and during rest periods. During rest periods, staff may be involved in other activities if:

- (a) Staff remain on the premises; and
- (b) Each child is within continuous visual and auditory range of a staff person.

(11) You must ensure staff:

- (a) Attend to the group of children at all times; and
- (b) Keep each child (including school age children) within continuous visual and auditory range of center staff. Toilet trained children using the toilet must be within auditory range of a center staff member.

PROPOSED

(12) When only one staff person is present, you must ensure a second staff person is readily available in case of emergency.

(13) When only one caregiver is required to meet the staff to child ratio, you must be sure there is coverage for emergencies to meet both ratios and worker qualifications by either:

(a) Posting the name, address, and telephone number of a person who meets the qualifications of at least a lead teacher, who has agreed in writing to be available to provide emergency relief and who can respond immediately; or

(b) Having a second person that meets the qualifications of at least a lead teacher on the premises who is not needed for the staff to child ratio, but is available to provide emergency relief.

(14) Service staff, such as cooks, janitors, or bus drivers, ~~((must not))~~ may be counted in the required staff to child ratio ~~((unless))~~ if they

~~((a))~~ meet all child care worker qualifications ~~((; and~~

~~((b) Are acting as a child care provider and are giving full attention to the children))~~.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-2100 What are the exceptions to group sizes and staff to child ratios? (1) If the center is licensed for twelve or fewer children, you may combine children (excluding infants) of different age groups if you:

(a) Maintain the staff to child ratio for the youngest child in the mixed group; and

(b) Provide a separate area when infants are in care.

(2) You must conduct activities for each group in a specific room or other specifically defined space within a larger area;

(3) Excluding infants, you may place an individual child in a different age group and serve the child within the different age group's required staff to child ratio, based on the child's individual needs and developmental level. You must consult with the child's parent prior to making the change;

(4) You may combine children of different age groups for periods of no more than one ~~((hours))~~ hour at the beginning and end of the day provided you maintain the staff to child ratio and group size designated for the youngest child in the mixed group;

(5) You may have nine infants in a classroom with appropriate square footage if you maintain a ratio of one staff to three infants; and

(6) You can request a waiver to group size limitations. If we approve variations to group size limitations, you must maintain the required staff-to-child ratios. Our approval will depend on but is not limited to:

(a) Staff qualifications;

(b) Program structure;

(c) Square footage; and

(d) Lower staff to child ratios.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-3010 What kind of health policies and procedures must I have? (1) You must have written health policies and procedures that are:

(a) Written in a clear and easily understood manner;

(b) Shared with all new staff during orientation;

(c) Posted for staff and families to review; and

(d) Reviewed and signed by a physician, a physician's assistant or registered nurse when you change your policies and procedures or type of care that you provide, or at least every three years when you are due for ~~((re-licensor))~~ re-licensing. (For example, if you go from caring for children from twelve months and older to caring for infants, you must update your health policies and procedures and have them reviewed and signed.)

(2) Your health policies and procedures must have information on how you plan to:

(a) Provide general cleaning of areas including but not limited to bathrooms, floors, walls, and doorknobs;

(b) Clean and sanitize areas including but not limited to food contact surfaces, kitchen equipment, diapering areas, toys, toileting equipment and areas, equipment that might be shared with several children such as sleep mats, cribs or high chairs;

(c) Prevent, manage and report communicable diseases;

(d) Handle minor injuries such as nosebleeds, scrapes and bruises;

(e) Provide first aid;

(f) Screen children daily for illnesses;

(g) Notify parents that children have been exposed to infectious diseases and parasites;

(h) Handle minor illnesses;

(i) Handle major injuries and medical emergencies that require emergency medical treatment or hospitalization;

(j) Manage medication;

(k) Assist with handwashing and general hygiene including diapering and toileting;

(l) Handle food;

(m) Provide nutritious meals and snacks;

(n) Respond during any disasters;

(o) Care for children that may have special needs;

(p) Care for infants and obtain infant nurse consultation (if licensed for four or more infants); and

(q) Place infants to sleep on their backs to reduce the risk of Sudden Infant Death Syndrome (SIDS).

(3) Your health policies and procedures must have information on when you plan to:

(a) Require ill children to stay home and for how long;

(b) Allow the ill child to return; and

(c) Call a parent to pick up their child and how you will care for the child until the parent arrives.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-4010 At what age can we accept infants into care? You must not accept into care an infant ~~((into care that))~~ who is less than one month of age.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-4100 What sleep equipment do I need for infants? (1) You must not put infants to sleep ((infants)) in infant or car seats.

(2) You must provide each infant with a single-level crib (stacking cribs must not be used), infant bed, bassinet or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

(3) Cribs, if used, must:

(a) Be sturdy and made of wood, metal or plastic with a secure latching device;

(b) Be constructed with vertical slats that are no more than two and three-eighths inches apart or be solid plexiglas;

(c) Have corner posts that extend less than one-sixteenth of an inch above the sides and railing;

(d) Not have cutout designs on the end panels;

(e) Have a rail height and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position of at least nine inches;

(f) Have a rail height and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position of at least twenty-six inches; and

(g) Not use crib bumper pads, stuffed toys, quilts, lambskins, and pillows in cribs, infant beds, bassinets or playpens.

(4) You must provide a crib, infant bed, playpen or bassinet mattress that is:

(a) Snug fitting and touches each side of the crib to prevent the infant from becoming entrapped between the mattress and crib side rails;

(b) Waterproof; and

(c) Easily cleaned and sanitized, without tears or tape.

(5) To allow walking room between cribs and reduce the spread of germs you must:

(a) Space cribs a minimum of thirty inches apart. You may place cribs end to end if you provide a barrier. If you use barriers, staff must be able to observe and have immediate access to each child.

(b) Provide a moisture resistant and easily cleanable solid barrier on the side or end adjacent to another crib.

(6) You must provide:

(a) An appropriate fitting sheet or cover for the sleeping surface; and

(b) A clean light weight blanket or suitable cover for the child.

(7) You must launder bedding at least weekly and more often if it becomes soiled.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-5030 What do I need to include in my disaster plan? (1) You must develop and implement a disaster plan designed for response to fire, natural disasters and other emergencies. The plan must address what you are going to do if there is a disaster and parents are not able to get to their children for two or three days.

(2) The fire plan must follow the requirements in chapter 212-12 WAC or the state fire marshal requirements.

(3) In areas where local emergency plans are in place, such as school district emergency plan, centers may follow those procedures and actions in developing their own plan.

(4) The disaster plan must be:

(a) Specific to the child care center;

(b) Relevant to the types of disasters that might occur in the location of your child care center;

(c) Able to be implemented during hours of operation; and

(d) Posted in every classroom for easy access by parents and staff.

(5) Your disaster plan must identify:

(a) The designated position of the person (example: director, lead teacher, program supervisor, etc.) who is responsible for each part of the plan;

(b) Procedures for accounting for all children and staff during and after the emergency;

(c) How you evacuate ((their)) the premises, if necessary, and the meeting location after evacuation;

(d) How you care for children with special needs during and after the disaster;

(e) How you provide for children until parents are able to pick them up;

(f) How you contact parents or how parents can contact the child care center; and

(g) Transportation arrangements, if necessary.

(6) Your written records must include a disaster plan, with signatures and dates of persons completing the disaster plan review on-site. The disaster plan must be read, reviewed and signed by:

(a) The director((;)) and staff annually; and

(b) ~~Parents ((must read, review and sign the disaster plan annually. Your written records must include signatures and dates of persons completing the annual disaster plan review on-site))~~ when children are enrolled.

(7) In addition to the requirements for fire drills and training set forth by the state fire marshal in chapter 212-12 WAC, you must:

(a) Document staff education and training of the disaster plan;

(b) Conduct and document quarterly disaster drills for children and staff (you do not have to conduct a drill quarterly for each potential disaster - just one drill per quarter);

(c) Keep written documentation of the drills on-site; and

(d) Debrief and evaluate the plan in writing after each disaster incident or drill.

(8) You must keep the twelve month record indicating the date and time you conducted the required monthly fire evacuation drills on-site for the current year plus the previous calendar year.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-5150 Are there ((ventilation and)) temperature requirements for my facility? (1) You must maintain all rooms used by children at temperature of:

PROPOSED

(a) Sixty-eight degrees Fahrenheit to 75 degrees Fahrenheit during winter months; and

(b) Sixty-eight degrees Fahrenheit to 82 degrees Fahrenheit during the summer months.

(2) In addition, you must:

(a) Equip the room or building with a mechanical air cooling system or equivalent when the inside temperature of child-occupied areas exceeds 82 degrees Fahrenheit. This includes but is not limited to, swamp coolers, fans, air conditioners, or drip systems;

(b) Not take children outdoors during extremes temperatures that put children at risk for physical harm.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7010 What information must be kept in the child's individual file? (1) You must keep current organized confidential records and information about each child in care on the premises. You must make sure that each child's record contains, at a minimum:

(a) Completed enrollment application signed by the parent;

(b) Name, birth date, dates of enrollment and termination, and other identifying information;

(c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;

(d) Health history;

(e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;

(f) Written consent from the parent for you to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or parent's alternate plans for emergency medical and surgical care if the parent can not be reached;

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) You must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information the parent may need to be advised of.

(3) You can use any health history form you choose as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address and phone number of the child's health care provider; and

(g) Name, address and phone number of the child's dentist, if the child has a dentist.

(4) The individual records, including the certificate of immunization status, must be kept on the premises:

(a) For each child currently in care; and

(b) For one year after the child leaves your care.

~~((5) Attendance records, sign in and out records and invoices for state paid children must be kept for five years after the child leaves your care.))~~

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7040 Am I required to keep licensing information available on-site for parents to review? You must keep a file on-site containing the following licensing information:

(1) Copies of the most recent child care center checklists for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and

(2) Copies of the most recent child care centers monitoring checklist and facility licensing compliance agreement for ~~((and))~~ any deficiencies noted.

AMENDATORY SECTION (Amending WSR 03-14-110, filed 6/30/03, effective 8/1/03)

WAC 388-295-7050 What personnel records and policies must I have? (1) Each employee and volunteer who has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A criminal history and background inquiry form.

(2) You must submit the criminal history and background inquiry form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the criminal background inquiry results are returned and show the employee to not be disqualified, you must not leave the employee ~~((is not to be))~~ unsupervised with the children.

(4) We discuss the information on the criminal history background inquiry form with you, the director, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

(b) ~~((A photo copy of the Social Security card that is valid for employment or verification of your employer identification number (EIN);~~

~~(c) A photo copy of a photo identification issued by a government entity;~~

~~(d)) Documentation that a criminal history and background inquiry form was submitted;~~

~~((e)) (c) Written documentation of trainings and meetings such as but not limited to:~~

(i) Orientation;

(ii) On-going trainings;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

~~((f)) (d) Documentation of the results of Tuberculosis (TB) testing by the Mantoux skin test prior to starting work.~~

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your social Security card that is valid for employment or verification of your employer identification number (EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employees file that contains the:

(a) Topic presented;

(b) Number of clock hours;

(c) Date and names of persons attending; and

(d) Signature and organization of the person conducting the training.

Statute Being Implemented: None.

Summary: The authority to determine final ownership for the purpose of distributing surplus funds lies solely with the courts.

Reasons Supporting Proposal: Surplus funds are distributed by the department to the registered owner of an auctioned/abandoned vehicle by a registered tow truck operator within one year of the auction after receiving a request by the registered owner. Only courts can determine if surplus funds should be distributed in any manner exceptional to the statute.

Name of Agency Personnel Responsible for Drafting and Implementation: Chuck Coach, 2000 4th Avenue West, Olympia, WA 98502, (360) 664-6453; and Enforcement: Administrator, 2000 4th Avenue West, Olympia, WA 98502, (360) 664-6451.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Surplus funds are distributed by the department to the registered owner of an auctioned/abandoned vehicle by a registered tow truck operator within one year of the auction after receiving a request by the registered owner. Only courts can determine if surplus funds should be distributed in any manner exceptional to the statute.

Proposal Changes the Following Existing Rules: Repeals subsection (2)(c).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not impose additional duties on the registered tow truck operators.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Licensing, 1st Floor Conference Room, 2000 4th Avenue West, Olympia, WA 98502, on April 8, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Linda Whipple by March 22, 2004, TDD (360) 664-8885.

Submit Written Comments to: Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507, fax (360) 586-6703, by March 22, 2004.

Date of Intended Adoption: April 9, 2004.

February 19, 2004

Fred Stephens

Director

WSR 04-06-004

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 19, 2004, 3:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-01-114.

Title of Rule: WAC 308-61-190 Unauthorized and abandoned vehicles.

Purpose: Repealing subsection (2)(c) as the authority to determine final ownership rests solely with the courts as determined by due process not with the department.

Statutory Authority for Adoption: RCW 46.55.190.

AMENDATORY SECTION (Amending WSR 02-20-035, filed 9/24/02, effective 10/25/02)

WAC 308-61-190 After sale. What documentation follows the abandoned vehicle auction and who may claim surplus auction funds?

(1) Following the auction of an abandoned vehicle the operator must give to the successful bidder an affidavit of sale, as defined, which must disclose the amount of the lien and the amount of the successful bid. The public auction shall terminate the ownership interest of prior owners, both registered owners and legal owners.

(2) The following guidelines shall apply in establishing a valid claim for surplus funds which have been remitted to the

state as the result of the auctioning of abandoned vehicles pursuant to RCW 46.55.130 (2)(h):

(a) The claiming individual must show reasonable proof of their identity and the claim must be in writing and must be notarized.

(b) The claimant must have been the registered owner of the vehicle as reflected in the records of the department of licensing at the time the vehicle was auctioned. The person indicated as purchaser on a seller's report of sale, pursuant to RCW 46.12.101, will be considered the registered owner of record for purposes of this section.

~~((e) Any person whose claim is denied by the state shall have the opportunity to request a departmental hearing as provided in chapter 34.05 RCW.))~~

(3) The fifteen-day title transfer requirement provided for in RCW 46.55.130 (2)(f) shall not apply to properly licensed hulk haulers, scrap processors, and wreckers who have acquired the vehicle for salvage purposes in accordance with chapters 46.79 and 46.80 RCW.

WSR 04-06-014

PROPOSED RULES

CENTRAL WASHINGTON UNIVERSITY

[Filed February 23, 2004, 9:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-18-115.

Title of Rule: Tobacco use in university buildings.

Purpose: Regulate tobacco use in university academic and administrative buildings.

Statutory Authority for Adoption: RCW 28B.10.538.

Summary: The use of tobacco products in designated university buildings would be prohibited. This includes smoking materials and chewing tobacco.

Reasons Supporting Proposal: Provide a healthful environment for students, university employees, and visitors to university academic and administrative buildings.

Name of Agency Personnel Responsible for Drafting: Judy B. Miller, President's Office, 400 East University Way, Ellensburg, 98926-7501, (509) 963-2156; Implementation: Rich Corona, Vice President Business and Financial Affairs, 400 East University Way, Ellensburg, 98926-7481, (509) 963-2323; and Enforcement: Steve Rittreiser, Public Safety and Police Services, Ellensburg, 98926-7527, (509) 963-2958.

Name of Proponent: Judy Miller, Executive Secretary to the President, Central Washington University, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed new rule will help provide a healthy environment in university buildings by prohibiting the use of all tobacco products and is consistent with Governor's Executive Order 88-06 setting policy on smoking in state facilities.

Proposal does not change existing rules.

Hearing Location: Barge Hall, Room 304, Central Washington University, 400 East University Way, Ellensburg, WA 98926-7501, on April 28, 2004, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Pam Wilson by April 21, 2004, TDD (509) 963-2143.

Submit Written Comments to: Judy B. Miller, Assistant Rules Coordinator, Central Washington University, 400 East University Way, Ellensburg, WA 98926-7501, fax (509) 963-3206, by April 28, 2004.

Date of Intended Adoption: April 28, 2004.

February 19, 2004

Jerilyn S. McIntyre
President

NEW SECTION

WAC 106-124-910 Tobacco regulations. (1) The act(s) of smoking or chewing tobacco shall not be permitted inside any Central Washington University administrative or academic building or in identified external areas that may affect those people inside the administrative and academic buildings.

(2) Smoking is prohibited within twenty feet of administrative and academic buildings, except in designated areas determined by the vice-president for business and financial affairs or his or her designee.

(3) Smoking will be allowed in identified outdoor smoking areas on campus. Signs will be posted to identify smoke-free buildings and, if a smoking area is designated, the location of that area. Smokers can request a designated area through the office of the vice-president for business and financial affairs.

NEW SECTION

WAC 106-124-900 Tobacco use. In order to provide a healthful environment for Washington state citizens and university employees and students, the use of tobacco products by students, employees, and visitors in any university academic or administrative building is prohibited. This prohibition includes all smoking materials and chewing tobacco.

NEW SECTION

WAC 106-124-920 Tobacco use violations. Violations of tobacco use regulations may result in a fifty-dollar infraction and will be handled in accordance with RCW 70.160.070.

WSR 04-06-040

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 27, 2004, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-23-061 on November 17, 2003.

Title of Rule: WAC 388-452-0005 Do I have to be interviewed in order to get benefits?

Purpose: Amend the rule to incorporate an approved federal waiver allowing phone interviews for clients recertifying benefits regardless of hardship.

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: The amended rule explains who must have an interview for cash assistance or Basic Food benefits.

Reasons Supporting Proposal: The proposed amendments are necessary to be consistent with an approved federal waiver for the food stamp program.

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 - 273.2(e).

Explanation of Rule, its Purpose, and Anticipated Effects: See Title of Rule, Purpose, Summary, and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Title of Rule, 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 indicating who must have an interview for cash and Basic Food benefits, and who can have a phone interview instead of coming into the local office.

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 eligibility requirements mandated by Title 7 of the Code of Federal Regulations Part 273, 273.2(e) as well as an approved federal waiver for the food stamp program.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on April 6, 2004, at 10:00.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by April 2, 2004, (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, 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., April 6, 2004.

Date of Intended Adoption: No earlier than April 7, 2004.

February 23, 2004
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-18-113, filed 9/2/03, effective 11/1/03)

WAC 388-452-0005 Do I have to be interviewed in order to get benefits? (1) Unless you are applying for medical only, you or your authorized representative must have 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 do not have to attend an interview if you are applying for or recertifying medical benefits only. If we deny your application for cash or Basic Food because you did not have an interview, we continue to process your request for medical benefits.

(3) You will have just one interview even if you are applying for or ~~(have)~~ are having a review for benefits from more than one program.

(4) If we do not 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 or recertifications.

(6) If you miss your first interview and ask for another interview within thirty days of the date you applied for benefits, we schedule a second interview for you.

(7) If you must have an interview for benefits, you or someone who can give us the information we need about your AU must participate in the interview. You may bring any person you choose to your interview.

(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 if there is **any reason** you cannot attend an interview at the local office. Examples of reasons you may be unable to attend an interview include (~~include~~):

(a) Your work or training schedule make it inconvenient for you to attend an in-office interview during regular business hours;

(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;

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- (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
 - (i) You have **any other** situation that makes it difficult for you to come into the office for an interview.
- (10) If you currently get benefits from the department and you are completing an eligibility review or recertification for ongoing benefits under chapter 388-434 WAC, you can have a scheduled phone interview even if you do not meet the requirements for a phone interview listed above.

WSR 04-06-045
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Optometry)
 [Filed March 1, 2004, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-13-124.

Title of Rule: Optometrists oral drug list of approved controlled substances and legend drugs, guidelines for use and approval or removal of medications from the drug list, WAC 246-851-580, 246-851-590, and 246-851-610.

Purpose: In response to 2003 authorizing legislation these rules set forth a specific list of drugs or drug categories included in this authorization for qualified optometrists including exclusions and restrictions and a process to add or remove medications from the list.

Statutory Authority for Adoption: Chapter 142, Laws of 2003, RCW 18.54.070(2).

Statute Being Implemented: Chapter 142, Laws of 2003.

Summary: The proposed rules set forth the approved oral drug list of controlled substances and legend drugs and administration of epinephrine. The guidelines for use of the approved drugs include approved forms and dosages, exclusions and restrictions. The rules also include a process by which medications are included or removed from the list.

Reasons Supporting Proposal: Optometrists who are certified to use or prescribe oral medications can provide expanded services to patients and/or administer epinephrine to patients in the event of anaphylactic shock.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, P.O. Box 47870, Olympia, WA 98504-7870, (360) 236-4947.

Name of Proponent: Optometric Physicians of Washington, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are being proposed to implement 2003 legislation which authorizes qualified optometrists to use or prescribe drugs administered orally and to administer epinephrine by injection for anaphylactic shock. In response to the 2003 authorizing legislation, these rules ensure that qualified optometrists have a clear understanding which drugs and what forms and dosages are included in the authorization.

WAC 246-851-580 Drug list, sets forth the drug formulary of oral schedule III through V controlled substances and legend drugs for diagnostic and therapeutic purposes in the practice of optometry.

WAC 246-851-590 Guidelines for the use of oral schedule III through V controlled substances and legend drugs, clarifies the forms and dosages of approved schedule III through V controlled substances and includes exclusions and restrictions of medications.

WAC 246-851-610 Approval or removal of medications, this rule provides a joint process by which the Board of Optometry and the Board of Pharmacy will determine changes to the drug list.

Proposal does not change existing rules.

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

Small Business Economic Impact Statement

1. Briefly Describe the Proposed Rule: Chapter 142, Laws of 2003 (SSB 5226), authorizes licensed optometrists to administer, dispense, or prescribe oral drugs for diagnostic or therapeutic purposes. In order to qualify for certification to use or prescribe drugs administered orally, an optometrist must have an additional minimum of sixteen hours of didactic and eight hours of supervised clinical instruction as established by the Washington State Board of Optometry by rule. The instruction must be through an accredited institution of higher learning.

The chapter also authorizes qualified optometrists to administer epinephrine by injection for treatment of anaphylactic shock. To qualify to administer epinephrine, an optometrist must have an additional minimum of four hours of didactic and supervised clinical instruction as established by the Washington State Board of Optometry through rule. The instruction must be through an accredited institution of higher learning.

This provision to provide oral medication or injectable epinephrine is voluntary and not required for continued licensure. It does not amend any existing rules.

2. Is a Small Business Economic Impact Statement (SBEIS) Required for this Rule? Yes.

3. Which Industries are Affected By This Rule? The following SIC coded industries are affected by these rules because they hire staff that may require training.

SIC	Description	Total Units	Total Employment	Smallest 90%	Largest 10%
3827	Optical instruments/lenses	4	10	N/A*	N/A*
3851	Ophthalmic goods	17	269	1.5	6

SIC	Description	Total Units	Total Employment	Smallest 90%	Largest 10%
8042	Offices and clinics of optometrists	379	1627	3.7	13.5
8099	Health and allied services	93	1484	143.3	64.3

*There are only four companies with a total of ten employees.

4. What are the Costs of Complying with this Rule for Small Businesses (Those with Fifty or Fewer Employees) and for the Largest 10% of Businesses Affected? The average costs for tuition for the courses to each licensee are \$1200. These costs are based on courses currently being proposed by the Optometric Physicians of Washington, a state professional organization.

TRAINING COURSE	LENGTH	TUITION COST
Didactic training for drugs administered orally.	16 hours	\$ 460.00
Clinical training for drugs administered orally.	8 hours	\$ 440.00
Didactic and supervised clinical instruction/epinephrine.	4 hours	\$ 300.00
Total	28 hours	\$1200.00

The Optometric Physicians of Washington estimate that five hundred licensees will obtain the voluntary endorsements to use and prescribe drugs administered orally and epinephrine administered by injection. In addition to the cost of tuition, licensees would incur additional costs for travel, loss of revenue or expense for hiring temporary staff replacement. A telephone survey of ten optometric physicians was conducted. Amounts below represent an average of the responses received by practice type. All those who responded to the survey indicated that they would seek all twenty-eight hours of training. All of those who responded to the survey indicated that they would not hire temporary staff during their absences. All of those who responded to the survey indicated that the costs would be significantly less if the training were held on the weekend or in the evening.

The course will be given in sites in both Eastern and Western Washington.

PRACTICE TYPE	TRAVEL	REVENUE LOSS	TOTAL
Private Practice	\$360	\$3,340	\$3,700*
Partnership/Clinic	\$130	\$3,920	\$4,050*

* Does not include the cost of the training course.

Specific Cost Categories:

- Reporting: There is no reporting requirement.
- Recordkeeping: There is no record-keeping requirement.
- Compliance Costs: Other than the initial training cost, there are no compliance costs. The rule is voluntary, however, and does not require compliance.
- Professional Services: No special services are required.
- Equipment: No equipment is required.

- Supplies: There is a cost associated with maintaining a supply of pharmaceuticals. The rule is voluntary, however, and does not require compliance.
- Labor:
 - o Increased Administrative Costs: No significant increase.
 - o Lost Sales or Revenue: No lost sales or revenue.

5. Does the Rule Impose a Disproportionate Impact on Small Businesses? The rule does not impose disproportionate costs. The costs involved in this voluntary certification are borne by the licensee. The cost per employee to comply with the rules is substantially the same for each licensed optometrist.

6. If the Rule Imposes a Disproportionate Impact on Small Businesses, What Efforts Were Taken to Reduce that Impact (or Why is it Not "Legal and Feasible" To Do So) By? The rules do not impose a disproportionate impact on small businesses.

7. How are Small Businesses Involved in the Development of this Rule? Business, public, and licensee involvement was solicited through mailing from the Board of Optometry. A mailing was sent to all licensed optometrists and other stakeholders including professional associations, and educators. Opportunity for written comments was provided during different stages of the development of the rules. This effort has produced rules that are the least burdensome to practitioners.

A copy of the statement may be obtained by writing to Judy Haenke, Program Manager, Board of Optometry, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 236-4947, fax (360) 586-4359.

RCW 34.05.328 applies to this rule adoption. This proposal is legislatively significant. The proposed rules represent a change in the regulatory program.

Hearing Location: Department of Health, CenterPoint Corporate Park, 20435 72nd Avenue South, Kent, WA, on April 23, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Judy Haenke by April 20, 2004, TDD 1-800-833-6388.

Submit Written Comments to: Judy Haenke, Program Manager, P.O. Box 47870, Olympia, WA 98504-7870, Judy.Haenke@doh.wa.gov, fax (360) 586-4359, by April 20, 2004.

Date of Intended Adoption: April 23, 2004.

February 10, 2004

D. H. Williams

Executive Director

NEW SECTION

WAC 246-851-580 Drug list. Pursuant to RCW 18.53.010(4), the optometry board adopts the following drug formulary of oral Schedule III through V controlled substances and legend drugs for diagnostic and therapeutic purposes in the practice of optometry. No licensed optometrist may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. This section includes the approved oral drug formulary. Optometrists must consult WAC 246-851-590 for specific guidelines on these drugs or drug categories.

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(1) Approved nonscheduled oral drugs include:

- (a) Antibiotic agents excluding those listed in WAC 246-851-590 (1)(a).
- (b) Antiviral agents.
- (c) Antifungal agents listed under WAC 246-851-590(2).
- (d) Antihistamine agents.
- (e) Decongestant agents.
- (f) Dry eye agents.
- (g) Anti-emetic agents listed under WAC 246-851-590(3).
- (h) Diuretic agents listed under WAC 246-851-590(4).
- (i) Nonsteroidal anti-inflammatory agents excluding those listed in WAC 246-851-590 (5)(a).
- (j) Analgesics.

(2) Approved controlled substances limited to Schedules III, IV, and V.

- (a) Schedule III controlled substances.
 - (b) Schedule IV controlled substances.
 - (c) Schedule V controlled substances.
 - (d) Schedule IV anti-anxiety/sedative agents.
- (3) Approved injectable substances.

Administration of epinephrine by injection for the treatment of anaphylactic shock.

NEW SECTION

WAC 246-851-590 Guidelines for the use of oral Schedule III through V controlled substances and legend drugs. Nothing in these guidelines should be construed to restrict the recommendation of over-the-counter medications, vitamins, or supplements, nor restrict the ordering of any radiologic or laboratory testing necessary to the diagnosis of any eye related disease that is within the scope of practice of optometry.

(1) All oral forms and dosages of antibiotic agents will be available for use excluding: Vancomycin.

(2) Antifungal agents used in eye care shall fall into the following categories:

- (a) All oral forms and dosages of polyene antifungals.
- (b) All oral forms and dosages of imidazole antifungals.
- (c) All oral forms and dosages of triazole antifungals.

(3) Anti-emetic agents used in eye care shall be the following medications:

- (a) All oral forms and dosages of prochlorperazine.
- (b) All oral forms and dosages of metoclopramide.
- (c) All oral forms and dosages of promethazine.

(4) Diuretic agents used in eye care shall fall into the following categories:

(a) All oral forms and dosages of carbonic anhydrase inhibitors.

(b) All oral forms and dosages of osmotic diuretics. Osmotic diuretics shall be used only in the case of acute angle closure glaucoma administered in-office, outpatient, and/or ambulatory procedures only.

(5) All oral forms and dosages of nonsteroidal anti-inflammatory agents will be available for use excluding: Ketorolac tromethamine.

(6) Benzodiazepines prescribed, as anti-anxiety agents, shall be used for in-office, outpatient, and/or ambulatory pro-

cedures. This family of medications will be utilized as one dosage unit per prescription.

(7) Scheduled III and IV controlled substances will have a maximum quantity count of thirty dosage units per prescription.

(8) Specific dosage for use and appropriate duration of treatment of oral medications listed in WAC 246-851-580(1) will be consistent with guidelines established by the Food and Drug Administration.

(9) Notation of purpose shall be included on all prescriptions.

(10) An optometrist may not:

(a) Use, prescribe, dispense, or administer oral corticosteroids; or

(b) Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

(c) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist. If treatment exceeding the limitation is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(11) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized.

(12) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance.

NEW SECTION

WAC 246-851-610 Approval or removal of medications. The boards of optometry and pharmacy will use a joint process to determine changes to the oral drug list that includes a means to resolve disagreements.

(1) Categories of medications approved by the Food and Drug Administration may be added to WAC 246-851-580(1) by rule through consultation and approval of the board of optometry and board of pharmacy.

(2) Medications approved by the Food and Drug Administration in categories that are within the scope of optometric physician practice that are not included in WAC 246-851-580(1) may be added through consultation and approval of the board of optometry and the board of pharmacy. Approval will follow the joint process established by both boards.

(3) WAC 246-851-580 and 246-851-590 may be updated to reflect additions or removal of medications.

WSR 04-06-046
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed March 1, 2004, 10:53 a.m.]

Original Notice.

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

Title of Rule: Office of Drinking Water fees, WAC 246-290-990 Water system evaluation and project review and approval fees and 246-292-160 Water works certification fees.

Purpose: To revise the fee schedule for the Office of Drinking Water.

Other Identifying Information: This proposal increases fees to the fiscal growth factor cap for FY 2004, 3.20%.

Statutory Authority for Adoption: RCW 43.70.250, 43.20B.020, 70.119.160.

Statute Being Implemented: RCW 43.70.250, 43.20B.020, 70.119.160.

Summary: Fees support public health activities in the Office of Drinking Water and need to be adjusted to compensate for the inflationary costs of administering the program.

Reasons Supporting Proposal: Fee adjustments are necessary to guarantee sufficient revenue to fulfill the department's public health protection obligations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Theresa Phillips, Tumwater, (360) 236-3147.

Name of Proponent: Department of Health, Division of Environmental Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments increase fees by the 2004 fiscal growth factor cap of 3.20%. The increase is necessary to ensure continued protection of public health by enabling the program to acquire revenue necessary to maintain current service activities and meet program costs.

Proposal Changes the Following Existing Rules: The proposed changes increase existing fees by the fiscal growth factor cap of 3.20% for WAC 246-290-990 and 246-292-160.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of the Regulatory Fairness Act.

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees pursuant to legislative standards are exempt from the requirements of RCW 34.05.328.

Hearing Location: Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98504, on April 12, 2004, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Phillips by April 1, 2004, TDD (800) 833-6388 or (360) 236-3147.

Submit Written Comments to: Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, fax (360) 236-2253, by April 12, 2004.

Date of Intended Adoption: May 17, 2004.

February 27, 2004

B. White

for Mary C. Selecky

Secretary

PROPOSED

AMENDATORY SECTION (Amending WSR 03-13-028, filed 6/10/03, effective 7/11/03)

WAC 246-290-990 Water system evaluation and project review and approval fees. (1) The fees for the review and approval of water system plans, project reports, construction documents, existing systems, and related evaluations required under chapters 246-290, 246-291, 246-293, 246-294, and 246-295 WAC (~~shall be as follows~~) are:

(a) Water system plans required under WAC 246-290-100, 246-290-105, 246-291-140, 246-293-220, and 246-293-230 (~~(, and 246-294-060)~~).

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Water system plan (New and Updated)	\$(130) 134	\$(461) 475	\$(1,131) 1,167	\$(2,138) 2,206	\$(3,473) 3,584	\$(5,141) 5,305
Minor water system plan alteration	\$30	\$(109) 112	\$(276) 284	\$(531) 547	\$(862) 889	\$(1,265) 1,305

(b) Satellite management agency (SMA) plans for Group A and Group B water systems required under WAC 246-295-040.

Project Type	Total Active or Approved Services				
	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
SMA plan for ownership (New and Updated)	\$(461) 475	\$(1,131) 1,167	\$(2,138) 2,206	\$(3,473) 3,584	\$(5,141) 5,305
SMA approval amendment	\$(96) 99 per hour or appropriate fee from category above, whichever is less				
SMA plan for operation only (New and Updated)	\$(1,131) 1,167	\$(1,131) 1,167	\$(1,131) 1,167	\$(1,131) 1,167	\$(1,131) 1,167

Note: SMAs owning water systems and submitting planning documents to the department for review shall be charged only the SMA fee.

(c) New plan elements required under WAC 246-290-100, 246-290-105, 246-290-125, 246-290-132, 246-290-135, 246-290-691, and 246-291-140 including:

- (i) Conservation; and
- (ii) Wellhead protection, shall be reviewed separately by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on

~~((ninety-six))~~ ninety-nine dollars per hour. After the initial submittal, updated information shall be reviewed as part of the updated water system plan and the review fee shall be included in the applicable updated plan review fee listed under (a) or (b) of this subsection.

(d) Project reports required under WAC 246-290-110 and design reports required under WAC 246-291-120.

PROPOSED

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$((327)) 337	\$((666)) 687	\$((1,034)) 1,067	\$((1,499)) 1,546	\$((2,066)) 2,132	\$((2,740)) 2,827
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((96)) 92	\$((193)) 192	\$((327)) 337	\$((493)) 508	\$((697)) 719	\$((933)) 962
Complete water system (an additional fee shall be assessed for review of treatment facility, if any)	\$((193)) 192	\$((461)) 475	\$((730)) 753	\$((1,066)) 1,100	\$((1,467)) 1,513	\$((1,933)) 1,994
System modifications requiring a detailed evaluation to determine whether the system, as modified, will comply with regulations (an additional fee shall be assessed for review of treatment facility, if any)	\$((130)) 134	\$((327)) 337	\$((531)) 547	\$((799)) 824	\$((1,131)) 1,167	\$((1,525)) 1,573

Note: In accordance with WAC 246-290-125, project reports are not required for minor projects that are described in sufficient detail in an approved water system plan, and have been reviewed as part of the process for approving the water system plan.

(e) Special reports or plans required under WAC 246-290-230, 246-290-235, 246-290-250, 246-290-470, 246-290-636, 246-290-640, 246-290-654, 246-290-676, 246-291-230 including:

- (i) Corrosion control recommendation report;
- (ii) Corrosion control study;
- (iii) Plan to cover uncovered reservoirs;
- (iv) Predesign study;

- (v) Uncovered reservoir plan of operation;
- (vi) Tracer study plan;
- (vii) Surface water or GWI treatment facility operations plan;
- (viii) Filtration pilot study; or
- (ix) GWI determination reports, shall be reviewed by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on ~~((ninety-six))~~ ninety-nine dollars per hour.

(f) Construction documents required under WAC 246-290-120 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$((327)) 337	\$((666)) 687	\$((1,034)) 1,067	\$((1,499)) 1,546	\$((2,066)) 2,132	\$((2,740)) 2,827
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$((96)) 92	\$((193)) 192	\$((327)) 337	\$((493)) 508	\$((697)) 719	\$((933)) 962
Complete new water system except treatment (an additional fee shall be assessed for review of treatment facility, if any)	\$((264)) 272	\$((594)) 613	\$((862)) 889	\$((1,200)) 1,238	\$((1,603)) 1,654	\$((2,066)) 2,132
New source only (an additional fee shall be assessed for review of treatment facility, if any)	\$((193)) 192	\$((359)) 370	\$((493)) 508	\$((666)) 687	\$((862)) 889	\$((1,099)) 1,134

PROPOSED

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
One or more of the following submitted as a package and not requiring a detailed evaluation as determined by the department: Water line installation, booster pump station, modifications to source pumping, piping-valving, controls or storage reservoir (an additional fee shall be assessed for review of treatment facility, if any)	\$((130)) <u>134</u>	\$((227)) <u>234</u>	\$((359)) <u>370</u>	\$((534)) <u>547</u>	\$((730)) <u>753</u>	\$((964)) <u>994</u>
Documents submitted for projects such as water line installation, booster pump stations, modifications to source pumping, piping/valving, controls or storage reservoirs as determined by the department where such projects: Comply with design standards established by the department; Are prepared by a professional engineer in accordance with WAC 246-290-040; and Do not require a detailed evaluation by the department.	\$((64)) <u>62</u>	\$((142)) <u>115</u>	\$((187)) <u>192</u>	\$((264)) <u>272</u>	\$((366)) <u>377</u>	\$((484)) <u>496</u>

(g) Existing system approval required under WAC 246-290-140 and 246-291-130. For the purpose of this subsection the department shall determine whether a system is expanding or nonexpanding.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
NONEXPANDING system not requiring a detailed evaluation by the department	\$((252)) <u>260</u>	\$((506)) <u>522</u>	\$((764)) <u>785</u>	\$((1,016)) <u>1,048</u>	\$((1,271)) <u>1,311</u>	\$((1,525)) <u>1,573</u>
NONEXPANDING system requiring a detailed evaluation as determined by the department	\$((379)) <u>391</u>	\$((764)) <u>785</u>	\$((1,153)) <u>1,182</u>	\$((1,525)) <u>1,573</u>	\$((1,907)) <u>1,968</u>	\$((2,289)) <u>\$2,362</u>
EXPANDING system not requiring a detailed evaluation by the department	\$((506)) <u>522</u>	\$((1,046)) <u>1,048</u>	\$((1,525)) <u>1,573</u>	\$((2,034)) <u>2,099</u>	\$((2,545)) <u>2,626</u>	\$((3,053)) <u>3,150</u>
EXPANDING system requiring a detailed evaluation as determined by the department	\$((634)) <u>654</u>	\$((1,271)) <u>1,311</u>	\$((1,907)) <u>1,968</u>	\$((2,545)) <u>2,626</u>	\$((3,180)) <u>3,281</u>	\$((3,817)) <u>3,939</u>

(h) Monitoring waivers requested under WAC 246-290-300.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Inorganic chemical monitoring waiver	Not applicable	\$((84)) <u>86</u> per source	\$((116)) <u>119</u> per source	\$((146)) <u>150</u> per source	\$((177)) <u>182</u> per source	\$((208)) <u>214</u> per source
Organic chemical monitoring waiver	Not applicable	\$((152)) <u>156</u> per source	\$((213)) <u>219</u> per source	\$((277)) <u>285</u> per source	\$((338)) <u>348</u> per source	\$((400)) <u>412</u> per source

PROPOSED

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Use waiver		\$((182))	\$((245))	\$((314))	\$((369))	\$((431))
	Not applicable	<u>187</u> per source	<u>252</u> per source	<u>324</u> per source	<u>380</u> per source	<u>444</u> per source
Area wide waiver renewal		\$((182))	\$((226))	\$((270))	\$((314))	\$((346))
	Not applicable	<u>187</u> per source	<u>233</u> per source	<u>278</u> per source	<u>324</u> per source	<u>357</u> per source
Inorganic chemical monitoring waiver renewal		\$((46))	\$((59))	\$((74))	\$((84))	\$((96))
	Not applicable	<u>47</u> per source	<u>60</u> per source	<u>73</u> per source	<u>86</u> per source	<u>99</u> per source
Organic chemical monitoring waiver renewal		\$((90))	\$((127))	\$((166))	\$((202))	\$((239))
	Not applicable	<u>92</u> per source	<u>131</u> per source	<u>171</u> per source	<u>208</u> per source	<u>246</u> per source
Use waiver renewal		\$((127))	\$((171))	\$((213))	\$((257))	\$((301))
	Not applicable	<u>131</u> per source	<u>176</u> per source	<u>219</u> per source	<u>265</u> per source	<u>310</u> per source
Coliform monitoring waiver including departmental inspection requested by purveyor		\$((389))	\$((481))	\$((612))	\$((779))	Not applicable
	Not applicable	<u>401</u>	<u>496</u>	<u>631</u>	<u>803</u>	Not applicable
Coliform monitoring waiver with third-party inspection report		\$((121))	\$((121))	\$((121))	\$((121))	Not applicable
	Not applicable	<u>124</u>	<u>124</u>	<u>124</u>	<u>124</u>	Not applicable

(i) Other evaluations and approvals. As applicable, these fees will be charged in addition to the basic fees assessed under (a) through (h) of this subsection.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Well-site evaluation and approval including the site inspection and hydrogeologic information review.		\$((193))	\$((290))	\$((342))	\$((531))	\$((666))
		<u>199</u>	<u>299</u>	<u>352</u>	<u>547</u>	<u>687</u>
Regulatory monitoring plan ¹	No plan required	\$((187))	\$((252))	\$((316))	\$((379))	\$((442))
		<u>192</u>	<u>260</u>	<u>326</u>	<u>391</u>	<u>456</u>
Unfiltered system annual comprehensive report	Not applicable	\$((379))	\$((634))	\$((889))	\$((1,143))	\$((1,397))
		<u>391</u>	<u>654</u>	<u>917</u>	<u>1,179</u>	<u>1,441</u>
Water system compliance report		\$((109))	\$((109))	\$((109))	\$((109))	\$((109))
		<u>112</u>	<u>112</u>	<u>112</u>	<u>112</u>	<u>112</u>

¹A comprehensive document containing coliform, inorganic chemical and organic chemical monitoring plans in accordance with WAC 246-290-300.

(2) To determine the appropriate fee for a noncommunity system, calculate the service equivalent by taking the average population served each day of operation and dividing by twenty-five for a transient noncommunity (TNC) system and two and one-half for nontransient noncommunity (NTNC) system. Use the number of service equivalents to find out what Group A size category to look under and submit the appropriate fee. (All noncommunity systems are Group A systems as described in WAC 246-290-020.)

(3) Additional review and approval fees may be assessed as follows:

(a) The basic fee covers an evaluation, or the review of an initial submittal and one resubmittal if required. If additional resubmittals are required, an additional twenty-five

percent of the original fee will be assessed for each additional resubmittal. For water system plan and SMA plan preparation the basic fee also covers a preplanning conference. When the department is asked to participate in other meetings involving the plan such as community meetings, public hearings, or meetings with elected officials, the department is authorized to charge additional fees at the rate of ~~((ninety-six))~~ ninety-nine dollars per hour;

(b) Fees for department project approval based on local technical review will be determined on a case-by-case basis as outlined in the applicable memorandum of understanding between the department and the respective local agency;

(c) Fees for services which the department determines are not described under subsection (1) of this section, will be

calculated based on a rate of ~~((ninety-six))~~ ninety-nine dollars per hour.

Examples of these services include, but are not limited to:

- (i) Review and inspection of water reuse projects;
 - (ii) Collection of water quality samples requested by purveyor;
 - (iii) Review of alternate technologies requested by purveyor, manufacturer or authorized representative;
 - (iv) Sanitary surveys, including the time spent as part of the annual on-site inspections for systems under WAC 246-290-690(3) that is in addition to the time necessary to assess watershed control and disinfection treatment;
 - (v) Well field designations; or
 - (vi) Transfers of ownership under WAC 246-290-035 or 246-294-060.
- (d) Additional fees assessed by the department shall be billed to the purveyor using an itemized invoice.
- (4) If the legislature revises the water system operating permit fee under RCW 70.119A.110 to incorporate into it one or more fees for service currently assessed separately under

this section, and the purveyor has paid that consolidated fee, the department shall not assess or collect a separate fee under this section for any such service.

(5) All fees required under this section except as noted in subsection (3) of this section, shall be submitted prior to the department's approval. Payment of fees shall be in the form of a check or money order made payable to: The Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099 ~~((, or such successor organization or address as designated by the department))~~. Payment of a fee shall not guarantee approval of the submitted document or evaluation request.

(6) Purveyors unable to determine the appropriate fee payment to submit should contact the department.

AMENDATORY SECTION (Amending WSR 03-13-028, filed 6/10/03, effective 7/11/03)

WAC 246-292-160 Water works certification fees. (1) Operator fees:

(a) Applicable fees are listed in Table 2 of this section;

Table 2
WATER WORKS OPERATOR FEES

OPERATOR CLASSIFICATION	APPLICATION FEE	REAPPLICATION FEE	ANNUAL RENEWAL FEE	LATE FEE
WTPO	\$(66.00) <u>68.00</u>	\$(32.00) <u>33.00</u>	\$(32.00*) <u>33.00*</u>	\$27.00**
WDM	\$(66.00) <u>68.00</u>	\$(32.00) <u>33.00</u>	\$(32.00*) <u>33.00*</u>	\$27.00**
WDS	\$(66.00) <u>68.00</u>	\$(32.00) <u>33.00</u>	\$(32.00*) <u>33.00*</u>	\$27.00**
CCS	\$(39.00) <u>40.00</u>	\$(32.00) <u>33.00</u>	\$(32.00*) <u>33.00*</u>	\$27.00**
BAT	\$(39.00) <u>40.00</u>	\$(32.00) <u>33.00</u>	\$(32.00) <u>33.00</u>	\$27.00
BTO	\$(39.00) <u>40.00</u>	\$(32.00) <u>33.00</u>	\$(32.00) <u>33.00</u>	\$27.00

* The annual renewal fee for a WTPO, WDM, WDS and CCS certification ~~((shall be thirty-two))~~ is thirty-three dollars regardless of the number of classifications held.

** The annual late fee for a WTPO, WDM, WDS, and CCS certification ~~((shall be))~~ is twenty-seven dollars regardless of the number of classifications held.

(b) A late fee shall be assessed to operators failing to submit the required fee within the time period specified on the renewal form; and

(c) The fee for application for reciprocity is one hundred ~~((thirty-four))~~ thirty-eight dollars per classification.

(2) Group A system fees:

(a) Applicable fees are listed as indicated in Table 3 of this section.

Table 3

ANNUAL SYSTEM CERTIFICATION FEES

SYSTEM SIZE* (Number of Equivalent Services)	SYSTEM FEE
Less than 601 Services	\$(100.00) <u>103.00</u>
601 through 6,000 Services	\$(304.00) <u>313.00</u>
6,001 through 20,000 Services	\$(405.00) <u>417.00</u>

Table 3

ANNUAL SYSTEM CERTIFICATION FEES

More than 20,000 Services	\$(610.00) <u>629.00</u>
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* Systems designated by the department as approved satellite management agencies (SMAs) shall pay a fee based on total services in all systems owned by the SMA.

(b) Group A system fees shall be paid in conjunction with the system's annual operating permit fee required in chapter 246-294 WAC.

(c) A late fee shall be assessed against any system for failing to submit the applicable fee to the department within the designated time period. The late fee shall be based on the water system's classification and shall be an additional ten percent of the applicable system fee or twenty-seven dollars, whichever is greater.

(d) The system fee for issuance of a temporary certification shall be ~~((sixty-six))~~ sixty-eight dollars for each temporary position.

PROPOSED

(3) Fees are nonrefundable and transfers of fees are not allowable.

(4) Payment of fees required under this chapter shall be in the form of a check or money order made payable to the department of health and shall be mailed to Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099(; ~~or such successor organization or address as designated by the department~~)).

WSR 04-06-051
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed March 1, 2004, 11:34 a.m.]

Continuance of WSR 04-03-109.

Title of Rule: Amend: Regulation II, Section 2.07.

Purpose: Continue hearing from February 26, 2004, to March 25, 2004.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, on March 25, 2004, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 18, 2004, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by March 25, 2004.

Date of Intended Adoption: March 25, 2004.

February 27, 2004

Larry C. Vaughn
 Engineer

WSR 04-06-056
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed March 1, 2004, 1:11 p.m.]

The DSHS Aging and Disability Services Administration (ADSA) is requesting withdrawal of the proposed rule-making notice filed as WSR 04-04-044 on January 29, 2004, including the following proposed rules: WAC 388-105-0005, 388-105-0030, and 388-105-0040 (amended); and WAC 388-105-0045 (new).

ADSA is making a correction to the filing notice form, and will refile these rules for publication in the 04-06 State Register.

Brian Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 04-06-060
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 (By the Code Reviser's Office)
 [Filed March 2, 2004, 8:24 a.m.]

WAC 296-17-644, proposed by the Department of Labor and Industries in WSR 03-17-016 appearing in issue 03-17 of the State Register, which was distributed on September 3, 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 04-06-075
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed March 3, 2004, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-15-050.

Title of Rule: WAC 388-105-0005 Daily Medicaid payment rates for contracted adult family home (AFH), adult residential care (ARC) and enhanced adult residential care (EARC) services, 388-105-0030 Daily Medicaid payment rates for contracted assisted living facilities (ALF) not receiving a capital rate add-on and 388-105-0040 Capital add-on rates for ALF and the ALF daily payment rates with a capital add-on rate; and new WAC 388-105-0045 Medicaid payment rates for bed or unit holds—Medicaid resident discharged for a hospital or nursing home stay from an AFH or a boarding home with an ARC, EARC, or AL contract.

Purpose: To adopt permanently July 1, 2003, rate decreases and to implement SSB 5579 (chapter 231, Laws of 2003) granting of payments to providers to hold a bed or unit when a Medicaid resident temporarily leaves the facility for a hospital or nursing home stay. This proposal replaces rules proposed as WSR 04-04-044 that were withdrawn to make a correction on the filing notice form. The text of the proposed rules contains only editorial changes from WSR 04-04-044. See withdrawal notice WSR 04-06-056.

Statutory Authority for Adoption: RCW 74.39A.030 Medicaid payment rate.

Statute Being Implemented: RCW 18.20.290 Bed or unit hold payments; chapter 231, Laws of 2003.

Summary: Permanently adopts rate decreases adopted into WAC by emergency rule effective July 1, 2003. Permanently adopts the bed or unit hold policy adopted into WAC by emergency rule effective July 1, 2003.

Reasons Supporting Proposal: Implementing RCW 74.39A.030 and 18.20.290.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia Hague, 640

PROPOSED

Woodland Square Loop S.E., Lacey, WA 98503, (360) 725-2447.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-105-0005, permanent adoption of daily Medicaid payment rates for contracted AFH, ARC, and EARC services that were emergency adopted effective July 1, 2003.

WAC 388-105-0030, permanent adoption of the daily Medicaid payment rates for contracted ALFs not receiving a capital rate add-on that were emergency adopted effective July 1, 2003.

WAC 388-105-0040, permanent adoption of the capital add-on rates for ALFs and the ALF daily payment rates with a capital add-on rate that were emergency adopted effective July 1, 2003.

WAC 388-105-0045, permanent adoption of the bed or unit hold payment policy for Medicaid resident discharged for a hospital or nursing home stay from an AFH or a boarding home with an ARC, EARC, or AL services contract that were emergency adopted effective July 1, 2003.

Proposal Changes the Following Existing Rules: Proposed rules: Decreases the Medicaid payment rates for AFHs, ARCs, EARCs, and AL facilities effective July 1, 2003; and implements a bed or unit hold payment policy for Medicaid resident discharged for a hospital or nursing home stay from an AFH or a boarding home with an ARC, EARC, or AL services contract.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025(3), this chapter does not apply to the adoption of a rule described in RCW 34.05.310(4). The unit or bed hold rule in WAC 388-105-0045 is exempted by RCW 34.05.310(4)(e) (rules the content of which is explicitly and specifically dictated by statute). The rate rules in WAC 388-105-0005, 388-105-0030, and 388-105-0040 are exempted by RCW 34.05.310(4)(f) (rules that set or adjust fees or rates pursuant to legislative standards).

RCW 34.05.328 does not apply to this rule adoption. The proposed rules are exempt under RCW 34.05.328(5)(b)(v) and (vi), rules that the content of which is explicitly and specifically dictated by statute; or set or adjust fees or rates pursuant to legislative standards are exempt from RCW 34.05.328. The proposed rules were specifically dictated by statute and set or adjust rates in accordance with legislative standards.

Hearing Location: Blake Office Park - East (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on April 6, 2004, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by April 2, 2004, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@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., April 6, 2004.

Date of Intended Adoption: Not earlier than April 6, 2004.

March 2, 2004

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~~)) (AL) not receiving a capital rate add-on? For contracted ((~~ALF~~)) AL services for care of a Medicaid resident, the department pays the following daily rates:

COPES ((ALF)) <u>AL</u> 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.

PROPOSED

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))~~) (AL) and the ~~((ALF))~~ AL daily payment rates with a capital add-on rate? For an ~~((ALF))~~ AL 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:

COPEs ((ALF)) <u>AL</u> Add-on Rate July 1, 2002		
Non-metropolitan	Metropolitan*	King Co.
\$ 4.68	\$ 4.39	\$ 4.84

COPEs ((ALF)) <u>AL</u> 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>	\$ ((67.34)) <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 Bed or unit hold Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home with an adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) contract. (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 Medicaid daily rate paid to the facility. To compute the average Medicaid daily rate, the provider will add the highest Medicaid daily rate for each Medicaid resident residing in the facility for any part of the month in which the unit or bed hold began and divide the total by the number of Medicaid residents residing in the facility in the month in which the bed hold began.

(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.

(6) The department's social worker or case manager determines whether the:

(a) Care given in a nursing home or hospital will be short-term; and

(b) Resident is likely to return to the AFH, ARC, EARC, or AL facility.

(7) When the department's social worker or case manager determines that the Medicaid resident's stay in the nursing home or hospital is not short-term and the resident is unlikely to return to the AFH, ARC, EARC, or AL facility, then this section does not apply to any private contractual arrangements that the provider may make with a third party in regard to the discharged resident's unit or bed.

WSR 04-06-083

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 3, 2004, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-02-054.

Title of Rule: Chapter 16-402 WAC, Freedom from infestation by plant pests, this proposal amends this chapter by adding language to establish the requirements for the marking or tagging of horticultural plants.

Purpose: This proposal amends chapter 16-402 WAC by adding language that specifies the standards for the marking or tagging of horticultural plants offered for sale in Washington state. In addition, this proposal adds language regarding horticultural plants not in compliance, corrects an erroneous RCW reference, and clarifies existing language to make it more clear and readable.

Statutory Authority for Adoption: Chapters 15.13 and 34.05 RCW.

Statute Being Implemented: Chapter 15.13 RCW.

Summary: Proposed amendments will implement a statutory requirement specified in RCW 15.13.260 that nursery stock offered for sale in Washington state be labeled or tagged. The ability to identify horticultural plants with botanical names is critical when enforcing plant related quarantines, especially noxious weed quarantines.

Reasons Supporting Proposal: Plant labeling rules will benefit consumers by providing them with an accurate identity of the plants they purchase and will also allow consumers to identify native plants collected in their natural environment.

PROPOSED

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

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

Proposal Changes the Following Existing Rules: This proposal amends chapter 16-402 WAC by adding language that specifies the standards for the marking or tagging of horticultural plants offered for sale in Washington state. In addition, this proposal adds language regarding horticultural plants not in compliance with the new labeling requirements, corrects an erroneous RCW reference, and clarifies existing language to make it more clear and readable.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrates that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on April 6, 2004, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by March 23, 2004, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 6, 2004.

Date of Intended Adoption: April 20, 2004.

March 2, 2004

Mary A. Martin Toohey
Assistant Director

Chapter 16-402 WAC

**~~((FREEDOM FROM INFESTATION BY))~~
PLANT PEST(S) INFESTATIONS AND PLANT LABELING**

AMENDATORY SECTION (Amending WSR 98-17-069, filed 8/17/98, effective 9/17/98)

WAC 16-402-010 Definitions. The definitions in this section shall apply throughout this chapter.

"Collected horticultural plant" means a noncultivated native plant, collected in its native habitat and sold for horticultural purposes.

~~((1))~~ "Department" means the Washington state department of agriculture.

~~((2))~~ "Director" means the director of the Washington state department of agriculture or the director's duly authorized representative.

~~((3))~~ "Established" means a reproducing population of a pest that is expected to have a permanent presence.

~~((4))~~ "Harmful" means injurious or potentially injurious to horticultural plants.

~~((5)) "Quarantine pest" means any pest listed in current Washington state quarantines as promulgated in chapter 17.24 RCW.~~

~~((6))~~ "Practically free" means horticultural plants which do not exceed:

(a) A 2% infestation level; or

(b) An infestation in an amount expected to result from and be consistent with good culturing and handling practices employed in the production and marketing of the horticultural plants.

"Quarantine pest" means any pest listed in current Washington state quarantines as promulgated in chapter 17.24 RCW.

"Tag" means to identify a horticultural plant or a group of horticultural plants by a bill of lading, invoice, label or other package marking.

"Unit of sale" means a group of the same plant variety or of mixed varieties placed together at a specific site for retail sale.

AMENDATORY SECTION (Amending WSR 98-17-069, filed 8/17/98, effective 9/17/98)

WAC 16-402-020 Compliance with standards required. (1) Horticultural plants sold, held for sale, shipped or transported in the state must comply with the standards described in ~~((this chapter))~~ WAC 16-402-015.

(2) The director may deny, suspend or revoke the license of any person selling, holding for sale, shipping or transporting horticultural plants in violation of this ~~((chapter))~~ standard, pursuant to RCW ~~((15-13-350))~~ 15.13.490. The director may also issue civil penalties in accordance with RCW 15.13.490 for violations of this ~~((chapter))~~ standard.

(3) Any horticultural plant sold, held for sale, shipped or transported in violation of ~~((this chapter))~~ WAC 16-402-015 shall be subject to a hold order, issued pursuant to RCW 15.13.430, or an order of condemnation, issued pursuant to RCW 15.13.440. Upon issuance of a hold order or an order of condemnation, the seller or holder of the plant material is entitled to request a hearing under chapter 34.05 RCW.

(4) The department shall issue a nursery inspection record or other official document(s) certifying compliance to ~~((this chapter))~~ WAC 16-402-015.

NEW SECTION

WAC 16-402-030 Standards for plant labeling. (1) Nursery dealers transporting horticultural plants into the state must legibly tag or identify each species or variety of plant in

PROPOSED

the shipment in a conspicuous manner with the botanical name and/or the common name.

(2) Nursery dealers displaying horticultural plants for retail sale must tag or identify each variety or species of each unit of sale in a conspicuous manner with the botanical name, and/or the common name, or provide this information to any person upon request.

This requirement does not apply to containers or baskets with mixed species of perennials, annuals or biennials.

(3) Nursery dealers must tag or identify collected horticultural plants with the botanical name, the common name and designate the plants as collected.

(4) To determine compliance with state and federal quarantines, the botanical name of each horticultural plant transported or sold in the state must be made available to the director upon request.

NEW SECTION

WAC 16-402-040 Horticultural plants not in compliance. Pursuant to RCW 15.13.410, the director may order any horticultural plant, not properly tagged or identified, off sale or returned to the consignor for proper tagging. Upon issuance of an order requiring horticultural plants to be removed from sale or returned to the consignor, the seller or holder of the plant material is entitled to request a hearing under chapter 34.05 RCW.

WSR 04-06-073
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed March 3, 2004, 8:11 a.m.]

Title of Rule: WAC 16-219-100 Ethyl parathion—Restricted use pesticide—Definitions and 16-219-105 Ethyl parathion—Application restrictions.

Purpose: RCW 34.05.353 (2)(c) allows the Washington State Department of Agriculture (WSDA) to file a notice of expedited repeal of rules if the rules are no longer necessary because of changed circumstances. WSDA is proposing to use the expedited repeal process to repeal WAC 16-219-100 and 16-219-105 because the Environmental Protection Agency (EPA) canceled the use of this product. Therefore, the product is no longer legal in Washington state.

Statutory Authority for Adoption: RCW 15.58.040, 17.21.030, and 34.05.353 (2)(c).

Statute Being Implemented: RCW 15.58.040, 17.21-030.

Summary: All use of this product was canceled effective October 31, 2003, by EPA. The product is no longer legal in Washington state.

Reasons Supporting Proposal: Federal cancellation of ethyl parathion October 31, 2003 (F.R. Notice September 13, 2001 (Volume 66, Number 178)).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ann Wick, Olympia, (360) 902-2051.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule defined ethyl parathion as a restricted use pesticide in Washington state, and listed application restrictions. EPA canceled the use of ethyl parathion in October of 2003.

Proposal Changes the Following Existing Rules: The proposal repeals WAC 16-219-100 Ethyl parathion—Restricted use pesticide—Definitions and 16-219-105 Ethyl parathion—Application restrictions.

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 George Huffman, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, AND RECEIVED BY May 3, 2004.

March 3, 2004

Bob Arrington

Assistant Director

EXPEDITED



WSR 04-05-010
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed February 6, 2004, 4:30 p.m.]

Date of Adoption: February 3, 2004.

Purpose: Numerous typographical errors and obsolete cross-references have been identified in WAC and must be corrected.

Reasons Supporting Proposal: Use of cross-references in WAC is necessary to accurately determine eligibility and benefit levels.

The department has withdrawn proposed WAC 388-450-0005 from rules proposed as WSR 04-02-058. The rule will be revised and repropoed at a later date.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-1500, 388-310-2000, 388-410-0001, 388-436-0040, 388-440-0001, 388-444-0055, 388-450-0165, 388-466-0130, 388-478-0005, and 388-484-0005.

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

Adopted under notice filed as WSR 03-23-112 on November 18, 2003, and continued as WSR 04-02-058 on January 3, 2004.

Changes Other than Editing from Proposed to Adopted Version: The department has withdrawn proposed WAC 388-450-0005 from rules proposed as WSR 03-23-112. The rule will be revised and repropoed at a later date.

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 10, 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 10, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 3, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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

WAC 388-310-1500 WorkFirst—Employment conditions. (1) **If I am a mandatory participant, are there any limitations on the type of paid or unpaid employment I must accept?**

If you are a mandatory participant, you must accept paid or unpaid employment (including any activity in which an

employer-employee relationship exists) unless the employment:

(a) Is not covered by industrial insurance (described in state law under Title 51 RCW) unless you are employed by a tribal government or a tribal private for-profit business;

(b) Is available because of a labor dispute;

(c) Has working hours or conditions that interfere with your religious beliefs or practices (and a reasonable accommodation cannot be made);

(d) Does not meet federal, state or tribal health and safety standards; or

(e) Has unreasonable work demands or conditions, such as working for an employer who does not pay you on schedule.

(2) Are there any additional limitations on when I can be required to accept paid employment?

You must accept paid employment unless the job or the employer:

(a) Pays less than the federal, state, or tribe minimum wage, whichever is higher;

(b) Does not provide unemployment compensation coverage (described in state law under Title 50 RCW) unless you:

(i) Work for a tribal government or tribal for-profit business; or

(ii) Are a treaty fishing rights related worker (and exempt under section 7873 of the Internal Revenue code);

(c) Requires you to resign or refrain from joining a legitimate labor organization; or

(d) Does not provide you benefits that are equal to those provided to other workers employed in similar jobs.

(3) How many hours of unpaid employment can I be required to perform?

You can be required to work a set number of hours of unpaid employment each month. The number of hours required will not be more than your TANF, SFA or GA-S cash grant divided by the state or federal minimum wage, whichever is higher.

(4) What safeguards are in place to make sure I am not used to displace currently employed workers?

The following safeguards are in place to make sure you are not used to displace currently employed workers:

(a) You cannot be required to accept paid or unpaid employment which:

(i) Results in another employee's job loss, reduced wages, reduced hours of employment or overtime or lost employment benefits;

(ii) Impairs existing contracts for services or collective bargaining agreements;

(iii) Puts you in a job or assignment, or uses you to fill a vacancy, when:

(A) Any other person is on lay off from the same (or very similar) job within the same organizational unit; or

(B) An employer ends the job of a regular employee (or otherwise reduces its workforce) so you can be hired.

(iv) Reduces current employees' opportunities for promotions.

(b) If a regular employee believes your subsidized or unpaid work activity (such as a community jobs or work experience position) violates any of the rules described

above, this employee (or his or her representative) has the right to:

(i) A grievance procedure (described in WAC ((388-200-1100)) 388-426-0005); and

(ii) A fair hearing (described in chapter ((388-08)) 388-02 WAC).

(5) What other rules apply specifically to subsidized or on-the-job training positions?

If you are in a subsidized or on-the-job training position:

(a) WorkFirst state agencies must stop paying your wage or on-the-job training subsidy to your employer if your employer's worksite or operation becomes involved in a strike, lockout or bona fide labor dispute.

(b) If your wage subsidy or on-the-job training agreement is ended (and we stop paying any subsidies to your employer) because you were used to displace another employee, it will be up to you and the employer to decide whether you can (or want to) keep working there.

AMENDATORY SECTION (Amending WSR 01-03-042, filed 1/9/01, effective 2/9/01)

WAC 388-310-2000 Individual development accounts (IDA). (1) What are individual development accounts?

Individual development accounts (IDAs) are special savings accounts for people eligible for or receiving TANF or SFA. The IDA's will help families save money for qualified purchases that will help them become financially self-sufficient. Your IDA account may only be used for the following qualified purchase: Acquisition cost for a first home, post-secondary education expenses, or business expenses for self-employment. You may only deposit income that you have earned through work into an IDA, the state matches those funds, helping you reach your goal more quickly.

(2) Who helps you set up an IDA?

The state office of trade and economic development (OTED) administers the IDA program. OTED contracts with local nonprofit agencies to enroll participants in the IDA program, monitor account activity and provide training and other support services while you are enrolled.

(3) Who can enroll in the IDA program?

To enroll in the IDA program, you must receive (or be eligible to receive) TANF or SFA assistance, or post TANF families with income below one hundred seventy-five percent of the federal poverty level. You may remain enrolled in the program for three years from the date of opening your IDA account.

(4) What happens once you enroll in the IDA program?

Once you've enrolled, your IDA contractor will help you develop an individual savings plan that identifies the steps you must take to earn the match. To earn the match you must:

(a) Attend financial skills classes to learn how to manage your personal finances.

(b) Open your savings account at a financial institution that is participating in the IDA program through an agreement with the IDA contractor.

(c) Deposit savings from earned income into your account on at least a quarterly basis.

(5) How are your IDA matching funds handled?

Your matching funds are held in a separate account until you are ready to make a qualified purchase. The IDA contractor provides you with monthly statements showing the amount of matching funds you have earned.

(6) How much money can you save with an IDA?

The state will give you up to two dollars for every dollar you save, up to a maximum match of four thousand dollars. So, if you save two thousand dollars (the maximum amount allowed), you could earn four thousand dollars in match, for a total of six thousand dollars.

(7) When can you withdraw money from your account?

When you have an IDA, you really have two types of accounts: your own savings account and a trust account holding your match funds.

(a) You can withdraw your own savings at any time - it's your money; but you will forfeit any match that was earned on those funds and could jeopardize your ability to stay in the program. You also need to report any withdrawals to your DSHS case manager if you are receiving any type of public assistance benefits.

(b) You cannot withdraw your match until you are ready to purchase your asset and have met all of the requirements in your individual savings plan. At that time, the IDA contractor will withdraw the matching funds and pay them directly to the person or organization that you are purchasing your asset from (such as the mortgage company, college, or bank).

(8) Will having an IDA affect your eligibility for other public assistance programs?

The funds held in your IDA cannot be taken into consideration when determining if you qualify for TANF, Social Security, Food Stamps, or Medicaid. However, if you withdraw savings from your IDA other than to purchase your asset, or if you leave the IDA program early, your eligibility could be affected. See WAC ((388-470-0065)) 388-470-0045 for more details about how IDAs affect your eligibility for other types of public assistance benefits.

AMENDATORY SECTION (Amending WSR 99-24-131, filed 12/1/99, effective 1/1/00)

WAC 388-410-0001 What is a cash/medical assistance overpayment? (1) An overpayment is any cash or medical assistance paid that is more than the assistance unit was eligible to receive.

(2) There are two types of cash/medical overpayments:

(a) Intentional overpayments, presumed to exist when the client willfully or knowingly:

(i) Fails to report within twenty days a change in circumstances that affects eligibility; or

(ii) Misstates or fails to reveal a fact affecting eligibility as specified in WAC 388-446-0001.

(b) Unintentional overpayments, which includes all other client-caused and all department-caused overpayments.

(3) If you request a fair hearing and the fair hearing decision is in favor of the department, then:

(a) Some or all of the continued assistance you get before the fair hearing decision must be paid back to the department (see WAC ((388-418-0030))) 388-418-0020; and

(b) The amount of assistance you must pay back will be limited to sixty days of assistance, starting with the day after the department receives your hearing request.

(4) If you receive child support payments directly from the noncustodial parent, you must turn these payments over to the division of child support (DCS). These payments are not cash assistance overpayments.

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

WAC 388-436-0040 Excluded income and resources for CEAP. Resources and income listed below will not be considered in determining need or payment for CEAP:

(1) A home as defined under WAC ((388-470-0030)) 388-470-0045;

(2) One vehicle, running and used regularly by the assistance unit, with an equity value not to exceed one thousand five hundred dollars);

(3) Household furnishings being used by the assistance unit;

(4) Personal items being used by members of the assistance unit;

(5) Tools and equipment being used in the applicant's occupation;

(6) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(7) Benefits received under the women, infants and children program (WIC) of the child nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(8) Energy assistance payments;

(9) Grants, loans, or work study to a student under Title IV of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution;

(10) Income and resources of an SSI recipient;

(11) Livestock when the products are consumed by members of the assistance unit;

(12) All resources and income excluded for the TANF program under WAC ((388-450-0015, 388-470-0020, and 388-470-0025)) 388-470-0045 and by federal law.

AMENDATORY SECTION (Amending WSR 00-03-034, filed 1/12/00, effective 2/12/00)

WAC 388-440-0001 Exceptions to rule. (1) The secretary of the department, or designee, authorizes department staff to request an exception to a rule in the Washington Administrative Code (WAC) for individual cases, except as noted in subsection (5) of this section, when:

(a) The exception would not contradict a specific provision of federal law or state statute; and

(b) The client's situation differs from the majority; and

(c) It is in the interest of overall economy and the client's welfare; and

(d) It increases opportunities for the client to function effectively; or

(e) A client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

(2) The secretary or the secretary's designee makes the final decision on all requests for exceptions to a rule.

(3) Clients have no fair hearing rights as defined under chapter ((388-08)) 388-02 WAC regarding exception to rule decisions by department staff.

(4) Clients who do not agree with a decision on an exception to rule may file a complaint according to chapter 388-426 WAC.

(5) This section does not apply to requests for noncovered medical or dental services or related equipment. See WAC 388-501-0160.

AMENDATORY SECTION (Amending WSR 00-04-006, filed 1/20/00, effective 3/1/00)

WAC 388-444-0055 What are the penalties for refusing or failing to comply? (1) If you are nonexempt you must follow the food assistance work requirements as defined in WAC 388-444-0005 or 388-444-0030 unless you have good cause as defined in WAC 388-444-0050. If you do not follow these rules, you will become an ineligible assistance unit member as provided in WAC 388-450-0140. The remaining members of the assistance unit continue to be eligible for food assistance.

(2) If you do not follow these rules unless you have good cause, you cannot receive food assistance for the following periods of time and until you comply with program requirements:

(a) For the first failure to comply, one month;

(b) For the second failure to comply, three months; and

(c) For the third or subsequent failure to comply, six months.

(3) If you become exempt under WAC 388-444-0015 and are otherwise eligible, you may begin to receive food assistance.

(4) If you are nonexempt and you do not comply with the work requirements of the following programs, you cannot receive food assistance:

(a) WorkFirst;

(b) Unemployment compensation;

(c) The refugee cash assistance program.

(5) Within ten days after learning of your refusal to participate in your program, the financial worker will send you a notice that your food assistance will end unless you comply with your program requirements.

(6) If you do not comply within ten days, you will be issued a notice disqualifying you from receiving food assistance until you comply with your program, or until you meet the FS E&T disqualification requirements in subsection (2) of this section.

(7) After the penalty period in subsection (2) of this section is over, and you have complied with your program requirements, and you are otherwise eligible, you may receive food assistance:

(a) If you are alone in the assistance unit and apply to reestablish eligibility; or

(b) If you are a member of an assistance unit, you may resume receiving food assistance.

(8) During the penalty period, if you begin to participate in one of the programs listed in subsection (4)(a) through (c)

and that penalty is removed, the FS E&T disqualification also ends. If you are otherwise eligible, you may begin to receive food assistance.

(9) You have a right to a fair hearing as provided in ((WAC 388-08-413)) chapter 388-02 WAC.

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

WAC 388-450-0165 Gross earned income limit for TANF/SFA. When applying the gross earned income limit as required under WAC 388-478-0035:

(1) "Family" means:

(a) All adults and children who would otherwise be included in the assistance unit under WAC 388-408-0015, but who do not meet TANF/SFA eligibility requirements;

(b) The unborn child of a woman in her third trimester of pregnancy; and

(c) The husband of a woman in her third trimester of pregnancy, when residing together.

(2) "Gross earned income" does not include excluded income, as provided in WAC 388-450-0015.

(3) The following amounts are disregarded when determining a family's gross earned income:

(a) Court or administratively ordered current or back support paid to meet the needs of legal dependents, up to:

(i) The amount actually paid; or

(ii) A one-person need standard for each legal dependent.

(b) Authorized ongoing additional requirement payment as defined in chapter 388-473 WAC ((388-255-1050 through 388-255-1250)).

AMENDATORY SECTION (Amending WSR 00-21-065, filed 10/16/00, effective 11/1/00)

WAC 388-466-0130 Refugee medical assistance (RMA). (1) **Who can apply for refugee medical assistance?**

Any individual can apply for refugee medical assistance (RMA) and have eligibility determined by the department of social and health services (DSHS).

(2) **Who is eligible for refugee medical assistance?**

(a) You are eligible for RMA if you meet all of the following conditions:

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

(ii) Income and resource requirements of WAC ((388-466-0010)) 388-466-0140;

(iii) Monthly income standards up to two hundred percent of the federal poverty level (FPL). Spenddown is available for applicants whose income exceeds two hundred percent of FPL (see WAC 388-519-0110); and

(iv) Provide the name of the voluntary agency (VOLAG) which helped bring you to this country, so that DSHS can promptly notify the agency (or sponsor) about your application for RMA.

(b) You are eligible for RMA if you meet one of the following conditions:

(i) Receive refugee cash assistance (RCA) and are not eligible for Medicaid or children's health insurance program (CHIP); or

(ii) Choose not to apply for or receive RCA and are not eligible for Medicaid or CHIP, but still meet RMA eligibility requirements.

(3) **Who is not eligible for refugee medical assistance?**

You are not eligible to receive RMA if you are:

(a) Already eligible for Medicaid or CHIP;

(b) A full-time student in an institution of higher education unless the educational activity is part of a department-approved individual responsibility plan (IRP);

(c) A nonrefugee spouse of a refugee.

(4) **If I have already received a cash assistance grant from voluntary agency (VOLAG), will it affect my eligibility for RMA?**

No. A cash assistance payment provided to you by your VOLAG is not counted in determining eligibility for RMA.

(5) **If I get a job after I have applied but before I have been approved for RMA, will my new income be counted in determining my eligibility?**

No. Your RMA eligibility is determined on the basis of your income and resources on the date of the application.

(6) **Will my sponsor's income and resources be considered in determining my eligibility for RMA?**

Your sponsor's income and resources are not considered in determining your eligibility for RMA unless your sponsor is a member of your assistance unit.

(7) **How do I find out if I am eligible for RMA?**

DSHS will send you a letter in both English and your primary language informing you about your eligibility. DSHS will also let you know in writing every time there are any changes or actions taken on your case.

(8) **Will RMA cover my medical expenses that occurred after I arrived in the U.S. but before I applied for RMA?**

You may be eligible for RMA coverage of your medical expenses for three months prior to the first day of the month of your application. Eligibility determination will be made according to Medicaid rules.

(9) **If I am an asylee, what date will be used as an entry date?**

If you are an asylee, your entry date will be the date that your asylum status is granted. For example, if you entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and granted asylum on September 1, 2000, your date of entry is September 1, 2000. On September 1, 2000 you may be eligible for refugee medical assistance.

(10) **When does my RMA end?**

Your refugee medical assistance will end on the last day of the eighth month from the month of your entry into the United States. Start counting the eight months from the first day of the month of your entry into the U.S. For example, if you entered the U.S. on May 28, 2000, your last month is December 2000.

(11) **What happens if my earned income goes above the income standards?**

(a) If you are getting RMA, your medical eligibility will not be ((effected)) affected by the amount of your earnings;

(b) If you were getting Medicaid and it was terminated because of your earnings, we will transfer you to RMA for the rest of your RMA eligibility period. You will not need to apply.

(12) Will my spouse also be eligible for RMA, if he/she arrives into the U.S. after me?

When your spouse arrives in the U.S., we will determine his/her eligibility for Medicaid and other medical programs. Your spouse may be eligible for RMA; if so, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival.

(13) What do I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with the decision or action taken on your case by department you have the right to request a review of your case or request a fair hearing (see WAC 388-02-0090). Your request must be made within ninety days of the decision or action).

(14) What happens to my medical coverage after my eligibility period is over?

We will determine your eligibility for other medical programs. You may have to complete an application for another program.

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

WAC 388-478-0005 Cash assistance need and payment standards and grant maximum. (1) Need standards for cash assistance programs represent the amount of income required by individuals and families to maintain a minimum and adequate standard of living. Need standards are based on assistance unit size and include basic requirements for food, clothing, shelter, energy costs, transportation, household maintenance and operations, personal maintenance, and necessary incidentals.

(2) Payment standards for assistance units in medical institutions and other facilities are based on the need for clothing, personal maintenance, and necessary incidentals (see WAC 388-478-0040 and 388-478-0045).

(3) Need and payment standards for persons and families who do not reside in medical institutions and other facilities are based on their obligation to pay for shelter.

(a) Eligibility and benefit levels for persons and families who meet the requirements in WAC 388-478-0010 are determined using standards for assistance units with an obligation to pay shelter costs.

(b) Eligibility and benefit levels for all other persons and families are determined using standards for assistance units who have shelter provided at no cost.

(c) For recent arrivals to Washington state who apply for temporary assistance for needy families (TANF), see WAC ((388-478-0025)) 388-468-0005.

(4) The monthly grant for an assistance unit containing eight or more persons cannot exceed the grant maximum of one thousand seventy-five dollars.

AMENDATORY SECTION (Amending WSR 03-06-046, filed 2/28/03, effective 3/31/03)

WAC 388-484-0005 There is a five year (sixty-month) time limit for TANF, SFA and GA-S cash assistance. (1) What is the sixty-month time limit?

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of sixty months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, support services, food assistance or Medicaid.

(2) When did the sixty-month time limit go into effect?

The sixty-month time limit applies to cash assistance received on or after August 1, 1997 for TANF and SFA. Although the GA-S program no longer exists, the time limit applies to GA-S cash assistance received from May 1, 1999 through July 31, 1999.

(3) Does the time limit apply to me?

The sixty-month time limit applies to you for any month in which you are a parent or other relative as defined in WAC 388-454-0010, or a minor parent emancipated through court order or marriage.

(4) Do any exceptions to the time limits apply to me?

The department does not count months of assistance towards the sixty-month time limit if you are:

(a) An adult caretaker, as described in WAC 388-454-0005 through ((488-454-0010)) 388-454-0010, who is not a member of the assistance unit and you are receiving cash assistance on behalf of a child;

(b) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

(c) An American Indian or Native Alaskan adult and you are living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan Native village and you are receiving TANF, SFA, or GA-S cash assistance during a period when at least fifty percent of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

(5) What happens if a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?

Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless you are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.

(6) What can I do if I disagree with how the department has counted my months of cash assistance?

(a) If you disagree with how we counted your months of cash assistance, you may ask for a hearing within ninety days of the date we sent you a letter telling you how many months we are counting.

(b) You will get continued benefits (the amount you were getting before the change) if:

(i) You have used all sixty months of benefits according to our records;

(ii) Your cash assistance payment has been changed to a Child SafetyNet Payment, as described in WAC 388-310-1650; and

(iii) You ask for a hearing within the ten-day notice period, as described in chapter 388-458 WAC.

(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

(7) Does the department ever change the number of months that count against my time limit?

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.

(c) An ALJ decides at a fair hearing that we should change the number of months we count.

(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.

(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.

(f) Another state gave us incorrect information about the number of months you got cash assistance from them.

WSR 04-06-001

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 18, 2004, 3:58 p.m.]

Date of Adoption: February 13, 2004.

Purpose: To clarify eligibility for an exemption from the aircraft fuel tax for emergency medical air transport entities.

Citation of Existing Rules Affected by this Order: Amending 2 [WAC 308-78-010 and 308-78-045].

Statutory Authority for Adoption: RCW 82.42.040.

Adopted under notice filed as WSR 03-21-087 on October 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 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.

February 11, 2004

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 01-08-083, filed 4/4/01, effective 5/5/01)

WAC 308-78-045 Tax exempt use and circumstances. What are the conditions under which a refund of aircraft fuel tax can be claimed? Refund of the aircraft fuel tax paid may be claimed for the following uses or circumstances:

(1) Operation of aircraft by air carriers, supplemental air carriers, and foreign flag carriers, operating under part 121 of the Federal Aviation Administration Regulations, and local service commuters.

(2) Testing and experimental purposes in the manufacture or remanufacture of aircraft and for flight operations or experimental testing following manufacture, repair prior to delivery to a customer, or experimental testing of another aircraft.

(3) Aircraft crew training in Washington state for certified air carriers.

(4) When applying pesticides, herbicides, or other agricultural chemicals under conditions defined in RCW 82.42.020.

(5) Exportation of fuel from this state for use outside this state under the same conditions as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(6) Use of fuel in nonhighway equipment, other than aircraft, as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(7) Sales to the United States or foreign government agencies by a distributor who has paid the aircraft fuel tax. The distributor shall file an exemption certificate provided by the department. This certificate shall contain an assignment to the distributor of the purchaser's right to a refund.

(8) Users of aircraft fuel placed into helicopters or the wing tanks of aircraft that are used solely for air ambulance services are eligible for a refund of the aircraft fuel tax. For purposes of the tax exemption, aircraft fuel placed into the wing tanks of aircraft or placed into helicopters and consumed during training activities directly related to providing air ambulance services is considered to be exempt from the aircraft fuel tax.

AMENDATORY SECTION (Amending WSR 01-08-083, filed 4/4/01, effective 5/5/01)

WAC 308-78-010 Definitions. (1) "Aircraft fuel" includes any combustible gas or liquid, which is normally defined as motor vehicle fuel under chapter 82.36 RCW and chapter 308-72 WAC or a special fuel under chapter 82.38 RCW and chapter 308-78 WAC when used to propel an aircraft.

(2) "User" means any person other than a distributor who is certified to acquire aircraft fuel without payment of the aircraft fuel tax at time of acquisition.

(3) "Local service commuter" means an air taxi operator who operates at least five round trips per week between two or more points; publishes flight schedules which specify the times, days of the week, and points between which it operates; and whose aircraft has a maximum capacity of sixty passengers or eighteen thousand pounds of useful load.

(4) "Private, nonstate funded airfield" means an airport not eligible to receive state funding under chapter 47.68 RCW.

(5) "Department" means the department of licensing.

(6) "Emergency medical air transport entities" means entities that own or lease, and operate aircraft used solely for air ambulance services.

WSR 04-06-005

PERMANENT RULES

GAMBLING COMMISSION

[Order 427—Filed February 19, 2004, 4:31 p.m., effective July 1, 2004]

Date of Adoption: February 12, 2004.

Purpose: Betting limits at house-banked card rooms. After six months of debate and testimony, on a 4-1 vote the commission continued betting limits of \$100, but permitted house-banked card rooms to allow up to \$200 betting limits on one table if authorized for five tables or less; two tables if authorized for six to ten tables; and three tables if authorized for more than ten tables. The original petition for rule change submitted by the Recreational Gaming Association was for a WAC change to allow an across the board \$300 wager limit.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-120.

Statutory Authority for Adoption: RCW 9.46.070

Adopted under notice filed as WSR 03-17-102 on [August 20, 2003], with a published date of September 3, 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 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2004.

February 18, 2004

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 422, filed 8/15/03, effective 9/15/03)

WAC 230-40-120 Limits on wagers in card games. Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

Nonhouse-banked card games.

(1) Poker:

(a) There shall be no more than five betting rounds in any one game;

(b) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and

(c) The maximum amount of a single wager shall not exceed twenty-five dollars((-));

(2) Games based on achieving a specific number of points - each point shall not exceed five cents in value((-));

(3) An ante, except for panguingue (pan), shall not be more than the maximum wager allowed for the first betting round for any game. The ante may, by house rule, be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round. An ante, by house rule, may be used as part of a player's wager((-));

(4) Panguingue (pan) - the maximum value of a chip for a payoff shall not exceed ten dollars. An ante will not exceed one chip. Doubling of conditions is prohibited. Players going out may collect not more than two chips from each participating player((-));

House-banked card games.

(5) Licensees authorized to conduct house-banked card games shall not allow a single wager to exceed one hundred dollars, except that such licensees may allow a single wager of up to two hundred dollars on a limited number of tables as follows:

(a) Licensees authorized to operate five tables or fewer may operate one table at the two hundred dollar limit;

(b) Licensees authorized to operate from six to ten tables may operate two tables at the two hundred dollar limit; and

(c) Licensees authorized to operate more than ten tables may operate three tables at the two hundred dollar limit;

(6) A single wager may be made on each separate element of chance. In addition, for blackjack, an additional wager may be placed for doubling down or splitting pairs; and

PERMANENT

(7) Bonus wagers for house-banked progressive jackpots shall not exceed one dollar. Bonus wagers with a predetermined prize amount based upon a separate element of chance within the same game shall not exceed the authorized maximum table limits as described in subsection (5) of this section.

WSR 04-06-007

PERMANENT RULES

LIQUOR CONTROL BOARD

[Filed February 20, 2004, 11:38 a.m.]

Date of Adoption: January 21, 2004.

Purpose: The purpose of this change to WAC 314-20-020 Beer labels—Certificate of label approval required—Labels to be submitted, is to require labels for strong beer to list the beer's alcohol content. Strong beer is defined in law as a malt beverage containing more than 8% alcohol by weight (approximately 10% by volume).

Citation of Existing Rules Affected by this Order: Amending WAC 314-20-020.

Statutory Authority for Adoption: RCW 66.08.030, 66.04.010, 66.28.120.

Adopted under notice filed as WSR 03-22-092 on November 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 18, 2004

Merritt D. Long

Chair

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-20-020 Beer labels—Certificate of label approval required—Labels to be submitted. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on a form prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) No label shall be used that is misleading.

(5) Every producer, importer, or distributor of beer shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

(6) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(7) For strong beer, the label must contain the beer's alcohol content, stated in terms of percentage of alcohol by volume. Per RCW 66.04.010, strong beer means any malt beverage that contains more than eight percent of alcohol by weight, which is approximately ten percent of alcohol by volume.

WSR 04-06-010

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed February 20, 2004, 2:15 p.m.]

Date of Adoption: January 30, 2004.

Purpose: This rule will provide specific details on the continuing education requirements currently in place by chapter 246-809 WAC. These details include distance learning, industry recognized institutions and relevancy to the profession.

Citation of Existing Rules Affected by this Order: Amending WAC 246-809-610, 246-809-620, and 246-809-630.

Statutory Authority for Adoption: RCW 18.225.040.

Adopted under notice filed as WSR 03-19-132 on September 17, 2003.

Changes Other than Editing from Proposed to Adopted Version: All comments were included in rule.

Throughout the rule, individual professions are spelled out instead of using the term "licensed counselors."

The term "supervision" in WAC 246-809-610 was changed to "consultation."

In WAC 246-809-620(8), American Mental Health Counselors Association was changed to "Washington Mental Health Counselors Association."

In WAC 246-809-620, subsection (10) was deleted removing the reference to American Psychological Association.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 20, 2004

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-11-108, filed 5/20/02, effective 6/20/02)

WAC 246-809-610 What courses are acceptable? The continuing education (CE) program or course ~~((shall))~~ must be relevant to licensed marriage and family therapists, licensed mental health counselors and licensed social workers and must contribute to the advancement, extension and enhancement of the professional competence of the licensed ~~((counselor))~~ marriage and family therapist, licensed mental health counselor and/or licensed social worker. Courses or workshops primarily designed to increase practice income or office efficiency are ~~((specifically))~~ not eligible for CE credit. ~~((Counselors are encouraged to take CE relating to the various phases of their professional career.))~~

(1) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:

(a) Programs having a featured instructor, speaker(s) or panel approved by an industry-recognized local, state, national, international organization or institution of higher learning; or

(b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. These programs must require tests of comprehension upon completion. Distance learning programs are limited to twenty-six hours per reporting period.

(2) Training programs sponsored by the agency where a counselor is employed are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed ~~((counselor))~~ marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and

(b) The training programs are limited to twenty-six hours per reporting period.

(3) Other learning experience, such as serving on a panel, board or council, community service, research, peer

consultation, or publishing articles for professional publications are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed ~~((counselor))~~ marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and

(b) The experience is limited to six hours per reporting period.

AMENDATORY SECTION (Amending WSR 02-11-108, filed 5/20/02, effective 6/20/02)

WAC 246-809-620 What are industry-recognized local, state, national, international organizations or institutions of higher learning? ~~((They are))~~ Recognized organizations or institutions include, but are not limited to, the following organizations:

(1) Washington Association for Marriage and Family Therapy;

(2) Washington State Society for Clinical Social Work;

(3) Washington Chapter of the National Association of Social Work;

(4) American Mental Health Counselors Association;

(5) American Association for Marriage and Family Therapy;

~~((2))~~ (6) Clinical Social Work Federation;

~~((3))~~ (7) National Association of Social Workers;

~~((4 American))~~ (8) Washington Mental Health Counselors Association;

~~((5))~~ (9) National Board for Certified Counselors; ~~((or~~

~~6))~~ (10) Society for Social Work Leadership in Health Care; or

(11) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

AMENDATORY SECTION (Amending WSR 02-11-108, filed 5/20/02, effective 6/20/02)

WAC 246-809-630 How many hours do I need and in what time period? Licensed ~~((counselors))~~ marriage and family therapists, licensed mental health counselors and licensed social workers must complete thirty-six hours of continuing education every two years. At least six of the thirty-six hours must be in professional ethics and law, which may include topics under RCW 18.130.180.

WSR 04-06-011

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed February 20, 2004, 2:17 p.m.]

Date of Adoption: October 31, 2003.

Purpose: These rules assure that clients will have adequate information to decide whether or not to enter into counseling with the licensed counselor.

Statutory Authority for Adoption: RCW 18.225.040.

Adopted under notice filed as WSR 03-19-134 on September 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 20, 2004

M. C. Selecky
Secretary

NEW SECTION

WAC 246-809-700 Client disclosure information.

Licenses must provide disclosure information to each client in accordance with chapter 18.225 RCW prior to implementation of a treatment plan. The disclosure information must be specific to the type of treatment service offered; in a language that can be easily understood by the client; and contain sufficient detail to enable the client to make an informed decision whether or not to accept treatment from the disclosing licensee.

Firms, agencies, or businesses having more than one licensee involved in a client's treatment, may provide disclosure information general to that agency. In these cases, the licensee would not be required to duplicate the information disclosed by the agency.

The disclosure information may be printed in a format of the licensee's choosing, but must include all required disclosure information per WAC 246-809-710.

NEW SECTION

WAC 246-809-710 Required disclosure information.

(1) The following information shall be provided to each client at the commencement of any program of treatment:

- (a) Name of firm, agency, business, or licensee's practice;
- (b) Licensee's business address and telephone number;
- (c) Washington state license number;
- (d) The licensee's name;
- (e) The methods or treatment modality and therapeutic orientation the licensee uses;
- (f) The licensee's education, and training;
- (g) The course of treatment, when known;
- (h) Billing information, including:
- (i) Client's cost per each treatment session; and

(ii) Billing practices, including any advance payments and refunds;

(i) Clients are to be informed that they as individuals have the right to refuse treatment and the right to choose a practitioner and treatment modality which best suits their needs;

(j) This subsection does not grant (clients) new rights and is not intended to supersede state or federal laws and regulations, or professional standards;

(k) The licensee must provide department of health contact information to the client so the client may obtain a list of or copy of the acts of unprofessional conduct listed under RCW 18.130.180. Department of health contact information must include the name, address, and telephone number for the health professions complaint process.

(2) Signatures are required of both the licensee providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

NEW SECTION

WAC 246-809-720 Failure to provide client disclosure information. Failure to provide the client disclosure information required under WAC 246-809-700 and 246-809-710, and required under RCW 18.225.100, constitutes an act of unprofessional conduct as defined in RCW 18.130.180(7).

WSR 04-06-018

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 23, 2004, 2:06 p.m.]

Date of Adoption: February 23, 2004.

Purpose: The purpose of this rule-making order is to adopt amendments modifying the isolation standards for small grain certification by increasing the distance between fields of the same genus from three feet to ten feet. This action is in response to a change in national standards set by the Association of Official Certifying Agencies.

Citation of Existing Rules Affected by this Order: Amending WAC 16-302-685.

Statutory Authority for Adoption: RCW 15.49.370(3) and 15.49.310.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 04-01-179 on December 23, 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 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 23, 2004

Valoria Loveland

Director

AMENDATORY SECTION (Amending WSR 02-12-060, filed 5/30/02, effective 6/30/02)

WAC 16-302-685 Small grains standards for seed certification. (1) Land, isolation, and field standards for small grains (barley, oat, rye, triticale, and wheat) seed certification are:

CLASS	LAND STANDARDS MINIMUM YEARS	ISOLATION STANDARDS MINIMUM FEET	OFF-TYPE	FIELD STANDARDS		WILD OAT MAXIMUM PLANTS/ACRE
			MAXIMUM HEAD RATIO	OTHER CROP MAXIMUM HEAD RATIO		
Foundation	2*	90 same genus** 3 different genus	None found	None found***	None found	None found
Registered	1*	((3)) 10 same genus 3 different genus**	1/148,000	1/148,000***		5
Certified	1*	((3)) 10 same genus 3 different genus**	1/49,000	1/49,000***		5

* Waived if the previous crop is grown from an equal or higher certified class of seed of the same variety.

** ((Refers to distance from other small grain fields. Foundation class fields must be isolated ninety feet from fields of the same genus. In addition,)) Each rye field for certification must be isolated by three feet from fields producing a certified class of the same variety, and by six hundred sixty feet from other rye fields. Each triticale field for certification must be isolated by three feet from fields producing a certified class of the same variety, and by three hundred feet from other triticale, rye and wheat fields for foundation and registered class, and ((three)) ten feet for certified class, unless otherwise stated by the plant breeder.

*** Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat; and no vetch is permitted in barley, oat, rye, triticale, or wheat.

minimum Washington viability standards. NOTE: State and federal seed laws require seed be labeled based on a germination test.

Note: For all classes the purity analysis is based on 100 grams examined. For registered and certified classes, noxious weed, vetch, off-type, and other small grain determinations are based on 500 grams examined. For foundation class, noxious weed, vetch, off-type, and other small grain determinations are based on 1000 grams examined.

(2) Small grains - seed standards:

Class	Foundation	Registered	Certified
Pure seed (min.)	98%	98%	98%
Inert (max.)	2%	2%	2%
off-type(*) (max.)	None found	2/lb	4/lb
Other small grain(*) (max.)	None found	1/lb	2/lb
Other crop(**) (max.)	None found	0.03%	0.05%
Weed seed (max.)	0.01%	0.01%	0.03%
Objectionable weed seed(***) (max.)	None found	None found	1/lb
Wild oat (max.)	None found	None found	None found (****)
Viability(*****) (min.)	85%	85%	85%

(*) The combination of other small grain and off-type must not exceed 2/lb for registered class, and 4/lb for certified class. The tolerance for rye or triticale, is none found in barley, oat, or wheat. The tolerance for rye is none found in triticale. The tolerance for triticale is none found in rye.

(**) Excluding off-type and other small grain. No vetch is allowed in small grain seed

(***) Excluding wild oat.

(****) 1/lb for certified class oat.

(*****) A certification certificate is issued upon receipt of either an official AOSA tetrazolium or germination test which meets

WSR 04-06-019
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed February 23, 2003, 2:08 p.m.]

Date of Adoption: February 23, 2004.

Purpose: To adopt amendments to the annual and rough bluegrass quarantine (chapter 16-301 WAC) that remove range, reclamation, and forage type grass seed stocks from the quarantine requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 16-301-250, 16-301-265, 16-301-270, 16-301-310, 16-301-325, 16-301-330, and 16-301-335.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 04-01-182 on December 23, 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 7, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

PERMANENT

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 23, 2004

Valoria Loveland

Director

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-250 Annual bluegrass quarantine—

Definitions. Definitions for terms in this chapter may be found in chapter 15.49 RCW and WAC 16-301-005, except for the purposes of WAC 16-301-255 through 16-301-295, the following definitions shall apply:

(1) "Annual bluegrass" means *Poa annua* and all related subspecies and hybrids.

(2) "Seed stock" means those seeds of turf type grasses which are to be planted for seed increase or with intent of seed increase.

(3) "Annual bluegrass analysis certificate" means a test report from an official seed laboratory showing freedom from annual bluegrass based on a ten gram sample for bentgrass or redtop; and a twenty-five gram sample for other turf type grasses.

(4) "Quarantine tag" means a tag issued by Washington state department of agriculture to be sealed to each bag showing said seed has met quarantine requirements.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-265 Annual bluegrass quarantine—

Regulated articles. Articles regulated under the requirements of the annual bluegrass quarantine include seed stocks of all turf type grass species, such as, but not limited to, Kentucky bluegrass, ryegrass and red and chewings fescue.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-270 Annual bluegrass quarantine—

Conditions governing movement of regulated articles. (1) No seed stock may be shipped, transported, moved within, or into the annual bluegrass quarantine regulated area unless such seed stock is accompanied by a test report from an official laboratory showing said seed stock is free of annual bluegrass on the basis of a minimum ten gram analysis for bentgrass and a minimum of twenty-five gram analysis for other grasses except that seed stock found to contain annual bluegrass may be planted in the regulated area if planted in a nursery under an inspection program as established by the state department of agriculture.

(2) This quarantine shall not apply to seed sown for forage or turf. This quarantine shall not apply to range, reclamation, or forage type seed production fields.

(3) This quarantine shall not apply to:

(a) Experiments or trial grounds of the United States Department of Agriculture;

(b) Experiments or trial grounds of Washington State University experiment station; or

(c) Trial grounds of any person, firm, or corporation; provided said trial ground plantings are approved by the director and under supervision of technically trained personnel familiar with annual bluegrass control.

(4) Any person shipping, moving or transporting any seed stock for planting purposes in or into the regulated area that is not tagged with official "annual bluegrass quarantine" tags or a test report showing freedom of annual bluegrass as allowed in subsection (1) of this section must:

(a) State where and when seed stock can be sampled for the required annual bluegrass test; or

(b) Attach a copy of the official laboratory analysis showing freedom from annual bluegrass; or

(c) Submit a representative sample for testing.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-310 Rough bluegrass quarantine—

Definitions. Definitions for terms in this chapter may be found in chapter 15.49 RCW and WAC 16-301-005, except for the purposes of WAC 16-301-305 through 16-301-355, the following definitions shall apply:

(1) "Rough bluegrass" means *Poa trivialis* and all related subspecies.

(2) "Seed stock" means those seeds of turf type grasses which are to be planted for seed increase or with intent of seed increase.

(3) "Rough bluegrass analysis certificate" means a test report from an official seed laboratory showing freedom from rough bluegrass based on a twenty-five gram sample.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-325 Rough bluegrass quarantine—

Regulated articles. Articles regulated under the requirements of the rough bluegrass quarantine include:

(1) Seed stocks of all varieties of all turf type grasses.

(2) Seed production fields of rough bluegrass.

(3) Rough bluegrass sown for forage or turf.

(4) Regulated articles are not to include seed stock of species that are commonly used for range, reclamation or forage purposes.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-330 Rough bluegrass quarantine—

Conditions governing movement of regulated articles. No seed stock of turf type grasses may be shipped, transported, moved within, or into the rough bluegrass quarantine regulated area unless such seed stock is accompanied by a test

report from an official laboratory showing said seed stock is free of rough bluegrass on the basis of a minimum twenty-five gram analysis, except that seed stock found to contain rough bluegrass may be planted in the regulated area if planted in a nursery under an inspection program as established by the Washington state department of agriculture.

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-301-335 Rough bluegrass quarantine—Procedure for clearing seed stocks. Each person moving, shipping or transporting seed stock of turf type grasses in or into the rough bluegrass quarantine regulated area must:

- (1) Submit an official laboratory analysis of a representative sample showing freedom from rough bluegrass; or
- (2) Submit a representative sample for testing.

WSR 04-06-021

PERMANENT RULES

HEALTH CARE AUTHORITY

[Order 03-02—Filed February 23, 2004, 2:49 p.m.]

Date of Adoption: February 12, 2004.

Purpose: These rules govern prescription drug programs established pursuant to chapter 41.05 RCW and are necessary to implement SB 6088 (chapter 29, Laws of 2003), as codified at RCW 41.05.021. This new administrative chapter 182-50 WAC is set aside for management of the prescription drug programs administered by the Health Care Authority.

Statutory Authority for Adoption: RCW 41.05.160; SB 6088, section 10.

Adopted under notice filed as WSR 04-01-186 on December 23, 2003.

Changes Other than Editing from Proposed to Adopted Version: In addition to correcting typographical errors in WAC 182-50-005(3), the agency amended WAC 182-50-001 and 182-50-200 for clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 8, 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 8, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 18, 2004

Melodie Bankers

Rules Coordinator

Chapter 182-50 WAC

PRESCRIPTION DRUG PROGRAMS

NEW SECTION

WAC 182-50-001 Authority and purpose. RCW 41.05.021 (1)(a)(iii) and 70.14.050 authorize the administrator to establish an independent Washington state pharmacy and therapeutics committee within the health care authority to evaluate available evidence of the relative safety, efficacy and the effectiveness of prescription drugs within a class of prescription drugs, in the development of an evidence-based prescription drug program for participating state purchased health care programs. This section requires the administrator to adopt rules governing practitioner endorsement and use of any preferred drug list developed as part of the prescription drug program.

NEW SECTION

WAC 182-50-005 Definitions. When used in this chapter:

(1) "Appointing authority" shall mean the following persons acting jointly: The administrator of the health care authority, the secretary of the department of social and health services, and the director of the department of labor and industries.

(2) "Committee" means the independent Washington state pharmacy and therapeutics committee created by RCW 41.05.021 (1)(a)(iii) and 70.14.050. At the election of the department of social and health services, the committee may serve as the drug use review board provided for in WAC 388-530-1850.

(3) "Drug" means the term as it is defined in RCW 69.41.010 (9) and (12).

(4) "Endorsing practitioner" means a practitioner who has reviewed the preferred drug list and has notified the health care authority that he or she has agreed to allow therapeutic interchange of a preferred drug for any nonpreferred drug in a given therapeutic class.

(5) "Practitioner" means a health care provider, except a veterinarian, as defined at RCW 18.64.011(9).

(6) "Preferred drug" means a drug selected by the appointing authority for inclusion in the preferred drug list used by applicable state agencies for state purchased health care programs.

(7) "Preferred drug list" or "PDL" means the list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

(8) "Prescription" has the meaning set forth in RCW 18.64.011(8).

(9) "Refill" means the continuation of therapy with the same drug (including the renewal of a previous prescription or adjustments in dosage) when a prescription is for an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug.

(10) "State purchased health care" has the meaning set forth in RCW 41.05.011(2).

(11) "Therapeutic alternatives" are drug products of different chemical structure within the same pharmacologic or therapeutic class and that are expected to have similar therapeutic effects and safety profiles when administered in therapeutically equivalent doses.

(12) "Therapeutic interchange" means to dispense, with the endorsing practitioner's authorization, a therapeutic alternative to the prescribed drug.

NEW SECTION

WAC 182-50-010 Purpose of the pharmacy and therapeutics committee. The purpose of the committee is to evaluate the available evidence of the relative safety, efficacy, and effectiveness of prescription drugs within a class of prescription drugs and make recommendations to the appointing authority for its deliberation in the development of the preferred drug list established in RCW 70.14.050.

NEW SECTION

WAC 182-50-015 Open Public Meetings Act and Administrative Procedure Act; exception as technical review committee. (1) Meetings of the pharmacy and therapeutics committee shall in all respects comply with the provisions of the Open Public Meetings Act, chapter 42.30 RCW, and shall be subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW, as applicable.

(2) The pharmacy and therapeutics committee shall constitute a technical review committee created to facilitate the development, acquisition, or implementation of a preferred drug list, for the purposes of state purchased health care under RCW 41.05.026, and as such may hold an executive session in accordance with chapter 42.30 RCW during any regular or special meeting to discuss information submitted in accordance with RCW 41.05.026 (1) through (5).

NEW SECTION

WAC 182-50-025 Membership and qualifications of pharmacy and therapeutics committee. (1) The committee shall consist of no fewer than ten members appointed by the appointing authority.

(2) The appointing authority has the sole right to appoint committee members and may terminate appointment of any member at any time during the term.

(3) The appointing authority will make appointments to the committee from a pool of interested applicants. Interested persons will be provided an opportunity to submit applications to the appointing authority.

(4) Members shall enter into an agreement with the health care authority at the time of their appointment to the committee and shall act in accordance with all of its terms and conditions. Failure to do so may result in termination of the appointment.

(5) The membership composition at all times shall be consistent with applicable federal requirements under the Federal Social Security Act, Title 19 § 1927 and the requirements of the department of social and health services medical assistance administration for its drug utilization review board. Therefore, pharmacists and physicians each shall rep-

resent at least thirty-one percent, but no more than fifty-one percent of committee membership respectively.

(6) Members must be actively practicing in their clinical area of expertise throughout the entire term of their appointments.

(7) Members must have knowledge and expertise in one or more of the following:

(a) Clinically appropriate prescribing of covered outpatient drugs;

(b) Clinically appropriate dispensing and monitoring of covered outpatient drugs;

(c) Drug use review;

(d) Medical quality assurance;

(e) Disease state management; or

(f) Evidence-based medicine.

(8) Members of the committee shall not be employed by a pharmaceutical manufacturer, a pharmacy benefits management company, or by any state agency administering state purchased health care programs during their term shall not have been so employed and for eighteen months prior to their appointment.

(9) A member shall not have a substantial financial conflict of interest including any interest in any pharmaceutical company, including the holding of stock options or the receipt of honoraria or consultant moneys. The appointing authority in its sole discretion may disqualify any potential member if it determines that a substantial conflict of interest exists.

(10) As part of the application process, prospective committee members shall complete a conflict of interest disclosure form, provided by the appointing authority, and after appointment, annually by July 1st of each year. Members must keep their disclosure statements current and provide updated information whenever circumstances change.

(11) Committee members must agree to keep all proprietary information confidential.

NEW SECTION

WAC 182-50-030 Period of appointment. (1) Members shall be appointed to a term of three years and shall serve until a successor is duly appointed. A member may be reappointed to one additional three-year term for a total of six years. One year after the end of a six-year term, a person is eligible for appointment to one additional three-year term.

(2) Committee members serve staggered three-year terms. Of the initial appointees, in order to provide for staggered terms, some members may be appointed initially for less than three years. If the initial appointment is for less than twenty-four months, that period of time shall not be counted toward the limitation of years of appointment described in subsection (1) of this section.

(3) Vacancies on the committee will be filled for the balance of the unexpired term from nominee lists for the appropriate committee category as provided under WAC 182-50-025.

(4) Members of the committee will be compensated for participation in the work of the committee in accordance with a personal services contract executed after appointment and

prior to commencement of activities related to the work of the committee.

NEW SECTION

WAC 182-50-035 Duties. Committee members shall:

- (1) Select a chair and a vice-chair from among the committee membership.
- (2) Meet at least quarterly and may meet at other times at the discretion of the chair.
- (3) Adopt a plan of operation that sets forth the policies and procedures established by the committee to develop an evidence-based prescription drug program as authorized by state law for approval by the appointing authority.
- (4) Operate according to the plan of operation as approved by the appointing authority.

NEW SECTION

WAC 182-50-200 Endorsing practitioner therapeutic interchange program; effect of practitioner's endorsing status; dispense as written instructions. (1) When filling prescriptions for participating state purchased health care programs, pharmacists shall dispense a preferred drug in place of a drug not included in the preferred drug list in a given therapeutic class whenever pharmacists receive a prescription from an endorsing practitioner except:

- (a) If the endorsing practitioner determines the nonpreferred drug is medically necessary by indicating "dispense as written" on the prescription; or
 - (b) If the prescription is a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug.
- (2) When a therapeutic interchange is made, the pharmacist shall notify the endorsing practitioner of the specific drug and dose dispensed.
- (3) When a nonendorsing practitioner issues a prescription for a drug not included in the preferred drug list, the pharmacist shall dispense the prescribed drug in accordance with the requirements of RCW 69.41.100 through 69.41.180.

WSR 04-06-024

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed February 23, 2004, 3:36 p.m.]

Date of Adoption: February 19, 2004.

Purpose: The department is amending and repealing the following rules in compliance with the directives of ESSB 6387, section 202(8), chapter 371, Laws of 2002, to control rate and reimbursement decisions with families adopting special needs children. The only method of compliance available to the department in seeking to secure permanent families for special needs children and assist those families in accessing needed social services is to maximize use of federal funds. Amendment and repeal of current WACs brings the

department in compliance with federal rules and allows federal funds to be captured.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-27-0225, 388-27-0235, 388-27-0240, 388-27-0245 and 388-27-0270; and amending WAC 388-27-0120, 388-27-0130, 388-27-0135, 388-27-0155, 388-27-0160, 388-27-0165, 388-27-1075, 388-27-0190, 388-27-0195, 388-27-0200, 388-27-0210, 388-27-0215, 388-27-0220, and 388-27-0230.

Statutory Authority for Adoption: RCW 74.13.109, 74.13.031.

Other Authority: ESSB 6387, section 202(8), chapter 371, Laws of 2002; 42 U.S.C. 671-675.

Adopted under notice filed as WSR 04-01-088 on December 16, 2003, and WSR 04-02-026 on December 30, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 14, Repealed 5.

Effective Date of Rule: Thirty-one days after filing.

February 19, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0120 What is the legal basis of the department's adoption support program? The legal authorities for the program are:

(1) Revised Code of Washington (RCW) 74.13.100 through 74.13.159;

(2) Chapter 42 United States Code (U.S.C.) ((673)) 671-675; and

(3) The U.S. Department of Health and Human Services (DHHS) policy ((~~announcement ACFY CB PA 01 01~~ (~~issued January 23, 2001~~) establishing)) guidelines for states to use in determining a child's eligibility for Title IV-E adoption assistance (contained in DHHS Policy Manual).

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0130 What definitions apply to the adoption support program? The following definitions apply to this chapter:

"Adoption" means the granting of an adoption decree consistent with chapter 26.33 RCW.

"Adoption support agreement" means a written contract between the adoptive parent(s) and the department that identifies the specific support available to the adoptive ((par-ents(s))) parent(s) and other terms and conditions of the agreement.

"Adoption support cash payment" means ((basic)) negotiated monthly cash payments paid pursuant to an agree-ment between the adoptive parent(s) ((by)) and the depart-ment after the child's adoption.

~~((**"Adoption support special rate"** means monthly cash payments in addition to the basic adoption support rate. The department may authorize payment of these funds only to meet documented exceptional expenses necessary to address the special needs condition of the child.~~

~~**"Adoption support supplemental cash payment"** means cash payments in addition to the adoption support basic monthly cash payments and the adoption support special rate. These supplemental payments enable the special needs child to receive services not funded by the monthly cash support payment or other resources. Note: Only children adopted on or after July 1, 1996 are eligible for supplemental cash payments.))~~

"Applicant" means a person or couple applying for adoption support on behalf of a child the person or couple plans to adopt.

"Child placing agency" means a private nonprofit agency licensed by the department under chapter 74.15 RCW to place children for adoption or foster care.

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

"Extenuating circumstances" means a finding by an administrative law judge or a review judge that one or more certain qualifying conditions or events prevented an other-wise eligible child from being placed on the adoption support program prior to adoption.

"Medical services" means services covered by Medic-aid (and administered by the medical assistance administra-tion) unless defined differently in the adoption support agree-ment.

"Negotiation" means the process of working toward an agreement between the department and the adoptive parent on the terms of the adoption support agreement, including any amount of monthly cash payment.

"Nonrecurring costs" means reasonable, necessary, and directly related adoption fees, court costs, attorney fees, and other expenses the adoptive parent incurs when finalizing the adoption of a special needs child. Total reimbursement from the department may not exceed one thousand five hun-dred dollars.

"Placing agency" means the agency that has the legal authority to place the child for adoption. This may be the department or a private nonprofit child placing agency.

"Program" means the department's adoption support program.

"Reconsideration" means the limited state-funded sup-port available to an eligible child whose adoption was final-ized without a valid adoption support agreement in place.

"Resident state" (for purposes of the child's Medicaid eligibility) means the state in which the child physically resides. In some cases this may be different from the state of the parent's legal residence.

"Special needs" means the specific factors or condi-tions that apply to the child and that may prevent the child from being adopted unless the department provides adoption support services. See WAC 388-27-0140 for a detailed description of the factors or conditions.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0135 What are the eligibility criteria for the adoption support program? For a child to be eligi-ble for participation in the adoption support program, the department must first determine that adoption is the most appropriate plan for the child. If the department determines that adoption is in the child's best interest, the child must:

(1) Be less than eighteen years old when the department and the adoptive parents sign the adoption support agree-ment;

(2) Be legally free for adoption;

(3) Have a "special needs" factor or condition according to the definition in this rule (see WAC 388-27-0140); and

(4) Meet at least one of the following criteria:

(a) Is in state-funded foster care or child caring institu-tion or was determined by the department to be eligible for and likely to be so placed (For a child to be considered "eligi-ble for and likely to be placed in foster care" the department must have opened a case and determined that removal from the home was in the child's best interest.); or

(b) Is eligible for federally funded adoption assistance as defined in Title IV-E of the Social Security Act, the Code of Federal Regulations, the U.S. Department of Health and Human Services ((~~policy announcement, ACFY CB PA 01-01 (issued January 23, 2001))~~) establishing guidelines for states to use in determining a child's eligibility for Title IV-E adoption assistance((~~and any policy issuances of the Depart-ment of Health and Human Services~~)).

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0155 Are there other factors affecting a child's eligibility for adoption support? (1) A child is not eligible for adoption support program services and payments if the adopting parent is the birth parent or stepparent of the child.

(2) The department must not use the adoptive parents' income as a basis for determining the child's eligibility for the adoption support program((

~~(3))~~, however, the department must consider income and other financial circumstances of the adopting family as one factor in determining the amount of any adoption support cash payments to be made. (See WAC 388-27-0230((~~388-27-0235, and 388-27-0240 for details~~)).)

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0160 How does a prospective adoptive parent apply for adoption support services? There are two ways a prospective adoptive parent (applicant) may apply for adoption support services:

(1) An applicant may apply through the social worker of the child to be adopted. The social worker must:

(a) Register the child with the adoption support program; and

(b) Submit the applicant's completed program application along with a completed worksheet used to assist the family and the department in determining services and amount of monthly cash payment, if needed, based on the needs of the child and family circumstances.

(2) An applicant may also apply directly to the adoption support program for adoption support services if:

(a) The child does not have an assigned social worker; or

(b) The applicant and the social worker have a dispute regarding the content of the program application.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0165 What requirements apply to an application for ongoing adoption support? (1) The application must include a copy of the child's medical and family background report signed by the adoptive parent(s) (DSHS 13-041 minus the attachments). It must also include copies of medical and/or therapist reports that document the child's physical, mental, developmental, cognitive or emotional disability or risk of any such disability.

(2) If the applicant is requesting a cash payment, the applicant and the department must mutually determine both the type and amount according to the requirements of WAC 388-27-0230 ~~((and 388-27-0235))~~.

~~(3) ((If the applicant is requesting a supplemental cash payment, the applicant and the department must mutually determine the services for which the payment will be used and the expected duration of those services according to the requirements of WAC 388-27-820.~~

~~(4))~~ If the applicant is requesting reimbursement of non-recurring costs, the applicant must include this request in the application. (See WAC 388-27-0380 and 388-27-0385 for the type and amount of expenses the department may reimburse.)

~~((5))~~ (4) The applicant must furnish a copy of the applicant's most recently filed federal income tax return. If the applicant is not required to file a federal income tax return, the applicant must submit a financial statement with the applicant's adoption support application.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0175 What must be included in an adoption support agreement? The adoption support agreement must:

(1) State the amount of cash payments (if any) the department must make to the adoptive parent(s) on behalf of the child;

(2) Include an itemized list of the additional services (including Title XIX Medicaid and Title XX social services) for which the child is eligible;

(3) Contain statements that:

(a) Assure that participation in the adoption support program must continue, as long as the child is eligible, regardless of where the adoptive family resides;

(b) Inform the adoptive parent(s) ~~((that the agreement must be reviewed (and may be revised) at least once every five years; and))~~ of specific circumstances that may warrant further renegotiation and adjustment of the payment as agreed to by the adoptive parents and the department;

(c) Inform the adoptive parent(s) that the agreement must be reviewed every five years. Terms of the agreement may be modified according to WAC 388-27-0200;

~~(d))~~ Inform the adoptive ~~((parents(s)))~~ parent(s) that the department may suspend a child from the program within thirty days of any changes in circumstances (of the child or family) that affect the child's eligibility for program payments if the adoptive parent has failed to notify the department of the changes~~((-~~

~~(d)))~~; and

(e) Define the circumstances under which the agreement may be terminated.

(4) Be signed by all relevant parties before the final adoption decree is issued (45 C.F.R. Sec. 1356.40).

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0190 If the department implements adoption support services prior to the adoption, may the adoptive parent(s) continue to receive department-funded foster care payments while also receiving adoption support payments? (1) The adoptive parent(s) may not continue to receive department-funded foster care payments for a child while also receiving adoption support payments for the same child.

(2) If the adoptive parent(s) receives department-funded foster care for the child to be adopted, the department's social worker assigned to the child must terminate that coverage on the last day of the month preceding the month in which the adoption support becomes effective.

(3) Foster care payments are paid after the month of service. Adoption Support payments are paid prior to the month ~~((of service))~~.

(4) The adoptive parent(s) may not receive foster care payments and adoption support cash ~~((or supplemental))~~ payments for the same child for the same month ~~((of service))~~.

(5) If the adoptive parent is adopting a relative child and has been receiving a nonneedy relative grant the adoptive parent must notify the community services office financial services specialist that the adoption has been finalized. The adoptive parent may not receive both the grant and adoption support payments for the same month for the same child.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0195 **May the adoptive parent(s) change the benefits contained in the adoption support program?** The adoptive parent may submit a written request asking that the department (~~(reexamine))~~ renegotiate the benefits offered in the adoption support agreement whenever either the family's economic circumstances or the condition of the child changes.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0200 **When may the department modify the terms of the adoption support agreement?** The department's adoption support program may modify the terms of an adoption support agreement:

- (1) At the request of the adoptive parent(s);
- (2) When specific circumstances warrant renegotiation and adjustment of monthly cash payment as agreed to by the adoptive parents and the department;
- (3) When the department loses contact with the adoptive parent(s);
- ~~((3))~~ (4) When the child is placed outside of the adoptive parents' home at department expense;
- ~~((4))~~ (5) If the adoptive parent is no longer providing for the child's daily care and living expenses; or
- ~~((5))~~ (6) If the adoptive parent fails to notify the department's adoption support program within thirty days of a change of circumstance which affects the adopted child's continuing eligibility for adoption support program cash payments or services.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0210 **Under what circumstances would the adoption support agreement be terminated?** The adoption support agreement is terminated according to the terms of the agreement or if any one of the following events occurs:

- (1) The child reaches eighteen years of age; (If a child is at least eighteen but less than twenty-one years old and is a full-time high school student or working full time toward the completion of a GED (high school equivalency) certificate and continues to receive financial support from the adoptive parent(s), the department may extend the terms of the adoption support agreement until the child completes high school or achieves a GED. Under no circumstances may the department extend the agreement beyond the child's twenty first birthday.) Adoption support benefits will automatically stop on the child's eighteenth birthday unless the parent(s) requests continuation per this rule and have provided documentation of the child's continuation in school. To prevent disruption in services the parent should contact the adoption support program at least ninety days prior to the child's eighteenth birthday if continued services are to be requested.
- (2) ~~((The adoptive parents request termination of the agreement;~~

- ~~((3))~~ The adoptive parents no longer have legal responsibility for the child;
- ~~((4))~~ (3) The adoptive parents are no longer providing financial support for the child;
- ~~((5))~~ (4) The child dies; or
- ~~((6))~~ (5) The adoptive parents die. (A child who met federal Title IV-E eligibility criteria for adoption assistance will be eligible for adoption assistance in a subsequent adoption.)

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0215 **What benefits may the adoptive parent or child receive from the adoption support program?** The adoption support program may provide one or more of the following benefits:

- (1) Reimbursement for nonrecurring adoption finalization costs;
- (2) Cash payments;
- (3) ~~((Supplemental cash payments (only for adoptions finalized on or after July 1, 1996);~~
- ~~((4))~~ Payment for counseling services as pre-authorized (see WAC 388-27-0255 for conditions and terms)~~((;~~
- ~~((5))~~; or
- (4) Medical services through the department's Medicaid program~~((;~~
- ~~((6) Child care as pre-authorized per WAC 388-27-0270 (for children adopted on or after July 1, 1996)).~~

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0220 **What factors affect the amount of adoption support benefits a child receives?** The department bases the amount of support it provides on the child's needs and the family's circumstances, but limits ~~((the amount to the rates set by these rules, federal laws and rules, and the state legislature))~~ the cash payment to an amount that does not exceed the foster care maintenance rate the child would receive if the child was in a foster family home. Specific circumstances as agreed to by the adoptive parent and the department in the agreement, may warrant future renegotiation and adjustment of the payment determined in an assessment of the child.

AMENDATORY SECTION (Amending WSR 01-08-045, filed 3/30/01, effective 4/30/01)

WAC 388-27-0230 **How does the department evaluate a request for ~~((basic))~~ adoption support monthly cash payments?** (1) ~~((To determine the amount of basic monthly cash payment to be made, the department considers the child's physical, mental, developmental, cognitive and emotional condition and expenses as well as the adoptive family's))~~ The amount of the adoption support monthly cash payment is determined through the discussion and negotiation process between the adoptive parents and representatives of the department based upon the needs of the child and the circumstances of the family. The payment that is agreed upon should combine with the parents' resources to cover the ordi-

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nary and special needs of the child projected over an extended period of time. Anticipation and discussion of these needs are part of the negotiation of the amount of the adoption assistance payment.

(2) Family circumstances to be considered include:

- (a) Size, including the adopted child;
 - (b) Normal living expenses, including education and childcare expenses;
 - (c) Exceptional circumstances of any family member;
 - (d) Income;
 - (e) Resources and savings plans;
 - (f) Medical care and hospitalization needs;
 - (g) Ability to purchase or otherwise obtain medical care;
- and
- (h) Additional miscellaneous expenses related to the adopted child.

~~((2))~~ (3) The department and the adoptive parents will jointly determine the level of adoption support cash payments needed to meet the basic needs of the child without creating a hardship on the family.

~~((3))~~ (4) Under no circumstances may the amount of the ~~((basic))~~ adoption support monthly ~~((rate))~~ cash payment the department pays for the child exceed the ~~((adoption support rate established by the legislature for a child of that age))~~ amount of foster care maintenance payment that would be paid if the child were in a foster family home.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-27-0225 What are the current maximum rates available for basic adoption support monthly cash payments and special rate?
- WAC 388-27-0235 How does the department evaluate a request for adoption support special rate cash payments?
- WAC 388-27-0240 How does the department evaluate a request for adoption support supplemental cash payments?
- WAC 388-27-0245 What specific department requirements apply to supplemental cash payments?
- WAC 388-27-0270 What department requirements apply to child care services?

WSR 04-06-025

**PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 23, 2004, 3:39 p.m., effective April 1, 2004]

Date of Adoption: February 13, 2004.

Purpose: Amending WAC 388-408-0034 What is an assistance unit for Basic Food? and 388-408-0035 Who is in my assistance unit for Basic Food?, related to assistance units for the Washington Basic Food program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-408-0034 and 388-408-0035.

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

Adopted under notice filed as WSR 04-02-050 on January 5, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: April 1, 2004.

February 13, 2004

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

PERMANENT

AMENDATORY SECTION (Amending WSR 03-19-118, filed 9/16/03, effective 11/1/03)

WAC 388-408-0034 What is an assistance unit for basic food? For all sections of this chapter:

"We" means the department of social and health services;

"You" means ~~((the))~~ any person applying for or receiving benefits from the department including minor children;

"Assistance unit" or "AU" is the group of people who live together and whose income and resources we count to decide if you are eligible for benefits and the amount of benefits you get.

"Boarder" means a person who:

(1) We decide pays a reasonable amount for lodging and meals; or

(2) Is in foster care.

"Live-in attendant" means a person who lives in the home and provides medical, housekeeping, childcare, or similar personal services an AU member needs because:

(1) A member is aged, incapacitated, or disabled;

(2) A member of the AU is ill; or

(3) A minor child in the AU needs childcare.

"Parent" means a natural, step, or adoptive parent. A stepparent is not a parent to a child if the marriage to the child's natural parent ends due to divorce or death.

A person who lives with you pays a "reasonable amount" for meals if:

(1) You provide two or more meals a day and they pay at least the maximum allotment under WAC 388-478-0060 for their AU size; or

(2) You provide one meal a day and they pay at least two-thirds the maximum allotment under WAC 388-478-0060 for their AU size.

"Roomer" means a person who pays for lodging, but not meals;

A person has a "separate residence" from an AU if they have separate living, cooking, and sanitation facilities.

"Spouse" means your husband or wife through a legally recognized marriage.

AMENDATORY SECTION (Amending WSR 03-19-118, filed 9/16/03, effective 11/1/03)

WAC 388-408-0035 Who is in my assistance unit for basic food? (1) For basic food, a person must be in your assistance unit (AU) if they live in the same home as you and:

(a) Usually buy and fix food with you; or

(b) You provide meals for them and they pay less than a reasonable amount for meals.

(2) If the following people live with you, they must be in your AU even if you do not usually buy and fix food together:

(a) Your spouse;

(b) Your parents if you are under age twenty-two (even if you are married);

(c) Your children under age twenty-two;

(d) The parent of a child who must be in your AU;

(e) A child under age eighteen who doesn't live with their parent unless the child:

(i) Is emancipated;

(ii) Gets a TANF grant in their own name; or

(iii) Is not financially dependent on an adult in the AU because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings.

(3) If you live in an institution where you may be eligible for basic food under WAC 388-408-0040, we decide who is in your AU as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.

(4) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:

(a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;

(b) Do not meet ABAWD work requirements under WAC 388-444-0030.

(c) Do not meet work requirements under WAC 388-444-0055;

(d) Do not provide a social security number under WAC 388-476-0005;

(e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010;

(g) Are disqualified for a drug-related felony under WAC 388-442-0010.

(5) If your AU has an ineligible member:

(a) We count the ineligible member's income to your AU under WAC 388-450-0140;

(b) We count all the ineligible members resources to your AU; and

(c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.

(6) If the following people live in the same home as you, you can choose if we include them in your AU:

(a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your AU, the boarder cannot get basic food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get basic food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy and fix food with you.

(7) If someone in your AU is out of your home for a full issuance month, they are not eligible for benefits as a part of your AU.

(8) If someone received basic food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received basic food or food stamp benefits:

(a) In another state, you are not eligible for basic food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for basic food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(9) The following people who live in your home are not members of your AU. If they are eligible for basic food, they may be a separate AU:

(a) Someone who usually buys and fixes food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(10) A student who is ineligible for basic food under WAC 388-482-0005 is not a member of your AU.

WSR 04-06-026
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed February 23, 2004, 3:41 p.m.]

Date of Adoption: February 13, 2004.

Purpose: Amending WAC 388-418-0005 What type of changes must I report for cash, Basic Food, and medical assistance?, to reflect change reporting requirements for cash and Basic Food based on federal requirements for the food stamp program. This change moves Basic Food requirements under the correct heading under this rule on a permanent basis. This change was made on an emergency basis under WSR 04-02-073 (the permanent rule), when effective, will replace this emergency rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0005.

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

Adopted under notice filed as WSR 04-02-072 on January 7, 2004.

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.

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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.

February 13, 2004

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-028, filed 10/7/03, effective 11/1/03)

WAC 388-418-0005 What type of changes must I report for cash, Basic 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 Basic Food. 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.

Table 1 - Cash Assistance and Basic Food

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 Basic Food?
(1) Starts to get money from a new source;	Yes	Yes, but only if the change causes a change in the person's income.
(2) Has unearned income that changed by more than fifty 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 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

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Table 1 - Cash Assistance and Basic Food		
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 Basic Food?
(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, but only if it causes a change in the person's income.
(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.

Table 1 - Cash Assistance and Basic Food		
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 Basic Food?
(16) A change in work hours to below 20 hours per week averaged monthly.	No	Yes, but only if there are no children in your AU and the person is a nonexempt ABAWD under WAC 388-444-0030 and 388-444-0035.
(17) A change in legal obligation to pay child support.	No	Yes

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) or Children's Medical?	Do I have to report this change for Pregnancy Medical?
((16) A change in work hours to below 20 hours per week averaged monthly.)	((No))	((Yes, but only if there are no children in your AU and the person is a nonexempt ABAWD under WAC 388-444-0030 and 388-444-0035.))
((17) A change in legal obligation to pay child support.)	((No))	((Yes))
(18) Starts to get money from a new source;	Yes	No
(19) Has unearned income that changed;	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) or Children's Medical?	Do I have to report this change for Pregnancy Medical?
(20) 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
(21) Moves to a new residence;	Yes	Yes
(22) Has a change in shelter costs;	No	No
(23) Gets married, divorced, or separated;	Yes	No
(24) Gets a vehicle;	No	No
(25) Has a disability that ends;	No	No
(26) Has countable resources that are more than the resource limits under WAC 388-470-0005;	No	No
(27) Gets a job or changes employers;	Yes	No
(28) 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
(29) Has a change in hourly wage rate or salary;	Yes	No
(30) Stops working;	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) or Children's Medical?	Do I have to report this change for Pregnancy Medical?
(31) Has a pregnancy that begins or ends;	Yes	Yes
(32) Has a change in uncovered medical expenses.	(No) Yes, but only if an AU member has a 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)
(33) Starts to get money from a new source;	Yes	Yes
(34) Has unearned income that changed;	Yes	Yes
(35) Has a change in earnings or stops working	Yes	Yes
(36) 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
(37) Moves to a new residence;	Yes	Yes
(38) 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

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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)
(39) Gets married, divorced, or separated;	Yes	Yes
(40) 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
(41) Has a disability that ends;	Yes	Yes
(42) 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
(43) Has a change in uncovered medical expenses.	Yes, but only if an AU member has a spenddown.	Yes.

WSR 04-06-028
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed February 24, 2004, 2:12 p.m.]

Date of Adoption: February 24, 2004.

Purpose: This rule-making order increases Washington State Crop Improvement Association fees for certification of forest reproductive material by the Office of Financial Management (OFM) fiscal growth factor for fiscal year 2004 (3.20%). These increases are necessary to ensure that Washington State Crop Improvement Association revenues are sufficient to recover operating costs.

Citation of Existing Rules Affected by this Order: Amending WAC 16-319-041.

Statutory Authority for Adoption: RCW 15.49.370(3) and 15.49.310.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 04-01-180 on December 23, 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 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: Fee increases are limited to the OFM fiscal growth factor for 2004.

Effective Date of Rule: Thirty-one days after filing.

February 24, 2004

Valoria Loveland
Director

AMENDATORY SECTION (Amending WSR 03-06-006, filed 2/20/03, effective 3/23/03)

WAC 16-319-041 Application for certification of forest reproductive material. (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

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(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: Provided, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: Provided, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	\$ ((25-60)) <u>26.41/hr.</u>	\$ ((25-60)) <u>26.41/hr.</u>	When billed
Source Identified Classes:			
Lots 11 bu. and more	\$ ((0-84)) <u>0.86/bu.</u>	\$ ((25-60)) <u>26.41/hr.</u>	
Lots 6-10 bu.	\$ ((20-60)) <u>21.25/lot</u>	\$ ((25-60)) <u>26.41/hr.</u>	
Lots 0-5 bu.	\$ ((12-46)) <u>12.85/lot</u>	\$ ((25-60)) <u>26.41/hr.</u>	
Audit	None	\$ ((25-60)) <u>26.41/hr.</u>	When billed

(b) Tree certification - \$ ((25-60)) 26.41/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at \$ ((25-60)) 26.41/hr. payable when billed.

(d) OECD certification (certificates of provenance) - \$ ((0-59)) 0.60 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

WSR 04-06-029
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed February 24, 2004, 2:13 p.m.]

Date of Adoption: February 24, 2004.

Purpose: This rule-making order increases Washington State Crop Improvement Association fees for certification of buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains (WAC 16-303-340) by the Office of Financial Management (OFM) fiscal growth factor for fiscal year 2004 (3.20%). These increases are necessary to ensure that Washington State Crop Improvement Association revenues are sufficient to recover operating costs.

Citation of Existing Rules Affected by this Order: Amending WAC 16-303-340.

Statutory Authority for Adoption: RCW 15.49.370(3) and 15.49.310.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 04-01-181 on December 23, 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 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: Fee increase is limited by the OFM fiscal growth factor for 2004.

Effective Date of Rule: Thirty-one days after filing.

February 24, 2004
Valoria Loveland
Director

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AMENDATORY SECTION (Amending WSR 03-06-005, filed 2/20/03, effective 3/23/03)

WAC 16-303-340 Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains. (1) Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains are as follows:

(a) Application fee per variety per grower	\$(20.02) 20.66
(b) Field inspection fee per acre except millet and hybrid sorghum	\$(2.78) 2.86
(c) Millet - first acre	\$(29.78) 30.73
- each additional acre	\$(5.94) 6.13
(d) Hybrid sorghum - first acre	\$(29.78) 30.73
- each additional acre	\$(11.90) 12.28
(e) Special field inspection fee per acre	\$(2.37) 2.44
(f) Late application fee	\$(18.76) 19.36
(g) Reinspection fee	\$(37.56) 38.76

minimum for each field which did not pass field inspection plus \$ ~~((0.41))~~ 0.42 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is \$ ~~((37.56))~~ 38.76.

(h) Final certification fee	\$(0.235) 0.240
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per cwt. of clean seed sampled, which is charged to conditioning plant, or production fee

	\$0.105
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per cwt. of production from fields inspected which is utilized for seed, which is charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

(i) Sampling fee	\$0.105
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per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which is charged to conditioning plant in lieu of mechanical sampling.

(2) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee is refunded upon request until June 30 of the year following harvest.

(3) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

WSR 04-06-033
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed February 25, 2004, 3:43 p.m., effective April 1, 2004]

Date of Adoption: February 10, 2004.

Purpose: The purpose of this rule is to define the process by which the gorge commission certifies economic development grants and loans, awarded by the Washington and Oregon investment boards, as consistent with the federal Columbia River Gorge National Scenic Area Act, the management plan, and land use ordinances adopted pursuant to the act. This rule amendment establishes an expedited certification process for certain types of economic grants and loans. The amendment allows the executive director of the gorge commission to certify these grants and loans, rather than the full gorge commission, saving several weeks for applicants.

Citation of Existing Rules Affected by this Order: Amending 350-120-010, 350-120-020, 350-120-030, and 350-120-040.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: O.R.S. 196.150; 16 U.S.C. § 544i.

Adopted under notice filed as WSR 04-01-020 on December 8, 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 2, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 2004.

February 23, 2004

Nancy A. Andring

Rules Coordinator

AMENDATORY SECTION

350-120-010. Authority.

Section 11 (c)(1) of the Scenic Area Act requires the Commission to certify all activities undertaken under a National Scenic Area economic development grant and/or loan are consistent with the purposes of the Act, the manage-

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ment plan, and land use ordinances adopted pursuant to the Act.

The Scenic Area Act states as follows:

§ 544i. Economic development

~~(a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act.~~

~~(b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide \$5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of this Act.~~

~~(c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that—~~

~~(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of the Act, the management plan, and land use ordinances adopted pursuant to this Act;~~

~~(2) grants and loans are not used to relocate a business from one community to another;~~

~~(3) grants and loans are not used for program administration; and~~

~~(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 8 of this Act [16 USCS § 544f].~~

~~(d) Report. Each State shall—~~

~~(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;~~

~~(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and~~

~~(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.~~

~~16 USCS § 544i.~~

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 error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

350-120-015. Definitions.

For the purpose of this rule, the following definitions apply:

(1) "Activity" refers to the specific proposed action for which the grant or loan is being sought.

(2) "Project" refers to the ultimate business enterprise, development, and/or land use for which the activity supports or is a component part.

Reviser's note: The unnecessary underscoring 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

350-120-020. Application for Certification.

(1) The applicant shall submit one complete application to the Executive Director of the Commission.

(2) A complete application shall include:

(a) One complete copy of the application materials required by the state agency administering the grant or loan program, excluding confidential financial information;

(b) If the proposed project will be located entirely or partially within the general management area or special management area one complete copy of a Scenic Area land use ordinance development review decision, issued by the applicable county planning director, approving the proposed project as consistent with the ordinance requirements, or a copy of a letter from the applicable county planning director stating why the proposed project does not require review under the county's Scenic Area land use ordinance;

(c) One completed application for certification form, available from the Gorge Commission and/or the state agencies administering the grant or loan program. The form shall include the following information:

(A) applicant's name and business address;

(B) description of proposed project and activity for which a Scenic Area grant or loan is sought;

(C) legal description and map of the specific location of proposed project; if project has multiple or regional locations, these should be identified;

(D) description of the existing use of the property or properties on which the project will be located and/or used;

(E) a statement setting forth any local, state or federal permits required and a report on their status; and

(F) signature of applicant and property owner if, different from applicant.

(d) One copy of each of any state and federal environmental permits that have been issued for the proposed project. If permits have not been received, copies of permit applications shall be submitted instead.

(3) The Director shall review the application and determine if it is complete. If it is not complete, the applicant is required to submit the additional information requested by the Director. Once the Director determines the application is complete, the process of staff analysis shall begin.

NEW SECTION

350-120-025. Certification Procedures.

All applications for certification shall follow either the process in 350-120-030 through 040 or the process in 350-120-050.

Reviser's note: The unnecessary underscoring 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**350-120-030. Recommendation of the Director.**

(1) In making a recommendation on a proposed grant or loan the Director shall:

(a) Consult with the applicant and such agencies as the Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(2) The Director shall recommend a grant or loan for certification only if it is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.

(3) Within ~~15 working~~ 21 days of acceptance of the application as complete, the Director shall issue a report setting forth the recommendation and the basis for it.

(4) The Director shall mail a copy of the ~~decision report~~ to the applicant, Gorge Commissioners, the Forest Service, the States of Oregon and Washington, the Indian Tribes with treaty rights in the Scenic Area, and the planning director of the applicable county or city.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**350-120-040. Review and Decision by Commission.**

(1) The Commission shall review the recommendation and report of the Director at a scheduled meeting. Public comment shall be allowed.

(2) The Commission may request further information at the meeting if it is deemed relevant to its decision.

(3) At the first Commission meeting occurring five (5) or more working days of after issuance of the Director's report, the Commission shall make a decision on the grant or loan, as follows:

(a) approve the request, certifying the grant or loan is consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act;

(b) approve the request contingent upon approval of certain required state and/or federal environmental permits;

(c) defer the decision, pending receipt of further information; or

(d) deny the request, stating that the grant or loan is not consistent with the purposes of the Act, the management plan and land use ordinances adopted pursuant to the Act.

(4) The Director shall notify the applicant, and the applicable state investment board of the Commission's decision.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**350-120-050. Expedited Certification.**

(1) The Executive Director of the Gorge Commission may issue a decision for a certification application that meets all of the following criteria. The Executive Director may, at

his or her discretion, require an application be reviewed pursuant to 350-120-030 and 040 above.

(a) The project and activity shall not involve ground disturbance or changes to structures that are 50 years old or older;

(b) The project shall be located wholly within an Urban Area;

(c) The project and activity shall be consistent with the economic development policies in the Management Plan

(d) The project and activity shall be consistent with the Economic Development Plans for Oregon and Washington as amended from time to time by the states consistent with Section 11(a) of the Scenic Area Act;

(e) The project shall not involve relocation of a business from one National Scenic Area community to another;

(f) The activity shall not involve program administration; and

(g) The project shall occur only in counties that have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary.

(2) In making a decision to certify a proposed grant or loan the Director shall:

(a) Consult with the applicant and such agencies as the Director deems appropriate, and

(b) Consider information submitted by the applicant and all other relevant information available.

(3) The Director shall approve a grant or loan for certification only if it is consistent with the purposes of the Act, and the management plan.

(4) Within 14 days of acceptance of the application as complete, the Director shall issue a decision along with findings of fact and conclusions of law setting forth the basis for the decision.

(5) The Director shall mail a copy of the decision to the applicant, the Forest Service, the States of Oregon and Washington, the Indian Tribes with treaty rights in the Scenic Area, the planning director of the applicable county or city, and any person who requests a copy of the decision.

(6) The Executive Director shall prepare periodic summaries of the certifications approved through this expedited process for submission to the Gorge Commission.

Reviser's note: The unnecessary underscoring 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 04-06-047

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 1, 2004, 10:57 a.m.]

Date of Adoption: February 13, 2004.

Purpose: The purpose of this rule revision is to update the criteria for compliance regarding public water system performance and to be consistent with other drinking water regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 246-294-001, 246-294-010, 246-294-020, 246-294-030, 246-294-040, 246-294-050, 246-294-060, 246-294-070, 246-294-080, and 246-294-090.

Statutory Authority for Adoption: Chapter 70.119A RCW.

Adopted under notice filed as WSR 03-23-134 on November 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 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, 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.

February 27, 2004

B. White

for Mary Selecky
Secretary

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-001 Purpose. ~~((The rules set forth in))~~ This chapter ~~((are adopted for the purpose of implementing the provisions of))~~ implements chapter 70.119A RCW and sets operating permit requirements to help assure ~~((that))~~ Group A water systems provide safe and reliable drinking water to the public ~~((in accordance))~~ consistent with chapter 246-290 WAC, state board of health drinking water regulations and chapter 246-292 WAC, water works operator certification regulations.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-010 Definitions. Abbreviations:

EPA - Environmental Protection Agency

MCL - maximum contaminant level

NTNC - nontransient noncommunity

SMA - satellite ~~((system))~~ management agency

SSNC - state significant noncomplier

TNC - transient noncommunity

VOC - volatile organic chemical

WFI - water facilities inventory

"Adequacy" means an assessment, based upon evaluation of the department's records, of a water system's current ability to provide safe and reliable drinking water in accordance with applicable drinking water statutes and regulations.

"Community water system" means any Group A water system:

With fifteen or more services used by residents for one hundred eighty or more days within a calendar year, regardless of the number of people; or

Regularly serving twenty-five or more residents for one hundred eighty or more days within the calendar year, regardless of the number of services.

"Department" means the Washington state department of health.

"Drinking water regulations" means the provisions of chapter 70.119A RCW, chapter 246-290 WAC, state board of health drinking water regulations and chapter 246-292 WAC, water works operator certification regulations, that help assure Group A public water systems provide safe and reliable drinking water.

"Group A water systems" ~~((and "system" means a public water system:~~

~~With fifteen or more service connections, regardless of the number of people; or~~

~~Serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections)) are defined as community and noncommunity water systems.~~

(a) Community water system means any Group A water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five year-round (i.e., more than one hundred eighty days per year) residents.

(b) Noncommunity water system means a Group A water system that is not a community water system. Noncommunity water systems are further defined as:

(i) Nontransient (NTNC) water systems that provide service opportunity to twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) Transient (TNC) water systems that serve:

(A) Twenty-five or more different people each day for sixty or more days within a calendar year;

(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days in a calendar year; or

(C) One thousand or more people for two or more consecutive days within a calendar year.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table ((4)) 3.

~~(("New Group A water system" means a system designed for fifteen or more services or to serve twenty-five or more people which:~~

~~The department has not acknowledged receipt of the form titled Construction Report for Public Water System Projects before the effective date of this chapter; or~~

~~Has been in existence but has not received department as-built approval or does not have a WFI on record with the department.))~~

"Nonresident" means a person ~~((without a permanent home or without a home served by the system, such as))~~ having access to drinking water from a public water system who

lives elsewhere. Examples include travelers, transients, employees, students, etc.

("Nontransient noncommunity water system (NTNC)" means a Group A water system regularly serving twenty-five or more of the same nonresidents for one hundred eighty or more days within a calendar year.)

"Owner" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that holds as property, a public water system.

"Public water system" means any system, providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm(, providing piped water for human consumption, including any). The term includes:

(a) Collection, treatment, storage, and/or distribution facilities under control of the purveyor and used primarily in connection with the system(, and).

(b) Collection or pretreatment storage facilities not under control of the purveyor, but primarily used in connection with the system(, including:

Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system).

"Resident" means an individual living in a dwelling unit served by a public water system.

"Satellite ((system)) management agency (SMA)" means ((a person)) an individual, purveyor, or entity that is ((certified)) approved by the department in accordance with chapter 246-295 WAC to own ((and/or)) operate more than one public water system on a regional or county-wide basis, without the necessity for a physical connection between such systems.

"Service connection" means a connection to a public water system designed to ((serve)) provide potable water to a single-family residence, ((dwelling unit, or equivalent use)) or other residential or nonresidential population. When the connection ((is a group home or barracks-type accommodation, two and one-half persons shall be equivalent to one service)) provides water to a residential population without clearly defined single-family residences, the following formulas shall be used in determining the number of services to be included as residential connections on the WFI form:

• Divide the average population served each day by two and one-half; or

• Using actual water use data, calculate the total ERU's represented by the service connection in accordance with department design guidance.

• In no case shall the calculated number of services be less than one.

"State significant noncomplier (SSNC)" means a ((Group A water)) system that is ((in violation of state drinking water rules and such violation or)) violating or has violated department rules, and violations may ((present)) create, or have created an ((immediate)) imminent or a significant

risk to ((the)) human health ((of consumers)). Such violations include, but are not limited to, repeat violations of monitoring requirements, failure to address exceedance of permissible levels of regulated contaminants, failure to comply with treatment technique standards or requirements, failure to comply with water works operator certification requirements, or failure to submit to a sanitary survey.

(("Transient noncommunity (TNC)" means a Group A water system:

Having fifteen or more services used less than one hundred eighty days within a calendar year; or

Serving twenty-five or more different nonresidents for sixty or more days within a calendar year; or

Serving twenty-five or more of the same nonresidents for sixty or more days, but less than one hundred eighty days within a calendar year; or

Serving twenty-five or more residents for sixty or more days, but less than one hundred eighty days within a calendar year.)

"Water facilities inventory (WFI)" means the department form summarizing each public water system's characteristics.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-020 Applicability. Owners of all Group A water systems ((and owners of satellite system management agencies (SMAs))) shall obtain an annual operating permit from the department for each system owned. The operating permit shall be valid until the next renewal date in accordance with WAC 246-294-050. Any change in ownership of the permitted system shall require a new permit in accordance with WAC 246-294-060.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-030 Application ((process)) and issuance of operating permits. (1) No person may operate and no owner shall permit the operation of a Group A water system unless the owner annually submits an application along with the required fee to the department and the department has issued an operating permit to the system owner. Any owner operating a system ((or SMA)) may continue to operate until the department takes final action on granting or denying the operating permit, in accordance with WAC 246-294-050.

(2) The department shall ((begin the operating permit application process for the initial and succeeding years based on size and type of system as follows:

(a) During the first calendar quarter of each year—community water systems greater than or equal to five hundred services and SMAs shall be sent operating permit applications;

(b) During the second calendar quarter of each year—community water systems less than five hundred services shall be sent operating permit applications;

(c) During the third calendar quarter of each year—non-transient noncommunity (NTNC) and transient noncommunity (TNC) water systems shall be sent operating permit applications; and

~~(d) During the fourth calendar quarter of each year—(all remaining Group A water systems))~~ mail an application to water systems annually using a schedule that is based on the size and type of water system.

(3) In addition to the ~~((schedule outlined in subsection (2) of this section))~~ regularly scheduled issuance of annual operating permits, new or revised operating permits shall be required when:

(a) The owner of a new Group A system receives all required department approvals relating to water system operation (see WAC 246-294-030(4)); or

(b) Ownership of a Group A system changes (see WAC 246-294-060).

(4) The department may also issue a revised operating permit when there is a change in a systems compliance that necessitates a change to a different permit category.

(5) New Group A systems shall be sent operating permit applications at the time construction documents are submitted to the department for approval. The deadline for submitting the completed application and full payment to the department shall be the same date as:

(a) The Construction Completion Report ~~((for Public Water System Projects))~~ required by WAC ~~((246-290-040(2)))~~ 246-290-120(5); or

(b) The existing system as-built approval required by WAC 246-290-140~~((4))~~.

~~((5))~~ (6) Initial and renewal applications shall be based on information from the most recent WFIs on file with the department, and sent to owners ((according to the phase in schedule in subsection (2) of this section)) on an annual basis. In the case of a SMA, the department will send a complete list of systems owned, along with the corresponding system identification numbers(,). The SMA shall ((also be included)) verify the information, make corrections or additions and then return the list with the application.

~~((6))~~ (7) Upon receipt of the application, the owner or other legally authorized person shall:

(a) Complete portions of the form which need completing;

(b) Ensure that information on the form is accurate; ~~((and))~~

(c) Sign the form; and

(d) Return the application to the department within seventy days of the department's mailing date, accompanied by the applicable fee.

~~((7) The application shall be signed by the owner or other legally authorized person:~~

(a) ~~In the case of a corporation, by an authorized corporate officer;~~

(b) ~~In the case of a partnership, by a general partner;~~

(c) ~~In the case of a sole proprietorship, by the proprietor;~~

(d) ~~In the case of a municipal or other public facility, by a legally authorized officer; or~~

(e) ~~In the case of an association, by the head of the association or a person responsible for operation of the system.)~~

(8) The applicable fee shall be in the form of a check or money order made payable to the "Department of Health" or successor organization as designated by the department and mailed ~~((to Department of Health, Revenue Unit, P.O. Box 1099, Olympia, Washington 98507-1099, or such successor~~

~~organization or address as designated by the department)) in accordance with the directions on the application.~~

(9) Systems which do not return operating permit applications along with the required fee by the deadline specified on the notice shall:

(a) Not be issued an operating permit; and

(b) Be subject to the enforcement provisions in WAC 246-294-090.

(10) An additional charge of ten percent or twenty-five dollars, whichever is greater, shall be added to the applicable fee listed in WAC 246-294-070 if the owner fails to return the completed application with applicable fee to the department within seventy days of the department's mailing date.

(11) The department shall review each submitted application ~~((to verify the information contained in the application)).~~ Any changes made on the application by the applicant shall ~~((result in updating))~~ be evaluated by the department and may result in an update of the system's WFI ((and shall)) form, which would be reflected on the next renewal application.

(12) If after issuing an operating permit, the department determines that the permit holder has made false statements, the department may, in addition to taking other actions provided by law, revise both current and previously granted permit fee determinations and charge the owner accordingly.

(13) If the department discovers that an owner has been operating a system without an operating permit and such system is covered by the requirements of this chapter, the department may charge the owner an operating permit fee ~~((that is the total of the one-time five-dollar per service fee for new Group A water systems))~~ plus permit fees owed for each year, including late fees, since the effective date of this chapter.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-040 Operating permit categories. (1) The department shall evaluate and place each system ~~((for placement))~~ into one of the categories ~~((listed in Table 1, except as noted))~~ in subsection ~~((3)(d))~~ (2) of this section. Each permit ~~((issued))~~ shall clearly identify the category into which the system is placed. ~~((The department shall provide a determination of system adequacy and the reasons for this determination, to any person on request.~~

~~(2) The criteria used for evaluation may include, but not be limited to the following:~~

(a) ~~Whether the system is subject to an order under WAC 246-290-050, for one or more of the following:~~

(i) ~~Failure to have approved construction documents; or~~

(ii) ~~Stopping work on system improvements; or~~

(iii) ~~Failure to meet pressure requirements; or~~

(iv) ~~Failure to meet water treatment requirements; or~~

(v) ~~Failure to have a certified water treatment plant operator; or~~

(vi) ~~Failure to meet water quality maximum contaminant levels; or~~

(vii) ~~Placement of a moratorium on the system.~~

(b) ~~Whether the system is in violation of any departmental order issued under WAC 246-290-050 or federal adminis-~~

trative order issued under §1414(g) of the Safe Drinking Water Act, 42 U.S.C. §300g-3(g);

(e) Whether the system is confirmed by the department as an unresolved significant noncomplier (SNC). Unresolved shall mean any system which:

(i) The department determines has not returned to compliance;

(ii) Does not have a signed compliance agreement with the department; or

(iii) Has not been issued a departmental order under WAC 246-290-050.

(d) Whether the system has reached the maximum number of services allowed in the distribution system by department approval;

(e) Whether the system has complied with water system plan provisions of WAC 246-290-100;

(f) Whether the system has complied with the water system financial viability provisions of RCW 70.119A.100 and WAC 246-290-100 (4)(d);

(g) Whether the system has complied with operator certification provisions of chapter 246-292 WAC;

(h) Whether the system has complied with coliform and inorganic chemical monitoring provisions of WAC 246-290-300; and

(i) Whether the system has complied with inorganic chemical and volatile organic chemical MCLs in accordance with WAC 246-290-310.

(3) Operating permit categories shall be as follows:

(a) Category green. This category shall identify systems which are substantially in compliance with all the applicable criteria in subsection (2) of this section. Placement in this category shall result in:

(i) Permit issuance without conditions; and

(ii) Determination that the system is adequate.

(b) Category yellow. This category shall represent systems which are substantially in compliance with the applicable criteria in subsection (2)(a), (b), (c), and (d) of this section, but which do not satisfy one or more of the criteria in subsection (2)(e) through (i) of this section and any additional criteria as determined by the department. Placement in this category shall result in:

(i) Permit issuance with conditions; and

(ii) Determination that the system is adequate or inadequate, depending on the nature of noncompliance.

(c) Category red. This category shall represent systems which do not satisfy one or more of the criteria in subsection (2)(a), (b), (c), or (d) of this section. Such systems shall also be evaluated against subsection (2)(e) through (i) of this section and any additional criteria as determined by the department. Placement in this category shall mean that the system is inadequate and result in:

(i) Permit issuance with conditions; or

(ii) Permit denial with appropriate enforcement.

(d) Category blue. This category shall identify systems which the department has elected to evaluate at a later date. Placement in this category shall result in no conditions and no determination that the system is adequate until the system is evaluated.

(TABLE 1
-operating permit categories

Category	Basic Description	Response to Adequacy Requests	Conditions
Green	Substantial Compliance	Yes	No
Yellow	Conditional Compliance	Yes or No ¹	Yes
Red	Substantial Noncompliance	No	Yes
Blue	Undetermined	(Will be evaluated at a later date)	

¹ Response will be determined on a case-by-case basis for each system and shall depend on the nature of noncompliance.)

(2) The department will use the criteria from drinking water regulations to evaluate systems and place them into the following operating permit categories:

(a) Category green. This category represents systems that are in substantial compliance with drinking water regulations. The department considers systems in this category as adequate for existing uses and adding new service connections up to the number of approved service connections.

(b) Category yellow. This category represents systems that are substantially in compliance with drinking water regulations, except that the system:

(i) Has been notified of the water system planning provisions of WAC 246-290-100 and has failed to satisfy the requirements; and/or

(ii) Is a state significant noncomplier that has signed a compliance agreement with the department to resolve the violations and is acting in accordance with the compliance agreement.

The department considers systems in the yellow category as adequate for existing uses and new service connections up to the number of approved service connections unless otherwise limited by a compliance agreement.

(c) Category blue. This category represents systems that are substantially in compliance with drinking water regulations except that the system:

(i) Does not meet the design approval requirements of WAC 246-290-120 and 246-290-140; or

(ii) Has exceeded the number of department approved service connections.

The department considers systems in this category as adequate for existing uses but are not considered adequate for adding new service connections.

(d) Category red. This category represents systems that are substantially out of compliance with drinking water regulations. The department will place a system in this category if it is:

(i) A state significant noncomplier and has not signed a compliance agreement with the department or has signed a compliance agreement but is not acting in accordance with the compliance agreement; or

(ii) In violation of a departmental order; or

(iii) Under a departmental order for violations that pose an imminent threat to public health.

The department considers systems in this category inadequate for existing uses and for additional service connections.

PERMANENT

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-050 Permit issuance. (1) The department shall grant or deny the operating permit within one hundred twenty days of ~~((receipt of the))~~ receiving a completed application and full payment.

(2) Issuance of an operating permit ~~((shall))~~ means that the owner may operate the permitted system until the date specified in the permit unless protection of the public health, safety, and welfare requires immediate response or the imposition of conditions.

(3) At the time of permit issuance, the department may impose ~~((such))~~ permit conditions and compliance schedules ~~((as))~~ that the department determines are ~~((reasonable and))~~ necessary to ensure that the system will provide safe and reliable drinking water, ~~((including, but not limited to, conditions necessary to ensure that the system is brought into compliance))~~ consistent with the provisions of chapters 246-290 and 246-292 WAC.

(4) The department may modify an operating permit at any time based on review of the evaluation criteria in WAC 246-294-040(2). ~~((When modification occurs,))~~ If the department modifies a permit, the department will send the owner a revised permit with the same expiration date ((will be sent to the owner)). The department will also notify the appropriate local jurisdiction ~~((shall also be notified))~~ of the change in status.

(5) The department may revoke an operating permit or deny an operating permit application if the department determines that the system operation constitutes or ~~((would))~~ may constitute a public health hazard to consumers.

(6) When the department takes action to deny, condition, modify, or revoke an operating permit, the department shall follow the steps outlined in RCW 43.70.115 ((when taking action to deny, condition, modify, or revoke an operating permit)).

(7) An operating permit applicant ((for an operating permit shall be entitled to)) may file an appeal ~~((in accordance with))~~ under chapter 34.05 RCW, if the department denies, conditions, modifies, or revokes the operating permit. To appeal a department action, the owner shall ~~((file in writing with the department in a manner that shows proof of receipt))~~ submit to the department a written appeal within twenty-eight days of ~~((the applicant's receipt of))~~ receiving the adverse notice.

The appeal shall state:

(a) The issue or issues and law involved; and

(b) The ~~((grounds))~~ basis for ~~((contesting))~~ appealing the department's decision.

(8) Any owner that requests a hearing under chapter 34.05 RCW may continue to operate the system until the department issues a final departmental decision ((is issued)), unless the department determines protection of the public health, safety, and welfare requires summary action.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-060 Transfer of ownership. (1) A prospective new owner of a Group A water system ~~((shall))~~ may

not take possession of the system without first obtaining a new operating permit.

~~((The prospective new owner shall secure department approval of a new, updated, or altered water system plan as required by WAC 246-290-100(2)(e) before the new permit is issued. The water system plan required under WAC 246-290-100 shall be prepared with special emphasis on sections dealing with implications of the change of ownership.~~

~~((3))~~ The department shall send an application to the prospective new owner ~~((at the time))~~ when the department is notified of transfer of ownership in accordance with WAC ~~((246-290-430(1)))~~ 246-290-035(2). The new owner shall proceed with the permit process ~~((in accordance with))~~ under WAC 246-294-030~~((, except the deadline for submitting the completed application to the department shall be the same date the water system plan is submitted for department approval)).~~

~~((4))~~ (3) The department shall not charge a fee for a new permit resulting from a change in ownership. The permit shall be effective from the date of issuance by the department until the next scheduled permit renewal date, at which time ~~((a fee shall be charged))~~ the department will charge a renewal fee.

~~((5 Change of ownership operating permit requirements of this section affect))~~ (4) This section applies to the prospective owner, and ~~((shall be in addition to))~~ the ~~((continuity of service))~~ requirements of WAC ~~((246-290-430 affecting))~~ 246-290-035(2) apply to the owner transferring the system.

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

WAC 246-294-070 Fees. (1) The fees for Group A water system operating permits ~~((shall be as indicated))~~ are authorized under RCW 70.119A.110 and are listed in Table 2.

TABLE 2
OPERATING PERMIT FEES

Classification	Fee
0 - 14 services	None
15 - 49 services	\$25.00 per year
50 - 3,333 services	\$1.50 per service per year
3,334 - 53,333 services	\$4,999.50+ .10 per service over 3,333 services per year
53,334 or more services	\$10,000.00 per year
Satellite ((System)) Management Agency (based on total services in all systems owned by SMA)	\$1.00 per service per year or the fee from the appropriate category above, whichever is less
((New Group A water system-	<u>One-time charge of \$5.00 per service))</u>
Late charge	Additional 10% of applicable charge stated above or \$25.00, whichever is greater

(2) ~~((For NTNC and TNC systems, owners shall pay the applicable fee from Table 2 based on equivalent number of services. Population information used in calculating equivalent number of services shall come from the WFI. The following formulas shall be used in determining equivalent number of services:~~

PERMANENT

~~(a) For NTNC divide the average population served each day by two and one-half; and~~

~~(b) For TNC divide the average population served each day by twenty-five.~~

~~(3) Where)) If systems serve both resident and nonresident populations, the department shall determine the permit fee category ((shall be determined)) by adding the number of services and an equivalent for the NTNC and TNC nonresident population served as calculated in subsection (3) of this section.~~

(3) For NTNC and TNC systems, owners shall pay the fee in Table 2 based on equivalent number of services. Population information used in calculating equivalent number of services shall come from the WFI. The department shall use the following formulas to determine equivalent number of services:

(a) For NTNC population, divide the average population served each day by two and one-half; and

(b) For TNC population, divide the average population served each day by twenty-five.

~~(4) ((In addition to submitting an annual fee, all new Group A water systems shall be charged a one-time fee of five dollars for each service or equivalent, based on the department approved design or as-built approval (see WAC 246-294-030(4)).~~

~~(5)) Any county or SMA assuming ownership of a Group A water system, or court appointed receiver of a Group A water system ((shall be)) is exempt from the operating permit fee for ((a period of)) one year after the next renewal date.~~

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

~~**WAC 246-294-080 Public notification.** An owner issued a category red operating permit shall notify the water system users in accordance with WAC ((246-290-330 and shall include mandatory language contained in the department publication titled Mandatory Language For Drinking Water Public Notification. The mandatory language will be included with issuance of a category red operating permit, or may be obtained from the department on request by contacting the Division of Drinking Water, Airstrial Center #3, P.O. Box 47822, Olympia, Washington 98504-7822)) 246-290-71001, 246-290-71003, and 246-290-71004.~~

AMENDATORY SECTION (Amending Order 325, filed 1/14/93, effective 2/14/93)

~~**WAC 246-294-090 Enforcement.** ((When any)) The department may initiate appropriate enforcement actions if an owner is out of compliance with these rules or any ((conditions identified on the operating permit, the department may initiate appropriate enforcement actions)) applicable drinking water regulations. These actions may include any one or combination of the following:~~

- ~~(1) Issuance of informal letters instructing or requiring appropriate corrective measures; or~~
- ~~(2) Issuance of a compliance agreement or schedule; or~~
- ~~(3) Issuance of departmental orders requiring any person to apply for an operating permit as required by these rules and~~

RCW 70.119A.110 or to comply with ~~((any conditions or requirements))~~ applicable drinking water regulations imposed as part of an operating permit; or

(4) Issuance of civil penalties for up to five thousand dollars per day per violation for failure to comply with departmental orders issued in accordance with subsection (3) of this section; or

(5) Legal action by the attorney general or local prosecutor.

WSR 04-06-052

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 1, 2004, 1:04 p.m., effective April 1, 2004]

Date of Adoption: February 27, 2004.

Purpose: Amend WAC 388-450-0215 How does the department estimate my assistance unit's income to determine my eligibility and benefits?, the changes are necessary to correct editing errors made in the last revision of this rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0215.

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

Adopted under notice filed as WSR 04-01-031 on December 8, 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: April 1, 2004.

February 27, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-029, filed 10/7/03, effective 11/1/03)

WAC 388-450-0215 How does the department estimate my assistance unit's income to determine my eligibility and benefits? The department uses prospective budgeting to determine if your assistance unit (AU) is eligible and to calculate your benefits.

PERMANENT

(1) We determine if your AU is eligible for benefits and calculate your monthly benefits based on an estimate of your AU's income and expenses for that month. This is known as prospective budgeting.

(2) We base this estimate on what can be reasonably expected based on your current, past and future circumstances.

(3) We determine if our estimate is reasonable by looking at documents, statements, and other verification.

(4) We use two methods to estimate your AU's income:

(a) **Anticipating monthly income:** We estimate the actual amount of income you expect to receive in the month; and

(b) **Averaging income:** We estimate your income based on adding the total income you expect to receive for a period of time and dividing by the number of months in the time period.

(5) When we use the anticipating monthly method, we estimate the actual amount of income your AU expects to receive in the month. Your benefits will vary based on the income that is expected for that month.

(6) In general, you can choose which method we use to estimate your income. However, we **must** use the anticipating monthly method:

(a) For all your AU's income in the following circumstances:

(i) If you receive SSI-related medical benefits under chapter 388-475 WAC ((388-450-0150)); or

(ii) If you are a destitute migrant or destitute seasonal farmworker under WAC 388-406-0021, we must use the anticipating monthly method for the month your AU applied for benefits.

(b) For the income of any member of your AU who has income allocated to someone receiving SSI-related medical benefits under chapter 388-475 WAC ((388-450-0150));

(c) For the following sources of income to your AU:

(i) SSI;

(ii) Social Security benefits; or

(iii) Income your AU already received in the month that you applied for benefits. If we do not have to use the anticipating monthly method for any other reason, we may average this income for the remaining months of your certification or review period.

(7) When we use the averaging method, we take the expected changes in your AU's income into consideration so your benefits do not change as much:

(a) If you receive your income weekly or every other week, we convert this income (~~((converted))~~) to a monthly amount. If you are paid: (~~((If you are paid:))~~)

(i) Weekly, we multiply your expected pay by 4.3; or

(ii) Every other week, we multiply your expected pay by 2.15.

(b) In most cases if you receive your income other than weekly or every other week, we estimate your monthly income by:

(i) Adding the total amount of income we expect you to receive for your certification or review period; and

(ii) Dividing by the number of months in the period of time.

(c) If you receive your yearly income over less than a year because you are self employed or work under a contract, we average this income over the year unless you are:

(i) Paid on an hourly or piecework basis; or

(ii) A migrant or seasonal farmworker under WAC 388-406-0021.

(8) If you report a change in your AU's income, and we expect the change to last for at least a month beyond the month you reported the change, we recalculate your AU's income based on this change.

(9) If your actual income is different than the income we estimated, we do not make you repay an overpayment under chapter 388-410 WAC or increase your benefits unless:

(a) You provided incomplete or false information; or

(b) We made an error in calculating your benefits.

WSR 04-06-058

PERMANENT RULES

GAMBLING COMMISSION

[Order 426—Filed March 1, 2004, 2:38 p.m.]

Date of Adoption: February 13, 2004.

Purpose: Audits and reviews of house-banked card rooms: This amendment requires house-banked card rooms with gross receipts over three million to submit audited financial statements to commission staff, card rooms with gross receipts of one to three million would submit reviewed financial statements and those with gross receipts of less than one million to have complied financial statements. This rule was originally brought forward at the request of the card room industry as a way to show the overall status of their business. Additionally, these reports will assist commission staff in recognizing undisclosed substantial interest holders and loans due to the footnote disclosures that are required as part of an audit or review. It also allows for an independent party to review and test the financial data of the licensees.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-823.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 03-20-008 on [September 18, 2003], with a published date of October 15, 2003.

Changes Other than Editing from Proposed to Adopted Version: Previously, the proposed amendment would have required card rooms with gross receipts of three million or less to submit reviewed financial statements. At the February meeting, the commission lowered the threshold to require reviewed financial statements from only card rooms with gross receipts of one to three million and included language to require card rooms with gross receipts less than one million to submit only compiled financial statements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 1, 2004

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

**WAC 230-40-823 (~~House-banked card games~~)
Financial audits and reviews required—~~House-banking~~.** Each licensee operating house-banked card games (~~((with gross receipts in excess of five million dollars per year shall have their financial statements examined by a licensed, independent certified public accountant (CPA) for each fiscal year to evaluate the fairness of the presentation of the statements in conformity with generally accepted accounting principles. This examination shall be conducted in accordance with generally accepted auditing standards. A copy of the report and financial statements shall be submitted to the commission no later than one hundred twenty days after conclusion of the fiscal year. The director or the director's designee may extend the date for audit completion if a request is made by the licensee)) shall prepare financial statements covering all financial activities of the licensee's establishment for each business year. The following requirements shall apply:~~

Audited financial statements - gross receipts over three million dollars.

(1) Each licensee with house-banked card game gross receipts in excess of three million dollars for the business year shall engage an independent, certified public accountant licensed by the Washington state board of accountancy who shall audit the licensee's financial statements in accordance with generally accepted auditing standards.

Reviewed financial statements - gross receipts of one to three million dollars.

(2) Each licensee with house-banked card game gross receipts of one to three million dollars for the business year shall engage an independent, certified public accountant licensed by the Washington state board of accountancy who shall review the financial statements in accordance with the statements on standards for accounting and review services or audit the financial statements in accordance with generally accepted auditing standards.

Compiled financial statements - gross receipts of less than one million dollars.

(3) Each licensee with house-banked card game gross receipts of less than one million dollars for the business year shall engage an independent, certified public accountant licensed by the Washington state board of accountancy who shall compile the financial statements in accordance with the

statements on standards for accounting and review services in accordance with generally accepted accounting principles, including all required footnotes or disclosures on an accrual basis of accounting.

Financial statement presentation.

(4) The financial statements must be presented in the following manner:

(a) Financial statements shall be submitted on a comparative basis: Provided, That the first year may be submitted for the current business year only; and

(b) Gross revenues from each licensed activity should be reported by activity and separate and apart from all other revenues.

Consolidated financial statements.

(5) Consolidated financial statements may be filed by commonly owned or operated establishments. These statements must include consolidated schedules presenting separate financial statements for each licensed card room location.

Change in business year.

(6) If a licensee changes its business year, they shall notify the director within thirty days. The licensee shall submit financial statements for the period covering the end of the previous business year to the end of the new business year.

Filing with the commission.

(7) A copy of the report and the financial statements shall be submitted to the director within one hundred twenty days following the end of the licensee's business year. The director may authorize a sixty-day extension if a licensee submits a written request explaining the need for the extension.

Effective date.

(8) This rule will be effective for business years ending on or after July 1, 2004.

WSR 04-06-087

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 3, 2004, 11:42 a.m.]

Date of Adoption: February 25, 2004.

Purpose: To create the commute trip reduction (CTR) performance grant program.

Statutory Authority for Adoption: RCW 70.94.996.

Other Authority: RCW 70.94.534, 70.94.541.

Adopted under notice filed as WSR 04-03-112 on January 21, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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.

February 25, 2004

John F. Conrad

Assistant Secretary

Engineering and Regional Operations

Chapter 468-60 WAC

CTR PERFORMANCE GRANT PROGRAM

NEW SECTION

WAC 468-60-010 Commute trip reduction performance grants. The Washington state department of transportation (WSDOT) will develop, together with the commute trip reduction task force (CTR), and administer a CTR performance grant program designed to reduce the number of commute vehicle miles traveled (VMT) and commute vehicle trips by employees. The 2003 legislature created this grant to provide financial incentives or compensation to organizations that increase the capacity of the transportation system by reducing the number of vehicle trips and miles traveled for commute purposes. The amounts granted will be based on the projected number of annual commute vehicle trips and commute VMT reduced during the grant period. The amount of funds provided to the grantee will be determined based on the actual performance of their project. If necessary, WSDOT will revise these rules following the first grant round to create a more effective and efficient grant program.

(1) **What are CTR performance grants?** Grants are awarded on a competitive basis to organizations for reducing commute vehicle trips and commute vehicle miles traveled. The grantee will receive funds based on the value to the transportation system of the project performance. The performance grant program is available to private employers, public agencies, nonprofit organizations, developers, and property managers who provide financial incentives to their own or other employees for ridesharing, public transportation, nonmotorized transportation, telework, and alternative work schedules, and that reduce the number of vehicle trips and miles traveled for commuting.

(2) **Definitions.** For purposes of this section, the following definitions apply.

(a) *Financial incentives* is defined as a policy, procedure, capital investment or payment intended to provide employees a financial gain if they commute in ways other than by driving alone. For example, the eligible incentives may include, but are not limited to: Providing a free transit pass, reducing the parking charge for rideshare vehicles, initiating parking

charges for employee vehicles, reducing the cost of a transportation service such as a transit pass, paying the membership fee for a car sharing program, providing employees alternative work week schedules, providing a direct cash payment, reducing the insurance rate for employees who reduce the use of their vehicle for commuting, or reducing the distance an employee travels to work by reassigning their work location to a worksite closer to their home.

(b) *Car sharing* means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(c) *Telework* means a program where work functions that are normally performed at a traditional workplace are instead performed by an employee at his or her home at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

(d) *Commute vehicle trips* is defined as the number of vehicle trips made to bring employees to work at a worksite or specified collection of worksites each morning.

(e) *Reduced commute vehicle trips* is defined as the change in the number of vehicle trips made to bring a consistent number of employees to a worksite or collection of worksites. Reduced vehicle trips can be calculated using two separate surveys that measure the number of vehicles arriving at the specified worksite(s) and making an adjustment for the change in employee responses for the two surveys. Subsection (16) of this section describes in detail the process used by WSDOT to calculate reduced commute vehicle trips.

(f) *Commute vehicle miles traveled (VMT)* is the average distance employees travel to work (one way) in a motor vehicle, divided by the vehicle occupancy. For passenger cars, trucks, vans, and motorcycles, WSDOT will calculate the vehicle occupancy from survey data using CTR task force guidelines, or from equivalent data as agreed by WSDOT and the applicant. For buses, WSDOT will assume an average occupancy of twenty-five persons. Bicycling, walking, train ridership, and the avoidance of commute vehicle trips via telework and use of compressed workweeks, will not be considered as using motor vehicles.

(g) *Reduced VMT* is defined as the measured change in the number of vehicle miles traveled per employee. Reduced VMT can be calculated from two separate surveys that measure the commute distance per employee and the way they commute to work.

(h) *Performance* is defined as the reduction in the number of commute vehicle trips to the work location and the reduction in the commute vehicle miles traveled by employees at the specified work location(s).

(i) *Eligible trips* are defined in this section as the commute trips taken by employees at the targeted worksite(s) established in the applications and measured in the proposed measurement methodology. To be considered an eligible reduced trip and VMT, the involved employee must benefit from the program implemented by the applicant.

(j) *Agent* is an organization or individual who represents the private employer, public agency, nonprofit organization, developer, or property manager and is charged with managing the grant program or providing the employee the financial service.

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(k) A *cost effective application* is one that defines a project that will reduce commute vehicle trips and commute vehicle miles traveled at a cost less than the defined roadway capacity cost. This cost will vary by year and will be clearly identified on the grant application form.

(l) *Mode split* is the percentage of employees traveling to work using various means of transportation (known as modes). For example, if the drive alone mode split for a worksite is seventy-three percent, then seventy-three percent of the employees arriving at that site drove alone.

(m) *Commute mode* is the means of transportation an employee took to work. For example, their commute mode may be by driving alone, carpooling, alternative work schedule, teleworking, etc.

(3) **Who can apply?** These statewide grants are available on a competitive basis for private employers, public agencies, nonprofit organizations, developers, and property managers or their agents who provide financial incentives to their own or other employees for ridesharing, public transportation, nonmotorized transportation, telework, and compressed work weeks.

(4) **What kinds of projects will be funded?** To receive funds, the project must meet the review criteria and rank highly in the competitive review. The applicant determines the actual scope and design of the project. New and existing projects are eligible to receive a grant.

(5) **How much money is available?** The amount of funds made available for this program is set in the state transportation budget. For the 2003-2005 biennium, one million five hundred thousand dollars is budgeted for the grants. No more than seven hundred fifty thousand dollars will be available for each fiscal year (July-June).

(6) **How will the grant funds be distributed?** A minimum amount of the grant funds is guaranteed to be available in each of three funding zones: Ten percent of available funds for Central Puget Sound (CPS) (King, Pierce, Snohomish counties), ten percent of available funds for non-Central Puget Sound applications, and ten percent of available funds for statewide applications (applications with worksites in the CPS and outside the CPS). The remaining grant funds will be awarded based on the project's ranking and available funds.

(7) **How much money will be awarded to individual grants?** Funds will be allocated based on the estimated commute vehicle trips and miles traveled reduced for the project. The applicant will provide an estimate of the anticipated performance and the amount of funds they request. Once the selection committee ranks the projects, WSDOT will award the grants based on committee ranking until seven hundred fifty thousand dollars is awarded in each fiscal year or all cost effective projects are funded. No one employer, etc., may receive more than one hundred thousand dollars per fiscal year.

(8) **How much money can be awarded to applications with multiple employer partners?** The total amount of funds that can be provided to a partnership application is the sum of the total amount eligible per employer up to two hundred fifty thousand dollars per application. No single application or project will be awarded a grant in excess of two hundred fifty thousand dollars per fiscal year.

(9) **How does the applicant apply for the grant?** This subsection describes the application procedures used in the performance grant program. WSDOT will notify eligible applicants of the open period for grant applications. WSDOT may open more than one grant period per year depending on whether all funds are awarded. Applicants apply for this grant by submitting a completed "Performance Grant Application" form during an open grant period. The "Performance Grant Application" form is available on request from the Washington state department of transportation and is available to be downloaded from the WSDOT website at: <http://wsdot.wa.gov/TDM/performancegrant/>.

(a) No private employer, public agency, nonprofit organization, developer, or property manager is eligible for grants under this section in excess of one hundred thousand dollars in any fiscal year.

(b) Eligible applicants may submit more than one application. However, no applicant may request more grant funds than they are eligible to receive.

(c) Applicants may, and are encouraged to, submit a grant application that will cover two years. Applications covering two years must estimate the number of vehicle trips and VMT reduced for each of the two fiscal years. Only one base measurement will be required for a two-year application. Recipients of two-year grants may receive the start-up portion of their award in the first year and the performance portion in the second year. In this situation, funding for the trips and VMT reduced will be assumed to have occurred in the second year of the project.

(d) The grant funds must be received by the grantee by the end of the fiscal year in which the application was received.

(e) No grants will be awarded to an applicant requesting compensation at a rate higher than the annualized cost of providing new roadway capacity. The annualized cost of providing new capacity will be provided by WSDOT as part of the application document.

(f) For purposes of distributing awarded funds, one trip is assumed to equal 13.07 VMT (the average commute distance measured as part of the CTR program) or the average one-way commute distance for the employees covered by the project. The applicant may, through documentation in the applications, provide a different trip to VMT ratio that is specific to employees in their proposal.

(g) An agent "who will provide the financial incentive to the employee" can submit a partnership grant application and be the prime grantee for the project. All procedures in this section will apply to the agent for this type of partnership grant.

(h) No applicant may claim a reduction in employee commute vehicle trips or commute VMT that is claimed as part of another application.

(10) **How will the application be reviewed?** An award committee comprised of between six and nine members will be selected by the chair of the CTR task force and will include at least two members of the commute trip reduction task force, at least one member from Central Puget Sound and one from the rest of the state, at least one employer, at least one transit member and at least one city government

representative. Grants will be awarded based on the criteria as defined in subsection (11) of this section.

(11) **What are the review criteria?** The applications will be reviewed based on the following criteria.

(a) **Applicant provides incentives:** To be eligible for the grant, the applicant must provide financial incentives to their own or other employees for ridesharing, using public transportation, car sharing, or nonmotorized commuting.

(b) **Project predictability:** Are the estimates of employee participation and overall trip and VMT reduction likely to be achieved based on the assessment of the review committee?

(c) **Measurability:** The performance of the project must be measurable. If the applicant submits their own measurement approach, the measurement plan submitted must be as accurate an estimate of the trips reduced as would be generated if the applicant made use of the WSDOT-developed measurement tool (subsection (16) of this section).

(d) **Cost effectiveness:** Does the project have a high likelihood of achieving its benefits at a relatively low expenditure of performance grant funds? Are the projected benefits achievable at a cost less than providing the equivalent roadway capacity?

(e) **Sustainability:** If this project is funded, will its benefits continue after the grant-funded element of the project has been completed? Do the project design and partnerships indicate a high probability for continuing the project after all grant funds are used?

(f) **Thoroughness:** Has the project been thoroughly researched and carefully thought out? Are adequate details presented?

(g) **Redundancy:** Does the project propose to provide services that are already available for the employees?

(12) **How will the recipient receive the money?** Once the projects have been reviewed, prioritized and selected, the applicant will enter into a contract with the Washington state department of transportation for implementation of the project. This contract will establish the amount of money the grantee can receive for the project, the timelines and performance expectations. The funds will be provided to the grantee through three approaches: Start-up, performance and performance bonus.

(a) **Start-up:** The grantee may request up to fifty percent of awarded funds after project startup. Start-up funding will be provided dollar for dollar on a cost-reimbursable basis, but in no circumstances will this amount exceed fifty percent of the total project award.

(b) **Grant performance:** The remaining funds will be available to the grantee following the performance measurement. The grantee has the option to measure their performance halfway through the project and at the end of the year. If the grantee conducts a midterm measurement, they will be eligible to receive half of the performance funding following this measurement with the balance available after the second measurement survey. If the grantee elects to measure only at the end of the project, all of the remaining funds will be available, depending on the performance they achieved through their project. No performance funds will be available for any project that fails to perform.

(c) **Performance bonus:** The grantee will be eligible to receive up to twenty percent additional funds if the performance of their project exceeds their anticipated performance. These funds will only be provided at the end of the contract period and the grantee will receive the funds for additional performance based on the same award rate per trip reduced and same award rate per VMT reduced as identified in their application and subsequent contract. Note: No one employer, etc., may receive more than one hundred thousand dollars in a FY. The performance bonus portion of the funding will only be available if funds are remaining in the grant account.

(13) **Project timeline:** To receive all eligible grant funds for the fiscal year, the grantee must provide measured data on their project's performance to WSDOT by June 15th.

(14) **Receipt of grant funds:** The grantee must submit a grant fund disbursement form provided by WSDOT in order to receive their grant funds. On this form the grantee will identify the funds requested and documentation of performance or expenditures (if required). For the performance portion of the grant award, no funds will be made available without documentation of actual employee reductions in VMT and vehicle trips.

(15) **Performance documentation:** The applicant must, as part of the application, indicate how they will provide evidence of the performance made during the year. WSDOT will make available a survey instrument that can be used to measure performance at employer worksites. The grantee may elect to provide performance data in an alternative format approved by WSDOT. The measurement approach used by the applicant must clearly demonstrate how changes are calculated and adjustments made for changes in employee population.

(16) **Measurement of VMT and commute trips reduced:** Measurement of performance must provide actual counts of vehicle trips and VMT made by the employees in the program, preceding and following the grant period. The performance measurement must adjust for changes in employee populations during the grant period. WSDOT will use the following methodology to calculate changes in the number of commute trips and commute VMT at a project worksite(s):

(a) **Baseline survey.** At the beginning of the program, the worksite(s) will survey their employees about their commuting behavior using the standard WSDOT commute trip reduction employee survey form. This initial survey is called the baseline survey. WSDOT will calculate a baseline mode split, based on results from the baseline survey. In calculating this mode split, and those from subsequent surveys, WSDOT will calculate assumptions to adjust for missing data, days reported by employees as not worked, inconsistency between commute mode and vehicle occupancy data, and reported use of compressed workweeks as specified in the CTR guidelines published by WSDOT and available on the Internet <http://www.wsdot.wa.gov/tdm/tripreduction/CTRguide/SEC3.cfm>.

(b) **Performance measurement survey.** The grantee will survey the eligible project employees a second time by June 15th. This second survey is called the performance measurement survey.

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(c) WSDOT will calculate the mode split based on the results of the performance measurement survey. Using the number of employees at the site during the first measurement survey and the mode split from the first measurement survey, WSDOT will calculate the average number of vehicle trips that employees took per day, during the first measurement survey period. Using this same number of employees, WSDOT also will calculate the average number of trips the employees would have taken per day during the first measurement survey if they had the mode split calculated from the baseline survey.

(d) The difference between the two numbers calculated under subsection (2)(b) of this section is the change in the average number of trips per day at the site between the two surveys. These calculations take into consideration changes in employment at the site; the employer will not be entitled to increased payments due to a reduction in force or be penalized because of an increase in employment.

(e) WSDOT will calculate the average one-way distance for trips made by each mode in the performance measurement survey, and multiply this by the change in the average number of trips by that mode per day. The sum of these values for motorized commuting modes is the change in VMT.

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WSR 04-05-035
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)
 [Filed February 11, 2004, 3:58 p.m.]

Date of Adoption: February 3, 2004.

Purpose: The purpose of this emergency filing 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. See below for new and amended rules affected. 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) 902-7992, or by e-mail at loje300@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 require 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?, 388-148-0880 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 sections 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?, and 388-148-1079 What are the qualifications for consultants for child-placing agency programs?

Statutory Authority for Adoption: Chapter 74.15 RCW.

Other Authority: 45 C.F.R. 1355.

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 03-21-074 on October 15, 2003. Stakeholders have reviewed the proposed rules changes and Children's Administration filed the proposed rule making (WSR 04-03-116) on January 21, 2004, for the permanent adoption of rule changes. A public hearing is scheduled for March 23, 2004, for comments on changes for permanent adoption to the licensing requirements for foster homes, group facilities, staffed residential homes, and child-placing agencies.

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 10, Amended 34, 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 10, Amended 34, Repealed 0.

Effective Date of Rule: Immediately.

February 3, 2004

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 388-148-0040 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 licensor 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:~~

~~((b)))~~ A tuberculosis test or an x-ray unless you can demonstrate ~~((religious))~~ medical reasons prohibiting the test;

~~((c)))~~ (b) First-aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and

~~((d)))~~ (c) HIV/AIDS training including infection control standards.

~~((e)))~~ (3) A completed background check form for any-one 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 licensor 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 licensor 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 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 388-148-0095 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))~~ (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.

~~((j))~~ (k) You are unable to manage the property, fiscal responsibilities, or staff in your agency.

~~((k))~~ (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 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))~~ (l) 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 388-148-0170 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 388-148-0220 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~~) In 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 depart-

ment'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:

~~((4))~~ (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 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 specifica-

tions 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 parent(s)) 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.

Effective Date of Rule: Immediately.

February 18, 2004

J. P. Koenings

Director

WSR 04-06-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-27—Filed February 18, 2004, 4:39 p.m.]

Date of Adoption: February 18, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000S; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The select area fisheries in Deep River and Blind Slough/Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of February 5, 2004, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

NEW SECTION

WAC 220-33-01000S Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4-inch minimum mesh through March 7 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline.

b) Dates:

7:00 p.m. Saturdays to 7:00 a.m. Sundays immediately through March 7, 2004

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Only Blind Slough is open through March 7. After March 7, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period through March 7.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

EMERGENCY

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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. June 16, 2004:

WAC 220-33-01000S Columbia River gillnet seasons below Bonneville.

**WSR 04-06-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-29—Filed February 19, 2004, 3:15 p.m., effective February 20, 2004, 7:00 a.m.]

Date of Adoption: February 18, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000W; and amending WAC 220-52-040.

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 pot limits for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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: February 20, 2004, 7:00 a.m.

February 18, 2004

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04000X Commercial crab fishery— Exceptions to permanent rules for pot limits. Notwithstanding the provisions of WAC 220-52-040:

1) Effective 7:00 a.m. February 20, 2004, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 75 pots per license, per buoy tag number in all waters of the Puget Sound Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 24A, 24B, 24C, 24D, 25B, 25D, 26AE, 26AW, and 29. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection.

2) Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license, per buoy tag number in all waters of the Puget Sound Marine Fish Shellfish Catch Reporting Areas 23D, 25A, and 25E. The remaining 50 buoy tags per license must be onboard the designated vessel and available for inspection.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. February 20, 2004.

WAC 220-52-04000W Commercial crab fishery— Exceptions to permanent rules for pot limits. (04-17)

**WSR 04-06-008
EMERGENCY RULES
DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)
[Filed February 20, 2004, 2:13 p.m., effective March 4, 2004]

Date of Adoption: January 30, 2004.

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.

These rules were already adopted by emergency rule which is about to expire. Due to extensive stakeholder work and legal advice on these issues there have been some delays. This rule needs to continue to be in place for public protection. The anticipated implementation date is within the next one hundred twenty days.

Citation of Existing Rules Affected by this Order: Amending WAC 246-841-405.

Statutory Authority for Adoption: Chapter 18.88A RCW and RCW 18.79.260 (3)(f).

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: RCW 18.79.760 (3)(d)(2) 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: March 4, 2004.

January 30, 2004

Frank Maziarski, RN, ARNP
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 04-06-009

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed February 20, 2004, 2:14 p.m., effective March 4, 2004]

Date of Adoption: January 20, 2004.

Purpose: Adopt emergency rules to implement chapter 140, Laws of 2003, allowing delegation of nursing tasks in the in-home care setting per RCW 18.79.260 (3)(e) 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.

These rules were already adopted by emergency rule which is about to expire. Due to extensive stakeholder work and research on several legal issues the permanent rules were delayed. The anticipated implementation date is within the next one hundred twenty days.

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 18.88A RCW and RCW 18.79.260 (3)(f).

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: RCW 18.79.260 (3)(d)(2) 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: March 4, 2004.

January 30, 2004

Frank Maziarski, RN, ARNP

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:

(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.

(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: 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

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;

(ii) Standard II Delegation and Supervision: The registered nurse is accountable for the safety of clients receiving nursing service by:

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;

(ii) Standard II Delegation and Supervision: Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:

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(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.

(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, ((or)) 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, <u>or an in-home care setting as defined by chapter 140, Laws of 2003</u>	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
Yes ↓			
(13)	There are no specific laws or rules prohibiting the delegation?	No =>	Do not delegate
Yes ↓			
(14)	Task is delegable		

EMERGENCY

**WSR 04-06-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-31—Filed February 20, 2004, 2:18 p.m., effective February 20, 2004, 6:01 p.m.]

Date of Adoption: February 20, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300L.

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 state sea urchin harvest quota share amounts for 2003-2004 fishery have been taken. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 20, 2004, 6:01 p.m.

February 20, 2004

J. P. Koenings

Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 20, 2004:

WAC 220-52-07300L Sea urchins. (04-09)

**WSR 04-06-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 04-30—Filed February 20, 2004, 2:19 p.m., effective February 25, 2004, 7:00 p.m.]

Date of Adoption: February 20, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-04600H; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The closure of catch areas specified in this regulation is required by state/tribal management agreement. Commercial opportunity in the above zones reflects state/tribal agreements to maintain allocation objectives. 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: February 25, 2004, 7:00 p.m.

February 20, 2004

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-04600I Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 7:00 p.m. February 25, 2004, until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Catch Areas 23D, 25A, and 25E.

(2) Effective 7:00 p.m. February 29, 2004, until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Catch Areas 25B, 25D and 26A-W.

(3) Effective immediately, until further notice, it is unlawful to fish for Dungeness crab for commercial purposes in Catch Areas 24A, 24B, 24C, 24D, and 26A-E.

(4) Effective immediately until further notice, it will be lawful to fish for Dungeness Crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession

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Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

(5) Effective immediately until further notice Marine Fish-Shellfish Management and Catch Reporting Area 26A shall be further defined by the following boundaries:

(a) Area 26A-W shall include those waters of Catch Area 26A south of 25B and northerly of a line from Apple Cove Point to Point Edwards and south and west of a line that extends from Possession Point to the Shipwreck located .8 nautical miles north of Picnic Point.

(b) Area 26A-E shall include those waters of Catch Area 26A south of Areas 24B and 24C and north and east of a line that extends from Possession Point to the Shipwreck located .8 nautical miles north of Picnic Point.

REPEALER

The following section of the Washington Administrative Code is repealed 7:00 p.m. February 25, 2004:

WAC 220-52-04600H Crab fishery—Seasons and areas. (04-16)

**WSR 04-06-023
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed February 23, 2004, 3:34 p.m., effective February 24, 2004]

Date of Adoption: February 10, 2004.

Purpose: To continue the emergency rule adopted as WSR 03-22-027 while the permanent rule-making process is completed. The medically indigent program was eliminated effective July 1, 2003. Funding for the medically indigent program was not appropriated in the state's 2003-2005 Omnibus Operating Budget.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-438-0100; and amending WAC 388-503-0505.

Statutory Authority for Adoption: Section 209, Part II, 2003-2005 Omnibus Operating Budget (chapter 25, Laws of 2003 1st sp.s.).

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: Operating funds for the medically indigent program were not appropriated under the state's 2003-2005 Omnibus Operating Budget. The department has filed a notice of intent (WSR 03-12-054) and proposed the rule for permanent adoption (WSR 04-04-074). A public hearing on the proposed permanent rule is scheduled for March 9, 2004.

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 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

Effective Date of Rule: February 24, 2004.

February 10, 2004

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 388-503-0505 General eligibility requirements for medical programs. (1) Persons applying for benefits under the medical coverage programs established under chapter 74.09 RCW must meet the eligibility criteria established by the department in chapters 388-400 through 388-555 WAC.

(2) Persons applying for medical coverage are considered first for federally funded or federally matched programs. State-funded programs are considered after federally funded programs are not available to the client except for brief periods when the state-funded programs offer a broad scope of care which meet a specific client need.

(3) Unless otherwise specified in program specific WAC, the eligibility criteria for each medical program is as follows:

(a) Verification of age and identity (chapters 388-404, 388-406, and 388-490 WAC); and

(b) Residence in Washington state (chapter 388-468 WAC); and

(c) Citizenship or immigration status in the United States (chapter 388-424 WAC); and

(d) Possession of a valid Social Security Account Number (chapter 388-476 WAC); and

(e) Assignment of medical support rights to the state of Washington (WAC 388-505-0540); and

(f) Cooperation in securing medical support (chapter 388-422 WAC); and

(g) Countable resources within program limits (chapters 388-470 and 388-478 WAC); and

(h) Countable income within program limits (chapters 388-450 and 388-478 WAC).

(4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.

(5) Persons living in a public institution, including a correctional facility, are not eligible for the department's medical

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coverage programs. (~~A person living in a city or county jail may be considered only for the medically indigent (MI) program.~~) For a person under age twenty or over age sixty-five who is a patient in an institution for mental disease see WAC 388-513-1315(13) for exception.

(6) Persons terminated from SSI or TANF cash grants and those who lose eligibility for categorically needy (CN) medical coverage have their CN coverage continued while their eligibility for other medical programs is redetermined. This continuation of medical coverage is described in chapter 388-434 WAC.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-438-0100 Medically indigent (MI) program.

WSR 04-06-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 04-32—Filed February 26, 2004, 3:12 p.m.]

Date of Adoption: February 26, 2004.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000Q; and amending WAC 220-56-350.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency regulation is needed to implement clam season changes adopted by the Fish and Wildlife Commission. The clam season at Point Whitney Lagoon is extended due to an increase in the surveyed clam population. The clam season at Point Whitney Tidelands is opened a month earlier to provide a more continuous string of sport harvest opportunities at local public beaches. Closure at West Dewatto remains in effect to protect the limited clam resource. 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.

February 26, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-56-35000R Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

(1) Point Whitney (excluding Point Whitney Lagoon): Open March 1 through March 31.

(2) Point Whitney Lagoon: Open April 1 though May 31.

(3) West Dewatto (DNR44-A) Closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-35000Q Clams other than razor clams—Areas and seasons. (04-01)

WSR 04-06-038

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 27, 2004, 4:12 p.m., effective March 1, 2004]

Date of Adoption: February 27, 2004.

Purpose: To implement the 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.

The department is filing proposed rules and a public hearing will be scheduled for April 6, 2004. The emergency rules must be continued while the department completes the regular rule adoption process.

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: The legislature made the finding in section 12 of SSB 5579 (chapter 231, Laws of 2003): "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: March 1, 2004.

February 27, 2004

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)) 45.70	\$ ((44.79)) 44.43	\$ ((44.79)) 44.43
Level 2	\$ ((49.28)) 48.65	\$ ((51.52)) 50.89	\$ ((56.97)) 56.34
Level 3	\$ ((57.07)) 56.32	\$ ((59.51)) 58.76	\$ ((65.76)) 65.01
Level 4	\$ ((68.15)) 67.75	\$ ((72.07)) 71.67	\$ ((78.31)) 77.91

*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)) (AL) not receiving a capital rate add-on? For contracted ((ALF)) AL services for care of a Medicaid resident, the department pays the following daily rates:

COPES ((ALF)) AL Daily Payment Rates w/o Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((54.84)) 54.48	\$ ((56.35)) 55.99	\$ ((61.03)) 60.67
Level 2	\$ ((61.14)) 60.51	\$ ((62.92)) 62.29	\$ ((68.52)) 67.89
Level 3	\$ ((67.54)) 66.79	\$ ((69.90)) 69.15	\$ ((76.46)) 75.71

*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)) (AL) and the ((ALF)) AL daily payment rates with a capital add-on rate? For an ((ALF)) AL 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:

COPES ((ALF)) AL Add-on Rate July 1, 2002		
Non-metropolitan	Metropolitan*	King Co.
\$ 4.68	\$ 4.39	\$ 4.84

COPES ((ALF)) AL Daily Payment Rates with a Capital Add-on Rate			
Care Levels	Non-metropolitan	Metropolitan*	King Co.
Level 1	\$ ((59.52)) 59.16	\$ ((60.74)) 60.38	\$ ((65.87)) 65.51
Level 2	\$ ((65.82)) 65.19	\$ ((67.31)) 66.68	\$ ((73.36)) 72.73
Level 3	\$ ((72.22)) 71.47	\$ ((74.29)) 73.54	\$ ((81.30)) 80.55

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

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NEW SECTION

WAC 388-105-0045 Bed or unit hold Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home with an adult residential care services (ARC), enhanced adult residential care services (EARC), or assisted living services (AL) contract. (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 Medicaid daily rate paid to the facility. To compute the average Medicaid daily rate, the provider will add the highest Medicaid daily rate for each Medicaid resident residing in the facility for any part of the month in which the unit or bed hold began and divide the total by the number of Medicaid residents residing in the facility in the month in which the bed hold began.

(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.

(6) The department's social worker or case manager determines whether the:

(a) Care given in a nursing home or hospital will be short-term; and

(b) Resident is likely to return to the AFH, ARC, EARC, or AL facility.

(7) When the department's social worker or case manager determines that the Medicaid resident's stay in the nursing home or hospital is not short-term and the resident is unlikely to return to the AFH, ARC, EARC, or AL facility, then this section does not apply to any private contractual arrangements that the provider may make with a third party in regard to the discharged resident's unit or bed.

WSR 04-06-039

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 27, 2004, 4:14 p.m.]

Date of Adoption: February 23, 2004.

Purpose: The emergency rule provides an alleged perpetrator in an adult protective services (APS) report the opportunity to request an administrative hearing to challenge a substantiated finding made on or after October 1, 2003.

A CR-101 preproposal statement of inquiry for adoption of permanent rules on this subject has also been filed as WSR 03-17-064.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0105.

Statutory Authority for Adoption: RCW 34.05.020, 74.08.090.

Other Authority: RCW 74.39A.050, chapter 74.34 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: An emergency rule is necessary to preserve the due process rights of alleged perpetrators. This extension is necessary while the department continues to work on developing language to present to stakeholders for review and comment.

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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

February 23, 2004

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

WAC 388-71-0105 What definitions apply to adult protective services and the personal aide registry? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

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"**Basic necessities of life**" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"**Finding**" means the decision made by APS after an investigation regarding alleged abuse, abandonment, neglect, self-neglect or financial exploitation of a vulnerable adult.

"**Legal representative**" means a guardian appointed under chapter 11.88 RCW or individual named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

"**Person or entity with a duty of care**" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; or
(2) A person or entity providing the basic necessities of life to vulnerable adults where:

(a) The person or entity is employed by or on behalf of the vulnerable adult; or

(b) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"**Personal aide**" as found in RCW 74.39.007.

"**Self-directed care**" as found in RCW 74.39.007.

"**Substantiated finding**" means the determination following an investigation by APS that, based on available information, it is more likely than not that abuse, abandonment, neglect, self-neglect or financial exploitation of a vulnerable adult did occur.

NEW SECTION

WAC 388-71-0116 Can an alleged perpetrator who is not a personal aide challenge an APS finding of abuse, abandonment, neglect or financial exploitation? (1) An alleged perpetrator of abuse, abandonment, neglect or financial exploitation of a vulnerable adult, other than a personal aide, may request an administrative hearing under chapter 34.05 RCW and chapter 388-02 WAC to challenge a substantiated APS finding made on or after October 1, 2003.

(2) The alleged perpetrator must request an administrative hearing in writing within thirty days after the department mails a notice of a substantiated APS finding to the alleged perpetrator at the alleged perpetrator's last known mailing address.

(3) The right of personal aides to a hearing is described in WAC 388-71-0150 and 388-71-0155.

WSR 04-06-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-35—Filed February 27, 2004, 4:21 p.m.]

Date of Adoption: February 27, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07100F; 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 the remaining 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: Immediately.

February 27, 2004

Evan Jacoby

for Jeff Koenigs

Director

NEW SECTION

WAC 220-52-07100G 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) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 on Monday, March 1, 2004 only. Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Monday, March 1 and Tuesday, March 2, 2004 only.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber or sea urchin fishing vessel on February 28 and 29, 2004.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100F Sea cucumbers. (04-24)

WSR 04-06-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-34—Filed February 27, 2004, 4:25 p.m.]

Date of Adoption: February 27, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-04600G; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Special management area requirements for the Makah area are no longer needed. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: March 2, 2004, 8:00 a.m.

February 27, 2004

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-52-04600J Coastal crab fishery—Special management area. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful for non-Indian commercial fishers to fish for or take crab for commercial purposes, or place gear, in the following areas during the periods indicated:

(1) The following areas are closed until further notice:

(a) Coastal waters between 47°40.50'N and 47°58.00'N, and east of a line described by the following points:

Southern point (Destruction Island): 47°40.50'N
 124°40.00'W

Northern point (Cape Johnson): 47°58.00'N
 124°49.00'W

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. March 2, 2004:

WAC 220-52-04600G Coastal crab fishery—Special management area. (04-08)

WSR 04-06-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 04-37—Filed March 1, 2004, 4:30 p.m.]

Date of Adoption: March 1, 2004.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000S; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of hatchery salmon are available and impacts to ESA listed fish are expected to be within the guidelines that have been established. The use of short soak times, and recovery boxes will aid in the survival of spring chinook and steelhead that are released. An interim management agreement signed in 2001 provides allocation of ESA impacts to upriver spring chinook to non-Indian fisheries, and Washington and Oregon Fish and Wildlife Commissions have provided guidance on sharing of impacts between commercial and recreational fishers. Impacts in this fishery are consistent with the management agreement and the biological opinion provided by the National Marine Fisheries Service. This rule is consistent with actions of the Columbia River compact of March 1, 2004, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 1, 2004

J. P. Koenings

Director

NEW SECTION

WAC 220-33-01000T Columbia River gillnet seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7 1/4-inch minimum mesh through March 7 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on headline.

b) Dates:

7:00 p.m. Saturdays to 7:00 a.m. Sundays immediately through March 7, 2004

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

Only Blind Slough is open through March 7. After March 7, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period through March 7.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Deep River Select Area

a) Area: Deep River boat launch upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Thursdays to 7:00 a.m. Fridays April 22 through April 30, 2004

7:00 p.m. Mondays to 7:00 a.m. Tuesdays May 3 until further notice

7:00 p.m. Thursdays to 7:00 a.m. Fridays May 3 until further notice

c) Gear: 8-inch maximum mesh size.

d) Allowable sale: salmon, sturgeon, shad.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 5:00 a.m. through 9:00 p.m. March 2, 2004

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of three white sturgeon may be possessed or sold by each participating vessel.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

4) Miscellaneous Regulations:

a) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

b) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

c) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

e) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

h) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW sponsored workshop concerning live captive commercial fishing techniques. A tangle net certificate shall expire on December 31, 2004. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2004.

6) Nothing in this section sets any precedent for any fishery after the 2004 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2005 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2004. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000S	Columbia River gillnet seasons below Bonneville. (04-27)
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EMERGENCY

WSR 04-06-006

OFFICE OF THE GOVERNOR

[Filed February 20, 2004, 9:00 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:

From February 10, 2004 through February 17, 2004, the Governor received miscellaneous petitions from the guardians listed below. The persons listed are guardians of individuals who are residents of Fircrest and Rainier School, and are asking for the repeal of emergency rules contained in WSR 04-02-010, and adopted by the Department of Social and Health Services on December 24, 2003.

- Anne Eddy, guardian of Margit L. Froberg who resides at Rainier School
- Alice L. Hardman, guardian of Kathleen McKay who resides at Fircrest
- Dorothy Brenchley, guardian of James Brenchley who resides at Fircrest
- Lucille Denning, guardian of Marcella Kirschner who resides at Fircrest
- Elizabeth Cantrell, guardian of Patricia Krause who resides at Fircrest
- Sharon Gardner, guardian of Brenda Whistler who resides at Fircrest
- Robert Scalzo, guardian of Robert T. Scalzo who resides at Fircrest
- Mrs. Wayne Thunderchild, guardian of her brother, Terry (no last name listed) who resides at Fircrest
- Jerrilyn Hanley, guardian of her brother (no name listed) who resides at Fircrest
- Bernice A. Weyer, guardian of Mary Weyer who resides at Fircrest

DATE: February 17, 2004

Jennifer Joly
General Counsel to the Governor

February 17, 2004

Anne Eddy
24427 Wax Orchard Road S.W.
Vashon, Washington 98070

Dear Ms. Eddy:

On Thursday, February 5, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2004, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Alice L. Hardman

Dear Ms. Hardman:

On Thursday, February 5, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Dorothy Brenchley

Dear Ms. Brenchley:

On Thursday, February 5, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

MISC.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2004, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Lucille Denning
17943 Fremont Avenue North
Shoreline, Washington 98113

Dear Ms. Denning:

On Tuesday, February 10, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Elizabeth S. Cantrell
3300 Meridian Avenue North, Apt. 409
Seattle, Washington 98103-9155

Dear Ms. Cantrell:

On Wednesday, February 11, 2004, the Office of the Governor received your petition seeking repeal of the Department

of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Sharon Gardner

Dear Ms. Gardner:

On Wednesday, February 11, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Robert Scalzo

Dear Mr. Scalzo:

MISC.

On Wednesday, February 11, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Wayne Thunderchild
5721 - 183rd Street S.W.
Lynnwood, Washington 98037

Dear Mr. Thunderchild:

On Tuesday, February 10, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Jerrilyn Haniley
5721 - 183rd Street S.W.
Lynnwood, Washington 98037

Dear Ms. Haniley:

On Tuesday, February 10, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

February 17, 2004

Bernice A. Weyer
11301 - 3rd Avenue N.E., #408
Seattle, Washington 98125-6092

Dear Ms. Weyer:

On Friday, February 13, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2004, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Office of the Governor and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-06-015

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Alfalfa Seed Commission)

[Memorandum—February 20, 2004]

As required by the Open Public Meetings Act, following is a list of regular meetings of the Washington Alfalfa Seed Commission to be held for the calendar year of 2004:

March 9, 2004	Noon Commission Meeting	Tony Roma's Kennewick
October 27, 2004	Noon Commission Meeting	Tony Roma's Kennewick
December 8, 2004	Noon Commission Meeting	Tony Roma's Kennewick

If you have any questions, please do not hesitate to contact Sheri Nolan at (509) 585-5460.

WSR 04-06-016

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Beef Commission)

[Memorandum—February 18, 2004]

This is to notify you of a board meeting date change for the Washington State Beef Commission: The February 2004 Washington State Beef Commission board meeting has been rescheduled for March 9, 2004, in Ellensburg, Washington.

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

WSR 04-06-017

**NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF**

[Memorandum—February 18, 2004]

The Washington School for the Deaf board of trustees' April meeting (April 8) has been cancelled.

WSR 04-06-022

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 23, 2004, 3:33 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 04-002.

Subject: Referring cases with minor parents to the prosecutor.

Effective Date: February 10, 2004.

Document Description: This policy clarification memo explains the new policy on referring cases with minor parents to the prosecutor as "DCS response" cases.

To receive a copy of the interpretive or policy statement, contact Beth Heston, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail ehston@dshs.wa.gov.

February 11, 2002 [2004]

Beth Heston

WSR 04-06-031

**NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE**

[Memorandum—February 25, 2004]

**NOTICE OF SPECIAL MEETING
BOARD OF TRUSTEES**

**COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE**

2405 East College Way
Mount Vernon, WA 98273

Tuesday, February 24, 2004

1:00 p.m.

La Conner Seafood and Prime Rib
614 First Street
La Conner, WA 98257

Chairperson, Jess del Bosque, has called a special meeting of the board of trustees for **Tuesday, February 24, 2004, 1:00 p.m.**, at La Conner Seafood and Prime Rib Restaurant, 614 First Street, La Conner, WA. This meeting is being held as a work session for the board of trustees. Topics of discussion will include: Facilities master planning, strategic planning and discussion of the proposed annual initiatives for 2004-05.

WSR 04-06-032
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE PATROL
 (Fire Protection Policy Board)
 [Memorandum—February 19, 2004]

The October 27, 2004, work session of the Washington State Fire Protection Policy Board has changed to November 10, 2004, beginning at 9:00.

The November 2004 regular meeting of the Fire Protection Policy Board has been changed from November 17 to November 10, beginning at 10:30.

For further information, please contact Ellen Tombleson at (360) 753-0411.

WSR 04-06-034
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
 [Memorandum—February 23, 2004]

To ensure a quorum, the South Puget Sound Community College board of trustees has changed their regular meeting in March. The date changed from Thursday, March 11, 2004, to Thursday, March 18, 2004, 3-4:30 p.m. in Building 25-Boardroom on the campus of South Puget Sound Community College.

If you have any questions, please contact Diana Toledo at 596-5206.

WSR 04-06-036
AGENDA
OFFICE OF
INSURANCE COMMISSIONER
 [Filed February 26, 2004, 3:35 p.m.]

Rules Agenda
January 2004

Pending Rule Makings: The rule makings have been proposed and are currently between the CR-101 and CR-102 stage. They are currently under review and there may be further rule-making activity before July 2004.

- R 2001-13 Grievance review and dispute resolution.
- R 2001-14 Compliance with federal Health Insurance Portability and Accountability Act of 1996.
- R 2002-01 Establishing a market assistance plan for medical malpractice insurance.
- R 2002-02 Credit life and credit accident.
- R 2002-05 Chapter 284-17B WAC, the Rental Car Insurance Limited Agent License Act.
- R 2002-10 WAC 284-30-510 Date certain payment of automobile premium.

- R 2003-02 Commissioner's standard ordinary (CSO) mortality tables.
- R 2003-03 Chapter 284-20 WAC, Standard fire policies.
- R 2003-05 WAC 284-24-065, Simplify the process to show compliance with RCW 48.19.020.
- R 2003-06 Chapter 284-24 WAC, Improve the clarity and efficiency.
- R 2003-08 Chapter 284-53 WAC, Chemical dependency standards chapter.
- R 2003-09 Chapter 284-02 WAC, OIC operations.
- R 2003-10 Chapter 284-03 WAC, Public access to information and records.

Possible Rule Makings: The commissioner notes that there may be rule makings necessary to implement legislation adopted this session. In addition to those activities, the commissioner continues the effort to update and clarify the code. In the period before July 2004, subjects that may be considered for rule making in this effort include:

- Chapter 284-13 WAC Reinsurance contracts .
- Chapter 284-15 WAC Surplus line insurance.
- Chapter 284-24B WAC Credit P&C.
- Chapter 284-43 WAC Health carriers and health plans.
- Chapter 284-48 WAC Bulletins.
- Chapter 284-53 WAC Conversion regulations.
- Chapter 284-74 WAC Approved insurance tables.
- WAC 284-17-200/ Agent/broker continuing education
- 284-17-320

Please direct questions or comments regarding this agenda or any ongoing or possible rule making to Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 725-7041, fax (360) 586-3109, e-mail KacyS@oic.wa.gov.

WSR 04-06-037
OFFICE OF THE GOVERNOR
 [Filed February 27, 2004, 9:19 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 February 20, 2004, the Governor received miscellaneous petitions from the guardians listed below. The persons listed are guardians of individuals who are residents of Fircrest and Rainier School, and are asking for the repeal of emergency rules contained in WSR 04-02-010, and adopted by the Department of Social and Health Services on December 24, 2003.

MISC.

- Belle Wilson-Boyd, guardian of Alia Munroe who resides at Fircrest
- Bonita Faye Moore, guardian of Cary Schurman who resides at Fircrest

DATE: February 25, 2004

Jennifer Joly
General Counsel to the Governor

February 25, 2004

Belle Wilson-Boyd
8414 S 114th St.
Seattle, WA 98178

Dear Ms. Wilson-Boyd:

On Friday, February 20, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

This rule was adopted on December 24, 2003. It was filed with the Office of the Code Reviser on December 29, 2003.

The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

February 25, 2004

Benita Faye Moore
Via Facsimile: 367-4549

Dear Ms. Moore:

On Friday, February 20, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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The statute under which you seek relief, RCW 34.05.350(3), provides, in relevant part, that "within seven days after the rule is adopted, any person may petition the governor requesting immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010." Given that the rule was adopted on December 24, 2003, your petition is untimely and thus no longer ripe for review by the Governor.

Sincerely,

Jennifer Joly
General Counsel

WSR 04-06-049

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—February 27, 2004]

PLEASE NOTE THE REVISIONS BELOW (UNDERLINED AND BOLD) TO THE REVISED SCHEDULE MAILED ON JANUARY 9, 2004.

In compliance with RCW 42.30.075, the following board of trustees 2004 meeting schedule has been approved for Edmonds Community College. The regularly scheduled meetings will take place on the third Monday of the month beginning at 4:30 p.m. in the Cascade Conference Room 304, Snohomish Hall, at Edmonds Community College, 20226 68th Avenue West, Lynnwood, WA 98036.

Monday, January 26, 4:30 p.m. special study session - CANCELLED

Saturday, January 31, 9:00 a.m. **special study session - CANCELLED**

Thursday, February 5, 4:30 p.m. special meeting

Monday, March 1, 4:30 p.m. special meeting

Monday, March 22, 4:30 p.m. special meeting - CANCELLED

Saturday, March 27, 12:00 noon **special study session**

Monday, April 19, 4:30

Monday, May 17, 4:30 p.m.

Monday, June 21, 4:30 p.m.

July - No meeting

August 26 & 27 special study session

Monday, September 20, 4:30 p.m.

Monday, October 18, 4:30 p.m.

Monday, November 15, 4:30 p.m.

December - No meeting

MISC.

If you have any questions, please feel free to contact Patty Michajla at (425) 640-1516.

WSR 04-06-050

**NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE**

[Memorandum—February 24, 2004]

NOTIFICATION OF SPECIAL MEETING

The board of trustees of Everett Community College will hold a special executive study session on March 4, 2004, to review background materials and recommendations for tenure. No action will be taken.

3:00 p.m. - 5:00 p.m. Executive Session
EvCC Board Room

WSR 04-06-061

OFFICE OF THE GOVERNOR

[Filed March 2, 2004, 8:53 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 February 25, 2004, the Governor received miscellaneous petitions from the guardians listed below. The persons listed are guardians of individuals who are residents of Fircrest School, and are asking for the repeal of emergency rules contained in WSR 04-02-010, and adopted by the Department of Social and Health Services on December 24, 2003.

- Gail Hamley, guardian of Terrance Hamley who resides at Fircrest
- Katherine L. Johnson, guardian of Donald L. Gaines who resides at Fircrest

DATE: February 26, 2004

Jennifer Joly
General Counsel to the Governor

February 25, 2004

Gail Hamley
Via Facsimile: 946/476-0650

Dear Ms. Hamley:

On Wednesday, February 25, 2004, the Office of the Governor received your petition seeking repeal of the Department

of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

February 25, 2004

Katherine L. Johnson
4911 Fremont Avenue N, #201
Seattle, WA 98103

Dear Ms. Johnson:

On Wednesday, February 25, 2004, the Office of the Governor received your petition seeking repeal of the Department of Social and Health Services Emergency Rule WSR 04-02-010, pertaining to residential rehabilitation centers. The DSHS emergency rules, as contained in WSR 04-02-010, create several new sections in Chapter 388-837, and repeal a section and amend several sections in 388-835 of the Washington Administrative Code.

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Sincerely,

Jennifer Joly
General Counsel

MISC.

WSR 04-06-062
DEPARTMENT OF ECOLOGY

[Filed March 2, 2004, 11:20 a.m.]

NOTICE OF PUBLIC HEARING
WASHINGTON STATE DEPARTMENT OF ECOLOGY

**Designating Fine Particulate Matter for Yakima and Other
Areas in Washington State**

The federal Environmental Protection Agency (EPA) develops air pollution standards to protect human health. In 1997, EPA issued annual and 24-hour standards for fine particulate matter (PM_{2.5}). Under these standards, PM_{2.5} levels must not exceed an annual average of 15.0 parts per million averaged over a three calendar-year period, or a 98th percentile level of 65 parts per million averaged over the same time period.

Federal law requires EPA to designate areas of states as attainment, nonattainment, or unclassifiable after setting a new or revised air quality standard. A designation of "attainment" means an area meets the annual and 24-hour standards. "Nonattainment" means an area violates one or both standards and the state must develop a plan to bring the area into attainment with both the annual and the 24-hour standards. "Unclassifiable" means an area cannot be designated as either attainment or nonattainment because no monitoring data are available.

In February 2004, the state of Washington recommended that EPA designate all areas of the state except for Yakima County and tribal lands "attainment/unclassifiable" because all areas of Washington either have not violated the annual or 24-hour standards, or are not monitored. No recommendation was made for Yakima County because three calendar years of data were not available at the time the recommendation was made. Washington state committed to submit a recommendation in April 2004.

Now, data from 2001-2003 are available for Yakima County and all other monitored areas of the state. The data show that Yakima and the other monitored areas meet the PM_{2.5} standard. Washington is considering making a revised recommendation to EPA that all areas of the state except for tribal lands be designated "attainment/unclassifiable." (Tribal lands are not affected by state recommendations because tribes have authority over air quality within the boundaries of their reservations.) The state would not be required to take any further actions if all areas are designated attainment/unclassifiable.

EPA will evaluate the state recommendation and the monitoring records to determine the appropriate designation. EPA plans to publish the designations in the Federal Register in December 2004.

The Department of Ecology will hold a public hearing to receive comments on its recommendation to designate all areas of Washington as attainment/unclassifiable for the PM_{2.5} standard. The hearing is scheduled as follows: Wednesday, April 14, 2004, 2:00 p.m., Department of Ecology, Headquarters Building, Room 2B-09, 300 Desmond Drive, Lacey, WA.

Written comments must be postmarked no later than April 14, 2004, and should be sent to Doug Schneider,

Department of Ecology Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

For more information about the designation of ozone areas in Washington, please contact Doug Schneider, Department of Ecology Air Quality Program, (360) 407-6874.

If you need this information in an alternate format, please contact Tami Dahlgren at (360) 407-6800. If you are a person with a speech or hearing impairment, call 711, or 1-800-833-6388 for TTY.

WSR 04-06-066

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 2, 2004, 4:10 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-03A MAA.

Subject: Dental program changes and updates.

Effective Date: March 1, 2004.

Document Description: **Effective for dates of service on and after March 1, 2004**, the Medical Assistance Administration (MAA) will implement the following technical changes and updates discussed in this memorandum.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 24, 2004

E. A. Myers, Manager

Rules and Publications Section

WSR 04-06-067

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 2, 2004, 4:11 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-06 MAA.

Subject: Maternity support services/infant case management—Reimbursement for Doula services discontinued.

Effective Date: April 1, 2004.

Document Description: **Effective for dates of service on and after April 1, 2004**, MAA will no longer reimburse providers for Doula services (HCPCS procedure code S5125 with modifier HD) under the maternity support services/infant case management program as explained in this memorandum.

MISC.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2004"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 26, 2004
E. A. Myers, Manager
Rules and Publications Section

WSR 04-06-068

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 2, 2004, 4:12 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-08 MAA.
Subject: Prescription drug program: Maximum allowable cost update.

Effective Date: February 23, 2004.

Document Description: **Effective for dates of service on and after March 1, 2004**, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:

1. New additions to the maximum allowable cost (MAC) list;
2. Deletions from the MAC list;
3. Adjustments to existing MACs; and
4. Adjustments to existing certified average wholesale prices (CAWPs).

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 27, 2004
E. A. Myers, Manager
Rules and Publications Section

WSR 04-06-069

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 2, 2004, 4:13 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-05 MAA.

Subject: Updates to the prescription drug program.

Effective Date: January 30, 2004.

Document Description: This memorandum describes the following changes in the Medical Assistance Administration's (MAA's) coverage **effective the week of March 1, 2004, and after**:

- Changes to expedited prior authorization (EPA) codes and criteria; and
- Changes to limitations of certain drugs.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 27, 2004
E. A. Myers, Manager
Rules and Publications Section

WSR 04-06-070

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed March 2, 2004, 4:14 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-04 MAA.

Subject: Maximum allowable cost list update.

Effective Date: January 14, 2004.

Document Description: **Effective for dates of service on and after February 1, 2004**, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:

1. New additions to the maximum allowable cost (MAC) list;
2. Deletions from the MAC list; and
3. Adjustments to existing MACs.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 27, 2004
E. A. Myers, Manager
Rules and Publications Section

MISC.

WSR 04-06-071
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed March 2, 2004, 4:15 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-02 MAA.
Subject: Dispensing fee payments and pharmacy services Washington Administrative Code (WAC) update.

Effective Date: January 9, 2004.

Document Description: **Effective for dates of service on and after February 1, 2004**, the Medical Assistance Administration (MAA) will no longer reimburse pharmacies a dispensing fee for nondrug items, devices, or supplies. Also included with this memorandum is a notice to pharmacy providers of an update to MAA's pharmacy services WAC regarding "dispensing least costly dosage form."

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 27, 2004

E. A. Myers, Manager
Rules and Publications Section

WSR 04-06-077

NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE

(Interagency Committee for Outdoor Recreation)

[Memorandum—March 1, 2004]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, April 1, and Friday, April 2, 2004, in Room 172 of the Natural Resources Building in Olympia.

The final agenda will be prepared after March 11, the close of the legislative session. The draft agenda proposes a meeting start time of 10:00 a.m. on Thursday April 1, with a morning session of management reports, an update on legislative issues, and preliminary budget discussions. A facilitated planning workshop may be set for the afternoon. Friday, April 2 (day two) will convene at 8:15 a.m. and include action and informational items. Action items will commence approximately 9:30 a.m. and include funding approval for three NOVA program categories (education and enforcement (E&E), nonhighway roads (NHR), off-road vehicle (ORV), and youth athletic facilities (YAF)). Other action or discussion items may include: Revisions to policy manuals, project changes, performance measures, Thurston County ORV Sports Park update, and WWRP reappropriations.

If you plan to participate or have materials for committee review, please submit information to IAC no later than March 18, 2004. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting the IAC by March 24 at (360) 902-3000 or TDD (360) 902-1996.

WSR 04-06-076

NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE

(Salmon Recovery Funding Board)

[Memorandum—March 1, 2004]

At its February 19 and 20, 2004, meeting the Salmon Recovery Funding Board (SRFB) adopted a revised schedule, canceling the March 30 and 31, 2004, board meeting and adding an April 29 and 30, 2004, board meeting.

The **April 29** session is a joint meeting with the Oregon Watershed Enhancement Board (OWEB), at the Water Resources Education Center meeting room in Vancouver, Washington. **April 30** will be a regular SRFB business meeting at the same site.

There will not be a SRFB meeting on March 30 and 31, 2004.

Meeting materials and the agenda will be posted on the agency website at <http://www.iac.wa.gov/srfb/board/schedules.htm> not later than April 20, 2004.

SRFB public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting the SRFB by April 22, 2004, at (360) 902-2637 or TDD (360) 902-1996.

WSR 04-06-084

OFFICE OF
INSURANCE COMMISSIONER

[Filed March 3, 2004, 11:07 a.m.]

In the Matter of the Merger of) No. G04-02
PACIFIC NORTHWEST TITLE)
INSURANCE COMPANY, a Wash-) NOTICE OF HEARING
ington title insurance com-)
pany, with and into THE FIRST)
AMERICAN CORPORATION, a)
California corporation)

TO: Timothy J. Parker, Esq.
Carney Badley Spellman, P.S.
700 Fifth Avenue, Ste. 5800
Seattle, WA 98104-5017

Parker S. Kennedy - President
First American Corporation
1 First American Way
Santa Ana, CA 92707

MISC.

Raymond Lloyd Davis - President
Pacific Northwest Title Insurance Company
215 Columbia Street
Seattle, WA 98104-1511

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance
Commissioner
Carol Sureau, Deputy Commissioner for
Legal Affairs
James E. Tompkins, Assistant Deputy
Commissioner,
Company Supervision
Office of Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pacific Northwest Title Insurance Company (PNWT) is a title insurance company domiciled in the State of Washington. Pacific Northwest Title Holding Company, a Washington corporation, is PNWT's holding company.

The First American Corporation (First American) is a holding company domiciled in the State of California, is publicly traded on the New York Stock Exchange, and is a general business corporation which, through its subsidiaries, is engaged in title insurance and services, specialty insurance, trust and other services, mortgage information, property information, credit information and screening information.

On January 30, 2004, First American filed an application with the Insurance Commissioner for approval of its proposal to merge with and acquire control of PNWT by acquiring all of the issued and outstanding stock of Pacific Northwest Title Holding Company in a negotiated acquisition. More specifically, and as detailed in its application, First American proposes to acquire PNWT through merger of PNWT with First American's wholly-owned subsidiary Pacific Northwest Title Holding Company Acquisition Corporation. Should this proposal be approved, upon the effective date of the purchase, Pacific Northwest Title Holding Company Acquisition Corporation shall cease to exist and Pacific Northwest Title Holding Company, a Washington corporation, shall be the surviving corporation. Said purchase will result in the merger of PNWT into First American and a change of control of PNWT. With this proposed merger, First American intends to continue and expand its business of selling and underwriting title insurance policies in the State of Washington.

A merger involving a domestic Washington insurer is controlled by RCW 48.31.010, 48.31B.015 and 48.31B.020. Pursuant to RCW 48.31.010, a Form "A" Statement Regarding the Merger and Acquisition of Control of a Domestic Insurer was submitted to the Insurance Commissioner on January 26, 2004, and has been filed herein. Pursuant to RCW 48.31.010, a domestic insurer may merge with another insurer if, after a hearing, it is found: 1) that the plan of merger has been submitted to and is approved by the Insurance Commissioner in advance of the merger; 2) that adequate notice of the hearing has been given; 3) that the proposed merger is fair, equitable, and consistent with law; 4) that no reasonable objection exists; 3) that no director,

officer, member, or subscriber of any such insurer, except as is expressly provided by the plan of merger, has or shall receive any fee, commission, other compensation or valuable consideration whatsoever, for in any manner aiding, promoting or assisting in the merger; and 4) that the Washington insurer has complied with the general laws of this state relating to business corporations. Additionally, RCW 48.31B.015 requires that findings, specified therein, must be made concerning licensing, financial condition, proposed restructuring, competence of the acquiring management and concerning whether the acquisition is likely to be hazardous or prejudicial to the insurance-buying public. Finally, RCW 48.31B.020 provides, among other criteria, that the Commissioner may disapprove the proposed acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in a line of insurance in this state or tend to create a monopoly therein.

YOU ARE HERBY NOTIFIED that a hearing will be held commencing on April 21, 2004 at the hour of 9:00 a.m. in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501, to consider the proposed merger of PNWT with and into First American, resulting in a change of control of PNWT.

The hearing will be held under the authority granted the Insurance Commissioner by Chapter 48.04 RCW and RCW 48.31.010, and shall have as its purpose consideration of the above identified statutory criteria and entry of a final decision regarding approval or disapproval of this proposed merger. PNWT and First American must each submit evidence, in the form of live testimony and written affidavits, supporting their position regarding these criteria. Relative to these criteria, the companies must also submit evidence that the rights of Washington policyholders under their current contracts will not be altered.

The Insurance Commissioner has not taken, and will not take, any position on this matter prior to entry of the Findings of Facts, Conclusions of Law and Final Order to be entered by the undersigned after hearing.

YOU ARE FURTHER NOTIFIED that all comments on, or objections to, this proposed merger must be submitted 5:00 p.m. on April 19, 2004. Said comments or objections must be submitted to the undersigned by fax, U.S. Mail, or personal delivery. The fax number of the undersigned is (360) 664-2782, and her address is 5000 Capitol Boulevard, Tumwater, Washington 98501. Further, any member of the public may attend the hearing and may present relevant information concerning the matters at issue herein.

All parties may participate in the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved, as required by the Administrative Procedure Act. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

The Insurance Commissioner will be represented by James E. Tompkins, Assistant Deputy Commissioner in his Company Supervision Division. He can be reached at (360) 725-7218. PNWT and First American will be represented by Timothy J. Parker, Esq. He can be reached at (206) 622-8020.

Based upon a delegation of authority from the Insurance Commissioner, the undersigned will conduct the hearing and will make the final decision and enter the final order relative to this matter. Her address of Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255 and her telephone number is (360) 725-7105. All questions or concerns should be directed to Charlene Bowman, Administrative Assistant to the undersigned, at (360) 725-7002 or at the above address.

Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. Following this Notice is a form you may use to advise the Chief Hearing Officer of your need for an interpreter.

ENTERED at Olympia, Washington, this 2nd day of March, 2004, pursuant to Title 48 RCW and specifically RCW 48.31.010, Title 34 RCW, and regulations applicable thereto.

PATRICIA D. PETERSEN
Presiding Officer
Chief Hearing Officer

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Office of Insurance Commissioner and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 04-06-086
OFFICE OF THE GOVERNOR
[Filed March 3, 2004, 11:42 a.m.]

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 04-07 issue of the Register.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
 - E = Emergency action
 - P = Proposed action
 - S = Supplemental notice
 - W = Withdrawal of proposed action
 - X = Expedited rule making
 - XA = Expedited adoption
 - XR = Expedited repeal
 - No suffix means permanent action
- WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.
- WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-170-180	NEW-P	04-05-119	16-230-845	PREP	04-03-004	16-231-235	PREP	04-03-004
16-219-100	REP-X	04-06-073	16-230-850	PREP	04-03-004	16-231-300	PREP	04-03-004
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16-228-1231	PREP	04-03-004	16-230-861	PREP	04-03-004	16-231-315	PREP	04-03-004
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16-231-910	PREP	04-03-004	16-301-430	AMD-P	04-05-118	16-690-030	REP	04-05-117
16-231-912	PREP	04-03-004	16-301-435	AMD-P	04-05-118	16-690-035	REP	04-05-117
16-231-915	PREP	04-03-004	16-301-440	AMD-P	04-05-118	16-690-040	REP	04-05-117
16-231-920	PREP	04-03-004	16-302-385	AMD-P	04-05-120	16-690-045	REP	04-05-117
16-231-925	PREP	04-03-004	16-302-685	AMD	04-06-018	16-690-100	REP	04-05-117
16-231-930	PREP	04-03-004	16-303-340	AMD	04-06-029	51- 04-030	AMD-X	04-03-034
16-231-935	PREP	04-03-004	16-319-041	AMD	04-06-028	51- 13-106	AMD-X	04-03-033
16-232-001	PREP	04-03-004	16-401	PREP	04-04-108	51- 13-201	AMD-X	04-03-033
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16-232-007	PREP	04-03-004	16-402	AMD-P	04-06-083	51- 13-303	AMD-X	04-03-033
16-232-010	PREP	04-03-004	16-402-010	AMD-P	04-06-083	51- 13-304	AMD-X	04-03-033
16-232-015	PREP	04-03-004	16-402-020	AMD-P	04-06-083	51- 13-402	AMD-X	04-03-033
16-232-020	PREP	04-03-004	16-402-030	NEW-P	04-06-083	51- 13-502	AMD-X	04-03-033
16-232-025	PREP	04-03-004	16-402-040	NEW-P	04-06-083	51- 13-503	AMD-X	04-03-033
16-232-027	PREP	04-03-004	16-449-001	REP	04-05-117	106-124-900	NEW-P	04-06-014
16-232-030	PREP	04-03-004	16-449-010	REP	04-05-117	106-124-910	NEW-P	04-06-014
16-232-035	PREP	04-03-004	16-449-020	REP	04-05-117	106-124-920	NEW-P	04-06-014
16-232-041	PREP	04-03-004	16-449-030	REP	04-05-117	131	PREP	04-03-032
16-232-044	PREP	04-03-004	16-450-005	NEW	04-05-117	131- 16-070	AMD-P	04-04-033
16-232-047	PREP	04-03-004	16-450-010	NEW	04-05-117	131- 16-091	AMD-P	04-04-033
16-232-050	PREP	04-03-004	16-450-012	NEW	04-05-117	131- 16-092	AMD-P	04-04-033
16-232-053	PREP	04-03-004	16-450-014	NEW	04-05-117	131- 16-093	AMD-P	04-04-033
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16-232-059	PREP	04-03-004	16-450-020	NEW	04-05-117	131- 16-095	AMD-P	04-04-033
16-232-062	PREP	04-03-004	16-450-022	NEW	04-05-117	132V-120	PREP	04-05-022
16-232-065	PREP	04-03-004	16-450-024	NEW	04-05-117	132V-130	PREP	04-05-021
16-232-068	PREP	04-03-004	16-450-026	NEW	04-05-117	136- 28-010	AMD	04-05-001

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136-130-060	AMD	04-05-001	192-12-190	REP-E	04-02-039	192-180-010	AMD-E	04-02-039
136-130-070	AMD	04-05-001	192-12-300	REP-E	04-02-039	192-180-015	AMD-E	04-02-039
137-28-260	AMD-P	04-05-076	192-12-310	REP-E	04-02-039	192-180-020	AMD-E	04-02-039
139-01-100	AMD-P	04-02-040	192-12-320	REP-E	04-02-039	192-180-025	AMD-E	04-02-039
139-05-210	PREP	04-04-017	192-12-330	REP-E	04-02-039	192-180-030	AMD-E	04-02-039
139-05-915	PREP	04-05-064	192-12-340	REP-E	04-02-039	192-180-040	NEW-E	04-02-039
139-10-210	PREP	04-06-057	192-16-009	AMD-E	04-02-039	192-200-005	NEW-E	04-02-039
173-26-105	REP-X	04-05-105	192-16-015	AMD-E	04-02-039	192-200-010	NEW-E	04-02-039
173-303	PREP	04-04-101	192-16-016	AMD-E	04-02-039	192-200-030	NEW-E	04-02-039
173-503	PREP	04-06-027	192-16-019	REP-E	04-02-039	192-220-010	NEW-E	04-02-039
180-16-220	AMD	04-04-093	192-16-023	REP-E	04-02-039	192-220-020	NEW-E	04-02-039
180-16-225	AMD	04-04-093	192-23-014	REP-E	04-02-039	192-220-030	NEW-E	04-02-039
180-16-227	AMD	04-04-093	192-23-015	REP-E	04-02-039	192-230-100	NEW-E	04-02-039
180-18-050	AMD	04-04-093	192-23-016	REP-E	04-02-039	192-240-035	AMD-E	04-02-039
180-18-055	AMD	04-04-093	192-23-017	REP-E	04-02-039	192-240-040	AMD-E	04-02-039
180-18-090	NEW	04-04-093	192-23-019	REP-E	04-02-039	192-300-050	AMD-E	04-02-039
180-20-009	AMD-P	04-04-087	192-23-061	REP-E	04-02-039	192-310-010	AMD-E	04-02-039
180-20-021	NEW-P	04-04-087	192-23-096	REP-E	04-02-039	192-310-025	AMD-E	04-02-039
180-20-101	AMD-P	04-04-087	192-23-800	REP-E	04-02-039	192-310-030	AMD-E	04-02-039
180-20-111	AMD-P	04-04-087	192-23-810	REP-E	04-02-039	192-320-070	AMD-E	04-02-039
180-24-225	NEW	04-04-091	192-28-105	REP-E	04-02-039	192-320-075	NEW-E	04-02-039
180-50-300	AMD-P	04-04-086	192-28-110	REP-E	04-02-039	192-340-100	NEW-E	04-02-039
180-50-320	AMD-P	04-04-086	192-28-115	REP-E	04-02-039	196-09	AMD	04-04-001
180-51-050	AMD	04-04-093	192-28-120	REP-E	04-02-039	196-09-010	AMD	04-04-001
180-51-061	AMD	04-04-092	192-100-010	NEW-E	04-02-039	196-09-050	NEW	04-04-001
180-55-005	AMD	04-04-093	192-100-020	NEW-E	04-02-039	196-09-055	NEW	04-04-001
180-55-015	AMD	04-04-093	192-100-030	NEW-E	04-02-039	196-09-060	NEW	04-04-001
180-55-020	AMD	04-04-093	192-110-200	NEW-E	04-02-039	196-09-100	NEW	04-04-001
180-55-034	AMD	04-04-093	192-110-210	NEW-E	04-02-039	196-09-110	NEW	04-04-001
180-55-150	REP	04-04-093	192-120-050	NEW-E	04-02-039	196-09-120	NEW	04-04-001
180-78A-100	AMD	04-04-090	192-130-060	NEW-E	04-02-039	196-12-005	NEW	04-04-001
180-78A-270	AMD	04-04-089	192-130-065	NEW-E	04-02-039	196-12-010	AMD	04-04-001
180-78A-507	AMD	04-04-010	192-130-070	NEW-E	04-02-039	196-12-020	AMD	04-04-001
180-79A-030	AMD	04-04-011	192-130-080	NEW-E	04-02-039	196-12-030	AMD	04-04-001
180-79A-117	AMD	04-04-088	192-140-070	NEW-E	04-02-039	196-12-045	AMD	04-04-001
180-79A-140	PREP	04-04-084	192-140-075	NEW-E	04-02-039	196-12-050	AMD	04-04-001
180-79A-206	AMD	04-04-011	192-140-080	NEW-E	04-02-039	196-12-055	NEW	04-04-001
180-79A-213	AMD	04-04-011	192-140-085	NEW-E	04-02-039	196-12-065	NEW	04-04-001
180-79A-223	AMD	04-04-012	192-140-090	NEW-E	04-02-039	196-16-006	NEW	04-04-001
180-79A-226	AMD	04-04-011	192-140-100	NEW-E	04-02-039	196-16-007	AMD	04-04-001
180-79A-231	PREP	04-04-084	192-140-120	NEW-E	04-02-039	196-16-010	AMD	04-04-001
180-79A-257	AMD	04-04-009	192-140-200	NEW-E	04-02-039	196-16-020	AMD	04-04-001
180-79A-257	AMD	04-04-011	192-140-210	NEW-E	04-02-039	196-16-031	AMD	04-04-001
180-85-105	AMD-P	04-04-085	192-150-050	AMD-E	04-02-039	196-16-035	NEW	04-04-001
181-01-002	NEW-P	04-04-105	192-150-055	AMD-E	04-02-039	196-20-005	NEW-P	04-04-027
181-01-003	NEW-P	04-04-106	192-150-060	AMD-E	04-02-039	196-20-010	AMD-P	04-04-027
182-20-400	AMD	04-03-006	192-150-065	AMD-E	04-02-039	196-20-020	AMD-P	04-04-027
182-50-001	NEW	04-06-021	192-150-085	AMD-E	04-02-039	196-20-030	AMD-P	04-04-027
182-50-005	NEW	04-06-021	192-150-090	AMD-E	04-02-039	196-21-005	NEW	04-04-001
182-50-010	NEW	04-06-021	192-150-110	NEW-E	04-02-039	196-21-010	AMD	04-04-001
182-50-015	NEW	04-06-021	192-150-115	NEW-E	04-02-039	196-21-020	AMD	04-04-001
182-50-025	NEW	04-06-021	192-150-120	NEW-E	04-02-039	196-21-030	AMD	04-04-001
182-50-030	NEW	04-06-021	192-150-125	NEW-E	04-02-039	196-23-070	AMD	04-04-001
182-50-035	NEW	04-06-021	192-150-130	NEW-E	04-02-039	196-24-041	REP	04-04-001
182-50-200	NEW	04-06-021	192-150-135	NEW-E	04-02-039	196-24-080	REP	04-04-001
192-04-040	AMD-E	04-02-039	192-150-140	NEW-E	04-02-039	196-24-085	REP	04-04-001
192-04-050	AMD-E	04-02-039	192-150-150	NEW-E	04-02-039	196-24-100	REP	04-04-001
192-12-011	REP-E	04-02-039	192-150-200	NEW-E	04-02-039	196-24-105	REP	04-04-001
192-12-012	REP-E	04-02-039	192-150-205	NEW-E	04-02-039	196-24-110	REP-W	04-05-061
192-12-020	REP-E	04-02-039	192-150-210	NEW-E	04-02-039	196-25-001	AMD	04-04-001
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196-25-020	REP	04-04-001	220-56-36000X	REP-E	04-05-100	232-28-61900H	NEW-E	04-04-028
196-25-030	REP	04-04-001	220-56-38000G	NEW-E	04-03-010A	232-28-61900H	REP-E	04-04-028
196-25-040	AMD-W	04-05-061	220-56-39000B	NEW-E	04-05-057	232-28-61900H	REP-E	04-05-032
196-25-050	AMD	04-04-001	220-56-41000A	NEW-E	04-05-057	232-28-61900I	NEW-E	04-04-060
196-25-100	REP	04-04-001	220-69-241	AMD	04-05-028	232-28-61900J	NEW-E	04-05-015
196-27A-025	NEW-W	04-05-061	220-72-011	AMD-P	04-05-069	232-28-61900J	REP-E	04-05-015
220-32-05100P	NEW-E	04-03-075	220-72-089	AMD-P	04-05-069	232-28-61900K	NEW-E	04-05-033
220-32-05100P	REP-E	04-03-075	220-72-090	AMD-P	04-05-069	232-28-61900K	REP-E	04-05-033
220-32-05100P	REP-E	04-04-053	220-88B-030	AMD	04-05-027	232-28-61900L	NEW-E	04-05-048
220-32-05100Q	NEW-E	04-04-053	220-88B-040	AMD	04-05-027	232-28-61900L	REP-E	04-05-048
220-32-05100Q	REP-E	04-04-053	220-110-035	PREP	04-04-008	236-12-290	AMD-P	04-05-101
220-33-01000Q	REP-E	04-04-071	220-125-010	AMD	04-05-026	246-01	PREP	04-06-043
220-33-01000R	NEW-E	04-04-071	222-08-010	AMD	04-05-122	246-08	PREP	04-06-043
220-33-01000R	REP-E	04-04-071	222-08-020	AMD	04-05-122	246-50-001	AMD-W	04-02-066
220-33-01000S	NEW-E	04-06-002	222-08-020	DECOD	04-05-122	246-50-005	NEW-W	04-02-066
220-33-01000S	REP-E	04-06-002	222-08-030	AMD	04-05-122	246-50-010	AMD-W	04-02-066
220-33-01000S	REP-E	04-06-059	222-08-030	DECOD	04-05-122	246-50-020	AMD-W	04-02-066
220-33-01000T	NEW-E	04-06-059	222-08-035	DECOD	04-05-122	246-50-030	AMD-W	04-02-066
220-44-05000A	NEW-E	04-03-010C	222-08-040	AMD	04-05-122	246-50-035	NEW-W	04-02-066
220-44-05000Z	REP-E	04-03-010C	222-08-050	NEW	04-05-122	246-50-040	REP-W	04-02-066
220-48-02900D	NEW-E	04-05-056	222-08-060	NEW	04-05-122	246-50-990	AMD-W	04-02-066
220-48-03200C	NEW-E	04-05-056	222-08-070	NEW	04-05-122	246-217-010	PREP-W	04-06-020
220-48-06200C	NEW-E	04-05-056	222-08-080	NEW	04-05-122	246-217-015	PREP-W	04-06-020
220-49-02000P	NEW-E	04-05-056	222-08-090	NEW	04-05-122	246-232-020	AMD	04-04-055
220-49-05600C	NEW-E	04-05-056	222-08-100	NEW	04-05-122	246-232-040	AMD	04-04-055
220-52-04000U	REP-E	04-05-007	222-08-120	NEW	04-05-122	246-232-050	AMD	04-04-055
220-52-04000V	NEW-E	04-05-007	222-08-130	NEW	04-05-122	246-232-060	AMD	04-04-055
220-52-04000V	REP-E	04-05-014	222-08-140	RECOD	04-05-122	246-233-001	AMD	04-04-055
220-52-04000W	NEW-E	04-05-014	222-08-150	RECOD	04-05-122	246-233-005	NEW	04-04-055
220-52-04000W	REP-E	04-06-003	222-08-160	RECOD	04-05-122	246-233-015	NEW	04-04-055
220-52-04000X	NEW-E	04-06-003	222-12-090	AMD	04-05-087	246-233-020	AMD	04-04-055
220-52-04600D	REP-E	04-03-049	222-16-010	AMD	04-05-087	246-233-025	NEW	04-04-055
220-52-04600F	REP-E	04-05-007	230-04-124	AMD-W	04-05-059	246-233-030	NEW	04-04-055
220-52-04600G	NEW-E	04-03-049	230-04-192	REP-P	04-05-078	246-233-035	NEW	04-04-055
220-52-04600G	REP-E	04-06-042	230-04-196	REP-P	04-05-078	246-233-040	NEW	04-04-055
220-52-04600H	NEW-E	04-05-007	230-30-072	AMD-P	04-02-045	246-235-093	AMD	04-04-055
220-52-04600H	REP-E	04-06-013	230-40-070	PREP	04-04-061	246-235-095	AMD	04-04-055
220-52-04600I	NEW-E	04-06-013	230-40-120	AMD-C	04-04-036	246-235-097	AMD	04-04-055
220-52-04600J	NEW-E	04-06-042	230-40-120	AMD	04-06-005	246-239-080	AMD	04-04-055
220-52-07100D	NEW-E	04-03-031	230-40-823	AMD	04-06-058	246-247-075	AMD-W	04-02-067
220-52-07100D	REP-E	04-05-008	232-12-004	AMD-P	04-05-099	246-247-110	AMD-W	04-02-067
220-52-07100E	NEW-E	04-05-008	232-12-005	NEW-P	04-05-099	246-247-120	AMD-W	04-02-067
220-52-07100E	REP-E	04-05-045	232-12-014	AMD-P	04-05-110	246-247-130	AMD-W	04-02-067
220-52-07100F	NEW-E	04-05-045	232-12-047	AMD-P	04-05-106	246-254-090	AMD	04-04-055
220-52-07100F	REP-E	04-06-041	232-12-054	AMD-P	04-05-106	246-272B	PREP	04-03-010
220-52-07100G	NEW-E	04-06-041	232-12-064	AMD-P	04-05-099	246-290	PREP	04-06-044
220-52-07300J	REP-E	04-03-010B	232-12-271	AMD-P	04-05-099	246-290-010	AMD	04-04-056
220-52-07300K	NEW-E	04-03-010B	232-12-828	AMD-P	04-05-106	246-290-025	AMD	04-04-056
220-52-07300K	REP-E	04-03-074	232-28-248	AMD-P	04-05-115	246-290-130	AMD	04-04-056
220-52-07300L	NEW-E	04-03-074	232-28-271	AMD	04-03-026	246-290-300	AMD	04-04-056
220-52-07300L	REP-E	04-06-012	232-28-272	AMD-P	04-05-109	246-290-310	AMD	04-04-056
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220-56-27000S	NEW-E	04-05-057	232-28-337	AMD-P	04-05-116	246-290-660	AMD	04-04-056
220-56-35000Q	NEW-E	04-03-010A	232-28-341	AMD-P	04-05-112	246-290-664	AMD	04-04-056
220-56-35000Q	REP-E	04-06-035	232-28-351	AMD-P	04-05-107	246-290-666	AMD	04-04-056
220-56-35000R	NEW-E	04-06-035	232-28-352	AMD-P	04-05-108	246-290-72010	AMD	04-04-056
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246-292-160	AMD-P	04-06-046	246-915-230	AMD-P	04-03-107	296- 20-2025	NEW	04-04-029
246-294-001	AMD	04-06-047	246-915-240	AMD-P	04-03-107	296- 20-2030	NEW	04-04-029
246-294-010	AMD	04-06-047	246-915-250	AMD-P	04-03-107	296- 20-210	REP	04-04-029
246-294-020	AMD	04-06-047	246-915-260	AMD-P	04-03-107	296- 23-220	AMD-P	04-05-075
246-294-030	AMD	04-06-047	246-915-270	AMD-P	04-03-107	296- 23-230	AMD-P	04-05-075
246-294-040	AMD	04-06-047	246-915-280	AMD-P	04-03-107	296- 23-255	REP	04-04-029
246-294-050	AMD	04-06-047	246-918-120	AMD-P	04-05-044	296- 23-260	REP	04-04-029
246-294-060	AMD	04-06-047	246-919-110	AMD	04-04-067	296- 23-265	REP	04-04-029
246-294-070	AMD	04-06-047	246-919-320	AMD	04-04-067	296- 23-26501	REP	04-04-029
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246-294-090	AMD	04-06-047	246-919-360	AMD	04-04-067	296- 23-26503	REP	04-04-029
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246-808-535	PREP	04-02-064	250- 20-041	AMD-P	04-03-108	296- 23-26505	REP	04-04-029
246-809-610	AMD	04-06-010	260- 08-600	REP	04-05-089	296- 23-26506	REP	04-04-029
246-809-620	AMD	04-06-010	260- 08-610	REP	04-05-089	296- 23-267	REP	04-04-029
246-809-630	AMD	04-06-010	260- 08-620	AMD	04-05-089	296- 23-270	REP	04-04-029
246-809-700	NEW	04-06-011	260- 08-630	AMD	04-05-089	296- 23-302	NEW	04-04-029
246-809-710	NEW	04-06-011	260- 08-640	REP	04-05-089	296- 23-307	NEW	04-04-029
246-809-720	NEW	04-06-011	260- 08-650	AMD	04-05-089	296- 23-312	NEW	04-04-029
246-828-030	REP	04-02-068	260- 08-660	AMD	04-05-089	296- 23-317	NEW	04-04-029
246-828-045	AMD	04-02-068	260- 14-010	AMD	04-05-090	296- 23-322	NEW	04-04-029
246-828-055	REP	04-02-068	260- 16-065	NEW	04-05-091	296- 23-327	NEW	04-04-029
246-828-061	REP	04-02-068	260- 24-650	AMD-P	04-04-045	296- 23-332	NEW	04-04-029
246-828-070	REP	04-02-068	260- 28-140	REP	04-05-092	296- 23-337	NEW	04-04-029
246-828-075	AMD	04-02-068	260- 36-120	AMD-P	04-04-046	296- 23-342	NEW	04-04-029
246-828-090	AMD	04-02-068	260- 40-100	AMD-P	04-05-088	296- 23-347	NEW	04-04-029
246-828-095	AMD	04-02-068	260- 40-160	AMD-P	04-04-047	296- 23-352	NEW	04-04-029
246-828-100	AMD	04-02-068	260- 48-620	AMD-P	04-04-048	296- 23-357	NEW	04-04-029
246-828-105	AMD	04-02-068	260- 48-890	AMD-P	04-04-048	296- 23-362	NEW	04-04-029
246-828-220	AMD	04-02-068	260- 48-900	AMD-P	04-04-048	296- 23-367	NEW	04-04-029
246-828-270	AMD	04-02-068	260- 48-910	AMD-P	04-04-048	296- 23-372	NEW	04-04-029
246-828-290	AMD	04-02-068	260- 60-350	AMD	04-05-093	296- 23-377	NEW	04-04-029
246-828-320	AMD	04-02-068	260- 60-360	AMD	04-05-093	296- 23-381	NEW	04-04-029
246-828-330	AMD	04-02-068	260- 70-545	NEW	04-05-094	296- 23-382	NEW	04-04-029
246-828-350	AMD	04-02-068	260- 70-630	AMD	04-05-095	296- 23-387	NEW	04-04-029
246-828-500	AMD	04-02-068	260- 88-010	AMD	04-05-096	296- 23-392	NEW	04-04-029
246-828-550	AMD	04-02-068	284- 74-400	NEW	04-04-070	296- 24	PREP	04-05-074
246-828-990	AMD	04-02-068	284- 74-410	NEW	04-04-070	296- 24	PREP	04-06-078
246-840-010	AMD-E	04-05-043	284- 74-420	NEW	04-04-070	296- 24-110	REP-P	04-03-102
246-840-700	AMD-E	04-06-009	284- 74-430	NEW	04-04-070	296- 24-11001	REP-P	04-03-102
246-840-840	AMD-E	04-05-043	284- 74-440	NEW	04-04-070	296- 24-11003	REP-P	04-03-102
246-840-850	AMD-E	04-05-043	284- 74-450	NEW	04-04-070	296- 24-11005	REP-P	04-03-102
246-840-860	AMD-E	04-05-043	284- 74-460	NEW	04-04-070	296- 24-11007	REP-P	04-03-102
246-840-870	AMD-E	04-05-043	287- 01-030	AMD	04-03-114	296- 24-11009	REP-P	04-03-102
246-840-880	AMD-E	04-05-043	287- 02-030	AMD	04-03-114	296- 24-11011	REP-P	04-03-102
246-840-890	AMD-E	04-05-043	287- 02-130	AMD	04-03-114	296- 24-11013	REP-P	04-03-102
246-840-900	REP-E	04-05-043	296- 05-007	AMD-P	04-04-014	296- 24-11015	REP-P	04-03-102
246-840-910	AMD-E	04-06-009	296- 05-008	NEW-P	04-04-014	296- 24-11017	REP-P	04-03-102
246-840-930	AMD-E	04-06-009	296- 17	PREP	04-04-098	296- 24-119	REP-P	04-03-102
246-840-940	AMD-E	04-06-009	296- 17	PREP	04-04-100	296- 24-150	REP-P	04-03-085
246-840-990	AMD	04-04-054	296- 17-644	AMD-W	04-06-060	296- 24-15001	REP-P	04-03-085
246-841-405	AMD-E	04-06-008	296- 19A-210	AMD-S	04-03-035	296- 24-15003	REP-P	04-03-085
246-851-570	NEW	04-05-004	296- 19A-480	AMD-S	04-03-035	296- 24-15005	REP-P	04-03-085
246-851-580	NEW-P	04-06-045	296- 20-01002	AMD-P	04-03-082	296- 24-15007	REP-P	04-03-085
246-851-590	NEW-P	04-06-045	296- 20-02704	AMD-P	04-03-082	296- 24-15009	REP-P	04-03-085
246-851-600	NEW	04-05-004	296- 20-02705	AMD-P	04-03-082	296- 24-165	REP-P	04-03-085
246-851-610	NEW-P	04-06-045	296- 20-03011	AMD-P	04-03-082	296- 24-16501	REP-P	04-03-085
246-887-160	AMD-X	04-03-105	296- 20-03012	AMD-P	04-03-082	296- 24-16503	REP-P	04-03-085
246-915-085	AMD-P	04-03-104	296- 20-135	AMD-P	04-05-075	296- 24-16505	REP-P	04-03-085
246-915-182	NEW-P	04-03-119	296- 20-200	AMD	04-04-029	296- 24-16507	REP-P	04-03-085
246-915-210	AMD-P	04-03-107	296- 20-2010	NEW	04-04-029	296- 24-16509	REP-P	04-03-085

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-24-16511	REP-P	04-03-085	296-24-20517	REP-P	04-03-085	296-302-02503	REP-P	04-03-085
296-24-16513	REP-P	04-03-085	296-24-20519	REP-P	04-03-085	296-302-02505	REP-P	04-03-085
296-24-16515	REP-P	04-03-085	296-24-20521	REP-P	04-03-085	296-302-02507	REP-P	04-03-085
296-24-16517	REP-P	04-03-085	296-24-20523	REP-P	04-03-085	296-302-02509	REP-P	04-03-085
296-24-16519	REP-P	04-03-085	296-24-20525	REP-P	04-03-085	296-302-02511	REP-P	04-03-085
296-24-16521	REP-P	04-03-085	296-24-20527	REP-P	04-03-085	296-302-02513	REP-P	04-03-085
296-24-16523	REP-P	04-03-085	296-24-20529	REP-P	04-03-085	296-302-02515	REP-P	04-03-085
296-24-16525	REP-P	04-03-085	296-24-20531	REP-P	04-03-085	296-302-02517	REP-P	04-03-085
296-24-16527	REP-P	04-03-085	296-24-20533	REP-P	04-03-085	296-302-02519	REP-P	04-03-085
296-24-16529	REP-P	04-03-085	296-24-20699	REP-P	04-03-085	296-302-03001	REP-P	04-03-085
296-24-16531	REP-P	04-03-085	296-24-20700	REP-P	04-03-085	296-302-03003	REP-P	04-03-085
296-24-16533	REP-P	04-03-085	296-24-20710	REP-P	04-03-085	296-302-035	REP-P	04-03-085
296-24-16535	REP-P	04-03-085	296-24-20720	REP-P	04-03-085	296-302-040	REP-P	04-03-085
296-24-16537	REP-P	04-03-085	296-24-20730	REP-P	04-03-085	296-302-045	REP-P	04-03-085
296-24-16539	REP-P	04-03-085	296-24-69003	AMD-P	04-03-085	296-302-050	REP-P	04-03-085
296-24-180	REP-P	04-03-085	296-24-88020	AMD-P	04-03-085	296-302-05501	REP-P	04-03-085
296-24-18001	REP-P	04-03-085	296-24-90003	AMD-P	04-03-085	296-302-05503	REP-P	04-03-085
296-24-18003	REP-P	04-03-085	296-24-975	AMD-P	04-03-102	296-302-060	REP-P	04-03-085
296-24-18005	REP-P	04-03-085	296-30-081	PREP	04-04-099	296-302-065	REP-P	04-03-085
296-24-18007	REP-P	04-03-085	296-45-175	AMD-P	04-03-102	296-302-06501	REP-P	04-03-085
296-24-18009	REP-P	04-03-085	296-54-573	AMD-P	04-03-085	296-302-06503	REP-P	04-03-085
296-24-190	REP-P	04-03-085	296-54-57310	AMD-P	04-03-102	296-302-06505	REP-P	04-03-085
296-24-19001	REP-P	04-03-085	296-56-60115	AMD-X	04-05-072	296-302-06507	REP-P	04-03-085
296-24-19003	REP-P	04-03-085	296-56-60243	AMD-X	04-05-072	296-302-06509	REP-P	04-03-085
296-24-19005	REP-P	04-03-085	296-59-130	AMD-P	04-03-085	296-302-06511	REP-P	04-03-085
296-24-19007	REP-P	04-03-085	296-62	PREP	04-05-073	296-302-06513	REP-P	04-03-085
296-24-19009	REP-P	04-03-085	296-62-141	AMD	04-03-081	296-302-06515	REP-P	04-03-085
296-24-19011	REP-P	04-03-085	296-62-300	AMD	04-02-053	296-302-06517	REP-P	04-03-085
296-24-19013	REP-P	04-03-085	296-65	PREP	04-05-073	296-302-06519	REP-P	04-03-085
296-24-19015	REP-P	04-03-085	296-78-56511	AMD-P	04-03-085	296-302-06521	REP-P	04-03-085
296-24-195	REP-P	04-03-085	296-78-590	AMD-P	04-03-085	296-302-06523	REP-P	04-03-085
296-24-19501	REP-P	04-03-085	296-78-605	AMD-P	04-03-085	296-302-06525	REP-P	04-03-085
296-24-19503	REP-P	04-03-085	296-78-615	AMD-P	04-03-085	296-302-06527	REP-P	04-03-085
296-24-19505	REP-P	04-03-085	296-78-650	AMD-P	04-03-085	296-302-06529	REP-P	04-03-085
296-24-19507	REP-P	04-03-085	296-78-660	AMD-P	04-03-085	296-302-06531	REP-P	04-03-085
296-24-19509	REP-P	04-03-085	296-78-665	AMD-P	04-03-085	296-303-030	AMD-P	04-03-085
296-24-19511	REP-P	04-03-085	296-78-690	AMD-P	04-03-085	296-305-06519	AMD-P	04-03-085
296-24-19513	REP-P	04-03-085	296-78-70503	AMD-P	04-03-085	296-800-11045	PREP	04-06-078
296-24-19514	REP-P	04-03-085	296-78-710	PREP	04-06-078	296-800-35052	PREP	04-06-078
296-24-19517	REP-P	04-03-085	296-78-71007	AMD-P	04-03-085	296-803-100	NEW-P	04-03-102
296-24-197	REP-P	04-03-085	296-78-71017	AMD-P	04-03-085	296-803-200	NEW-P	04-03-102
296-24-200	REP-P	04-03-085	296-78-71505	AMD-P	04-03-085	296-803-20005	NEW-P	04-03-102
296-24-20001	REP-P	04-03-085	296-79-030	AMD-P	04-03-085	296-803-300	NEW-P	04-03-102
296-24-20003	REP-P	04-03-085	296-79-220	AMD-P	04-03-102	296-803-30005	NEW-P	04-03-102
296-24-20005	REP-P	04-03-085	296-115-050	AMD-P	04-03-085	296-803-400	NEW-P	04-03-102
296-24-20007	REP-P	04-03-085	296-127	PREP	04-06-063	296-803-40005	NEW-P	04-03-102
296-24-20009	REP-P	04-03-085	296-127-011	AMD-X	04-03-083	296-803-40010	NEW-P	04-03-102
296-24-20011	REP-P	04-03-085	296-155	PREP	04-03-084	296-803-40015	NEW-P	04-03-102
296-24-20013	REP-P	04-03-085	296-155	PREP	04-05-074	296-803-40020	NEW-P	04-03-102
296-24-20015	REP-P	04-03-085	296-155-429	AMD-P	04-03-102	296-803-500	NEW-P	04-03-102
296-24-20017	REP-P	04-03-085	296-155-487	AMD-P	04-03-085	296-803-50005	NEW-P	04-03-102
296-24-20019	REP-P	04-03-085	296-155-488	AMD-P	04-03-085	296-803-50010	NEW-P	04-03-102
296-24-20021	REP-P	04-03-085	296-155-525	AMD-P	04-03-085	296-803-50015	NEW-P	04-03-102
296-24-205	REP-P	04-03-085	296-155-682	AMD-P	04-03-085	296-803-50020	NEW-P	04-03-102
296-24-20501	REP-P	04-03-085	296-301-020	AMD-P	04-03-085	296-803-50025	NEW-P	04-03-102
296-24-20503	REP-P	04-03-085	296-301-020	PREP	04-06-078	296-803-50030	NEW-P	04-03-102
296-24-20505	REP-P	04-03-085	296-301-170	AMD-P	04-03-085	296-803-50035	NEW-P	04-03-102
296-24-20507	REP-P	04-03-085	296-302-010	REP-P	04-03-085	296-803-50040	NEW-P	04-03-102
296-24-20509	REP-P	04-03-085	296-302-015	REP-P	04-03-085	296-803-50045	NEW-P	04-03-102
296-24-20511	REP-P	04-03-085	296-302-020	REP-P	04-03-085	296-803-50050	NEW-P	04-03-102
296-24-20513	REP-P	04-03-085	296-302-025	REP-P	04-03-085	296-803-50055	NEW-P	04-03-102
296-24-20515	REP-P	04-03-085	296-302-02501	REP-P	04-03-085	296-803-50060	NEW-P	04-03-102

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-806-44502	NEW-P	04-03-085	296-806-48014	NEW-P	04-03-085	296-809-50020	NEW	04-03-081
296-806-44504	NEW-P	04-03-085	296-806-48016	NEW-P	04-03-085	296-809-50022	NEW	04-03-081
296-806-450	NEW-P	04-03-085	296-806-48018	NEW-P	04-03-085	296-809-50024	NEW	04-03-081
296-806-45002	NEW-P	04-03-085	296-806-48020	NEW-P	04-03-085	296-809-600	NEW	04-03-081
296-806-45004	NEW-P	04-03-085	296-806-48022	NEW-P	04-03-085	296-809-60002	NEW	04-03-081
296-806-45006	NEW-P	04-03-085	296-806-48024	NEW-P	04-03-085	296-809-60004	NEW	04-03-081
296-806-45008	NEW-P	04-03-085	296-806-48026	NEW-P	04-03-085	296-809-700	NEW	04-03-081
296-806-45010	NEW-P	04-03-085	296-806-48028	NEW-P	04-03-085	296-809-70002	NEW	04-03-081
296-806-45012	NEW-P	04-03-085	296-806-48030	NEW-P	04-03-085	296-809-70004	NEW	04-03-081
296-806-45014	NEW-P	04-03-085	296-806-48032	NEW-P	04-03-085	296-809-800	NEW	04-03-081
296-806-45016	NEW-P	04-03-085	296-806-48034	NEW-P	04-03-085	296-843-100	NEW	04-02-053
296-806-45018	NEW-P	04-03-085	296-806-48036	NEW-P	04-03-085	296-843-110	NEW	04-02-053
296-806-455	NEW-P	04-03-085	296-806-48038	NEW-P	04-03-085	296-843-11005	NEW	04-02-053
296-806-45502	NEW-P	04-03-085	296-806-48040	NEW-P	04-03-085	296-843-11010	NEW	04-02-053
296-806-45504	NEW-P	04-03-085	296-806-48042	NEW-P	04-03-085	296-843-120	NEW	04-02-053
296-806-45506	NEW-P	04-03-085	296-806-48044	NEW-P	04-03-085	296-843-12005	NEW	04-02-053
296-806-45508	NEW-P	04-03-085	296-806-48046	NEW-P	04-03-085	296-843-130	NEW	04-02-053
296-806-45510	NEW-P	04-03-085	296-806-48048	NEW-P	04-03-085	296-843-13005	NEW	04-02-053
296-806-45512	NEW-P	04-03-085	296-806-48050	NEW-P	04-03-085	296-843-13010	NEW	04-02-053
296-806-45514	NEW-P	04-03-085	296-806-48052	NEW-P	04-03-085	296-843-140	NEW	04-02-053
296-806-45516	NEW-P	04-03-085	296-806-48054	NEW-P	04-03-085	296-843-14005	NEW	04-02-053
296-806-45518	NEW-P	04-03-085	296-806-48056	NEW-P	04-03-085	296-843-150	NEW	04-02-053
296-806-45520	NEW-P	04-03-085	296-806-48058	NEW-P	04-03-085	296-843-15005	NEW	04-02-053
296-806-45522	NEW-P	04-03-085	296-806-48060	NEW-P	04-03-085	296-843-15010	NEW	04-02-053
296-806-45524	NEW-P	04-03-085	296-806-48062	NEW-P	04-03-085	296-843-15015	NEW	04-02-053
296-806-45526	NEW-P	04-03-085	296-806-48064	NEW-P	04-03-085	296-843-160	NEW	04-02-053
296-806-45528	NEW-P	04-03-085	296-806-48066	NEW-P	04-03-085	296-843-16005	NEW	04-02-053
296-806-45530	NEW-P	04-03-085	296-806-48068	NEW-P	04-03-085	296-843-170	NEW	04-02-053
296-806-45532	NEW-P	04-03-085	296-806-48070	NEW-P	04-03-085	296-843-17005	NEW	04-02-053
296-806-45534	NEW-P	04-03-085	296-806-48072	NEW-P	04-03-085	296-843-180	NEW	04-02-053
296-806-45536	NEW-P	04-03-085	296-806-48074	NEW-P	04-03-085	296-843-18005	NEW	04-02-053
296-806-45538	NEW-P	04-03-085	296-806-48076	NEW-P	04-03-085	296-843-18010	NEW	04-02-053
296-806-45540	NEW-P	04-03-085	296-806-48078	NEW-P	04-03-085	296-843-18015	NEW	04-02-053
296-806-45542	NEW-P	04-03-085	296-806-48080	NEW-P	04-03-085	296-843-18020	NEW	04-02-053
296-806-460	NEW-P	04-03-085	296-806-48082	NEW-P	04-03-085	296-843-190	NEW	04-02-053
296-806-46002	NEW-P	04-03-085	296-806-48084	NEW-P	04-03-085	296-843-19005	NEW	04-02-053
296-806-46004	NEW-P	04-03-085	296-806-48086	NEW-P	04-03-085	296-843-200	NEW	04-02-053
296-806-46006	NEW-P	04-03-085	296-806-48088	NEW-P	04-03-085	296-843-20005	NEW	04-02-053
296-806-465	NEW-P	04-03-085	296-806-485	NEW-P	04-03-085	296-843-20010	NEW	04-02-053
296-806-46502	NEW-P	04-03-085	296-806-48502	NEW-P	04-03-085	296-843-20015	NEW	04-02-053
296-806-46504	NEW-P	04-03-085	296-806-500	NEW-P	04-03-085	296-843-20020	NEW	04-02-053
296-806-46506	NEW-P	04-03-085	296-809-100	NEW	04-03-081	296-843-20025	NEW	04-02-053
296-806-46508	NEW-P	04-03-085	296-809-200	NEW	04-03-081	296-843-20030	NEW	04-02-053
296-806-46510	NEW-P	04-03-085	296-809-20002	NEW	04-03-081	296-843-20035	NEW	04-02-053
296-806-46512	NEW-P	04-03-085	296-809-20004	NEW	04-03-081	296-843-210	NEW	04-02-053
296-806-46514	NEW-P	04-03-085	296-809-20006	NEW	04-03-081	296-843-21005	NEW	04-02-053
296-806-46516	NEW-P	04-03-085	296-809-300	NEW	04-03-081	296-843-220	NEW	04-02-053
296-806-470	NEW-P	04-03-085	296-809-30002	NEW	04-03-081	296-843-22005	NEW	04-02-053
296-806-47002	NEW-P	04-03-085	296-809-30004	NEW	04-03-081	296-843-22010	NEW	04-02-053
296-806-47004	NEW-P	04-03-085	296-809-400	NEW	04-03-081	296-843-300	NEW	04-02-053
296-806-475	NEW-P	04-03-085	296-809-40002	NEW	04-03-081	308- 13-150	PREP	04-06-030
296-806-47502	NEW-P	04-03-085	296-809-40004	NEW	04-03-081	308- 15	PREP	04-04-050
296-806-47504	NEW-P	04-03-085	296-809-500	NEW	04-03-081	308- 20-010	AMD	04-05-005
296-806-47506	NEW-P	04-03-085	296-809-50002	NEW	04-03-081	308- 20-040	AMD	04-05-005
296-806-47508	NEW-P	04-03-085	296-809-50004	NEW	04-03-081	308- 20-055	NEW	04-05-005
296-806-480	NEW-P	04-03-085	296-809-50006	NEW	04-03-081	308- 20-090	AMD	04-05-005
296-806-48002	NEW-P	04-03-085	296-809-50008	NEW	04-03-081	308- 20-101	NEW	04-05-005
296-806-48004	NEW-P	04-03-085	296-809-50010	NEW	04-03-081	308- 20-110	AMD	04-05-005
296-806-48006	NEW-P	04-03-085	296-809-50012	NEW	04-03-081	308- 20-550	AMD	04-05-005
296-806-48008	NEW-P	04-03-085	296-809-50014	NEW	04-03-081	308- 20-555	NEW	04-05-005
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308-56A-450	AMD-P	04-04-022	357-10-020	NEW-P	04-04-109	388-27-0220	AMD	04-06-024
308-56A-455	AMD-P	04-04-006	365-230-010	NEW-P	04-05-062	388-27-0225	REP-E	04-03-018
308-56A-460	AMD-P	04-04-006	365-230-015	NEW-P	04-05-062	388-27-0225	REP	04-06-024
308-56A-500	AMD-P	04-04-049	365-230-016	NEW-P	04-05-062	388-27-0230	AMD-E	04-03-018
308-56A-505	AMD-P	04-04-049	365-230-020	NEW-P	04-05-062	388-27-0230	AMD	04-06-024
308-56A-640	AMD	04-03-016	365-230-030	NEW-P	04-05-062	388-27-0235	REP-E	04-03-018
308-61-190	AMD-P	04-06-004	365-230-035	NEW-P	04-05-062	388-27-0235	REP	04-06-024
308-78-010	AMD	04-06-001	365-230-040	NEW-P	04-05-062	388-27-0240	REP-E	04-03-018
308-78-045	AMD	04-06-001	365-230-050	NEW-P	04-05-062	388-27-0240	REP	04-06-024
308-96A	PREP	04-03-002	365-230-060	NEW-P	04-05-062	388-27-0245	REP-E	04-03-018
308-96A	PREP	04-03-003	365-230-070	NEW-P	04-05-062	388-27-0245	REP	04-06-024
308-96A-005	PREP	04-03-002	365-230-080	NEW-P	04-05-062	388-27-0270	REP-E	04-03-018
308-96A-021	AMD-P	04-03-121	365-230-090	NEW-P	04-05-062	388-27-0270	REP	04-06-024
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308-96A-072	AMD-P	04-03-121	365-230-110	NEW-P	04-05-062	388-71-0116	NEW-E	04-06-039
308-96A-074	AMD-P	04-03-121	365-230-120	NEW-P	04-05-062	388-71-0202	AMD	04-04-042
308-96A-311	PREP	04-03-003	365-230-130	NEW-P	04-05-062	388-71-0531	NEW	04-04-042
308-96A-550	AMD-P	04-03-121	365-230-132	NEW-P	04-05-062	388-78A	PREP	04-06-072
308-96A-560	AMD-P	04-03-121	365-230-134	NEW-P	04-05-062	388-97-125	PREP	04-06-055
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308-124A-110	AMD-P	04-03-039	365-230-150	NEW-P	04-05-062	388-105-0005	AMD-E	04-06-038
308-124A-440	AMD-P	04-03-039	365-230-160	NEW-P	04-05-062	388-105-0005	AMD-W	04-06-056
308-124C-030	AMD-P	04-03-037	365-230-170	NEW-P	04-05-062	388-105-0005	AMD-P	04-06-075
308-124D-030	AMD-P	04-03-038	365-230-180	NEW-P	04-05-062	388-105-0030	AMD-P	04-04-044
308-125-200	AMD	04-04-052	365-230-190	NEW-P	04-05-062	388-105-0030	AMD-E	04-06-038
308-127-140	AMD-P	04-05-098	365-230-200	NEW-P	04-05-062	388-105-0030	AMD-W	04-06-056
308-127-160	AMD-P	04-05-098	365-230-210	NEW-P	04-05-062	388-105-0030	AMD-P	04-06-075
308-127-225	AMD-P	04-05-098	365-230-220	NEW-P	04-05-062	388-105-0040	AMD-P	04-04-044
308-420-200	AMD-P	04-05-097	365-230-230	NEW-P	04-05-062	388-105-0040	AMD-E	04-06-038
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326-02-030	AMD-P	04-02-043	371-08-306	NEW	04-03-001	388-105-0045	NEW-W	04-06-056
326-02-040	AMD-P	04-02-043	371-08-315	AMD	04-03-001	388-105-0045	NEW-P	04-06-075
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326-07-030	AMD-P	04-02-043	388-14A-3810	PREP	04-06-053	388-140-0010	NEW-E	04-03-010D
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326-20-045	NEW-P	04-02-043	388-27-0120	AMD	04-06-024	388-140-0020	NEW-E	04-03-010D
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326-20-048	NEW-P	04-02-043	388-27-0135	AMD-E	04-03-018	388-140-0035	NEW-E	04-03-010D
326-20-050	AMD-P	04-02-043	388-27-0135	AMD	04-06-024	388-140-0040	NEW-E	04-03-010D
326-20-070	AMD-P	04-02-043	388-27-0155	AMD-E	04-03-018	388-140-0045	NEW-E	04-03-010D
326-20-080	AMD-P	04-02-043	388-27-0155	AMD	04-06-024	388-140-0050	NEW-E	04-03-010D
326-20-092	AMD-P	04-02-041	388-27-0160	AMD-E	04-03-018	388-140-0055	NEW-E	04-03-010D
326-20-094	AMD-P	04-02-041	388-27-0160	AMD	04-06-024	388-140-0060	NEW-E	04-03-010D
326-20-095	AMD-P	04-02-041	388-27-0165	AMD-E	04-03-018	388-140-0065	NEW-E	04-03-010D
326-20-096	AMD-P	04-02-041	388-27-0165	AMD	04-06-024	388-140-0070	NEW-E	04-03-010D
326-20-098	AMD-P	04-02-041	388-27-0175	AMD-E	04-03-018	388-140-0075	NEW-E	04-03-010D
326-20-110	AMD-P	04-02-043	388-27-0175	AMD	04-06-024	388-140-0080	NEW-E	04-03-010D
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388-148-0425	AMD-P	04-03-116	388-148-0775	AMD-P	04-03-116	388-148-1265	NEW-P	04-03-116
388-148-0427	NEW-E	04-05-035	388-148-0785	AMD-P	04-03-116	388-148-1270	NEW-P	04-03-116
388-148-0430	AMD-P	04-03-116	388-148-0785	AMD-E	04-05-035	388-148-1275	NEW-P	04-03-116
388-148-0445	AMD-P	04-03-116	388-148-0795	AMD-P	04-03-116	388-148-1280	NEW-P	04-03-116
388-148-0450	REP-P	04-03-116	388-148-0800	AMD-P	04-03-116	388-273-0025	AMD-E	04-03-097
388-148-0455	AMD-P	04-03-116	388-148-0805	AMD-P	04-03-116	388-273-0030	AMD-E	04-03-097
388-148-0460	AMD-P	04-03-116	388-148-0810	AMD-P	04-03-116	388-273-0035	AMD-E	04-03-097
388-148-0460	AMD-E	04-05-035	388-148-0830	AMD-P	04-03-116	388-290-0001	AMD-P	04-02-047
388-148-0462	NEW-E	04-05-035	388-148-0860	AMD-P	04-03-116	388-290-0005	AMD-P	04-02-047
388-148-0470	AMD-P	04-03-116	388-148-0870	AMD-P	04-03-116	388-290-0010	AMD-P	04-02-047
388-148-0480	AMD-P	04-03-116	388-148-0875	AMD-P	04-03-116	388-290-0012	NEW-P	04-02-047
388-148-0485	AMD-P	04-03-116	388-148-0880	AMD-P	04-03-116	388-290-0015	AMD-P	04-02-047
388-148-0487	NEW-P	04-03-116	388-148-0880	AMD-E	04-05-035	388-290-0020	AMD-P	04-02-047
388-148-0488	NEW-P	04-03-116	388-148-0885	AMD-P	04-03-116	388-290-0025	AMD-P	04-02-047
388-148-0490	AMD-P	04-03-116	388-148-0890	AMD-P	04-03-116	388-290-0030	AMD-P	04-02-047
388-148-0500	REP-P	04-03-116	388-148-0892	NEW-P	04-03-116	388-290-0031	NEW-P	04-02-047
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388-148-0520	AMD-E	04-05-035	388-148-0895	AMD-P	04-03-116	388-290-0035	AMD-P	04-02-047
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388-148-0535	AMD-P	04-03-116	388-148-0905	AMD-P	04-03-116	388-290-0045	AMD-P	04-02-047
388-148-0540	AMD-P	04-03-116	388-148-0915	AMD-P	04-03-116	388-290-0050	AMD-P	04-02-047
388-148-0541	NEW-P	04-03-116	388-148-0915	AMD-E	04-05-035	388-290-0055	AMD-P	04-02-047
388-148-0542	NEW-P	04-03-116	388-148-0935	REP-P	04-03-116	388-290-0060	AMD-P	04-02-047
388-148-0542	NEW-E	04-05-035	388-148-0995	AMD-P	04-03-116	388-290-0065	AMD-P	04-02-047
388-148-0555	AMD-P	04-03-116	388-148-0995	AMD-E	04-05-035	388-290-0070	AMD-P	04-02-047
388-148-0560	AMD-P	04-03-116	388-148-1020	REP-P	04-03-116	388-290-0075	AMD-P	04-02-047
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388-148-0585	AMD-P	04-03-116	388-148-1030	AMD-P	04-03-116	388-290-0080	REP-P	04-02-047
388-148-0585	AMD-E	04-05-035	388-148-1035	AMD-P	04-03-116	388-290-0082	NEW-P	04-02-047
388-148-0600	AMD-P	04-03-116	388-148-1045	AMD-P	04-03-116	388-290-0085	AMD-P	04-02-047
388-148-0605	AMD-P	04-03-116	388-148-1050	AMD-P	04-03-116	388-290-0085	AMD-E	04-05-079
388-148-0610	AMD-P	04-03-116	388-148-1060	AMD-P	04-03-116	388-290-0090	AMD-P	04-02-047
388-148-0615	REP-P	04-03-116	388-148-1060	AMD-E	04-05-035	388-290-0095	AMD-P	04-02-047
388-148-0620	AMD-P	04-03-116	388-148-1065	REP-P	04-03-116	388-290-0100	AMD-P	04-02-047
388-148-0625	AMD-P	04-03-116	388-148-1066	NEW-P	04-03-116	388-290-0105	AMD-P	04-02-047
388-148-0630	REP-P	04-03-116	388-148-1070	AMD-P	04-03-116	388-290-0107	NEW-P	04-02-047
388-148-0630	AMD-E	04-05-035	388-148-1070	AMD-E	04-05-035	388-290-0108	NEW-P	04-02-047
388-148-0635	REP-P	04-03-116	388-148-1076	NEW-P	04-03-116	388-290-0110	AMD-P	04-02-047
388-148-0640	AMD-P	04-03-116	388-148-1076	NEW-E	04-05-035	388-290-0120	AMD-P	04-02-047
388-148-0645	AMD-P	04-03-116	388-148-1077	NEW-P	04-03-116	388-290-0125	AMD-P	04-02-047
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388-148-0660	AMD-P	04-03-116	388-148-1078	NEW-E	04-05-035	388-290-0135	AMD-P	04-02-047
388-148-0670	AMD-P	04-03-116	388-148-1079	NEW-P	04-03-116	388-290-0140	AMD-P	04-02-047
388-148-0685	AMD-P	04-03-116	388-148-1079	NEW-E	04-05-035	388-290-0143	AMD-P	04-02-047
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388-148-0710	AMD-P	04-03-116	388-148-1120	AMD-E	04-05-035	388-290-0165	AMD-P	04-02-047
388-148-0715	AMD-P	04-03-116	388-148-1205	NEW-P	04-03-116	388-290-0167	AMD-P	04-02-047
388-148-0718	NEW-P	04-03-116	388-148-1210	NEW-P	04-03-116	388-290-0180	AMD-P	04-02-047
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388-290-0235	AMD-P	04-02-047	388-440-0001	AMD	04-05-010	388-526	PREP	04-04-096
388-290-0245	AMD-P	04-02-047	388-444-0055	AMD-C	04-02-058	388-527-2700	AMD-P	04-05-082
388-290-0247	NEW-P	04-02-047	388-444-0055	AMD	04-05-010	388-527-2730	AMD-P	04-05-082
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388-290-0255	AMD-P	04-02-047	388-448-0001	AMD-P	04-02-048	388-527-2740	AMD-P	04-05-082
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388-290-0271	NEW-P	04-02-047	388-448-0120	AMD-P	04-02-048	388-527-2790	AMD-P	04-05-082
388-290-0273	NEW-P	04-02-047	388-448-0160	AMD-P	04-02-048	388-527-2792	NEW-P	04-05-082
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388-295-0070	AMD-P	04-05-084	388-448-0170	REP-P	04-02-048	388-530-1850	PREP	04-03-089
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388-295-0100	AMD-P	04-05-084	388-448-0170	REP-E	04-03-010E	388-532-050	AMD	04-05-011
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388-295-1070	AMD-P	04-05-084	388-448-0190	REP-P	04-02-048	388-532-110	NEW	04-05-011
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