

April 6, 2005

OLYMPIA, WASHINGTON

ISSUE 05-07



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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 in the basement of the Pritchard Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of April 2005 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of April 2005 is 5.021%.

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

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## WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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

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# 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].

2004-2005

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Rule Making <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
04 - 15	Jun 23, 04	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 24, 04	Sep 21, 04
04 - 16	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 7, 04	Oct 5, 04
04 - 17	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 21, 04	Oct 19, 04
04 - 18	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 15, 04	Oct 5, 04	Nov 2, 04
04 - 19	Aug 25, 04	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 26, 04	Nov 23, 04
04 - 20	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 9, 04	Dec 7, 04
04 - 21	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 23, 04	Dec 21, 04
04 - 22	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 7, 04	Jan 4, 05
04 - 23	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 21, 04	Jan 19, 05
04 - 24	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 15, 04	Jan 4, 05	Feb 1, 05
05 - 01	Nov 24, 04	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 25, 05	Feb 23, 05
05 - 02	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 8, 05	Mar 8, 05
05 - 03	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 22, 05	Mar 22, 05
05 - 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 8, 05	Apr 5, 05
05 - 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 22, 05	Apr 19, 05
05 - 06	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 16, 05	Apr 5, 05	May 3, 05
05 - 07	Feb 23, 05	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 26, 05	May 24, 05
05 - 08	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 10, 05	Jun 7, 05
05 - 09	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 4, 05	May 24, 05	Jun 21, 05
05 - 10	Apr 6, 05	Apr 20, 05	May 4, 05	May 18, 05	Jun 7, 05	Jul 6, 05
05 - 11	Apr 20, 05	May 4, 05	May 18, 05	Jun 1, 05	Jun 21, 05	Jul 19, 05
05 - 12	May 4, 05	May 18, 05	Jun 1, 05	Jun 15, 05	Jul 5, 05	Aug 2, 05
05 - 13	May 25, 05	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 26, 05	Aug 23, 05
05 - 14	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 9, 05	Sep 7, 05
05 - 15	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 23, 05	Sep 20, 05
05 - 16	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 17, 05	Sep 6, 05	Oct 4, 05
05 - 17	Jul 27, 05	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 27, 05	Oct 25, 05
05 - 18	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 11, 05	Nov 8, 05
05 - 19	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 25, 05	Nov 22, 05
05 - 20	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 8, 05	Dec 6, 05
05 - 21	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 22, 05	Dec 20, 05
05 - 22	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 16, 05	Dec 6, 05	Jan 3, 06
05 - 23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05 - 24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited rule making 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;

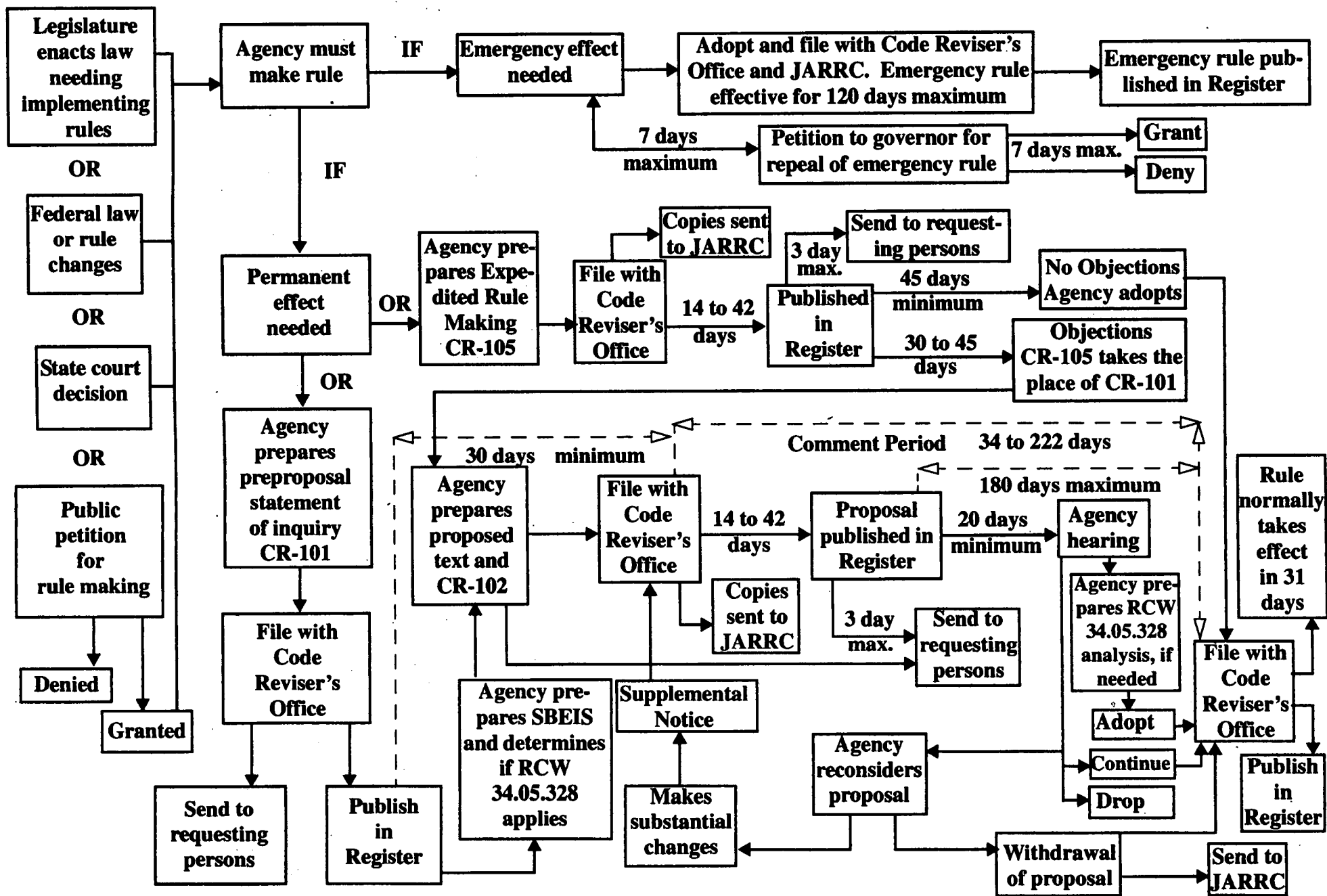
There is less than minor economic impact on business;

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 05-07-002****PREPROPOSAL STATEMENT OF INQUIRY  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed March 3, 2005, 3:00 p.m.]

Subject of Possible Rule Making: Chapter 392-125 WAC, Educational service districts (ESD).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.310.280 and 28A.310.330.

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 with the repealing of RCW 28A.310.380 which required the ESDs to have only a general expense fund. This will allow ESDs authority to establish other funds as required under budgeting and accounting regulations.

These changes also incorporate guidance for the use of interfund loans used by ESDs. The guidance is modeled under the school district budgeting process as prescribed in RCW 28A.505.130.

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 the 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, Director, School Financial Services, (360) 725-6302.

February 4, 2005  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**WSR 05-07-004****PREPROPOSAL STATEMENT OF INQUIRY  
GAMBLING COMMISSION**

[Filed March 3, 2005, 3:39 p.m.]

Subject of Possible Rule Making: Manufacturers and distributors.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Staff are exploring ways to streamline processes to reduce staff time used enforcing regulations relating to credit and discriminatory pricing restrictions on manufacturers and distributors. One way to do this would be to remove rules governing credit and pricing restrictions between manufacturers and distributors and let the operators handle these issues in the open market, rather than involving the commission in these business decisions.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the

discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

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

[Meetings at the] Red Lion - Vancouver at the Quay, 100 Columbia Street, Vancouver, WA 98660, (360) 694-8341, on April 15, 2005; at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005; and at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101, on June 10, 2005.

March 2, 2005

Susan Arland

Rules Coordinator

**WSR 05-07-007****WITHDRAWAL OF  
PREPROPOSAL STATEMENT OF INQUIRY  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[WUTC Docket No. TR-041051—Filed March 4, 2005, 9:50 a.m.]

On October 18, 2004, the Washington Utilities and Transportation Commission filed a preproposal statement of inquiry (CR-101) regarding walkway rules for railroad switching leads, at WSR 04-21-047. The commission has decided not to proceed with this rule-making proceeding and requests that the preproposal statement of inquiry published in WSR 04-21-047 be withdrawn. The commission has sent a notice of the withdrawal of the proposed rule to all interested persons in the rule-making docket.

Questions regarding this matter should be addressed to Karen Caille at (360) 664-1136.

Carole J. Washburn

Executive Secretary

**WSR 05-07-013****PREPROPOSAL STATEMENT OF INQUIRY  
SECRETARY OF STATE**

[Filed March 7, 2005, 9:35 a.m.]

Subject of Possible Rule Making: Poll site supplies and provisional ballots.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29A.04.610.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Help America Vote Act requires the HAVA information poster to be posted at each poll site. We'd like to tighten up ballot security for provi-

sional ballots and ensure consistent procedures in all counties.

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 Amber Cervantes, Certification and Training Program Coordinator, P.O. Box 40232, Olympia, WA 98504-0232, phone (360) 902-4165, fax (360) 664-4619, acervantes@secstate.wa.gov.

March 3, 2005  
Steve Excell  
Assistant Secretary of State

Process for Developing New Rule: Open discussion, public input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bonnie Cauffman, Rules Coordinator, Peninsula College, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, phone (360) 417-6212, fax (360) 417-6220.

March 3, 2005  
Bonnie Cauffman  
Rules Coordinator

**WSR 05-07-014**

**PREPROPOSAL STATEMENT OF INQUIRY  
SECRETARY OF STATE**

[Filed March 7, 2005, 9:36 a.m.]

Subject of Possible Rule Making: Absentee ballots—Application forms, envelopes, and audit trails.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29A.04.610.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update and clarify rules to provide consistent procedures in all counties. Also, to enhance absentee reconciliation procedures and the audit trail.

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 Amber Cervantes, Certification and Training Program Coordinator, P.O. Box 40232, Olympia, WA 98504-0232, phone (360) 902-4165, fax (360) 664-4619, acervantes@secstate.wa.gov.

March 3, 2005  
Steve Excell  
Assistant Secretary of State

**WSR 05-07-015**

**PREPROPOSAL STATEMENT OF INQUIRY  
PENINSULA COLLEGE**

[Filed March 7, 2005, 10:47 a.m.]

Subject of Possible Rule Making: Deletion of chapter 132A-156 WAC on college housing and correction of WAC 132A-350-015.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140 and chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 132A-156 WAC is not needed as we are no longer operating a dormitory.

Error in WAC 132A-350-015 needs to be corrected to bring in line with college policy.

**WSR 05-07-030**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

[Filed March 9, 2005, 9:07 a.m.]

Subject of Possible Rule Making: WAC 415-501-110 Definitions, amend the definition of "eligible employee."

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.780(10).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment brings the definition of "eligible employee" in line with the definition in RCW 41.50.770. As currently written the rule appears to limit the participation of employees who work less than half time.

Process for Developing New Rule: The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

March 9, 2005  
Leslie Saeger  
Rules Coordinator



**WSR 05-07-035****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed March 9, 2005, 4:21 p.m.]

**Subject of Possible Rule Making:** To amend chapter 260-70 WAC, Controlled medication program, to include a new section regulating the use of alkalizing agents in a horse on race day and to amend chapter 260-84 WAC, Fines and suspensions, to provide for a penalty for violating the new rule.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 67.16.020.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** It has been discovered that alkalizing agents can be administered to a race horse prior to a race to reduce the concentration of carbon dioxide in a horse's bloodstream and lessen lactic acid buildup, thus warding off fatigue and artificially enhancing the horse's performance. Rules are needed to prohibit and penalize trainers for this practice.

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

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

March 8, 2005  
R. M. Leichner  
Executive Secretary

**WSR 05-07-040****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

[Filed March 10, 2005, 1:26 p.m.]

**Subject of Possible Rule Making:** Minor beneficiaries.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The department is planning to adopt rules concerning payment of funds for minor beneficiaries.

**Process for Developing New Rule:** The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. The notice will include the time

and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

March 9, 2005  
Leslie Saeger  
Rules Coordinator

**WSR 05-07-044****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 10, 2005, 3:40 p.m.]

**Subject of Possible Rule Making:** WAC 308-66-110, 308-66-155, 308-66-157, and 308-66-190.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 46.70.160.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To clarify a dealer's duty to apply for title into the name of a vehicle purchaser.

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

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507-9039, voice (360) 664-6464, fax (360) 586-6703.

March 8, 2005  
Daniel Devoe  
Administrator

**WSR 05-07-051****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed March 11, 2005, 2:58 p.m.]

**Subject of Possible Rule Making:** Chapter 16-54 WAC, Animal importation; amendment to WAC 16-54-082(1) Domestic bovine animals. Tuberculosis.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** To prevent the introduction and dissemination of bovine tuberculosis among the cattle of Washington state.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Bovine tuberculosis is a contagious bacterial disease-affecting cattle, caused by *Mycobacterium bovis*. Bovine tuberculosis may be transmitted to people through contact with infected animals. Bovine tuber-

culosis has been diagnosed in dairy cattle in Arizona, California, New Mexico, and Michigan.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA-APHIS, Veterinary services. RCW 16.36.100, authorizes the director of the Washington State Department of Agriculture (WSDA) to cooperate with agencies of Washington, other states and the federal government. Washington state will join thirty-four other states that require dairy cows and bulls six months of age or older to be tested for bovine tuberculosis sixty days prior to entering the state.

Process for Developing New Rule: Due to the seriousness of preventing the introduction and dissemination of bovine tuberculosis among dairy cattle of Washington state, WSDA has been making individual contact with affected stakeholder organizations directly regarding the rule proposal. In addition, other communication tools will be utilized regarding this matter. All interested persons are encouraged to contact the agency contact person below with their questions or comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dr. Leonard E. Eldridge, State Veterinarian, Food Safety, Animal Health and Consumer Services, P.O. Box 42577, Olympia, WA 98504-2577, (360) 902-1881, fax (360) 902-2087, e-mail leldridge@agr.wa.gov.

March 11, 2005

Miles McEvoy

Acting Assistant Director

**WSR 05-07-070**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 14, 2005, 9:28 a.m.]

Subject of Possible Rule Making: WAC 308-90-120 Trust account.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The trust account required in RCW 88.02.220 must be maintained in a financial institution located within Washington state.

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 Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507-9039, voice (360) 664-6464, fax (360) 586-6703.

Fred Stephens  
Director

**WSR 05-07-071**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 14, 2005, 9:29 a.m.]

Subject of Possible Rule Making: WAC 308-66-180 Record of transactions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.70.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Statement needed to contain the following: (4) Those trust account records required in RCW 46.70.120 must be from a financial institution located in Washington state.

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 Kim Johnson, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507-9039, voice (360) 664-6464, fax (360) 586-6703.

Fred Stephens  
Director

**WSR 05-07-074**

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

(Economic Services Administration)

[Filed March 14, 2005, 12:25 p.m.]

Subject of Possible Rule Making: WAC 388-310-0600 WorkFirst—Job search.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.050, and 74.08A.340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The change will increase the availability of training for high wage/high demand jobs.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ian Horlor, Program Manager, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4634, fax (360) 493-3493, e-mail Horloit@dshs.wa.gov.

March 11, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

**WSR 05-07-093****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed March 17, 2005, 2:48 p.m.]

Subject of Possible Rule Making: Chapter 260-36 WAC, Occupational permits and licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As part of a regulatory reform effort the commission is examining chapter 260-36 WAC for ways to clarify and consolidate rules related to permits and licenses.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

March 15, 2005

R. M. Leichner

Executive Secretary

phone (360) 459-6462, fax (360) 459-6461, rlopez@whrc.state.wa.us.

March 15, 2005

R. M. Leichner

Executive Secretary

**WSR 05-07-095****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 17, 2005, 4:30 p.m.]

Subject of Possible Rule Making: WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL) and 388-478-0085 Medicare savings programs—Monthly income and countable resources standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 42 U.S.C. 9902(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is amending these WACs to update the standards for the medical programs due to a change in the federal poverty level (FPL) effective April 1, 2005.

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 Deborah O'Connor/Wendy Forslin, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1328 and (360) 725-1343, fax (360) 664-0910, TTY 1-800-848-5429, e-mail OCONNDA@dshs.wa.gov and forslwc@dshs.wa.gov.

March 15, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

**WSR 05-07-094****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed March 17, 2005, 2:49 p.m.]

Subject of Possible Rule Making: To amend WAC 260-12-250 Problem gambling information sign must be posted, to remove the penalties associated with a violation of this section. The penalties for a violation of this section are being moved to the penalty matrix (located in chapter 260-84 WAC).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There should be one place in Title 260 WAC where licensees and officials can go to determine the standard range of penalties for violation of a specific section.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert J. Lopez, Administrative Services Manager, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578,

**WSR 05-07-101****PREPROPOSAL STATEMENT OF INQUIRY  
WASHINGTON STATE PATROL**

[Filed March 18, 2005, 11:24 a.m.]

Subject of Possible Rule Making: Chapter 212-80 WAC, Fire sprinkler system contractors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 43.43 and 18.160 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To add an additional cate-

gory of fire sprinkler contractor designed to allow work exclusively on the inspection and testing of water based fire sprinkler systems, and to require a person performing the inspection and testing of water based fire sprinkler systems to be certified at a minimum level of competency by the State Fire Marshal's Office.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Department of Labor and Industries.

Process for Developing New Rule: Recommendation and study by the Fire Sprinkler Technical Advisory Group of the State Fire Marshal's Office.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Deputy State Fire Marshal Larry Glenn, P.O. Box 42600, Olympia, WA 98504-2600, (360) 570-3133, fax (360) 570-3136, e-mail larry.glenn@wsp.wa.gov.

John R. Batiste  
Chief

**WSR 05-07-110**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**YAKIMA VALLEY**  
**COMMUNITY COLLEGE**

[Filed March 21, 2005, 11:43 a.m.]

Subject of Possible Rule Making: Rewrite of the "student records" WAC and change our definition of "directory information."

Statutes Authorizing the Agency to Adopt Rules on this Subject: WAC 132P-33-100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Our current rule does not include definitions of the following terms: "College official," "legitimate educational interest," or "education record." The definition of these terms is necessary for staff and students to understand their roles in the dissemination of information relating to students' college records and the colleges responsibilities under FERPA. Also, due to advancements in technology, it is necessary to update our definition of "directory information."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the United States Department of Education.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tomas Ybarra, Dean for Student Services, P.O. Box 22520, Yakima, WA 98907-2520, phone (509) 574-6860, fax (509) 574-6879, e-mail tybarra@yvcc.edu; or Denise Anderson, Coordinator for Registration and Records, P.O. Box 22520, Yakima, WA 98907-

2520, phone (509) 574-4702, fax (509) 574-6879, e-mail danderson@yvcc.edu. A campus-wide committee will review/approve proposed changes to WAC 132P-33-100 prior to the public meeting. A public meeting will be advertised through our local newspaper, in the public notices section to provide interested parties an opportunity to provide input. After the public hearing has taken place, this item will be placed on the agenda for the Yakima Valley Community College board of trustees to consider for adoption.

March 9, 2005

Tomas Ybarra

Dean for Student Services

**WSR 05-07-116**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**GAMBLING COMMISSION**

[Filed March 21, 2005, 4:57 p.m.]

Subject of Possible Rule Making: Amusement games. Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Staff are exploring ways to streamline processes to reduce staff time used enforcing regulations relating to amusement games.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

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

[Meetings at the] Red Lion - Vancouver at the Quay, 100 Columbia Street, Vancouver, WA 98660, (360) 694-8341, on April 15, 2005; at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005; and at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101, on June 10, 2005.

March 21, 2005

Susan Arland

Rules Coordinator

**WSR 05-07-122****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 22, 2005, 10:45 a.m.]

**Subject of Possible Rule Making:** WAC 296-23-220 Physical therapy rules, 296-23-230 Occupational therapy rules, and 296-23-250 Massage therapy rules.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 51.04.020, 51.04.030.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** This rule making is being initiated in response to a petition to amend WAC 296-23-220 to allow physician assistants to order physical therapy for the attending doctor. WAC 296-23-220, 296-23-230, and 296-23-250 will be amended to allow physician assistants to order physical therapy, occupational therapy and massage therapy for the attending doctor.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Washington workers' compensation benefits as well as the benefits paid to victims of crimes are both governed by Title 51 RCW, Washington's Industrial Insurance Act. There are no other state or federal agencies responsible for interpreting and enforcing the provisions of this act.

**Process for Developing New Rule:** Parties interested in participating in the development of these rules may contact the person listed below. The public may also participate by providing written comments during the comment period or giving oral testimony at public hearings. The rule will be developed in consultation with major stakeholders and the following interested parties: Workers' Compensation Advisory Committee, Washington State Medical Association, Washington Academy of Physician Assistants.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jami Lifka by phone (360) 902-4941, or fax (360) 902-6315, or mail Department of Labor and Industries, Office of the Medical Director, P.O. Box 44321, Olympia, WA 98504-4321.

March 22, 2005  
Judy Schurke  
Acting Director

**WSR 05-07-128****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed March 22, 2005, 2:06 p.m.]

**Subject of Possible Rule Making:** Chapter 308-108 WAC, Driver training schools.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 46.82.290.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Adoptions and amendments to the existing rules are necessary to set basic requirements to ensure that driver training offered by driver training schools adequately prepares new drivers to operate motor vehicles

safely. New rules will establish basic requirements governing the operations and scope of traffic safety education programs that are offered by commercial businesses and licensed by 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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tana Cochran, Department of Licensing, Driver Training School Program, P.O. Box 9026, Olympia, WA 98507, phone (360) 664-6699, e-mail tchochran@dol.wa.gov, fax (360) 570-4976. Interested parties may send in their comments by mail, phone, facsimile, or e-mail. Additional information will be posted on the Commercial Driver Training School Internet website at <http://www.dol.wa.gov/ds/tse/cdt.htm>.

March 22, 2005  
Tana Cochran  
Program Manager

**WSR 05-07-130****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 22, 2005, 4:36 p.m.]

**Subject of Possible Rule Making:** The Division of Employment and Assistance Programs will amend WAC 388-412-0025 How do I get my benefits?, to correct a Department of Revenue phone number.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The rule change is needed to replace incorrect contact information given in regard to the Department of Revenue.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark Neal, Financial Service Specialist, Division of Employment and Assistance Programs, P.O.

Box 45470, Olympia, WA 98504-5470, phone (360) 725-4605, fax (360) 413-3493, e-mail nealme@dshs.wa.gov.

March 21, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

lication by contacting Liz Egge, Licensing Program Manager, Division of Child Care and Early Learning, P.O. Box 45480, Olympia, WA 98504-5480, phone (360) 725-4681, fax (360) 413-3482, e-mail Eggeeh@dshs.wa.gov, Street Address: 1009 College Street, Lacey, WA 98503.

March 21, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

### WSR 05-07-131

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

[Filed March 22, 2005, 4:38 p.m.]

**Subject of Possible Rule Making:** The Department of Social and Health Services, Economic Services Administration, is amending forty-two sections (and other related sections) of chapter 388-296 WAC, Minimum licensing requirements for child care centers. In addition, there are seventeen new sections being added and one section being repealed.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 74.15 RCW, RCW 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Minimum licensing requirements for child care centers are necessary to protect and promote the health, safety and well being of children in out of home care. Sections of chapter 388-295 WAC are being amended to clarify or simplify existing rule language or to correct typographical errors. Changes were also made to reflect the newly adopted FDA food code requirements. In addition, new sections have been added to:

- Clarify staff qualifications and the background clearance process.
- Inform providers and the public of the overpayment process for child care subsidies.
- Provide clarification with regards to the civil penalty process.
- More clearly address outdoor play areas requirements.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Department of Health - Immunization Program; Washington State Patrol (State Fire Marshal); Division of Labor and Industries (Minor Work Laws, First Aid and CPR, Blood-borne Pathogens, Electrical); key personnel have been identified at each agency to work with. Initial draft WAC has been sent to each agency for review and comment to ensure consistency and coordination.

**Process for Developing New Rule:** All interested parties are invited to review and provide input on draft language. Postcards will be sent to each child care center in the state of Washington announcing the draft change and location on the DCCCEL internet site for review and comment. For information about this rule-making, or to be on a mailing list to receive notices about this rule, contact the person listed below.

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

### WSR 05-07-132

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

**(Aging and Disabilities Services Administration)**

[Filed March 22, 2005, 4:39 p.m.]

**Subject of Possible Rule Making:** Amending chapter 388-101 WAC, Certified community residential services and support and other related sections.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 71A.12.030 and 71A.12.080.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The purpose of amending these rules is to add new sections to chapter 388-101 WAC that attend to the following issues: Health and safety, community protection program, assessments, restrictive procedures, inspections, enforcement remedies, appeals, agency finances, and client's rights.

In addition, the proposed rules will clarify procedures and requirements addressing abuse and neglect reporting, and sections that involve the individual financial plans. The department also needs to update chapter 388-101 WAC to follow the federal requirements of the Centers' for Medicaid and Medicare Services.

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

**Process for Developing New Rule:** DSHS welcomes the public to take part in developing the rules. Anyone interested 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 with notice of proposed rule making, and send 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 Jill Young, Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3210, fax (360) 725-3208, TTY 1-800-737-7931, e-mail Youngjk@dshs.wa.gov.

March 22, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**WSR 05-07-156****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed March 23, 2005, 11:16 a.m.]

**Subject of Possible Rule Making:** WAC 458-20-100 Appeals, small claims and settlements.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** WAC 458-20-100 explains the procedures for administrative review of Department of Revenue actions. It also includes information on small claim appeals, executive level appeals, rulings on future liability, preappeal supervisor's conferences, and settlements. The department proposes to amend the rule to provide clearer and more up-to-date information to taxpayers and department personnel on appeal procedures, to increase small claim limits, and to provide for proposed decisions in executive level appeals. The information in the rule has also been reorganized to make it easier for readers to understand and use.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other federal or state agency regulates proceedings within the Department of Revenue.

**Process for Developing New Rule:** Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

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, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Gilbert Brewer, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, e-mail gilb@dor.wa.gov, phone (360) 570-6133, fax (360) 586-5543.

**Public Meeting Location:** Capital Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 28, 2005, at 10:00 a.m.

March 23, 2005

Alan R. Lynn

Rules Coordinator

Interpretation and Technical Advice

of eligibility for (PEBB)-sponsored benefits and will not include the appeals process for actions taken by HCA contracted health plans governed by Title 48 RCW or the Patient Bill of Rights. HCA will also consider amendments to retiree and dependent eligibility and adopt or amend procedures related to continuation coverage and plan changes.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 41.05.160.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** WAC 182-16-040 and 182-16-050 are out of date and require amending. HCA is considering amendments or adoption of new rules related to retiree eligibility to effectuate changes to the federal Medicare Modernization Act (MMA). HCA will review rules in Title 182 WAC to clarify procedures related to continuation coverage and plan changes. Other amendments may also be considered, except that HCA will not amend employee eligibility in WAC 182-12-115 under this preproposal statement.

**Process for Developing New Rule:** Stakeholder mailing and public rule-making hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., Olympia, WA 98504-2642, phone (360) 923-2642, fax (360) 923-2602.

March 23, 2005

Cyndi Presnell

Rules Coordinator

**WSR 05-07-158****PREPROPOSAL STATEMENT OF INQUIRY  
HEALTH CARE AUTHORITY**

(Public Employees Benefits Board)

[Order 05-01—Filed March 23, 2005, 11:26 a.m.]

**Subject of Possible Rule Making:** Amendments will be considered to rules related to administrative appeals for Public Employees Benefits Board (PEBB)-sponsored benefits. Amendments under consideration will be limited to matters affecting the Health Care Authority's (HCA's) administration





**WSR 05-07-022**  
**PROPOSED RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
 [Filed March 7, 2005, 2:15 p.m.]

**Original Notice.**

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

Title of Rule and Other Identifying Information: WAC 136-28-010, 136-28-020, and 136-28-030, Standards of good practice—Cooperative procedures for processing of county road accident reports.

Hearing Location(s): County Road Administration Board, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, on April 28, 2005, at 2:00 p.m.

Date of Intended Adoption: April 28, 2005.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, e-mail Karen@crab.wa.gov, fax (360) 586-0386, by April 18, 2005.

Assistance for Persons with Disabilities: Contact Karen Pendleton by April 25, 2004 [2005], TTY (800) 833-6382.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Replaces the "state patrol" with the "Washington state department of transportation" as the receiver of collision reports and cleans up current language.

Statutory Authority for Adoption: Chapter 36.79 RCW.

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

Name of Proponent: County Road Administration Board, governmental.

Name of Agency Personnel Responsible for Drafting: Randy Hart, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989.

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

A cost-benefit analysis is not required under RCW 34.05.328.

March 7, 2005

Jay P. Weber  
Executive Director

**AMENDATORY SECTION** (Amending WSR 04-05-001, filed 2/4/04, effective 3/6/04)

**WAC 136-28-010 Purpose and authority.** RCW 36.78.070(1) authorizes the county road administration board to establish standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads. In order to implement the requirement of the National Highway Safety Act of 1966 that requires all states, in cooperation with their various local governments, to collect, compile and make reports to the National Highway Traffic Safety Administration in each state, the county road administration board has acted to coor-

minate the activities of the county engineers and the ((state patrol)) Washington state department of transportation. Each county engineer is to cooperate in this effort by following the procedure outlined below.

**AMENDATORY SECTION** (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-28-020 Procedure.** The ((state patrol)) Washington state department of transportation (WSDOT) collects ((accident)) collision reports from all law enforcement agencies and receives ((accident)) collision reports from individual drivers. Periodically, the ((state patrol)) WSDOT will send or deliver to the county engineer's office in each county reports with attached county location coding forms (CLCF), concerning ((accidents)) collisions occurring on county roads in that county.

~~((The county engineer will analyze each report and indicate within the appropriate spaces on the report the county number, the county road number, the milepoint and, if applicable, the road number of the intersecting county road at which the accident occurred. The county engineer shall also indicate in the appropriate space as to whether the location is rural or urban.))~~ The engineer will analyze the report and complete the CLCF. For those collisions that the county engineer verifies did occur in his/her jurisdiction, only the completed CLCF will be returned to the WSDOT. However, if the engineer determines that the collision did not occur on a roadway in the county's jurisdiction, he/she shall complete the bottom portion of the CLCF and return it and the collision report to the WSDOT.

The coded ((reports)) CLCF will be returned to the ((records section of the state patrol)) WSDOT within ((two weeks)) thirty days of receipt.

~~((Should the county engineer determine any accident report location is not on a road contained within the latest county road log, he/she shall return the accident report, unecoded, with a transmittal letter indicating to the best of his/her knowledge the appropriate jurisdiction such as private road, state highway, city street, other state agency, federal agency, etc.))~~

**AMENDATORY SECTION** (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-28-030 Coding detail.** (1) The county number shall be that particular number assigned to each county by the state office of financial management for county identification purposes.

(2) The county ((road)) roadlog number shall be that particular five-digit number, including both leading and trailing zeros if applicable, assigned to each county road according to the county's latest county road log. No local names or numbers or other nomenclature shall be used in coding.

(3) The ((milepoint)) milepost shall be determined as accurately as practicable from a comparison of information on the ((accident)) collision report with the latest county road log.

(4) ((Accidents)) Collisions at an intersection with a state highway will be coded by the state department of transportation.

PROPOSED

(5) To ensure uniformity, ((accidents)) collisions at the intersection of any two county roads shall be coded to a road in the following priority order:

- (a) The road with the higher functional class;
- (b) The road that is the through route;
- (c) The road with the lower road number.

(6) ((Accidents)) Collisions on roads and/or at intersections with dual city-county or county-county responsibilities shall be coded in general accordance with the procedures outlined herein based on a mutual understanding between the several jurisdictions involved.

**WSR 05-07-042**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed March 10, 2005, 3:32 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-03-067.

Title of Rule and Other Identifying Information: Recreational crab fishing rules.

Hearing Location(s): Tye Center, 5757 Littlerock Road S.E., Tumwater, WA, on May 14, 2005, at 9:00 a.m.

Date of Intended Adoption: May 14, 2005.

Submit Written Comments to: Fish and Wildlife Commission, 600 Capitol Way, Olympia, WA 98501-1091, e-mail commission@dfw.wa.gov, fax (360) 902-2155 by May 11, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by May 6, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending rules on recreational crab harvest to fit sport harvest within commission guidelines. Consideration will be given to seasons, days of the week, daily and annual harvest limits, and gear setting and removal periods.

Reasons Supporting Proposal: Allow for recreational harvest without exceeding allocation limits.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not directly regulate small businesses. These regulations only affect recreational crab fishers.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

March 9, 2005

Evan Jacoby

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

**WAC 220-56-310 Shellfish—Daily limits.** It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: 7 clams.

(5) Oysters: 18 oysters, shucked and the shells left on the beach. Minimum size before shucking two and one-half inches along the longest dimension of the shell.

(6) Rock scallops: 12 scallops.

(7) Weathervane scallops: 12 scallops (over 4 inches).

(8) Spiny and pink scallops: 10 pounds or 5 quarts in the shell, in the aggregate.

(9) Shrimp: In all waters - First Saturday in May through May 31, daily limit 80 shrimp. During all other open periods total weight 10 pounds, maximum 80 spot shrimp as part of the 10 pound limit. Spot shrimp: First Saturday in May through May 31 in all waters and in Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line during the remainder of the year, no minimum size; June 1 through October 15 in Area 4 east of the Bonilla-Tatoosh line and Areas 5 through 13, minimum size one and three-sixteenths inch from the base of the eyestalk to the top rear edge of the carapace.

(10) Octopus: 1 octopus.

(11) Pinto abalone: Closed statewide.

(12) Crawfish: 10 pounds in the shell. Minimum size 3 1/4 inches from tip of rostrum to tip of tail. Female crawfish with eggs or young attached to the abdomen must be released immediately.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs:

(a) In ~~((all waters))~~ Area 1 except ~~((the Columbia River and))~~ when fishing from the north jetty of the Columbia River and Areas 2, 3, 4, 5, 9, 10, 13 and those waters of Area 7 described in WAC 220-56-330 (1)(c) - 6 male crabs.

(b) In Areas 6, 8-1, 8-2, 11, 12 and those waters of Area 7 described in WAC 220-56-330 (1)(b) and (d) - 4 male crabs.

(c) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the south jetty, or when fishing from the north jetty of the Columbia River - 12 male crabs.

(19) Red rock crabs: 6 crabs.

(20) Mussels: 10 pounds in the shell, in the aggregate.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

(23) King and box crab: Closed statewide.

(24) Tanner crabs: 6 crabs.

**AMENDATORY SECTION** (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

**WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts.** (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters it is unlawful to use at any one time more than two units of crab gear and two additional units of shrimp gear.

(b) It is unlawful for the operator of any boat from which shrimp pots are set or pulled in Catch Record Card Areas 4 through 13 to have on board or to fish more than four shrimp pots.

(c) In the Columbia River it is unlawful to use more than three units of crab gear.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot. It is unlawful to have more than one unit of unattended gear attached to a buoy line or to fail to have a separate buoy for each unit of gear.

(9) ~~(Each unit of gear must be attached to its own buoy line and have a separate buoy for each unit of gear.)~~ In waters open only on certain days or certain hours during the

day, except for the night closure set out in subsection (10) of this section, it is unlawful to fail to remove gear from the water when fishing for shellfish is not allowed, and it is unlawful to fail to remove gear from the water by one hour after sunset if fishing is not allowed on the next calendar day. In waters that are open continuously except for the night closure set out in subsection (10) of this section, gear may be left in the water during the night closure.

(10) ~~(No fisher may)~~ It is unlawful to set or pull shellfish pots, ring nets or star traps from a vessel in Catch Record Card Areas 1-13 from one hour after official sunset to one hour before official sunrise.

(11) It is unlawful to possess soft-shelled crab for any personal use purpose. Violation of this subsection shall be an infraction, punishable under RCW 77.15.160.

**AMENDATORY SECTION** (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

**WAC 220-56-330 Crab—Areas and seasons.** (1) It is unlawful to fish for or possess crab taken for personal use from Puget Sound except during the following seasons:

(a) Marine Area(s) 4 east of the Bonilla-Tatoosh line, and Areas 5, 6, 8-1, 8-2, 9, 10, 11, 12 and 13 - Open 7:00 a.m., ((June)) July 1. Marine Area 4 east of the Bonilla-Tatoosh line and Areas 5, 9, 10, 12 and 13 are open only Monday through Saturday of each week and open through the last day in February. Marine Areas 6, 8-1, 8-2 and 11 are open only Wednesday through Saturday of each week and are open through the Saturday of Labor Day weekend.

Marine Area 12 is open only Tuesday through Saturday of each week and open through the last day in February.

(b) Those contiguous waters of Marine Area 7 north, south and east of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island, and a line that extends from the Anacortes ferry dock at Shannon Point, northward to the southeastern tip of Sinclair Island, thence from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island (southeast Hale Pass, Bellingham Bay, Samish Bay, Padilla Bay, eastern waters of Bellingham Channel, Guemes Channel and ~~((Fidalgo)) Fidalgo Bay~~) - Open 7:00 a.m. July 16 through March 15 and open only Monday through Saturday of each week.

(c) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island - Open 7:00 a.m. August 16 through April 15.

(d) Waters of Marine Area 6 and those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of

Patos Island due west to the international boundary; and westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point - Open 7:00 a.m. June 16 through last day in February and open only Wednesday through Saturday of each week.

~~((e) Marine Areas 8-1 and 8-2 - Open 7:00 a.m., the first Friday in June through September 30.))~~

(2) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from Marine Areas 1, 2, 3, and Area 4 west of the Bonilla-Tatoosh line except during the period December 1 through September 15. Open to gear other than shellfish pot gear year-round.

(3) The Columbia River upstream from a line projected from the outermost end of the north jetty to the exposed end of the south jetty is open to crab fishing for personal use year-round.

**AMENDATORY SECTION** (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-312 Shellfish—Possession limits. (1) Fresh shellfish possession limit:** It is unlawful for any one person to possess at any time more than one daily limit of fresh shellfish. Additional shellfish may be possessed in a frozen or processed form.

**(2) Dungeness crab annual possession limit:** It is unlawful for any person in any licensing year to take or possess more than 48 Dungeness crab taken for personal use from state waters.

#### WSR 05-07-079

#### WITHDRAWAL OF PROPOSED RULES ENVIRONMENTAL HEARINGS OFFICE

(By the Code Reviser's Office)

[Filed March 15, 2005, 8:40 a.m.]

WAC 199-08-405, 199-08-410, 199-08-415, 199-08-420, 199-08-426, 199-08-427, 199-08-428, 199-08-429 and 199-08-535, proposed by the Environmental Hearings Office in WSR 04-18-015 appearing in issue 04-18 of the State Register, which was distributed on September 15, 2004, 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 05-07-085

#### PROPOSED RULES DEPARTMENT OF TRANSPORTATION

[Filed March 16, 2005, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-03-075.

Title of Rule and Other Identifying Information: Measurement exclusive devices. Adopts federal rules on devices/appurtenances not subject to measurement when measuring the dimensions of a vehicle and/or load carried by a vehicle. The proposal is written in question and answer format for greater clarification.

Hearing Location(s): Transportation Building, Commission Board Room 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98502, on May 13, 2005, at 8:30.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Barry Diseth, P.O. Box 47367, Olympia, WA 98504-7367, e-mail disethb@wsdot.wa.gov, fax (360) 705-6836, by April 21, 2005.

Assistance for Persons with Disabilities: Contact Jessica Alexander by April 21, 2005, TTY (360) 705-7760 or fax (360) 705-6808.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a proposal of a new rule within chapter 468-38 WAC. The objective is to adopt federal rule into Washington administrative rule for ease and consistency of administration and enforcement.

Reasons Supporting Proposal: The new rule would provide an enhanced resource for administering and enforcing the state's vehicle size and weight laws and rules.

Statutory Authority for Adoption: RCW 46.44.090.

Statute Being Implemented: Chapter 46.44 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This is a proposal of a new rule within chapter 468-38 WAC. The objective is to adopt federal rule on measurement exclusive devices into Washington Administrative Code. The new rule enumerates devices that contribute to safe vehicle operation, or provide for more economical vehicle operation, that should not be included in the measurement of a vehicle or vehicle combination. The new rule would provide an enhanced resource for administering and enforcing the state's vehicle size and weight laws and rules.

The process for public involvement will consist of public notification in the Washington State Register with contact information for comments. In addition, the draft has been provided to various industry and regulatory entities for comment. The proposed rule has been discussed, and concurred in, with the Washington State Patrol and the Washington Trucking Associations.

To date there have been no negative comments or concerns that would otherwise require a response.

Name of Proponent: WSDOT Traffic Division, Commercial Vehicle Services, governmental.

Name of Agency Personnel Responsible for Drafting: Barry Diseth, 921 Lakeridge Way, Olympia, (360) 705-7805; Implementation: Tim Erickson, 921 Lakeridge Way, Olympia, (360) 705-7343; and Enforcement: Captain Coral Estes, 210 11th Street, Olympia, General Administration Building, (360) 753-0350.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new rule adopts federal regulations without material change as referenced in RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. There are no additional costs or revenues associated with the implementation of this rule. The rule will assist administrative, enforcement and stakeholder decisions/interpretations to be more consistent.

March 15, 2005

John F. Conrad

Assistant Secretary

Engineering and Regional Operations

## NEW SECTION

**WAC 468-38-073 Measurement exclusive devices. (1) What are the criteria for being a measurement exclusive device?** Generally, measurement exclusive devices are vehicle appurtenances designed and used for reasons of safety, aerodynamics, or efficient vehicle operation. A measurement exclusive device must not carry property, create a space that property could occupy outside of legal or permitted dimensions, or exceed the specific dimensional limitations stated in this section.

**(2) What devices at the front of a single unit vehicle, or power unit in a vehicle combination, are excluded from length determinations?** The following devices have been identified as measurement exclusive when determining length from the front of a single unit vehicle or power unit in a vehicle combination:

(a) Resilient bumpers that do not extend more than six inches from the vehicle;

(b) A fixed step up to three inches deep at the front of an existing automobile transporter until April 29, 2005. It will be the responsibility of the operator of the unit to prove that the step existed prior to April 29, 2002. Such proof can be in the form of a work order for equipment modification, a receipt for purchase and installation of the piece, or any similar type of documentation. After April 29, 2005, the step shall no longer be excluded from a vehicle's length.

**(3) What devices at the front of a semi-trailer or trailer are excluded from length determinations?** The following devices have been identified as measurement exclusive when determining length from the front of a semi-trailer or trailer:

(a) A device at the front of a trailer chassis to secure containers and prevent movement in transit;

(b) A front coupler device on a semi-trailer or trailer used in road and rail intermodal operations;

(c) Aerodynamic devices, air deflector;

(d) Air compressor;

(e) Certificateholder (manifest box);

(f) Door vent hardware;

(g) Electrical connector;

(h) Gladhand (air hose connectors joining tractor to trailer);

(i) Handhold;

(j) Hazardous materials placards and holders;

(k) Heater;

(l) Ladder;

(m) Nonload carrying tie-down devices on automobile transporters;

(n) Pickup plate lip (plate at front of trailer to guide fifth wheel under trailer);

(o) Pump offline on tank trailer;

(p) Refrigeration unit;

(q) Removable bulkhead;

(r) Removable stake;

(s) Stabilizing jack (antinosedive device);

(t) Stake pocket;

(u) Step;

(v) Tarp basket;

(w) Tire carrier; and

(x) Uppercoupler.

**(4) What devices at the rear of a single unit vehicle, semi-trailer or trailer are excluded from length determinations?** The following devices have been identified as measurement exclusive when determining length from the rear of a semi-trailer or trailer:

(a) Aerodynamic devices that extend up to a maximum of five feet beyond the rear of the vehicle, provided such devices have neither the strength, rigidity nor mass to damage a vehicle, or injure a passenger in a vehicle, that strikes a vehicle so equipped from the rear, and provided also that they do not obscure tail lamps, turn signals, marker lamps, identification lamps, or any other required safety devices, such as hazardous materials placards or conspicuity markings (i.e., reflective tape);

(b) Handhold;

(c) Hazardous materials placards and holder;

(d) Ladder;

(e) Loading and unloading device not to exceed two feet;

(f) Pintle hook;

(g) Removable stake;

(h) Splash and spray suppression device;

(i) Stake pocket; and

(j) Step.

**(5) What devices at the side of a vehicle are excluded from width determinations?** The following devices have been identified as measurement exclusive, not to exceed three inches from the side of the vehicle, when determining width of a vehicle:

(a) Corner cap;

(b) Handhold for cab entry/egress;

(c) Hazardous materials placards and holder;

(d) Lift pad for trailer on flatcar (piggyback) operation;

(e) Load induced tire bulge;

(f) Rain gutter;

(g) Rear and side door hinge and protective hardware;

(h) Rearview mirror;

(i) Side marker lamp;

(j) Splash and spray suppressant device, or component thereof;

(k) Structural reinforcement for side doors or intermodal operation (limited to one inch from the side within the three-inch maximum extension);

(l) Tarping system for open-top cargo area;

(m) Turn signal lamp;

(n) Movable device to enclose the cargo area of a flatbed semi-trailer or trailer, usually called "tarping system," where no component part of the system extends more than three inches from the sides or back of the vehicle when the vehicle

is in operation. This exclusion applies to all component parts of a tarping system, including the transverse structure at the front of the vehicle to which the sliding walls and roof of the tarp mechanism are attached, provided the structure is not also intended or designed to comply with 49 CFR 393.106, which requires a headerboard strong enough to prevent cargo from penetrating or crushing the cab; the transverse structure may be up to one hundred eight inches wide if properly centered so that neither side extends more than three inches beyond the structural edge of the vehicle. Also excluded from measurement are side rails running the length of the vehicle and rear doors, provided the only function of the latter, like that of the transverse structure at the front of the vehicle, is to seal the cargo area and anchor the sliding walls and roof. On the other hand, a headerboard designed to comply with 49 CFR 393.106 is load bearing and thus limited to one hundred two inches in width. The "wings" designed to close the gap between such a headerboard and the movable walls and roof of a tarping system are width exclusive, provided they are add-on pieces designed to bear only the load of the tarping system itself and are not integral parts of the load-bearing headerboard structure;

(o) Tie-down assembly on platform trailer;

(p) Wall variation from true flat; and

(q) Weevil pins and sockets on a platform or low-bed trailer (pins and sockets located on both sides of a trailer used to guide winch cables when loading skid mounted equipment).

(6) **Are there weight measurement exclusive devices?** No. All devices, regardless of purpose, must be included in the combined vehicle weight and subject to the weight restrictions provided in chapter 46.44 RCW and as further defined in chapter 468-38 WAC.

(7) **Can exclusion allowances be combined to create a larger allowance (i.e., adding a five-foot aerodynamic device to a two-foot loading/unloading device for a total exclusion of seven feet)?** No. Each exclusion allowance is specific to a device and may not be combined with the exclusion allowance for another device.

(8) **Can a device receive exclusion if it is not referenced in law or administrative rule?** If the device meets the criteria in subsection (1) of this section, a request for measurement exclusion may be made to the administrator for commercial vehicle services. If approved for an exclusion allowance, the administrator will provide the requestor a written authorization.

**WSR 05-07-096**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 17, 2005, 4:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-129.

Title of Rule and Other Identifying Information:  
Amending WAC 388-550-3000 DRG payment system.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 26, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than April 27, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., April 26, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 22, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is updating and clarifying policy regarding the diagnostic-related group (DRG) classification system for inpatient hospital services provided to medical assistance clients.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.08.-090.

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

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

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1342; Implementation and Enforcement: John Hanson, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendment and concludes that it will impose no new costs on small businesses. The preparation of a comprehensive SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed amendment does not "make significant amendments to a policy or regulatory program" (see RCW 34.05.328 (5)(c)(iii)), MAA has determined that the proposed rule is not "significant" as defined by the legislature. The rule has been rewritten to update and clarify policy regarding the diagnostic-related group (DRG) classification system for inpatient hospital services provided to a client from the date of inpatient admission to date of discharge.

March 15, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-06-046, filed 2/26/99, effective 3/29/99)

**WAC 388-550-3000 Payment method—DRG ((payment system))**. (1) ~~((Except where otherwise specified, MAA)) The medical assistance administration (MAA) uses the diagnosis-related group (DRG) ((system, which categorizes patients into clinically coherent and homogenous groups with respect to resource use, as the reimbursement~~

method for)) payment method to reimburse covered inpatient hospital services, except as specified in WAC 388-550-4300 and 388-550-4400.

(2) MAA uses the all-patient grouper (AP-DRG) to assign a DRG to each inpatient hospital stay. MAA periodically evaluates which ((all-patient grouper (AP-DRG) version)) version of the AP-DRG to use.

(3)((a) MAA calculates the DRG payment for a particular hospital by multiplying the assigned DRG's relative weight, as determined in WAC 388-550-3100, for that admission by the hospital's cost based conversion factor, as determined in WAC 388-550-3450.

(b) If the hospital is participating in the selective contracting program, the department multiplies the DRG relative weight for the admission by the hospital's negotiated conversion factor, as specified in WAC 388-550-4600(4).

(4)(a) MAA pays for a hospital readmission within seven days of discharge for the same client when department review concludes the readmission did not occur as a result of premature hospital discharge.

(b) When a client is readmitted to the same hospital within seven days of discharge, and MAA review concludes the readmission resulted from premature hospital discharge, MAA treats the previous and subsequent admissions as one hospital stay and pay a single DRG for the combined stay)) A DRG payment includes, but is not limited to:

(a) All covered hospital services provided to a client during the client's inpatient hospital stay.

(b) Outpatient hospital services, including preadmission, emergency room, and observation services related to an inpatient hospital admission and provided within one calendar day of a client's inpatient hospital admission. These outpatient services must be billed on the inpatient hospital claim (see WAC 388-550-6000 (3)(c))

(c) Any specific service(s), treatment(s), or procedure(s) (such as renal dialysis services) that the admitting hospital is unable to provide and:

(i) The admitting hospital sends the client to another facility or provider for the service(s), treatment(s), or procedure(s) during the client's inpatient stay; and

(ii) The client returns as an inpatient to the admitting hospital.

(d) All transportation costs for an inpatient client when the client requires transportation to another facility or provider for a specific service(s), treatment(s), or procedure(s) that the admitting hospital is unable to provide and:

(i) The admitting hospital sends the client to another facility or provider for the service(s), treatment(s), or procedure(s); and

(ii) The client returns as an inpatient to the admitting hospital.

(4) MAA's DRG payment is determined by multiplying the assigned DRG's relative weight, as determined in WAC 388-550-3100, by the hospital's conversion factor. See WAC 388-550-3450 and 388-550-4600(4).

(5) (If two different DRG assignments are involved in a readmission as described in subsection (4) of this section, MAA reviews the hospital's records to determine the appropriate reimbursement.

(6) MAA recognizes Medicaid's DRG payment for a Medicare-Medicaid dually eligible client to be payment in full.

(a) MAA pays the Medicare deductible and co-insurance related to the inpatient hospital services provided to clients eligible for Medicare and Medicaid subject to the Medicaid maximum allowable limit set in WAC 388-550-1200(6).

(b) MAA ensures total Medicare and Medicaid payments to a provider for such client does not exceed Medicaid's maximum allowable charges.

(c) MAA pays for those allowed charges beyond the threshold using the outlier policy described in WAC 388-550-3700 in cases where:

(i) Such client's Medicare Part A benefits including lifetime reserve days are exhausted; and

(ii) The Medicaid outlier threshold status is reached)) MAA's DRG payments to hospitals may be adjusted when one or more of the following occur:

(a) A claim qualifies as a DRG high-cost or low-cost outlier (see WAC 388-550-3700);

(b) A client transfers from one acute care hospital or distinct unit to another acute care hospital or distinct unit (see WAC 388-550-3600);

(c) A client is not eligible for a medical assistance program on one or more of the days of the hospital stay;

(d) A client is eligible for Part B Medicare and Medicare has made a payment for the Part B hospital charges; or

(e) A client is discharged from an inpatient hospital stay and is readmitted as an inpatient within seven days. MAA or its designee performs a retrospective utilization review (see WAC 388-550-1700 (3)(b)(iii)) on the initial admission and the readmission(s) to determine which inpatient hospital stay(s) qualify for DRG payment.

## WSR 05-07-102

### PROPOSED RULES

#### WASHINGTON STATE PATROL

[Filed March 18, 2005, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-21-003.

Title of Rule and Other Identifying Information: Chapter 212-17 WAC, Fireworks.

Hearing Location(s): Super 8 Motel Meeting Room, 449 Melva Lane, Moses Lake, WA, (509) 765-8886, on April 26, 2005, at 10:00 a.m.; and at the General Administration Building, 210 11th Avenue S.W., Olympia, WA, (360) 570-3133, on April 27, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Deputy State Fire Marshal Larry Glenn, P.O. Box 42600, Olympia, WA 98504-2600, e-mail Larry.Glenn@wsp.wa.gov, fax (360) 570-3136, by April 25, 2005.

Assistance for Persons with Disabilities: Contact Deputy State Fire Marshal Larry Glen by April 25, 2005, (360) 570-3133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose is to

clarify and amend rules defining the dates of fireworks purchase, possession, and discharge and updating definitions to comply with revised National Fire Protection Association standards. Also, to add rules for the issuance of fines and citations.

**Reasons Supporting Proposal:** Most of these revisions/additions were initially submitted as an emergency rule on May 18, 2004. However, these rules need to become permanent in order to comply with RCW 70.77.395.

**Statutory Authority for Adoption:** Chapters 43.43 and 70.77 RCW.

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

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Deputy State Fire Marshal Larry Glenn, General Administration Building, P.O. Box 42600, Olympia, WA 98504-2600, (360) 570-3133.

No small business economic impact statement has been prepared under chapter 19.85 RCW. After a thorough review of the proposed changes by State Assistant Attorney General Jason Richards on March 24, 2004, it was determined that the rule changes to chapter 212-17 WAC would not have a substantial economic impact on small businesses, and therefore no need for the small business economic impact statement to be filed.

A cost-benefit analysis is not required under RCW 34.05.328. Subsection (5)(b) does not apply to rules the content of which is explicitly and specifically dictated by statute.

John R. Batiste  
Chief

**AMENDATORY SECTION** (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-025 Definition—"Fireworks."** The term "fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of ~~((common))~~ articles pyrotechnic, consumer, or ~~((special))~~ display fireworks.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-030 Definition and classification—"Trick and novelty devices."** The term "trick and novelty devices" shall mean any small firework device not classified as ~~((common))~~ consumer or ~~((special))~~ display fireworks by the United States Department of Transportation or elsewhere in these rules, including:

(1) Snakes, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(a) Party popper. Small plastic or paper item containing not more than 16 mg of explosive composition that is friction sensitive. A string protruding from the device is pulled to

ignite it, expelling paper streamers and producing a small report.

(b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

(d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

(e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle and/or smoke when ignited. A small quantity of explosive, not exceeding 50 mg, may also be used to produce a small report. A squib is used to ignite the device.

**NEW SECTION**

**WAC 212-17-032 Definition and classification—"Articles pyrotechnic."** The term "articles pyrotechnic" shall mean pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use which meet the weight limits for consumer fireworks but which are not labeled as such and which are classified as UN0431 or UN0432 by the Department of Transportation at 49 C.F.R. Sec. 172.101.

**AMENDATORY SECTION** (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-035 Definition and classification—"((Common)) Consumer fireworks."** The term ~~((common))~~ consumer fireworks shall mean any fireworks designed primarily to produce visible or audible effects by combustion. The term includes:

(1) Ground and hand-held sparkling devices.

(a) Dipped stick; sparkler. Stick, or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed 100 grams per item. Those devices containing any perchlorate or chlorate salts may not exceed 5 grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item, not ~~((Class C))~~ Division 1.4, 1.5, or 1.6 explosives under DOT regulations, are included in this category.

(b) Cylindrical fountain. Cylindrical tubes not more than 3/4 inch (19 mm) inside diameter, containing up to 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).



(c) Cone fountain. Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

(d) Illuminating torch. Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.

(e) Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six "driver" units; tubes not exceeding 1/2 inch (12.5 mm) inside diameter and containing up to 60 grams of pyrotechnic composition. Total pyrotechnic composition of each wheel shall not exceed 240 grams. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) Ground spinner. Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(2) Aerial device.

(a) Helicopter, aerial spinner. A tube not more than 1/2 inch (12.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(b) Roman candles. Heavy paper or cardboard tube (not exceeding 3/8 inch (9.5 mm) inside diameter) and not exceeding 3/8 inch (9.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

(c) Mine, shell. Heavy cardboard or paper tube up to 2 1/2 inches (63.5 mm) inside diameter attached to a wood or plastic base and containing up to 40 grams of pyrotechnic composition. Upon ignition, "stars," (~~firecrackers~~) or other devices are propelled into the air. The tube remains on the ground.

(3) Combination items. Fireworks devices containing combinations of two or more of the effects described in this section.

(4) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(5) (~~Class C~~) Aerial shell. A 1 3/4" or smaller cylindrical or spherical cartridge containing up to 40 grams of chemical composition.

(6) Mortar. A 1 3/4" or smaller cardboard tube in which aerial shells are discharged into the air.

(7) Division 1.4G explosives classified on January 1, 1984, as (~~common~~) consumer fireworks by the United States Department of Transportation except that the term shall not include firecrackers, salutes, chasers, skyrockets, or missile-type rockets.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-040 Definition and classification—**"(~~Special~~) Display fireworks." The term "~~special~~) display fireworks" shall mean large fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes, but is not limited to:

(1) Sky rocket. Tubes not exceeding 1/2 inch (12.5 mm) inside diameter that may contain up to 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(2) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Firework devices which use a cylindrical bore or rod for launching stability, even though the word "missile" may appear on the label, are not included in this category.

(3) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than 2 grains (130 mg) of explosive composition. Upon ignition, noise and a flash of light is produced.

(4) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 mg.

(5) Display pieces. Fireworks containing more than 2 grains (130 mg) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "~~common~~) consumer fireworks." (~~Special~~) Display fireworks are classified as (~~Class B~~) Division 1.3G explosives by the United States Department of Transportation.

NEW SECTION

**WAC 212-17-042 Definition and classification—**"Special effects." The term "special effects" shall mean a visual or audible effect for entertainment purposes created exclusively by "display fireworks" or "articles pyrotechnic."

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-050 Firework device chemical content, construction.** All (~~common~~) consumer fireworks devices shall meet the following chemical content, design, and construction requirements.

(1) Prohibited chemicals. Fireworks devices shall not contain any of the following chemicals:

(a) Arsenic sulfide, arsenates, or arsenites.

(b) Boron.

(c) Chlorates, except:

(i) In colored smoke mixtures in which an equal or greater amount of sodium bicarbonate is included;

(ii) In caps and party poppers;

(iii) In those small items wherein the total powder content does not exceed four grams of which not greater than fifteen percent is potassium, sodium, or barium chlorate.

- (d) Gallates or gallic acid.
- (e) Magnesium (magnesium/aluminum alloys, called magnalium, are permitted).
- (f) Mercury salts.
- (g) Phosphorus (red or white). EXCEPT that red phosphorus is permissible in caps and party poppers.
- (h) Picrates or picric acid.
- (i) Thiocyanates.
- (j) Titanium, except in particle size greater than 100-mesh.

(k) Zirconium.

(2) Fuses.

(a) Fireworks devices that require a fuse shall:

(i) Utilize only a fuse that has been treated or coated in such manner as to reduce the possibility of side ignition. Devices such as ground spinners that require a restricted orifice for proper thrust and contain less than 6 grams of pyrotechnic composition are exempt from this requirement.

(ii) Utilize only a fuse which will burn at least three seconds but not more than six seconds before ignition of the device.

(b) The fuse shall be securely attached so that it will support either the weight of the fireworks device plus eight ounces dead weight or double the weight of the device, whichever is less, without separation from the fireworks device.

(3) Bases. The base or bottom of fireworks devices that are operated in a standing upright position shall have the minimum horizontal dimensions or the diameter of the base equal to at least one-third of the height of the device including any base or cap affixed thereto.

(4) Pyrotechnic leakage. The pyrotechnic chamber in fireworks devices shall be sealed in a manner that prevents leakage of the pyrotechnic composition during shipping, handling and normal operation.

(5) Burnout and blowout. The pyrotechnic chamber in fireworks devices shall be constructed in a manner to allow functioning in a normal manner without burnout or blowout.

(6) Handles and spikes. Fireworks devices that are intended to be hand-held and are so labeled shall incorporate a handle at least four inches in length. Handles shall remain firmly attached during transportation, handling and full operation of the device, or shall consist of an integral section of the device at least four inches below the pyrotechnic chamber, except sparklers 10" or less in length shall have handles at least 3" in length. Spikes provided with fireworks devices shall protrude at least two inches from the base of the device and shall have a blunt tip not less than 1/8 inch in diameter or 1/8 inch square.

(7) Wheel devices. Drivers in fireworks devices commonly known as "wheels" shall be securely attached to the device so that they will not come loose in transportation, handling, and normal operation. Wheel devices intended to operate in a fixed location shall be designed in such a manner that the axle remains attached to the device during normal operation.

(8) Toy smoke devices and flitter devices.

(a) Toy smoke devices shall be so constructed that they will neither burst nor produce external flame (excluding the fuse and ~~(first fire upon ignition)~~ small but brief bursts of

flame accompanying normal smoke production) during normal operation.

(b) Toy smoke devices and flitter devices shall not be of such color and configuration so as to be confused with ~~((banned fireworks))~~ illegal explosive devices such as M-80 salutes, silver salutes, or cherry bombs.

(c) Toy smoke devices shall not incorporate plastic as an exterior material if the pyrotechnic composition comes in direct contact with the plastic.

(9) Rockets with sticks. Rockets with sticks (including sky rockets and bottle rockets) shall utilize a straight and rigid stick to provide a direct and stable flight. Such sticks shall remain straight and rigid and attached to the driver so as to prevent the stick from being damaged or detached during transportation, handling, or normal operation.

(10) Party poppers. Party poppers (also known by other names such as "champagne party poppers" and "party surprise poppers" shall not contain more than 0.25 grains of pyrotechnic composition. Such devices may contain non-flammable soft paper or cloth inserts ~~((provided any such inserts do not ignite during normal operation))~~.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-055 Firework device, labeling.** (1) Any ~~((common))~~ consumer fireworks device not required to have a specific label by 16 CFR 1500.14 (b)(7), 1981, as of October 29, 1982, shall carry a warning label indicating to the user where and how the item is to be used and necessary safety precautions to be observed.

(2) Every fireworks device, or fireworks device container where the device is packaged in an immediate container intended or suitable for delivery to the ultimate consumer, shall be conspicuously labeled with the name and place of business of the manufacturer, packer, distributor, or seller and the United States Department of Transportation designation as "~~((Class C common))~~ Division 1.4G consumer fireworks" or "~~((Class B special))~~ Division 1.3G special fireworks."

(3) All label wording shall be prominently located, in the English language, and in conspicuous and legible type in contrast by typography, layout, or color with the printed matter on the fireworks device or container.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-060 Public purchase of fireworks.** (1) The public may purchase ~~((common))~~ consumer fireworks only from licensed retail fireworks stands between noon, June 28th and ~~((noon,))~~ 9:00 p.m. July ~~((6th))~~ 5th of each year. Purchase or discharge is prohibited between the hours of 11:00 p.m. and 9:00 a.m., except on July 4th, in which fireworks can be discharged between the hours of 9:00 a.m. and 12:00 midnight. Possession and discharge of fireworks is lawful during this period only, except as provided in subsection (2) of this section.

(2) Religious organizations or private organizations or adult persons may be authorized to purchase ~~((common))~~ consumer fireworks or such audible ground devices as fire-

crackers, salutes, and chasers, as defined in WAC 212-17-040 (3) and (4) from licensed manufacturers, importers, or wholesalers for use on prescribed dates and locations for religious or specific purposes, when a permit is obtained from the fire chief or other designated local official. Application shall be on forms provided by the director of fire protection and shall contain the following information:

- (a) The name and mailing address of the organization or person desiring to purchase and discharge the fireworks;
- (b) The date and time of the proposed discharge;
- (c) The location of the proposed discharge;
- (d) The quantity and type of fireworks desired to be purchased and discharged;
- (e) The reason or purpose of the discharge; and
- (f) The signature of the applicant, following a statement that: "The applicant understands and agrees to comply with all provisions of the application and requirements of the approving authority, will discharge the fireworks only in a manner that will not endanger persons or property or constitute a nuisance, and assumes full responsibility for all consequences of the discharge, intended or not." Upon approval by the fire official, the applicant may submit a copy of the approval to any licensed wholesaler as proof of authorization to purchase the fireworks listed therein. The applicant shall retain the approval and have it available for inspection by any public official at the actual discharge of the fireworks.

(3) The purchase or receipt of mail-order fireworks through any medium of either interstate or intrastate commerce is prohibited unless the purchaser has first obtained an importers license ~~((or has complied with the provisions of subsection (2) of this section)).~~

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-070 Fireworks manufacturer—Licensing.** Upon receipt of application and license fee, the director of fire protection will cause an investigation to be made. Applicants shall submit to a background check by the Washington state patrol criminal records division. The cost of the background check shall be the responsibility of the applicant. If the investigation discloses compliance with state laws governing the manufacture of fireworks and that granting of a license would not be contrary to public safety or welfare, a license will be granted. If the license is denied, then the applicant shall be notified in writing of the reason why license was denied, and he shall be given an opportunity to make such alterations and corrections as are deemed necessary. License applications shall be either granted or denied by the director of fire protection within ninety days following receipt of a properly submitted or amended application.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-085 Fireworks manufacturer—Records and reports.** Manufacturers shall, when requested to do so, submit written reports to the chief of the Washington state patrol, through the director of fire protection on production, sale and distribution of fireworks and name of the per-

son to whom such fireworks were sold ~~((to the director of fire protection)).~~

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-125 Fireworks wholesaler—Investigation.** Upon receipt of an application and the license fee, the director of fire protection will cause an investigation to be made. Applicants shall submit to a background check by the Washington state patrol criminal records division. The cost of the background check shall be the responsibility of the applicant. If the investigation discloses compliance with state laws governing fireworks and that granting of a license would not be contrary to public safety or welfare, a license will be granted. If the license is denied, then the applicant shall be notified in writing of the reason why the license was denied, and he shall be given an opportunity to make such alterations and corrections as are deemed necessary. License applications shall be either granted or denied by the director of fire protection within ninety days following receipt of a properly submitted or amended application.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-170 Importers of fireworks—Licensing.** Every person who desires to import fireworks to this state shall file application and procure a license. Application shall be made on forms provided by the director of fire protection and shall be accompanied by the required license fee. Applicants shall submit to a background check by the Washington state patrol criminal records division. The cost of the background check shall be the responsibility of the applicant. License applications shall be made on or before January 31 of the year for which the license is desired. The application shall be either granted or denied by the director of fire protection within ninety days following receipt of a properly submitted or amended application.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-185 Retailers of fireworks—License and permit.** (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the director of the Washington state patrol fire protection bureau.

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of forty dollars.

(b) License applications shall be made on or before May 1 of the year for which the license is desired.

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

(d) Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.

(3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity.

Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

**AMENDATORY SECTION** (Amending Order FM 84-05, filed 11/9/84)

**WAC 212-17-198 Retailers of fireworks—List.** The following is the list of fireworks that may be sold to the public.

- (1) Ground and hand-held sparkling devices.
  - (a) Dipped stick, sparkler. Stick, or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed 100 grams per item. Those devices containing any perchlorate or chlorate salts may not exceed 5 grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item, not Class C explosives under DOT regulations, are included in this category.
    - (b) Cylindrical fountain. Cylindrical tubes not more than 3/4 inch (19 mm) inside diameter, containing up to 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).
    - (c) Cone fountain. Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.
    - (d) Illuminating torch. Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.
    - (e) Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six "driver" units; tubes not exceeding 1/2 inch (12.5 mm) inside diameter and containing up to 60 grams of pyrotechnic composition. Total pyrotechnic composition of each wheel shall not exceed 240 grams. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.
    - (f) Ground spinner. Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.
    - (g) Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.
      - (2) Aerial devices.
        - (a) Helicopter, aerial spinner. A tube not more than 1/2 inch (12.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

- (b) Roman candles. Heavy paper or cardboard tube not exceeding 3/8 inch (9.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

- (c) Mine, shell. Heavy cardboard or paper tube up to 2 1/2 inches (63.5 mm) inside diameter attached to a wood or plastic base and containing up to 40 grams of pyrotechnic composition. Upon ignition, "stars," firecrackers, or other devices are propelled into the air. The tube remains on the ground.

- (d) Aerial shell. A 1 3/4" or smaller cylindrical or spherical cartridge containing up to 40 grams of chemical composition.

- (e) Mortar. A 1 3/4" or smaller cardboard tube in which aerial shells are discharged into the air.

- (3) Combination items. Fireworks devices containing combinations of two or more of the effects described in this section.

- (4) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

- (5) ~~((Class C))~~ Division 1.4G explosives classified on January 1, 1984 as ~~((common))~~ consumer fireworks by the United States Department of Transportation except that the term shall not include firecrackers, salutes, chasers, skyrockets or missile-type rockets.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21503 Retailers of fireworks—Definitions.** (1) ~~((Common))~~ Consumer fireworks" means those fireworks defined as ~~((common))~~ consumer fireworks in RCW 70.77.136.

(2) "Following year" means the year immediately following the year in which a license or permit is issued.

(3) "License" means a license as defined in RCW 70.77.170.

(4) "Magazine" means a structure as defined in Section ~~((214 of the Uniform))~~ 3302.1 of the International Fire Code.

(5) "Membrane material" means a thin, flexible, impervious material capable of being supported by an air pressure of 1.5 inches of water column (373 Pa).

(6) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of thirty days or more used for the sales, at retail or wholesale, of legal fireworks of any kind.

(7) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(8) "Permit" means a permit as defined in RCW 70.77.-180.

(9) "Private way" means any privately owned driveway, lane, access way or similar parcel of land essentially unobstructed from the ground to the sky which serves as access from private property to a public road.

(10) "Public road" means any street or alley essentially unobstructed from the ground to the sky which is deeded,

dedicated or otherwise permanently appropriated to the public for public use.

(11) "Recognized testing laboratory" means a nationally recognized testing laboratory approved by the state fire marshal.

(12) "Temperature overheat protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit exceeds its designed operating temperature.

(13) "Temporary power drop" means an electrical service connection to a temporary retail fireworks stand.

(14) "Retail fireworks stand" means a structure used for the retail sales of ~~((common))~~ consumer fireworks.

(15) "Temporary storage structure" means a building or other structure used for storage of ~~((common))~~ consumer fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(16) "Temporary structure" means an enclosure or shelter erected for a period of less than thirty days and not otherwise defined in the ~~((Uniform))~~ International Fire Code as a tent or canopy.

(17) "Tip-over protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit is tipped or tilted more than forty-five degrees from its designed operating position.

(18) "~~((Uniform))~~ International Building Code" means the edition currently adopted by the state of Washington.

(19) "~~((Uniform))~~ International Fire Code" means the edition currently adopted by the state of Washington.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21505 Retailers of fireworks—General provisions.** (1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary and permanent structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of ~~((common))~~ consumer fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as ~~((common))~~ consumer fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Except as prescribed by this rule, the use of permanent structures or temporary structures over four hundred square feet for fireworks sales and storage shall be subject to the provisions of the ~~((Uniform))~~ International Fire Code and

the ~~((Uniform))~~ International Building Code, and local ordinances.

(4) The use of temporary structures for the temporary sale or storage of ~~((common))~~ consumer fireworks are exempt from the ~~((Uniform))~~ International Building Code, ~~((Uniform))~~ International Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those provisions of that county's or that city's building code or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Each license and permit shall be issued and shall remain valid and effective for the thirteen-month period beginning on January 1 of the year in which application is made and ending January 31 of the following year.

(6) Only ~~((Class C common))~~ Division 1.4G consumer fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold from 12:00 noon to 11:00 p.m. on June 28 through ~~((12:00 noon))~~ 9:00 p.m. on July ~~((6))~~ 5. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold from 12:00 midnight on July 4 through 9:00 a.m. on July 5. ~~((Fireworks may not be sold from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.))~~

(8) Except as limited by local ordinance, fireworks may be sold from ~~((6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the following year))~~ 12:00 noon to 11:00 p.m. on each day from the 27th of December through the 31st of December of each year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the temporary suspension or immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure and/or forfeiture of some or all of the fireworks, and other criminal penalties as specified by law.

(11) The local authority having jurisdiction, with the concurrence of the state fire marshal, is authorized to modify any of the provisions of WAC 212-17-21509, 212-17-21511, 212-17-21513, 212-17-21515, and 212-17-21517 upon written application by the licensee or a duly authorized representative, where there are practical difficulties in the way of carrying out the provisions of these sections, provided that the spirit of the rule shall be complied with, public safety secured and substantial justice done. The particulars of such modification shall be registered with the state fire marshal.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21507 Retailers of fireworks—Transportation.** When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local

authority having jurisdiction may waive or modify the local transportation requirements. Nothing in these rules shall restrict the right of any person to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21509 Retailers of fireworks—Location.** (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than one hundred fifty feet from a private way,

fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private way shall be determined by the local authority having jurisdiction, but shall not exceed the requirements of locally adopted street, road and access standards.

(3) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(4) Retail fireworks stands shall be located as required by Table 212-17-21509 in this section. The minimum required area surrounding the stand shall be marked or flagged, except that flagging and marking shall not block a sidewalk or pedestrian pathway. Flagging need not exceed twenty feet in any direction.

PROPOSED

**Retail Fireworks Stands - Minimum Clearances**

	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC ROAD*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	40 FT. 20 FT.**	40 FT. 20 FT.**	20 FT.	20 FT.	20 FT.	20 FT.

NOTE: Clearance distances are not cumulative  
 \* Measured from the outer edge of the nearest traffic lane.  
 \*\* If stand is equipped with 135 fusible links which will automatically close all sales doors in case of fire, or is equipped with a wire-mesh screen with openings of not more than one inch which covers not less than 90% of all sales openings.

(5) Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk plant dispensing areas.

EXCEPTION: 1. Fuel for generators as allowed by WAC 212-17-21513 (4).  
 2. Fuel within the tanks of motor vehicles.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21511 Retailers of fireworks—Area around the retail fireworks stand.** (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within one hundred feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 100 FEET" in letters at least two inches

high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

(4) No smoking shall be allowed within the retail fireworks stand or within the minimum flagged off area. Signs reading "NO SMOKING WITHIN 20 FEET" in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21513 Retailers of fireworks—Stand use and construction.** (1) Fireworks may be sold from:

(a) A permanent structure which meets provisions of WAC 212-17-21505(3).

(b) Temporary, stable structures made from wood, metal, fiberglass or other material. Any temporary fireworks retail stand greater than four hundred square feet shall meet the requirements of a permanent structure, except tents or canopies as defined in the ((Uniform)) International Fire Code.

(c) Tents, canopies, or structures utilizing temporary membrane material. All tents, canopies or temporary membrane materials structures shall be made from fire retardant material or treated with a fire retardant as identified in the

~~((Uniform))~~ International Fire Code. Any tent, canopy or temporary membrane material structure falling within the scope of the ~~((Uniform))~~ International Fire Code shall comply with those requirements. When those requirements are in conflict with other provisions of these rules, the more restrictive provisions shall apply.

(2) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure or location must be listed by a recognized laboratory and used in accordance with that listing. If electrical power is supplied by an extension cord, the size of the cord, the length of the cord and the amperage and the voltage supplied shall be in compliance with the requirements of the National Electrical Code, current edition. The cord shall be protected as necessary from "drive-over" and other physical damage. No additional permits from a city or county or state official having jurisdiction shall be required for these temporary uses except as specified in subsection (5) of this section.

(3) All heating units shall be listed by a recognized testing laboratory and shall be used in accordance with the listing. Heating sources shall have "tip-over" and temperature overheat protection. All heating devices shall have sealed type elements (i.e., oil filled or water filled radiator type). Open flame heating devices are prohibited.

(4) Generators which use combustible fuel and which are at least twenty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than five gallons and stored at least twenty feet from all stands.

(5) Compliance with the National Electrical Code, current edition, shall be required for all new, permanent electrical installations, including temporary power drops, subject to possible permit fees.

(6) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21515 Retailers of fireworks—Operation of retail fireworks stands.** (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure. Customers shall only be permitted inside a temporary retail fireworks stand that is greater than four hundred square feet and which meets minimum exit requirements of the ~~((Uniform))~~ International Building Code and ~~((Uniform))~~ International Fire Code, as now or amended hereafter.

(2) Each temporary retail fireworks stand must have at least two exits, at least twenty-eight inches in width, located at opposite ends of the structure. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(4) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and

persons working in the stand shall be informed of that location.

(5) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(6) Each retail fireworks stand shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.

(7) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(8) Retail fireworks stands shall be secured when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

(9) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person, other than customers, under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Fireworks, except for prepackaged assortments, boxes, or similarly packaged containers of more than one item, whether of the same or different kind, must be displayed in a manner which prevents the fireworks from being handled by the public or a customer without the direct intervention of the licensee or his or her representative who shall maintain visual contact.

(10) Retail fireworks stands may be required to be inspected by the state fire marshal and/or the local jurisdiction issuing the permit prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(11) In order to obtain return of a clean-up bond if required by the local authority having jurisdiction as a condition of permit, the cleanup of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in these rules.

(12) Fireworks retailers shall not knowingly sell fireworks to persons under the age of sixteen.

(a) A sign reading "no sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on the front of each retail fireworks stand.

(b) Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.

**AMENDATORY SECTION** (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21517 Retailers of fireworks—Temporary fireworks storage associated with the retail fireworks stand operation.** (1) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales

and may only be from June 13 through July 31 and from December 12 through January 10 of the following year. Permanent fireworks storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified for temporary storage. Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the ~~((Uniform))~~ International Fire Code and the ~~((Uniform))~~ International Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited. If the approved storage location is outside the jurisdiction issuing the permit, the authority issuing the permit shall notify the appropriate authorities of the jurisdiction in which the storage is to be located.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored:

(a) In a locked or secured retail fireworks stand; or

(b) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from the retail fireworks stand during hours of retail sales; or

(c) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from an inhabited building where the term "inhabited building" is defined as in the ~~((Uniform))~~ International Fire Code; or

(d) In a magazine which meets the minimum standards of Type 4 as prescribed by the ~~((Uniform))~~ International Fire Code, and which is not less than ten feet from an inhabited building where the term "inhabited building" is defined as in the ~~((Uniform))~~ International Fire Code; or

(e) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than:

20 feet from an inhabited building for storage of fireworks for one or two retail stands; or

30 feet from an inhabited building for storage of fireworks for three or more stands.

The term "inhabited building" is defined as in the ~~((Uniform))~~ International Fire Code.

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

**WAC 212-17-21519 Retailers of fireworks—Cleanup.** (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the removal of all temporary structures authorized by the license and permit shall be completed no later than 11:59 p.m., July 15 for the Fourth of July selling period or no later than 11:59 p.m., January 10 for the New Year's ~~((Eve))~~ selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-220 Pyrotechnic operators—General.** Pyrotechnic operators are licensed to conduct public displays of ~~((special))~~ fireworks and articles pyrotechnic. No public display license is issued unless at least one licensed pyrotechnic operator is listed on the application as being responsible for conducting the display.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-230 Pyrotechnic operators—Examination, investigation and licensing.** Upon receipt of application and license fee, the director of fire protection shall cause an investigation to be made as to the experience and competency of the applicant to conduct and supervise a public display of fireworks in a safe manner. Past experience in assisting in public displays shall be verified with the licensed pyrotechnic operator under whose supervision the applicant assisted. If experience requirements are satisfactory, the director of fire protection shall schedule a written examination for the applicant. A passing score of at least ~~((seventy))~~ eighty percent shall be attained on the written examination. An applicant failing the written examination may reapply within thirty days to retake the examination. No reexamination shall be taken within thirty days of the previous and no more than two examinations may be taken by the applicant in the same calendar year. Any applicant failing to appear for the written examination at the time and location established or who fails the written examination and fails to reapply within thirty days, or fails the examination on the second attempt, is deemed to have forfeited the license fee. All applicants shall submit to a background check through the Washington state patrol criminal records division. Costs for



the background check shall be the responsibility of the applicant. The director of fire protection shall grant or deny the license on the basis of the successful completion of the investigation and examination.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-235 Pyrotechnic operators—Responsibility.** The pyrotechnic operator shall be responsible for properly setting up the fireworks public display in accordance with the rules and regulations of the director of fire protection. He/she shall determine that all the mortars, set pieces, are properly installed and that the proper safety precautions have been taken to insure the safety of persons and property. He/she shall have charge of all activities directly related to handling, preparing and firing all fireworks at the public display, including fixing lifting charges and quick match as needed to aerial shells.

The pyrotechnic operator shall refuse to fire any fireworks that are deemed by him/her to be unsafe or where its discharge might jeopardize life or property.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-250 Public displays of fireworks—Application, state license.** Application for fireworks public display license shall be made on forms provided by the director of fire protection and shall be accompanied by the prescribed license fee.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-255 Public displays of fireworks—Type of license.** A public display license authorizes the applicant to conduct a public display of fireworks at a given location only. A "general" license for public display of fireworks authorizes public displays of fireworks at any locations or dates within the current year.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-260 Public displays of fireworks—General licenses.** Application for a "general" license to hold public displays of fireworks shall be accompanied by a surety bond or a certificate evidencing public liability insurance. Such bond and public liability insurance shall be noncancelable except upon fifteen days' written notice by the insurer to the director of fire protection.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-270 Public displays of fireworks—Local permit, application for.** When applying for permit, applicant shall submit information and evidence to local fire authorities covering the following:

- (1) The name of the organization sponsoring the display, if other than the applicant.
- (2) The date the display is to be held.
- (3) The exact location for the display.
- (4) The name and license number of the pyrotechnic operator who is to supervise discharge of the fireworks and the name of at least one experienced assistant.
- (5) The number of set pieces, shells (specify single or multiple break), and other items.
- (6) The manner and place of storage of such fireworks prior to the display.
- (7) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, and other lines of communication, the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction.

(8) Documentary proof of procurement of:

Surety bond;

Public liability insurance; or

A director of fire protection's "general license" for the public display of fireworks.

~~((49))~~ (9) Permittee shall be responsible for compliance with the provisions under which a public display permit has been granted.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-275 Public displays of fireworks—Investigation.** The officer to whom the application for permit is made shall make, or cause to be made, investigation of site of the proposed display for the purpose of determining if the fireworks will be of such a character or so located as to be hazardous to property or dangerous to any person. He shall also determine whether the provisions of the state fireworks law and these rules and regulations are complied with in the case of a particular display. He shall, in the exercise of reasonable discretion, grant or deny the application subject to reasonable conditions, if any, as he may prescribe, taking into account locations, parking of vehicles, controlling spectators, storage and firing fireworks, and precautions in general against danger to life and property from fire, explosion, and panic.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-280 Public displays of fireworks—Permits may not be granted, when.** No permit shall be granted for any public display of fireworks where the discharge, failure to fire, faulty firing, or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests, brush, or other grass covered land.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-285 Public displays of fireworks—Spectators.** Spectators at public displays of fireworks shall be restrained behind lines or barriers as designated by local

authorities. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, or firing of fireworks.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-290 Public displays of fireworks—Pyrotechnic operators.** No public display permit shall be granted unless at least two experienced pyrotechnic operators are provided, one of whom shall be a licensed pyrotechnic operator. The licensed operator shall:

(1) Be responsible for and have charge of the display with respect to preparation for transporting, unloading, storing, preparing special effects, set and mechanical pieces, setting mortars and rocket launchers, loading, arming and firing and disposing of all unfired or defective (dud) rockets, missiles and fireworks articles or items;

(2) Be responsible for setting all fireworks including mortars, finale batteries (hedgehogs) and rocket launchers at locations designated by the authority having jurisdiction and take into account wind direction and velocity predicted for the firing time in setting the firing angles. Shells, rockets and/or missiles shall not be permitted to cross or burst above areas occupied by persons;

(3) Be held responsible for acts of his assistants in connection with the display, from delivery to final firing who, through smoking, drinking, carelessness or negligence or any other act, endangers the safety of himself, any other person, or any property.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-295 Public display—General.** This section shall apply to the construction, handling, and use of ((Class B special)) Division 1.3G display or Division 1.4G consumer fireworks intended solely for public display. It shall also apply to the general conduct and operation of the display.

**AMENDATORY SECTION** (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

**WAC 212-17-300 Public display—Definitions.** For the purpose of this section, the following terms shall have the meanings shown:

(1) Assistant. A person who works under the direction of the pyrotechnic operator in charge to put on an outdoor fireworks display. The duties of an assistant include such tasks as: Loading mortars, spotting the bursting location of aerial shells, tending a ready box, setting up and cleaning the discharge site, igniting fireworks, etc.

(2) Barrage. A rapidly fired sequence of aerial fireworks. Mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(3) Black match. A fuse made from thread impregnated with black powder and used for igniting pyrotechnic devices.

(4) Boxed finale. A number of mortars grouped closely together and contained by a suitable frame. The mortars are

loaded prior to the display and fused for rapid sequence firing.

(5) Break. An individual effect from an aerial shell; generally either color (stars) or noise (salute). Aerial shells can be single-break (having only one effect) or multiple-break (having two or more effects).

(6) Chain fusing. A series of two or more aerial shells fused so as to fire in sequence from a single ignition. Finales and barrages are typically chain fused.

(7) Colored pot. A paper tube containing pyrotechnic composition that produces a colored flame on ignition. Colored pots are used in the construction of ground display pieces.

(8) Discharge site. The area immediately surrounding the mortars used to fire the aerial shells.

(9) Electric match. A device consisting of wires terminating at a high resistance element surrounded with a small quantity of heat sensitive pyrotechnic composition. When a sufficient electric current is passed through the wire circuit, the heat that is generated ignites the pyrotechnic composition, producing a small burst of flame. This flame can be used to ignite a fuse or a lift charge in a fireworks device.

(10) Electrical firing unit. The source of electrical current used to ignite electric matches. Generally the firing unit will have switches to control the routing of the current to various firework items and shall have test circuits and warning indicators, etc.

(11) Electrical ignition. A technique used to discharge fireworks in which an electric match and source of electric current are used to ignite fuses or lift charges. The electric matches are attached prior to the display, generally with wires connected to an electrical firing unit during the display.

(12) Fallout area. The area over which aerial shells are fired. The shells burst over this area, and unsafe debris and malfunctioning aerial shells fall into this area.

(13) Finale. A rapidly fired sequence (barrage) of aerial fireworks, typically fired at the end of a display. The mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(14) Finale rack. A row of closely spaced two-inch (51 mm) or three-inch (76 mm) inside diameter, mortars held in a wooden frame. It is similar to a boxed finale.

(15) Fireworks display. An outdoor display of special fireworks performed as entertainment.

(16) Flash powder. Explosive composition intended for use in firecrackers and salutes. Flash powder produces an audible report and a flash of light when ignited. Typical flash powder composition contains potassium chlorate or potassium perchlorate, sulfur or antimony sulfide, and powdered aluminum.

(17) Fusee. A highway distress flare, sometimes used to ignite fireworks at outdoor fireworks displays.

(18) Ground display piece. A pyrotechnic device that functions on the ground (as opposed to an aerial shell which functions in the air). Typical ground display pieces include fountains, roman candles, wheels, "set pieces."

(19) Lance. A thin cardboard tube packed with color-producing pyrotechnic composition used to construct ground display pieces. Lances are mounted on a wooden frame and fused so that ignition of all tubes is simultaneous.

(20) **Lift charge.** That part of an aerial shell which actually lifts the shell into the air. It usually consists of a black powder charge ignited by a quick match fuse. A delay fuse then ignites the main part of the shell, producing the desired effect.

(21) **Manual ignition.** A technique used to ignite fireworks using a handheld ignition source such as a fusee or port fire.

(22) **Monitor.** A person designated by the licensee of the display to keep the audience in the intended viewing area and out of the discharge site and fallout area.

(23) **Mortar.** A metal or heavy cardboard tube from which aerial shells are fired.

(24) **Mortar rack.** A strong wooden or metal frame containing closely spaced mortars. Such racks are most often used for barrages and finales, and in electrically ignited displays.

(25) **Mortar trough.** Above ground structures filled with sand or similar material into which mortars are positioned ready for use in a fireworks display.

(26) **Movable ground piece.** A ground display piece having movable parts, such as a revolving wheel.

(27) **No-fire current.** The maximum current that can be applied to an electric match for five seconds at room temperature without the match igniting.

(28) **Operator.** The licensed pyrotechnician (pyrotechnic operator) responsible for setting up and firing a public fireworks display.

(29) **Potential landing area.** The area over which shells are fired. The shells will normally burst over this area, but debris and malfunctions will fall into this area; therefore, it must be kept clear of spectators.

(30) **Quick match.** Black match that is encased in a loose-fitting paper sheath. While exposed black match burns slowly, quick match propagates flame extremely rapidly, almost instantaneously. Quick match is used in fuses for aerial shells and for simultaneous ignition of a number of pyrotechnic devices, such as lances in a ground display piece.

(31) **Safety cap.** A paper tube, closed at one end, that is placed over the end of the fuse of an aerial shell to protect it from accidental ignition. The cap is not removed until just before firing of the shell.

(32) **Salute.** A special firework that is designed to produce a loud report.

(33) **Salute powder.** A pyrotechnic composition which makes a loud report when ignited and constitutes the sole pyrotechnic mixture in a salute.

(34) **Shell (aerial).** A cylindrical or spherical cartridge containing pyrotechnic composition, a long fuse, and a black powder lift charge. The shells are most commonly three-inch (76 mm) to six inch (152 mm) outside diameter and are fired from mortars. Upon firing, the fuse and lift charge are consumed.

(35) **Stars.** Small masses of pyrotechnic compounds that are projected from aerial shells, mines, or roman candles.

(36) **Theatrical flash powder.** A pyrotechnic composition intended for use in theatrical shows. Theatrical flash powder produces a flash of light when ignited. Typical theatrical flash powder burns more slowly than salute powder and may

also produce a shower of sparks. Theatrical flash powder is not intended to produce a loud report.

**AMENDATORY SECTION** (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

**WAC 212-17-310 Public display—Storage of shells.**

(1) As soon as the fireworks have been delivered to the display site, they shall not be left unattended (~~nor shall they be allowed to become wet~~) and shall be kept dry.

(2) All shells shall be inspected upon delivery to the display site by the display operators. Any shells having tears, leaks, broken fuses, or showing signs of having been wet shall be set aside and shall not be fired. After the display, any such shells shall either be returned to the supplier or be destroyed according to the supplier's instructions.

Exception: Minor repairs to fuses shall be allowed. Also, for electrically ignited displays, attachment of electric matches and other similar tasks shall be permitted.

(3) All shells shall be separated according to diameter and stored in tightly covered containers of metal, wood, or plastic or in fiber drums or corrugated cartons meeting United States Department of Transportation specifications for transportation of fireworks. A flame-resistant tarpaulin shall be permitted to be used as a covering over the containers, if additional protection is desired.

(4) The shell storage area shall be located at a minimum distance of not less than 25 feet (7.6 m) from the discharge site.

(5) During the display, shells shall be stored upwind from the discharge site. If the wind should shift during the display, the shell storage area should be relocated so as to again be upwind from the discharge site.

**AMENDATORY SECTION** (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

**WAC 212-17-317 Public display—Electrical firing unit.**

(1) At no point shall electrical contact be allowed to occur between any wiring associated with the electrical firing unit and any metal object in contact with the ground.

(2) If the electrical firing unit is powered from AC power lines, some form of line isolation shall be employed (e.g., a line isolation transformer).

(3) The electrical firing unit shall include a key operated switch or other similar device that greatly reduces the possibility that unauthorized or unintentional firings can occur.

Exception: When the electrical firing unit is very small in size, and is only in the immediate area and attached to the wire running to electric matches for the brief duration of the actual firing, there is no requirement for a key operated switch.

(4) Manually activated electrical firing units shall be designed such that at least two positive actions must be taken to apply electric current to an electric match. For example, this might be accomplished with two switches in series, both of which must be operated in order to pass current.

(5) Computer activated electrical firing units shall have some form of "dead-man-switch," such that all firings will cease the moment the switch is released.

PROPOSED

(6) If the electrical firing unit has a built-in test circuit, the unit shall be designed to limit the test current (into a short circuit) to 0.05 ampere or to twenty percent of the no-fire current of the electric match, whichever is less. Multitesters such as Volt-Ohm Meters shall not be used for testing unless their maximum current delivering potential has been measured and found to meet these requirements.

(7) When any testing of firing circuits is performed, no person shall be allowed to be present in the immediate area of fireworks that have been attached to the electrical firing unit.

**AMENDATORY SECTION** (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

**WAC 212-17-335 Public display—Firing of shells.** (1) Shells shall be carried from the storage area to the discharge site only by their bodies, never by their fuses.

(2) Shells shall be checked for proper fit in their mortars prior to the display.

(3) When loaded into mortars, shells shall be held by the thick portion of their fuses and carefully lowered into the mortar. At no time shall the operator place any part of his body over the throat of the mortar.

(4) The operator shall be certain that the shell is properly seated in the mortar.

(5) Shells shall not, under any circumstances, be forced into a mortar too small to accept them. Shells that do not fit properly into the mortars shall not be fired; they shall be disposed of according to the supplier's instructions.

(6) Shells shall be ignited by lighting the tip of the fuse with a fusee, torch, portfire, or similar device. The operator shall never place any part of his body over the mortar at any time. As soon as the fuse is ignited, the operator shall retreat from the mortar area.

Exception: Alternatively, electrical ignition may be used.

(7) The safety cap protecting the fuse shall not be removed by the operator responsible for igniting the fuse until immediately before the shell is to be fired.

Exception: Where electrical ignition is used.

(8) The first shell fired shall be carefully observed to determine that its trajectory will carry it into the intended firing range and that the shell functions over, and any debris falls into, the potential landing area.

(9) The mortars shall be re-angled or reset if necessary at any time during the display.

(10) In the event of a shell failing to ignite in the mortar, the mortar shall be left alone for a minimum of fifteen minutes, then carefully flooded with water. Immediately following the display, the mortar shall be emptied into a bucket of water. The supplier shall be contacted as soon as possible for proper disposal instructions.

Exception: When electrical ignition is used and the firing failure is electrical in nature or the aerial shell was intentionally not fired, the shell may be salvaged by the pyrotechnic operator.

(11) It is the responsibility of the person igniting the aerial shells to detect when a shell does not fire from a mortar. The person shall warn others in the area and shall immediately

cause the mortar to be marked to indicate the presence of an unfired aerial shell.

Exception: When electrically firing, it is not necessary to mark the mortar; however, persons entering the area after the fireworks display shall be warned that an unfired shell remains.

(12) Operators shall never attempt to repair a damaged shell nor shall they attempt to dismantle a dry shell. In all such cases, the supplier shall be contacted as soon as possible for proper disposal instructions.

(13) Operators shall never dry a wet shell, lance, or pot for reuse. In such cases, the shell, lance, or pot shall be handled according to disposal procedures.

(14) The entire firing range shall be inspected immediately following the display for the purpose of locating any defective shells. Any shells found shall be immediately doused with water before handling. The shells shall then be placed in a bucket of water. The supplier shall then be contacted as soon as possible for proper disposal instructions.

(15) When fireworks are displayed at night, the licensee shall insure that the firing range is inspected ~~((early))~~ right after the show and at first light the following morning.

(16) The operator of the display shall keep a record, on a form provided by the director of fire protection, of all shells that failed to ignite or fail to function. The form shall be completed and returned to the director of fire protection. Failures shall also be reported to the supplier.

#### **NEW SECTION**

**WAC 212-17-342 Public display—Floating vessels and platforms.** (1) Floating vessels and floating platforms shall be permitted to be manned or unmanned as long as the pyrotechnic crew remains in control of the site and firing of the display.

(2) Floating vessels and floating platforms shall be held in control at all times, whether self-propelled, controlled by another vessel, or secured by mooring or anchoring.

(3) Floating vessels and floating platforms shall be of sufficient strength and stability to safely allow the firing of the display.

(4) The types of fireworks and placement of the fireworks launch tubes and accompanying equipment shall be such that, when fired, the stability of the site structures and sea-worthiness of the floating vessels or platforms shall not be jeopardized.

(5) Floating vessels and floating platforms that are manned during electrical firing shall have a safety shelter. The safety shelter shall meet the following requirements:

(a) Be of sufficient size to accommodate all personnel present during the actual firing of the display.

(b) Have a minimum of three sides and a roof.

(c) Have walls and a roof constructed of at least 3/4 inch plywood or equivalent material.

(6) The minimum size for the floating vessel or floating platform for electrically fired programs that are manned shall be based upon the area for the setup of the display plus the safety area for the safety shelter.

Exceptions:

PROPOSED

(a) Multishot devices up to 3" in diameter shall be calculated at twice the actual footprint of each device (length x width).

(b) Ground display pieces shall be excluded from the calculations for minimum display set-up area.

The required minimum size for a barge (in square feet) for a particular display shall be determined by the following calculations:

Minimum discharge site (in square feet) = sum of (total number of each size mortar times its inside diameter) divided by two.

EXAMPLE:

A display containing 100 - 3 inch shells, 50 - 4 inch shells, 20 - 5 inch shells, 10 - 6 inch shells, and 5 - 8 inch shells would require the following minimum display set-up area.

$$\frac{100 \times 3 + 50 \times 4 + 20 \times 5 + 10 \times 6 + 5 \times 8}{2}$$

$$\frac{300 + 200 + 100 + 60 + 40}{2}$$

$$700 / 2 = 350 \text{ square feet}$$

(7) Separation between mortars and safety shelter shall be 2 feet per inch of diameter of any mortars up to 6 inches in diameter. For shells larger than 6 inches in diameter, the minimum separation distance shall be 4 feet per inch of shell diameter.

Exception:

If the safety shelter is constructed of stronger material, then the separation distance between mortars and the shelter shall be permitted to be reduced.

(8) At all times a minimum of two separate egress paths shall be provided. Only one egress path shall be required from protective barricades or safety shelters.

(9) Egress paths shall be unobstructed and free of impediments.

(10) Floating platforms constructed of wood or other combustible material shall be permitted to be used as a fireworks launch vessel.

(11) Manual firing of displays shall be permitted on floating vessels and floating platforms under the following conditions:

(a) All shells shall be preloaded into mortars prior to the display.

(b) Shells shall be limited to single-break and shall not exceed 6 inches in diameter.

(c) The minimum size of the floating vessel or floating platform shall be twice that required for an electrically fired display.

(d) A protective barrier(s) meeting the strength requirements of 3/4" plywood or equivalent shall be provided. All personnel other than the shooter(s) and operator shall be behind the barrier(s) during the display.

(e) Electrical firing on the same vessel or platform where manual firing is used shall be in accordance with the requirements for the electrical fired display.

(12) Shells shall be loaded into mortars and in place prior to the start of a display. There shall be no reloading of any material during the display.

(13) All personnel, other than spotters of fire watch, shall be in safety shelters. Spotters and fire watch on a floating platform or floating vessel shall be behind protective barriers during the display with a minimum wall construction of 3/4" plywood or equivalent material.

(14) A U.S. Coast Guard approved personal flotation device (PFD) shall be provided and available for each person on a display launched from floating vessels and floating platforms. Those PFDs shall be properly worn any time the vessel is not moored at the dock. PFDs shall have or include a visual location device.

(15) A watercraft ready and capable of providing rapid emergency response shall be present during the display.

(16) The positions of the shells or mortars on floating vessels and floating platforms from which fireworks are launched shall comply with minimum safety distance requirements as outlined in WAC 212-17-325.

(17) An operational means of communication, such as a cellular/digital telephone, marine radio, or walkie-talkie system, shall be on board manned vessels and platforms from which fireworks are being discharged.

(18) During the display only necessary personnel shall be aboard any floating vessel or floating platform.

(19) Floating vessels and floating platforms shall be free of all nonessential flammable or combustible materials.

(20) Portable power-generation equipment, motorized vehicles, and material-handling equipment deemed necessary for the performance of the display shall be permitted.

**AMENDATORY SECTION** (Amending Order FPS 88-01, filed 3/31/88)

**WAC 212-17-345 Public display—Reports.** After every public display, it shall be the responsibility of the licensed pyrotechnic operator in charge of the display to submit a written report to the director of fire protection, within ten days following the display, covering:

(1) A brief report of any duds, defective shells, with manufacturer's name, and the type and size of shell.

(2) A brief account of the cause of injury to any person(s) from fireworks and such person's name and address.

(3) A brief account of any fires caused by fireworks.

(4) Any violation of the state fireworks law or of these regulations relating to public display fireworks, with special observations on any irregularities on the part of persons present at the firing site.

(5) The names of pyrotechnic assistants who satisfactorily assisted in all phases of the display, if other than those shown on the license.

Failure to file this report shall constitute grounds for revocation of the operator's current license and/or rejection of his application for his license renewal.

**PART IX—((TRANSPORTATION))  
PROXIMATE DISPLAYS**

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-350 ((Transportation—General))**  
**Proximate display—Use of proximate before an audience.** ((Licensees are authorized to transport the class and quantity of fireworks for which they have a license to possess from the point of acceptance from a licensed source to an approved storage facility or use site. Transportation shall be in accordance with the regulations of the United States Department of Transportation and the laws of the state of Washington governing the transportation of Class B and C explosives.)) This section shall provide requirements for the indoor use of pyrotechnics in the performing arts in conjunction with theatrical, musical, or similar productions before a proximate audience, performers, or support personnel. This section shall also apply to any outdoor use of pyrotechnics at distances from the audiences less than those required for public fireworks displays; however, the use of pyrotechnics before a proximate audience shall not be construed as a public display of fireworks as defined in WAC 212-17-295.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-355 ((Storage—General))** **Proximate display—Proximate permit.** ((Storage of fireworks shall be free from any condition which increases or may cause an increase of the hazard or menace of fire or explosion or which may obstruct, delay or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishment of fire.)) (1) No permit shall be granted for the use of articles pyrotechnic or special effects unless at least one state licensed pyrotechnician is provided to direct and control the display. The permit applicant shall provide the following:

- (a) Name of the person, group, or organization sponsoring the production.
- (b) Date and time of day of the production.
- (c) Exact location of the production.
- (d) Name and license number of the pyrotechnician in charge of firing the pyrotechnic display.
- (e) Qualifications of the pyrotechnic operator.
- (f) Evidence of the permittee's insurance carrier or financial responsibility.
- (g) Number and types of pyrotechnic devices and materials to be used.
- (h) Diagram of the grounds or facilities where the production is to be held. This diagram shall show the point at which the pyrotechnic devices are to be fired, the fallout radius of each pyrotechnic device used in the performance, and the lines behind which the audience shall be restrained.
- (i) Point of the on-site assembly of pyrotechnic devices.
- (j) Manner and place of storage of the pyrotechnic materials and devices.

(k) Certification that the set, scenery, and rigging materials are inherently flame-retardant or have been treated to achieve flame retardancy.

(l) Certification that all materials worn by performers in the fallout area during use of pyrotechnic effects shall be inherently flame retardant or have been treated to achieve flame retardancy.

(2) All plans shall be submitted as soon as is possible so that the authority having jurisdiction has time to be present and to notify interested parties. In no event shall such advance notice be less than twenty-four hours.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-360 ((Storage—Explosive safety.))**  
**Proximate display—Pyrotechnic display plans.** ((Any person storing fireworks shall have a license for the possession (manufacturer, wholesaler, importer, retailer, display) and, in addition, a permit from the local fire authority for the storage site. Storage shall be in accordance with requirements of the local fire official, who may use the safety practices in the appendix of these rules as guidelines in approving the storage permit.)) (1) Before the performance of any production, the permittee shall submit a plan for the use of pyrotechnics to the authority having jurisdiction. The approved plan shall be kept at the site for review by the authority having jurisdiction.

(2) Any changes or additions to the performance must receive approval of the authority having jurisdiction.

(3) The plan for the use of pyrotechnics shall be made in writing or such other form as is approved by the authority having jurisdiction.

NEW SECTION

**WAC 212-17-365 Proximate display—Pyrotechnic display demonstrations.** A walk through and a representative demonstration of the pyrotechnics shall be approved by the authority having jurisdiction before a permit is approved. (The local authority having jurisdiction may waive this requirement based on past history, prior knowledge, and other factors, provided the local authority having jurisdiction is confident the discharge of pyrotechnics can be conducted safely.)

NEW SECTION

**WAC 212-17-370 Proximate display—Definitions.** For the purpose of this section the following definitions are used:

(1) **Aerial shell.** Usually a cylindrical or spherical cartridge containing pyrotechnic material, a long fuse or electric match wires, and a black powder lift charge.

(2) **Airburst.** A pyrotechnic device that is suspended in the air to simulate outdoor aerial fireworks shells without producing hazardous debris.

(3) **Binary system.** A two-component pyrotechnic system.

(4) **Black powder.** A low explosive consisting of an intimate mixture of potassium or sodium nitrate, charcoal, and sulfur.

PROPOSED

(5) Comet. A pellet of pyrotechnic composition that is ignited and propelled from a mortar tube by a charge of black powder.

(6) Concussion effect. A pyrotechnic effect that produces a loud noise and a violent jarring shock for dramatic effect.

(7) Concussion mortar. A device specifically designed and constructed to produce a loud noise and a violent jarring shock for dramatic effect without producing any damage.

(8) Electric match. A device containing a small amount of pyrotechnic material that ignites when a specified electric current flows through the leads. An electric match is used to initiate pyrotechnics. Electric matches are often incorrectly called squibs.

(9) Fallout radius. A line that defines the fallout area of a pyrotechnic device.

(10) Fixed production. Any production performed repeatedly in only one geographic location.

(11) Flare. A pyrotechnic device designed to produce a single source of intense light for a defined period of time.

(12) Flash pot. A device used with flash powder that produces a flash of light and is capable of directing the flash in an upward direction.

(13) Gerb. A cylindrical preload intended to produce a controlled spray of sparks with a reproducible and predictable duration, height, and diameter.

(14) Integral mortar. A preloaded mortar containing pyrotechnic materials and intended for a single firing only.

(15) Lift charge. The composition in a pyrotechnic device that propels the effect into the air when ignited.

(16) Manufacturer. An individual who performs the following:

- (a) Prepares any pyrotechnic material; and
- (b) Loads or assembles any pyrotechnic device.

(17) Mine. A pyrotechnic device, usually a preload, that projects multiple pellets of pyrotechnic material that produce sparks or flame.

(18) Mortar. A tube or pot-like device used to direct and control the effect of the pyrotechnic material.

(19) Proximate audience. An audience closer to pyrotechnic devices than permitted by WAC 212-17-325.

(20) Pyrotechnic device. Any device containing pyrotechnic materials and capable of producing a special effect as defined in the section.

(21) Pyrotechnic material. (Articles pyrotechnic.) A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation.

(22) Pyrotechnic operator. (Special effects operator:) An individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects.

(23) Pyrotechnic special effect. A special effect created through the use of articles pyrotechnic materials and devices. (See also special effects.)

(24) Pyrotechnics. Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume.

(25) Rocket. A pyrotechnic device that moves by the ejection of matter produced by the internal combustion of propellants.

(26) Saxon. A pyrotechnic device consisting of a tube that rotates around a pivot point to produce a circular shower of sparks.

(27) Special effect. A visual or audible effect used for entertainment purposes, created exclusively by articles pyrotechnic.

(28) Waterfall, falls, park curtain. An effect of a cascade of sparks usually produced by multiple devices fired simultaneously.

(29) Wheel. A pyrotechnic device that rotates on a central axis consisting of multiple gerbs or rockets attached to a framework.

#### NEW SECTION

**WAC 212-17-375 Proximate display—Transportation of pyrotechnic material.** All ingredients, pyrotechnic materials, and pyrotechnic devices shall be transported in accordance with all state and local requirements.

#### NEW SECTION

**WAC 212-17-380 Proximate display—Storage of pyrotechnic materials and WAC devices.** All pyrotechnic materials and devices shall be stored in accordance with any state and local regulations. Provisions for lockable storage for pyrotechnics, approved by the authority having jurisdiction, shall be provided.

#### NEW SECTION

**WAC 212-17-385 Proximate display—Separation from heat sources.** Pyrotechnic materials and devices shall not be stored within fifty feet of any unprotected source of heat or open flame.

#### NEW SECTION

**WAC 212-17-390 Proximate display—Identification of pyrotechnic devices or binary systems.** All pyrotechnic products or binary systems used shall have been identified or marked by the manufacturer with the following information:

- (1) Name of the pyrotechnic device or binary system;
- (2) Name, address, and phone number of the manufacturer;
- (3) Statement describing the conditions of use and potential hazards;
- (4) Manufacturer's statement regarding whether the pyrotechnic device or binary system is intended for indoor use.

#### NEW SECTION

**WAC 212-17-395 Proximate display—General fire protection.** (1) Two or more fire extinguishers of the proper classification and size as approved by the authority having jurisdiction shall be readily accessible while the pyrotechnics are being loaded, prepared for firing, or fired.

(2) Fire detection and life safety systems shall not be permitted to be interrupted during the operation of pyrotechnic effects except portions of fire detection and life safety systems may be permitted to be interrupted during the operation of temporarily installed pyrotechnic effects when all of the following conditions are met:

- (a) Approval of the authority having jurisdiction;
- (b) Approval of the owner or owner's representative;
- (c) An approved fire watch capable of directing the operation of all fire detection and life safety systems installed in the building is present.

#### NEW SECTION

**WAC 212-17-400 Proximate display—Firing prerequisites.** (1) All pyrotechnic devices shall be mounted in a secure manner to maintain their proper positions and orientations so that, when they are fired, the pyrotechnic effects described in the plan submitted by the permittee are produced.

(2) Pyrotechnic devices shall be mounted so that no fall-out from the device endangers human lives, results in personal injury, or damages property.

(3) Before firing the pyrotechnic device, the pyrotechnic operator or designated performance security staff shall prevent unauthorized entry into the area where the special effects are to occur.

#### NEW SECTION

**WAC 212-17-405 Proximate display—Firing safeguards.** Firing systems shall not be left unattended while connected to loaded pyrotechnic devices.

Pyrotechnic devices shall be fired only when the area where the effect is to occur is in clear view of the pyrotechnic operator, or an assistant who is in direct communication with the operator.

#### NEW SECTION

**WAC 212-17-410 Proximate display—Separation distances from audience.** (1) Each pyrotechnic device fired during a performance shall be separated from the audience by at least fifteen feet, but not by less than twice the fallout radius of the device.

(2) Concussion mortars shall be separated from the audience by at least twenty-five feet.

(3) There shall be no glowing or flaming particles within ten feet of the audience.

(4) No smoking is permitted within twenty-five feet of the area where pyrotechnics are being handled or fired.

#### NEW SECTION

**WAC 212-17-415 Proximate display—Performance.** (1) The pyrotechnic effect operator shall advise all performers and support personnel that they are exposed to a potentially hazardous situation when performing or otherwise carrying out their responsibilities in the vicinity of a pyrotechnic effect.

(2) Immediately before any performance, the pyrotechnic operator shall make a final check of wiring, position, hookups, and pyrotechnic devices to ensure that they are in proper working order. The pyrotechnic operator also shall verify safety distances.

(3) When pyrotechnics are fired, the quantity of smoke developed shall be controlled so as not to obscure the visibility of exit signs or paths of egress.

#### NEW SECTION

**WAC 212-17-420 Proximate display—After the performance.** (1) The pyrotechnic operator shall verify that all pyrotechnic devices have been fired. Any unfired materials or devices shall either be fired or disposed of in accordance with the manufacturer's recommendations.

(2) Life safety and other systems that have been disarmed or disengaged shall be restored to normal operating condition as soon as the likelihood of false alarms from the use of pyrotechnics has passed.

### **PART X—(~~STORAGE~~) TRANSPORTATION**

#### NEW SECTION

**WAC 212-17-425 Transportation—General.** Licensees are authorized to transport the class and quantity of fireworks for which they have a license to possess from the point of acceptance from a licensed source to an approved storage facility or use site. Transportation shall be in accordance with the regulations of the United States Department of Transportation and the laws of the state of Washington governing the transportation of Division 1.3G and 1.4G explosives.

#### NEW SECTION

**WAC 212-17-430 Transportation—By common carrier.** No common carrier, as defined in RCW 81.29.010, shall deliver fireworks from an out-of-state shipper to any person or firm within this state without first determining that the person or firm possesses an importer's license, issued by the director of fire protection to receive them, or the shipper has an importer's license, issued by the director of fire protection to ship them into this state.

### **PART (~~X~~) XI—STORAGE**

#### NEW SECTION

**WAC 212-17-435 Storage—General.** Storage of fireworks shall be free from any condition which increases or may cause an increase of the hazard or menace of fire or explosion or which may obstruct, delay or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishment of fire.

#### NEW SECTION

**WAC 212-17-440 Storage—Explosive safety.** Any person storing fireworks shall have a license for the posses-



sion (manufacturer, wholesaler, importer, retailer, display) and, in addition, a permit from the local fire authority for the storage site. Storage shall be in accordance with requirements of the local fire official, who may use the safety practices in the appendix of these rules as guidelines in approving the storage permit.

#### NEW SECTION

**WAC 212-17-445 Storage—By common carrier.** No common carrier shall store fireworks while in transit within a building without first obtaining a storage permit from the local fire authority.

### **PART XII—FINES AND PENALTIES**

#### NEW SECTION

**WAC 212-17-450 Fines and penalties.** (1) These rules establish the basis and process by which citations and penalties will be determined and issued for violations of chapters 70.77 RCW and 212-17 WAC.

(2) Each violation(s) is classified and penalty(ies) assessed according to violation type and instance.

#### NEW SECTION

**WAC 212-17-455 Definitions.** (1) "Citation" means a document issued by the office of the state fire marshal pursuant to chapter 70.77 RCW to issue a civil penalty for a violation of RCW 70.77.480 through 70.77.520. A citation may include, but is not limited to, a description of the violation(s) and a notice of civil penalty assessment.

(2) "Formal hearing" is a hearing before a hearings officer where the laws, rules, and evidence are presented, considered, and a proposed opinion issued.

(3) "Hazard" means a condition which could result in fire loss injury or damage to a person or property.

(4) "Hearings request" means the written request for a formal hearing to contest a civil penalty.

(5) "Instance" means the number of times a person has been cited. These are identified as 1st, 2nd, and 3rd instances.

(6) "Local fire authority" means the local fire official having authority.

(7) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations.

(8) "Type" means the classification of violation, i.e., least, minimal, moderate, or severe. These are identified as Type I, II, III, or IV.

(9) "Violation types" shall mean:

(a) "Least violation" means a Type I Violation which poses very little hazard or threat;

(b) "Minimal violation" means a Type II Violation which poses a minor hazard or threat;

(c) "Moderate violation" means a Type III Violation which poses a significant hazard or threat;

(d) "Severe violation" means a Type IV Violation which poses a substantial hazard or threat.

#### NEW SECTION

**WAC 212-17-460 General rules.** (1) These rules establish civil penalty criteria for Types I, II, III, and IV Violations and the instances for each type of violation.

(2) These rules apply to persons who violate the requirements of chapters 70.77 RCW and/or chapter 212-17 WAC.

(3) Each separate instance of noncompliance with chapters 70.77 RCW and/or 212-17 WAC shall be considered a separate violation.

(4) Each day that a violation continues shall be considered a separate violation.

(5) The distribution, sale, use, manufacture, or possession of any amount of illegal fireworks is prohibited and subject to citation and penalty.

(6) In addition to the issuance of citations and penalties under these rules, the state fire marshal and local fire marshal acting in accordance with chapters 70.77 RCW and/or 212-17 WAC:

(a) May confiscate any amount of illegal fireworks; and

(b) May confiscate other fireworks possessed by persons violating chapters 70.77 RCW and/or 212-17 WAC.

(7) In addition to the issuance of citations, penalties, and the confiscation of fireworks, the state fire marshal may also revoke, suspend, or deny any fireworks license provided for under chapter 70.77 RCW to any person who fails to pay a penalty(ies) assessed under these rules.

(8) The penalty for each violation shall range from \$0 to \$1,000 per day and occurrence.

#### NEW SECTION

**WAC 212-17-465 Violation types and penalty assessments.** (1) Penalties shall be assessed according to violation type.

(2) The types of violations are:

(a) Least—Type I;

(b) Minimal—Type II;

(c) Moderate—Type III;

(d) Severe—Type IV.

#### NEW SECTION

**WAC 212-17-470 Violation assessment at the local level.** (1) Local fire authorities shall have the authority to issue civil penalty citations for violations of chapters 70.77 RCW and/or 212-17 WAC.

(2) A citation may impose a penalty or provide a warning.

(3) The citation shall be forwarded to the office of the state fire marshal within ten days of issuance. Where possible, each citation shall be accompanied by a copy of the issuing authority's written report, inspection sheets, evidence receipt, or any other forms that are completed during the process of issuing citations.

(4) The office of the state fire marshal shall issue a notice of civil penalty based upon the information contained in the citation and any accompanying documentation.

NEW SECTION

**WAC 212-17-475 Hearings.** (1) Any person may request a hearing regarding the assessment of a civil penalty.

(2) Hearings requests shall be filed with the office of the state fire marshal within fourteen days from the date of the service of civil penalty.

(3) Any person who requests a hearing shall be entitled to a hearing.

NEW SECTION

**WAC 212-17-480 Informal conference.** (1) The office of the state fire marshal will provide an opportunity for a person to informally discuss a civil penalty that has been assessed against them.

(2) An informal conference may be requested prior to a request for a formal hearing; however, a formal hearing shall be requested within twenty-eight days of the date of service of the notice of civil penalty.

(3) The request for an informal conference may be in any form; and

(a) Shall be addressed to the office of the state fire marshal; and

(b) Shall clearly state the subject to be discussed.

(c) An informal conference concerning civil penalties shall not exceed the fourteen days allowed for filing a formal hearing request.

(d) If the parties agree, an informal conference may be held by telephone.

(e) As the result of an informal conference, the state fire marshal may, for good cause, amend, withdraw, or reduce a civil penalty.

NEW SECTION

**WAC 212-17-485 Formal hearing.** (1) A person may request a formal hearing at any time before or after an informal conference, as long as the twenty-eight day period for requesting a hearing has not lapsed.

(2) The office of the state fire marshal will arrange for a hearings officer to conduct the formal hearing.

(3) The office of the state fire marshal will set a date, time, and location for the formal hearing.

(4) The office of the state fire marshal will notify, by letter, the person requesting the hearing (or their designated representative) of the date, time, location and the hearings officer conducting the formal hearing.

(5) The hearings officer will hear the case and render a proposed opinion and order including recommended findings of fact and conclusions of law, according to chapter 34.05 RCW.

(6) The formal hearing shall be conducted as follows:

(a) The hearings officer will act as an impartial third party.

(b) It is not necessary for the person that requested the hearing to be represented by legal council.

(c) Testimony shall be taken under oath.

(d) All evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their serious affairs is admissible.

(e) Hearsay evidence is admissible if it meets statutory standards for being reliable and trustworthy.

(7) The proposed opinion and order shall be reviewed by the state fire marshal and, if accepted, finalized and issued as a final order.

NEW SECTION

**WAC 212-17-490 Penalty adjustment.** (1) The assessment of adjustment of penalties for amounts other than those set by chapter 70.77 RCW shall be done only by the state fire marshal through a hearings process either formally or informally.

(2) The assessment of penalties for not being in conformance with chapters 70.77 RCW and/or 212-17 WAC may be made only after considering:

(a) The gravity and magnitude of the violation;

(b) The person's previous record;

(c) Such other considerations as the state fire marshal may consider appropriate.

(3) During a formal hearing or informal conference, the office of the state fire marshal may modify or adjust the citation, cited violations, or penalties assessed in order to meet the requirements of these rules and to ensure uniformity and consistency in their application statewide.

NEW SECTION

**WAC 212-17-495 Payment of civil penalty.** (1) The penalty shall be paid to the office of the state fire marshal immediately after an order assessing a civil penalty becomes final by operation of law or on an appeal.

(2) The attorney general may bring an action in the name of the Washington state patrol, through the director of fire protection, in the superior court of Thurston County or of any county in which the violator may do business to collect any penalty imposed under chapter 70.77 RCW.

NEW SECTION

**WAC 212-17-500 Type I Violations.** (1) Type I Violations are subject to penalties ranging from a warning to seventy-five dollars per day depending upon the instance and in accordance with WAC 212-17-390.

(2) Examples of Type I Violations include, but are not limited to:

(a) Failure to post "no smoking" signs at the retail fireworks stand;

(b) Failure to provide required fire extinguishing equipment at the retail fireworks stand;

(c) Failure to maintain a clean, orderly area within twenty feet of the retail sales area;

(d) Failure to keep a copy of the retail fireworks stand license at the retail stand while the stand is open;

(e) Possession of illegal fireworks worth less than fifty dollars.

NEW SECTION

**WAC 212-17-505 Type II Violations.** (1) Type II Violations are subject to penalties ranging from a warning to one

hundred fifty dollars per day depending upon the instance and in accordance with WAC 212-17-390.

(2) Examples of Type II Violations include, but are not limited to:

- (a) Failure to have a person eighteen years of age or over inside the retail stand during business hours;
- (b) Possession of more than fifty dollars but less than one hundred dollars of illegal fireworks;
- (c) Discharge of less than fifty dollars worth of illegal fireworks;
- (d) Smoking or the ignition of fireworks within fifty feet of any fireworks stand.

#### NEW SECTION

**WAC 212-17-510 Type III Violations.** (1) Type III Violations are subject to penalties ranging from seventy-five dollars to two hundred fifty dollars per day depending upon instance and in accordance with WAC 212-17-390.

(2) Examples of Type III Violations include, but are not limited to:

- (a) Possession of one hundred dollars or more of illegal 1.4G fireworks.
- (b) Sale of any amount of illegal 1.4G fireworks without the necessary licenses issued by the office of the state fire marshal and/or, where required, a permit from the local authority having jurisdiction.
- (c) The purchase of fireworks by a Washington state retail fireworks stand operator from an unlicensed wholesaler.
- (d) Manufacturing or altering fireworks without the necessary state license and local permit.
- (e) Storage of any amount of 1.3G fireworks without the necessary license issued by the office of the state fire marshal and a permit from the local authority having jurisdiction.
- (f) Use of fireworks in a manner that presents a danger to life or property.

#### NEW SECTION

**WAC 212-17-515 Type IV Violations.** (1) Type IV Violations are subject to penalties ranging from one hundred twenty-five dollars to one thousand dollars per day depending on instance and in accordance with WAC 212-17-390.

(2) Examples of Type IV Violations include, but are not limited to:

- (a) Possession of fifty dollars or more of 1.3G fireworks without the necessary license issued by the office of the state fire marshal and the required permit from the local authority having jurisdiction;
- (b) Conducting a public fireworks display without the necessary license issued by the office of the state fire marshal and the required permit from the local authority having jurisdiction;
- (c) Purchase of any amount of 1.3G fireworks without the necessary licenses issued by the office of the state fire marshal and/or, where required, the local authority having jurisdiction;
- (d) Conducting a public display using illegal or unauthorized fireworks;

(e) Intentional or indiscriminate use of fireworks which injure someone or cause more than two hundred fifty dollars in property damage;

(f) Wholesale sales of fireworks without a valid Washington state wholesalers license;

(g) Importing, or causing to be imported, fireworks into the state of Washington without a valid Washington state importers license.

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-900 Appendix.** This appendix is not a part of this rule but is included to provide guidelines, based on nationally-recognized standards, for use by licensees in establishing safe practices involving the manufacture or storage of fireworks and for use by local fire officials in determining compliance with safety standards for the purpose of issuing permits for fireworks manufacture or storage.

In addition to the definitions in chapter 70.77 RCW and this rule, the following definitions apply to this appendix:

**Barricade.** A natural or artificial barrier that will effectively screen a magazine, building, railway, or highway from the effects of an explosion in a magazine or building containing explosives. It shall be of such height that a straight line from the top of any sidewall of a building or magazine containing explosives to the cave line of any magazine, or building, or to a point twelve feet above the center of a railway or highway, will pass through such natural or artificial barrier.

**Natural barricade.** Natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures that require protection cannot be seen from the magazine or building containing explosives when the trees are bare of leaves.

**Artificial barricade.** An artificial mound or revetted wall of earth of a minimum thickness of three feet.

**Breakaway construction.** A general term which applies to the principle of purposely providing a weak wall so that the explosive effects can be directed and minimized. The term "weak wall" as used in this code refers to a weak wall, weak wall and roof, or weak roof.

The term "weak wall" is used in a relative sense as compared to the construction of the entire building. The design strength of a "weak wall" will vary as to the building construction, as well as to the type and quantity of explosive or pyrotechnic materials in the building. The materials used for "weak wall" construction are usually light gauge metal, plywood, hardboard or equivalent lightweight material, and the material is purposely selected to minimize the danger from flying missiles. Method of attachment of the weak wall shall be such as to aid the relief of blast pressure and fireball.

**Fireworks plant.** Means all lands, and buildings thereon, used for or in connection with the manufacture or processing of fireworks. It includes storage buildings used with or in connection with plant operation.

**Highway.** Means any public street, public alley or public road.

**Inhabited building.** Means a building or structure regularly used in whole or part as a place of human habitation. The term "inhabited building" shall also mean any church,

school, store, passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, and storage of explosive materials or fireworks.

**Magazine.** Means any building or structure, other than a manufacturing building, meeting the requirements specified in chapter 3 of this code.

**Manufacture of fireworks.** Means the preparation of fireworks mixes and the loading and assembling of all fireworks, except pyrotechnic display items made on-site by qualified personnel for immediate use when such operation is otherwise lawful.

**Mixing building.** Means any building used primarily for mixing and blending pyrotechnic composition, excluding wet sparkler mixes.

**Motor vehicle.** Means any self-propelled passenger vehicle, truck, tractor, semitrailer, or truck-full trailer used for the transportation of freight over public highways.

**Nonprocess building.** Means office buildings, warehouses, and other fireworks plant buildings where no fireworks or explosive compositions are processed or stored.

**Person.** Means any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

**Process building.** Means any mixing building, any building in which pyrotechnic or explosive composition is pressed or otherwise prepared for finishing and assembling, or any finishing and assembling building, including a building used for preparation of fireworks for shipment. If a pyrotechnic or explosive composition while in the state of processing is stored in a process building, the building is classified as a process building. See also storage building.

**Public conveyance.** Means any vehicle carrying passengers for hire.

**Pyrotechnic composition.** Means a chemical mixture which on burning and without explosion produces visible or brilliant displays or bright lights, or whistles.

**Railway.** Means any steam, electric, diesel electric or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives or fireworks are stored or where fireworks manufacturing buildings are situated.

**Screen type barricade.** Means any of several barriers for containing embers and debris from fires and deflagrations in process buildings that could cause fires and explosions in other buildings. Screen type barricades are constructed of metal roofing, one-quarter-inch and one-half-inch mesh screen or equivalent material. A screen type barricade extends from the floor level of the donor building to such height that a straight line from the top of any side wall of the donor building to the cave line of the acceptor building will go through the screen at a point not less than five feet from the top of the screen. The top five feet of the screen are inclined at an angle of between 30 and 45 degrees, toward the donor building.

**Squib.** Means a device containing a small quantity of ignition compound in contact with a bridge wire.

**Storage building.** Means any building, structure, or facility in which (~~Class C~~) Division 1.4G, 1.5G or 1.6G fireworks in any state of processing, or finished (~~Class C~~) Division 1.4G, 1.5G, or 1.6G fireworks are stored, but in which no processing or manufacturing is performed.

**Warehouse.** Means any building or structure used exclusively for the storage of materials, except fireworks or combustible or explosive compositions used to manufacture fireworks.

## PART I

## MANUFACTURING OPERATIONS

## 1. General

11. All fireworks plants shall comply with the requirements of this section except that those plants that meet all of the conditions of the following paragraphs a, b and c need not comply with Articles 2 and 6:

a. Making only customized fireworks not for general sale.

b. Having not more than five pounds of explosive composition, including not more than one-half pound of initiating explosive, in a building at one time.

c. All explosive and pyrotechnic compositions are removed to an appropriate storage magazine at the end of each work day.

## 2. Building site security

21. All fireworks plants shall be completely surrounded by a substantial fence having a minimum height of six feet. All buildings, except office buildings in which no processing or storage is permitted, must be located within the fence. All openings in the fence shall be equipped with suitable gates which shall be kept securely locked at all times, except when in actual use; except that the main gate of the plant may be left open during the regular hours of plant operation while in plain view of and under observation by authorized responsible employees or guards. Conspicuous signs indicating "WARNING—NO SMOKING—NO TRESPASSING" shall be posted along the plant fence at intervals not to exceed 500 feet.

22. No person other than authorized employees or representatives of departments of Federal, state, or political subdivisions of the state governments having jurisdiction over the establishment shall be allowed in any fireworks plants, except by special permission secured from the plant office.

## 3. Separation distances

31. All process buildings shall be separated from inhabited buildings, public highways and passenger railways in accordance with Table 1.

32. The separation distance between process buildings shall be in accordance with Table 2.

33. Separation distances of nonprocess buildings from process buildings and magazines shall be in accordance with Table 2.

34. Separation of magazines containing black powder or salutes classified as (~~Class B~~) Division 1.3G fireworks from inhabited buildings, highways, and other magazines containing black powder or salutes classified as (~~Class B~~) Division 1.3G fireworks shall be in accordance with Table 3.

#### 4. Building construction

41. Process buildings, except buildings in which customers' orders are prepared for shipment, shall embody break-away construction. The exterior of process buildings constructed after this Code is adopted shall be constructed of materials no more combustible than painted wood.

42. No building shall have a basement or be more than one story high. Interior wall surfaces and ceilings of buildings shall be smooth, free from cracks and crevices, noncombustible, and with a minimum of horizontal ledges upon which dust may accumulate. Wall joints and openings for wiring and plumbing shall be sealed to prevent entry of dust. Floors and work surfaces shall not have cracks or crevices in which explosives or pyrotechnic compositions may lodge.

43. Mixing and pressing buildings shall have conductive flooring, properly grounded.

44. The number and location of exits in buildings in which fireworks are being processed shall comply with a, b and c.

a. From every point in every undivided floor area of more than one hundred square feet there shall be at least two exits accessible in different directions. Where building floors are divided into rooms, there shall be at least two ways of escape from every room of more than one hundred square feet; toilet rooms need have only one exit and shall be so located that the points of access thereto are away from or suitably shielded from fireworks processing areas.

b. Exits shall be so located that it will not be necessary to travel more than twenty-five feet from any point to reach the nearest exit. The routes to the exits shall be unobstructed.

c. Exit doors shall open outward, and shall be capable of being pressure-actuated from the inside.

#### 5. Heat, light, electrical equipment

51. No stoves, exposed flames, or electric heaters may be used in any part of a building except in a boiler room, machine shop, office building, pumphouse, or lavatory in which the presence of fireworks, fireworks components, or flammable liquids are prohibited. Heating shall be by means of steam, indirect hot air radiation, hot water, or any other means approved by local authorities. Unit heaters, located inside buildings that at any time contain explosive or pyrotechnic composition, shall be equipped with motors and switches suitable for use in Class II, Division 1 locations.

52. Where artificial lighting is required in fireworks processing buildings it shall be by electricity. Temporary or loose electrical wiring shall not be used. Extension lights are prohibited except that during repair operations approved portable lighting equipment may be used after the area has been cleared of all pyrotechnic or explosive composition and after all dust has been removed by washing down.

53. All wiring in process buildings shall be in rigid metal conduit or be Type MI cable. The wiring, lighting fixtures, and switches shall comply with the requirements for Class II, Division 1 locations in Article 502 of the National Electrical Code, 1981 Edition.

54. Wiring, switches, and fixtures in storage buildings shall comply with the requirements for Class II, Division 2 locations in Article 502 of the National Electrical Code, 1981 Edition.

55. All presses and other mechanical devices shall be properly grounded.

56. A master switch shall be provided at the point where electric current enters the plant, which will, upon being opened, immediately cut off all electric current to the plant, except that to emergency circuits such as a supply to a fire pump or emergency lighting.

6. Maximum building occupancy and quantities of explosive or pyrotechnic compositions permitted

61. The number of occupants in each process building and magazine shall be limited to that number necessary for the proper conduct of those operations.

Note: This requirement is for purposes of minimizing personnel exposure and is distinct from any requirement on maximum building occupancy that may be in the local building code.

62. The maximum number of occupants permitted in each process building and magazine shall be posted in a conspicuous location.

63. No more than 500 pounds of pyrotechnic and explosive composition shall be permitted at one time in any mixing building or any building in which pyrotechnic and explosive compositions are pressed or otherwise prepared for finishing and assembling.

64. No more than 500 pounds of pyrotechnic and explosive composition shall be permitted in a finishing and assembling building at one time.

#### 7. Fire, explosion prevention

71. All buildings shall be kept clean, orderly, and free from accumulation of dust or rubbish. Powder or other explosive or pyrotechnic materials, when spilled, shall be immediately cleaned up and removed from the building.

72. Rags, combustible, pyrotechnic or explosive scrap, and paper shall be kept separate from each other and placed in approved marked containers. All waste and reject hazardous material shall be removed from all buildings daily and removed from the plant at regular intervals and destroyed by submersion in water or by burning in a manner acceptable to local authorities.

73. No smoking or carrying of lighted pipes, cigarettes, cigars, matches, lighters, or open flame, is permitted within the plant fence; except that smoking may be permitted in office buildings or buildings used exclusively as lunchrooms or rest rooms and in which the presence of fireworks or any explosive composition is prohibited. Authorized smoking locations shall be so marked, contain suitable receptacles for cigarette and cigar butts and pipe residue, and contain at least one serviceable fire extinguisher suitable for use on Class A fires. Persons whose clothing is contaminated with explosives, pyrotechnic, or other dangerous materials to the degree that may endanger the safety of personnel shall not be permitted in smoking locations.

74. Matches, cigarette lighters or other flame-producing devices shall not be brought into any process building or magazine.

75. No employee or other person shall enter or attempt to enter any fireworks plant with liquor or narcotics in his possession, or while under the influence of liquor or narcotics, or partake of intoxicants or narcotics or other dangerous drugs while in a fireworks plant.

76. All persons working at or supervising the operations in fireworks mixing and pressing buildings shall be provided with, and wear, cotton working uniforms. In addition, conductive shoes and cotton socks shall be required for all ~~((Class-B))~~ Division 1.3G fireworks operations and all mixing, pressing, loading, and matching related to ~~((Class-C))~~ Division 1.4G, 1.5G or 1.6G fireworks. Facilities for changing into these uniforms, and safekeeping for the employees' street clothes shall be provided. The uniforms shall be frequently washed, to prevent accumulation of explosive or other pyrotechnic compounds, and shall not be worn outside the fireworks plant. Washing and shower facilities for employees shall be provided. All persons working in or supervising the operations in a process building shall wear protective clothing and eye protection as needed. All persons working in or supervising mixing areas shall wear respirators when the situation dictates their need.

77. Each fireworks plant shall have an employee designated as safety officer. All employees of a fireworks plant, upon commencing employment and at least annually thereafter, shall be given formal instruction by this safety officer, regarding proper methods and procedures in fireworks plants and safety requirements and procedures for handling explosives, pyrotechnics and fireworks.

78. In areas where there is a danger of ignition of materials by sparks, properly maintained and nonferrous safety hand tools shall be used.

79. In no case shall oxidizers such as nitrates, chlorates, or perchlorates be stored in the same building with combustible powdered materials such as charcoal, gums, metals, sulfur, or antimony sulfide.

#### 8. Testing fireworks

81. Testing of fireworks and components of fireworks shall be performed in an area set aside for that purpose and located at a safe distance, considering the nature of the materials being tested, from any plant building or other structure.

#### 9. Fire extinguishers; emergency procedures

91. Fire extinguishers shall be provided in all buildings except those in which pyrotechnic mixtures are exposed. The number and location of extinguishers shall be in accordance with the requirements of the local fire official.

92. Emergency procedures shall be formulated for each plant which will include personnel instruction in any emergency that may be anticipated. All personnel shall be made aware of an emergency warning signal.

93. Emergency procedures shall include instruction in the use of portable fire extinguishers and instructions on the type of fires on which they may and may not be used.

a. The employees shall be told that if a fire is involving or is in danger of spreading to pyrotechnic mixtures, they are to leave the building at once and follow prescribed procedures for alerting other employees.

b. Extinguishers may be used on fires involving ordinary combustible materials, if the fire can be fought and extinguished without exposing pyrotechnic mixtures.

## PART II

### STORAGE OF ~~((CLASS-B))~~ DIVISION 1.3G FIREWORKS

#### 1. General provisions

11. ~~((Class-B))~~ Division 1.3G fireworks shall be stored in magazines that meet the requirements of this section.

12. ~~((Class-B))~~ Division 1.3G fireworks shall be stored in magazines unless they are in process of manufacture, being physically handled in the operating process, being packaged or being transported.

13. Magazines required by this section shall be constructed in accordance with Articles 2 and 3.

14. ~~((Class-B))~~ Division 1.3G fireworks that are bullet-sensitive, shall be stored in Type 1, 2, or 3 magazines.

a. Black powder, and ~~((Class-B))~~ Division 1.3G fireworks that are not bullet-sensitive shall be stored in a Type 1, 2, 3, or 4 magazine.

15. Magazines containing black powder shall be separated from inhabited buildings, passenger railways, and public highways, and other magazines in accordance with Table 3.

16. Magazines containing ~~((Class-B))~~ Division 1.3G fireworks shall be separated from inhabited buildings, passenger railways and public highways in accordance with Table 1.

17. Magazines containing ~~((Class-B))~~ Division 1.3G fireworks shall be separated from other magazines and from fireworks plant buildings by barricades or screen-type barricades and the distances from other magazines and process buildings shall be in accordance with Table 2.

#### 2. Construction of magazines—general

21. Magazines shall be constructed in conformity with the provisions of this section or may be of substantially equivalent construction.

22. The ground around magazines shall be graded in such a manner that water will drain away from the magazines.

23. Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building, or air directed into the magazine building over either hot water or low pressure steam (15 psig maximum) coils located outside the magazine building.

24. The magazine heating systems shall meet the following requirements:

1. The radiant heating coils within the building shall be installed in such a manner that the fireworks containers cannot contact the coils and air is free to circulate between the coils and the fireworks.

2. The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the fireworks or fireworks containers.

3. The heating device used in connection with a magazine shall have controls that prevent the ambient building temperature from exceeding 130° F.

4. The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

5. The electric fan motor and the controls for an electrical heating device used in heating water or steam shall have overloads and disconnects, which comply with the ~~((National))~~ I.C.C. Electrical Code, ((1981)) 2003. All elec-

trical switch gear shall be located a minimum distance of 25 feet from the magazine.

6. The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electric and 50 feet when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

7. The storage of fireworks and fireworks containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the stored materials.

25. When lights are necessary inside the magazine, electric safety flashlights or electric safety lanterns shall be used.

a. The authority having jurisdiction may authorize interior lighting of special design for magazines provided that adequate safety is maintained.

26. When ventilation is required in a magazine, sufficient ventilation shall be provided to protect the stored materials in storage for the specific area in which the magazine is located. Stored materials shall be so placed in the magazine as not to interfere with ventilation and shall be stored so as to prevent contact with masonry walls or with any steel or other ferrous metal by means of a nonsparking lattice or equivalent lining.

### 3. Construction of magazines

31. Type 1 magazine. A Type 1 magazine shall be a permanent structure such as a building or an igloo that is bullet-resistant, fire-resistant, theft-resistant, weather-resistant, and ventilated.

a. Walls. Examples of wall construction considered suitable for Type 1 magazines are:

1. Hollow masonry block construction with 8-inch blocks having the hollow spaces filled with well-tamped dry sand or a well-tamped cement/sand mixture.

2. Brick or solid cement block construction 8 inches thick.

3. Wood construction covered with 26-gauge metal having 3/4-inch plywood or wood sheathing with a 6-inch space between the exterior and interior sheathing and the space between the sheathing filled with well-tamped dry sand or well-tamped cement/dry sand mixture, with not less than 1-to-8 ratio of cement to sand.

4. Fourteen-gauge metal construction lined with 4 inches of brick, solid cement block or hardwood; or filled with 6 inches of sand.

b. Doors. Examples of door construction considered suitable for Type 1 magazines are:

1. Steel plate 3/8-inches thick lined with four layers of 3/4-inch tongue and groove hardwood flooring.

2. Metal plate not less than 14 gauge lined with four inches of hardwood.

c. Roof. The roof of a Type 1 magazine may be constructed of metal not less than 14 gauge; or 3/4-inch wood sheathing covered by metal not less than 26 gauge or other noncombustible roofing material. All exposed wood on the exterior including the eaves shall be protected by metal not less than 26 gauge.

d. Ceiling. Where the natural terrain around a Type 1 magazine makes it possible to shoot a bullet through the roof at such an angle that a bullet could strike the explosives

stored in the magazine, then either the roof or the ceiling shall be of bullet-resistant construction. A bullet-resistant ceiling may be constructed at the eave line, covering the entire area of the magazine except the space necessary for ventilation. Examples of ceiling construction that are considered bullet-resistant are:

1. A tray having a depth of not less than 4 inches of sand.

2. A hardwood ceiling not less than 4 inches thick.

e. Foundation. The foundation may be of masonry, wood, or metal and shall be completely enclosed except for openings to provide cross ventilation. A wooden foundation enclosure shall be covered on the exterior with not less than 26-gauge metal.

f. Floor. The floor may be constructed of wood or other suitable floor materials. Floors constructed of materials that may cause sparks shall be covered with a surface of non-sparking material or the packages of explosives shall be placed on pallets of nonsparking material. Magazines constructed with foundation ventilation shall have at least a 2-inch air space between the side walls and the edge of the floor.

g. Ventilation. Type 1 magazines shall be ventilated to prevent dampness and heating of stored explosives. Ventilating openings shall be screened to prevent the entrance of sparks. Ventilators in side walls shall be offset or shielded. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floor and between the side walls and the ceiling shall have constructed a wooden lattice lining or equivalent to prevent the packages of explosives from being stacked against the side walls and blocking the air circulation.

h. Locks. Each door of a Type 1 magazine shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock; or with a mortise lock that requires two keys to open; or a three-point lock, or equivalent type of lock that secures a door to the frame at more than one point. Padlocks shall be steel having at least five tumblers and at least a 7/16-inch-diameter case-hardened shackle. All padlocks shall be protected by steel hoods that are installed in a manner to discourage insertion of bolt cutters. Doors that are secured by a substantial internal bolt do not require additional locking devices. Hinges and hasps shall be securely fastened to the magazine and all locking hardware shall be secured rigidly and directly to the door frame.

32. Type 2 magazine. A Type 2 magazine shall be a portable or mobile structure, such as a box, skid-magazine, trailer or semitrailer, that is fire-resistant, theft-resistant, weather-resistant, and ventilated. It shall also be bullet-resistant except when used for indoor storage.

a. Type 2 outdoor box magazine

1. The sides, bottom, top and covers or doors of Type 2 outdoor box magazines shall be constructed of metal, lined with at least 4 inches of hardwood or equivalent bullet-resistant material. The floor shall be of wood or other suitable nonsparking floor materials. Floors constructed of ferrous metal shall be covered with a surface of nonsparking material. Magazines with top opening shall have a lid that overlaps the sides by at least 1 inch when in closed position.

2. Type 2 outdoor box magazines shall be supported in such a manner as to prevent the floor from having direct contact with the ground. Small magazines shall be securely fastened to a fixed object to prevent theft of the entire magazine.

3. Hinges, hasps, locks, and locking hardware shall conform to the provisions for Type 1 magazines as specified in paragraph 31(h).

b. Type 2 vehicular magazine

1. The sides and roof shall be not less than 20 gauge metal. The walls shall be lined with 4 inches of brick or solid cement block or hardwood, or 6 inches of sand, or other bullet-resistant material. The exposed interior walls may be lined with wood. The roof shall be protected by a bullet-resistant ceiling meeting the construction requirements for bullet-resistant ceilings in paragraph 31(d).

2. The doors shall be of metal, lined with not less than 4 inches of hardwood, or a metal exterior with a hardwood inner door not less than 4 inches in thickness.

3. The floors shall be in accordance with the provisions for Type 1 magazines in paragraph 31(f).

4. The doors shall be locked with at least two padlocks for each door opening, either two padlocks on the exterior door fastened on separate hasps and staples or one padlock on the exterior door and one padlock on the interior door. The padlocks shall be steel having at least five tumblers and at least a 7/16-inch-diameter case-hardened shackle. The padlocks need not be protected by steel hoods. Hinges and hasps shall be securely fastened to the magazine and all locking hardware shall be secured rigidly and directly to the door frame. When unattended, vehicular magazines shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.

c. Type 2 indoor magazine

1. An indoor Type 2 magazine shall be provided with substantial wheels or casters to facilitate removal from a building in an emergency. The cover for the magazine shall have substantial strap hinges and a means for locking. The magazine shall be kept locked except during the placement or removal of explosive materials with one five-tumbler padlock or equivalent.

2. Type 2 indoor magazines shall be painted red and shall bear lettering in white, on top, at least three inches high, "Explosives—Keep fire away."

3. Type 2 indoor magazines constructed of wood shall have sides, bottoms, and covers or doors constructed of 2-inch hardwood and shall be well braced at corners. The magazines shall be covered with sheet metal of not less than 20 gauge. Nails exposed to the interior of such magazines shall be countersunk.

4. Type 2 indoor magazines constructed of metal shall have sides, bottoms, and covers or doors constructed of 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least 1 inch.

33. Type 3 magazine. Type 3 magazines shall be portable structures that are bullet-resistant, fire-resistant, theft-resistant, and weather-resistant.

a. Type 3 magazines shall be equipped with a five-tumbler padlock.

b. Type 3 magazines constructed of wood shall have sides, bottoms, and covers or doors constructed of 4-inch hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than 20 gauge. Nails exposed to the interior of such magazines shall be countersunk.

c. Type 3 magazines constructed of metal shall have sides, bottoms, and covers or doors constructed of 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least 1 inch.

34. Type 4 magazine. A Type 4 magazine shall be a permanent, portable, or mobile structure, such as a building igloo, box, semitrailer, or other mobile container that is fire-resistant, theft-resistant, and weather-resistant.

a. Type 4 outdoor magazine

1. A Type 4 outdoor magazine shall be constructed of masonry, wood covered with metal, fabricated metal or a combination of these materials. The doors shall be metal or wood covered with metal. Permanent magazines shall be constructed in accordance with those provisions for Type 1 magazines pertaining to: foundations (paragraph 31(e)); ventilation (paragraph 31(g)); and locks, hinges, hasps and locking hardware (paragraph 31(h)). Vehicular Type 4 magazines shall be in accordance with the provisions for Type 2 vehicular magazines for locks, hinges, hasps and locking hardware (paragraph 32(b)4) and shall be immobilized when unattended (paragraph 32(b)2).

b. Type 4 indoor magazine

1. A Type 4 indoor magazine shall be in accordance with the provisions of a Type 2 indoor magazine (paragraph 32(d)).

4. Magazine operations

41. Storage within magazines

a. Magazines shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions. The competent person shall keep an up-to-date inventory of the contents of magazines.

b. All magazines containing ~~((Class-B))~~ Division 1.3G fireworks or black powder shall be opened and inspected at intervals of not greater than three days to determine whether there has been an unauthorized entry or attempted entry into the magazines; or to determine whether there has been unauthorized removal of the magazines or the contents of the magazines.

c. Magazine doors shall be kept locked, except during the time of placement and removal of stocks or during inspection.

d. Safety rules covering the operations of magazines shall be posted on the interior of the magazine door.

e. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked.

f. Containers shall be piled in a stable manner.

g. Containers of ~~((Class-B))~~ Division 1.3G fireworks shall be laid flat with top side up.

h. Black powder in shipping containers, when stored in magazines with other explosives, shall be segregated. Black



## PART III

STORAGE OF ((Class-C)) Division 1.4G FIREWORKS

PROPOSED

powder stored in kegs shall be stored on ends, bungs down, or on side, seams down.

i. Open containers shall be securely closed before being returned to a magazine. Only fiberboard containers may be opened in the magazine. No container without a closed lid may be stored in the magazine.

j. Wooden packages of ((Class-B)) Division 1.3G fireworks or black powder shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosive materials.

k. Tools used for opening containers of ((Class-B)) Division 1.3G fireworks or black powder shall be constructed of nonsparking material, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber or wood mallet shall be used for opening or closing wood containers of explosives.

l. Magazines shall be used exclusively for the storage of ((Class-B)) Division 1.3G fireworks and black powder. Metal tools other than nonferrous transfer conveyors, shall not be stored in any magazine containing ((Class-B)) Division 1.3G fireworks or black powder. Ferrous metal conveyor stands may be stored in the magazine when the stands are protected by a coat of paint.

m. Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed of, in accordance with the instructions of the manufacturer.

n. When magazines need interior repairs, all fireworks and black powder shall be removed therefrom and the floors cleaned.

o. In making exterior magazine repairs, when there is a possibility of causing sparks or fire, the fireworks and black powder shall be removed from the magazine.

p. Fireworks and black powder removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the fireworks and black powder shall be promptly returned to the magazine.

#### 42. Miscellaneous safety precautions

a. Smoking, matches, open flames, spark-producing devices and firearms (except firearms carried by authorized guards) shall not be permitted inside of or within 50 feet of magazines.

b. The land surrounding magazines shall be kept clear of brush, dried grass, leaves and similar combustibles for a distance of at least 25 feet.

c. Combustible materials shall not be stored within 50 feet of magazines.

d. Property upon which magazines are located shall be posted with signs reading "Explosives—Keep off." Such signs shall be located so as to minimize the possibility of a bullet's traveling in the direction of the magazine if anyone shoots at the sign.

### 1. General provisions

11. ((Class-C)) Division 1.4G fireworks shall be kept in storage buildings that meet the requirements of this section.

12. ((Class-C)) Division 1.4G fireworks shall be stored in storage buildings unless they are in process of manufacture, being physically handled in the operating process, being used, packaged, or being transported.

13. Storage buildings required by this section shall be constructed in accordance with Article 2.

14. Storage buildings containing ((Class-C)) Division 1.4G fireworks shall be separated from inhabited buildings, passenger railways and public highways, in accordance with Table 1.

15. Storage buildings containing ((Class-C)) Division 1.4G fireworks shall be separated from other storage buildings, magazines and fireworks plant buildings in accordance with Table 2.

### 2. Construction of storage buildings

21. Storage buildings for ((Class-C)) Division 1.4G fireworks may be a building, igloo, box, trailer, semi-trailer or other mobile facility. They shall be constructed to resist fire from an outside source and to be weather-resistant and theft-resistant.

22. Storage buildings for ((Class-C)) Division 1.4G fireworks shall be vented, or in the alternative, shall be constructed in such a manner that venting will occur by yielding of weaker parts of the structure under pressure generated by burning fireworks.

23. All storage buildings shall be equipped with locking means for all openings.

24. All doors shall open outward and all exits must be clearly marked. Aisles and exit doors shall be kept free of any obstructions.

25. Only dust-ignition proof type electrical fixtures shall be used and wiring shall comply with Section 502-4(b) of the National Electrical Code. No wall receptacles are permitted. All light fixtures must have guards.

26. An outside master electrical switch shall be provided at each storage building where electricity is used.

### 3. Storage building operations

#### 31. Storage.

a. Storage buildings shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions.

b. Doors shall be kept locked, except during hours of operation.

c. Safety rules covering the operations of storage buildings shall be posted.

d. Containers shall be piled in a stable manner.

e. ((Class-C)) Division 1.4G fireworks shall be stored in their original packaging and in unopened cases or cartons so as to take advantage of the insulation provided by such packaging; provided, however, unpackaged fireworks which have been returned by retailers may be temporarily retained in bins for repackaging.

PROPOSED

f. Tools used for opening containers of ((Class-C)) Division 1.4G fireworks shall be constructed of nonsparking material, except that metal slitters may be used for opening fiberboard containers.

g. Storage buildings shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings shall be properly disposed of.

h. When storage buildings need interior repairs, all fireworks shall be removed therefrom and the interior cleaned.

i. In making exterior storage building repairs, when there is a possibility of causing sparks of fire, the fireworks shall be removed from the storage building.

j. Fireworks removed from a storage building under repair shall either be placed in another storage building or placed a safe distance from the storage building, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the fireworks shall be promptly returned to the storage building.

32. Miscellaneous safety precautions

a. Smoking, matches, open flames, spark-producing devices and firearms (except firearms carried by authorized guards) shall not be permitted inside of or within 25 feet of storage buildings.

b. The land surrounding storage buildings shall be kept clear of brush, dried grass, leaves and similar combustibles for a distance of at least 25 feet, unless equivalent protection is provided.

c. Smoking shall not be permitted in storage buildings or within 25 feet of the storage building. There shall be conspicuously posted signs with the words "FIREWORKS—NO SMOKING" in letters not less than four inches high.

PART IV  
QUANTITY-DISTANCE SEPARATION TABLES

Table 1. Minimum Separation Distances of Fireworks Processing Buildings, Fireworks Magazines, and Fireworks Storage Buildings from Inhabited Buildings, Passenger Railways, and Public Highways.<sup>1</sup>

Net Weight of Fireworks <sup>2</sup>	Distance from Passenger Railways and Public Highways <sup>3,4,5</sup>		Distance from Inhabited Buildings <sup>3,4,5</sup>	
	((Class-C)) <u>Division 1.4G</u> Fireworks	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>4</sup>	((Class-C)) <u>Division 1.4G</u> Fireworks	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>5</sup>
	Pounds	Feet	Feet	Feet
	Feet	Feet	Feet	Feet
100	25	200	50	200
200	30	200	60	200
400	35	200	70	200
600	40	200	80	208
800	45	200	90	252
1,000	50	200	100	292
2,000	58	230	115	459
3,000	62	296	124	592
4,000	65	352	130	704
5,000	68	400	135	800
6,000	70	441	139	882

Net Weight of Fireworks <sup>2</sup>	Distance from Passenger Railways and Public Highways <sup>3,4,5</sup>		Distance from Inhabited Buildings <sup>3,4,5</sup>	
	((Class-C)) <u>Division 1.4G</u> Fireworks	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>4</sup>	((Class-C)) <u>Division 1.4G</u> Fireworks	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>5</sup>
	Pounds	Feet	Feet	Feet
	Feet	Feet	Feet	Feet
8,000	73	509	140	1,018
10,000	75	565	150	1,129
15,000	80	668	159	1,335
20,000	83	745	165	1,490
30,000	87	863	174	1,725
40,000	90	953	180	1,906
50,000	93	1,030	185	2,060
60,000	95	1,095	189	2,190
80,000	98	1,205	195	2,410
100,000	100	1,300	200	2,600
150,000	105	1,488	209	2,975
200,000	108	1,638	215	3,275
250,000	110	1,765	220	3,530

Note 1: This table does not apply to separation distances at fireworks manufacturing buildings, and magazines for storage of ((Class-B)) Division 1.4G fireworks and storage buildings for ((Class-C)) Division 1.4G fireworks. Those separation distances are given in Table 2.

Note 2: Net weight is the weight of all pyrotechnic and explosive composition and fuse only.

Note 3: See definitions of "passenger railways," "public highways" and "inhabited buildings."

Note 4: ((Class-B)) Division 1.3G fireworks processing buildings and ((Class-B)) Division 1.3G fireworks magazines, including buildings located on the property of a fireworks plant shall be separated from passenger railways, public highways, and inhabited buildings by a minimum distance of 200 feet except that the separation from hospitals, schools and bulk storages of flammable liquids or flammable gases shall be by a minimum distance of 500 feet.

Note 5: The separation distances shall apply to all ((Class-B)) Division 1.3G fireworks except salutes. The separation distances in Table 3 shall apply for salutes. When salutes and ((Class-B)) Division 1.3G fireworks are stored in the same magazine, the net weight of salute is applied to Table 3 and the net weight of ((Class-B)) Division 1.3G fireworks, including the net weight of salutes, is applied to Table 1. Whichever distance is the greater shall determine the separation distances of the magazine.

Note 6: All distances in Table 1 are to be applied with or without barricades or screen-type barricades.

Table 2.  
Minimum Separation Distances at Fireworks Manufacturing Plants

Net Weight of Fireworks <sup>1</sup>	Distance of Magazines and Storage Buildings from Process Buildings and Nonprocess Buildings <sup>2,5</sup>		Distance Between Process Buildings and Between Process and Nonprocess Buildings <sup>2</sup>	
	((Class-C)) <u>Division 1.4G</u> Fireworks <sup>3</sup>	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>4</sup>	((Class-C)) <u>Division 1.4G</u> Fireworks <sup>3</sup>	((Class-B)) <u>Division 1.3G</u> Fireworks <sup>4</sup>
	Pounds	Feet	Feet	Feet
	Feet	Feet	Feet	Feet
100	30	30	37	57
200	30	35	37	69

Net Weight Fireworks <sup>1</sup>	Distance of Magazines and Storage Buildings from Process Buildings and Nonprocess Buildings <sup>2,5</sup>		Distance Between Process Buildings and Between Process and Nonprocess Buildings <sup>2</sup>	
	((Class-C))	((Class-B))	((Class-C))	((Class-B))
	Division 1.4G	Division 1.3G	Division 1.4G	Division 1.3G
	Fireworks <sup>3</sup>	Fireworks <sup>4</sup>	Fireworks <sup>3</sup>	Fireworks <sup>4</sup>
Pounds	Feet	Feet	Feet	Feet
400	30	44	37	85
600	30	51	37	97
800	30	56	37	105
1,000	30	60	37	112
2,000	30	76	37	172
3,000	35	87	48	222
4,000	38	95	60	264
5,000	42	103	67	300
6,000	45	109	72	331
8,000	50	120	78	382
10,000	54	129	82	423

- Note 1: Net weight is the weight of all pyrotechnic and explosive compositions and fuse only.
- Note 2: For the purposes of applying the separation distances in Table 2 a process building includes a mixing building, any building in which pyrotechnic or explosive compositions is pressed or otherwise prepared for finishing and assembling, and any finishing and assembling building. A nonprocess building means office buildings, warehouses, and other fireworks plant buildings where no fireworks or explosive compositions are processed or stored.
- Note 3: Distances apply with or without barricades or screen-type barricades.
- Note 4: Distances apply only with barricades or screen-type barricades.
- Note 5: Distances include those between magazines, between storage buildings, between magazines and storage buildings, between magazines or storage buildings from process buildings and non-process buildings.

PROPOSED

Table 3. Minimum Separation Distances of Magazines for Storage of Black Powder or ((Class-B)) Division 1.3G Salutes from Inhabited Buildings, Highways, and Other Magazines for Storage of Black Powder or ((Class-B)) Division 1.3G Salutes.

American Table of Distances for Storage of Explosives as Revised and Approved by The Institute of Makers of Explosives—November 5, 1971. Distances in feet.

Explosives		Inhabited Buildings		Public Highways Class A to D		Passenger Railways— Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	205	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72

American Table of Distances for Storage of Explosives as Revised and Approved by The Institute of Makers of Explosives—  
November 5, 1971. Distances in feet.

Explosives		Inhabited Buildings		Public Highways Class A to D		Passenger Railways— Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	155
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,050	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470

PROPOSED

American Table of Distances for Storage of Explosives as Revised and Approved by The Institute of Makers of Explosives—  
November 5, 1971. Distances in feet.

Explosives		Inhabited Buildings		Public Highways Class A to D		Public Highways than 3,000 Vehicles/Day		Passenger Railways— Public Highways with Traffic Volume of more Separation of Magazines	
Pounds Over	Pounds Not Over	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 212-17-265 Reports.

**WSR 05-07-109**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH**

[Filed March 18, 2005, 4:39 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: The proposal amends or repeals the fee sections for the list of health profession rules shown below.

The following health profession licensing rules are being amended: WAC 246-802-990 Acupuncture, 246-808-990 Chiropractic, 246-809-990 Mental health counselors, marriage and family therapists, social workers, 246-810-990 Counselors, 246-811-990 Chemical dependency professionals, 246-812-990 Denturist, 246-815-990 Dental hygiene, 246-817-990 Dentist, 246-822-990 Dietician and nutritionists, 246-824-990 Dispensing opticians, 246-826-990 Health Care Assistant, 246-828-990 Hearing instrument fitter/dispenser, audiologist and speech language pathologists, 246-830-990 Massage, 246-834-990 Midwifery, 246-836-990 Naturopathic physicians, 246-840-990 Practical and registered nursing, 246-841-990 Nursing assistant, 246-843-990 Nursing home administrator, 246-845-990 Nursing pool, 246-847-990 Occupational therapy, 246-849-990 Ocularist, 246-850-990 Orthotic and prosthetic, 246-851-990 Optometry, 246-853-990 Osteopathic, 246-907-030 Pharmaceutical

licensing periods, 246-915-990 Physical therapy, 246-918-990 Physician assistants, 246-919-990 Physician and surgeon, 246-922-990 Podiatry, 246-924-990 Psychology, 246-926-990 Radiological technologists, 246-927-990 Recreational therapy, 246-928-990 Respiratory care, 246-930-990 Sex offender treatment provider, 246-933-590 Humane society and animal care and control agency, 246-933-990 Veterinarians, 246-935-990 Veterinary technician, 246-937-990 Veterinary medication clerk, and 246-939-990 Surgical technologists.

The following health profession licensing renewal cycle rules are being repealed: WAC 246-930-995 Sex offender treatment provider, 246-907-995 Pharmaceutical licensing periods and fees, 246-922-995 Podiatry, 246-849-995 Ocularists, 246-812-995 Denturists, and 246-824-995 Dispensing opticians.

Hearing Location(s): Washington State Department of Health, 310 Israel Road S.E., First Floor, Rooms 152/153, Tumwater, WA 98501, on April 27, 2005, at 1:30 p.m.

Date of Intended Adoption: May 6, 2005.

Submit Written Comments to: Todd Erik Henry, Washington State Department of Health, 310 Israel Road S.E., Tumwater, WA 98501, P.O. Box 47860, Olympia, WA 98504-7860, e-mail <http://www3.doh.wa.gov/policyreview>, fax (360) 236-4626, by April 27, 2005.

Assistance for Persons with Disabilities: Contact Todd Erik Henry by April 13, 2005, TTY (800) 833-6388 or (360) 236-4984.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, the Washington Administrative Code (WAC) for each health profession establishes a specific fee amount the secretary must charge for a health profession license, credential or registration renewal. If the health profession revenue balance for a specific profession has a surplus, a WAC amendment is needed to reduce the renewal fee amount.

PROPOSED

PROPOSED

Under this rule proposal, if the secretary determines that a particular health profession revenue balance exceeds the funds needed to support that program's regulatory operations, then the secretary may reduce a health profession license, credential or registration fee below the renewal fee amount ceiling specified in WAC.

One WAC is being amended to change its WAC title.

This proposal also repeals WACs for six professions regarding their renewal cycle. The six WACs being repealed were initially implemented for the transition from calendar year to date of birth fee renewal cycles. These WACs are no longer applicable.

Reasons Supporting Proposal: The department seeks to establish health profession licensing fees that cover operating expenses and operating reserve. The proposed WAC amendments may result in reduced fees for some licensed, certified or registered professions.

Statutory Authority for Adoption: RCW 43.70.250 and [43.70.]280.

Statute Being Implemented: RCW 43.70.110.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Todd Erik Henry, Tumwater, Washington, (360) 236-4984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because RCW 19.85.025(3) exempts fee rules, repeal of a rule or clarifying language of a rule without changing its effect. Proposed rule amendments maintain health profession license, certification and registration renewal fees at their current levels or reduce them. No cost is imposed on small businesses. One rule amendment simply amends the title of a fee rule section. Six rules are being repealed.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes are not legislatively significant under RCW 34.05.328. Proposed rule changes amend fee sections which are part of a process for applying for a department health profession license, certification or registration. Proposed rule changes do not impose a penalty to license, certification or registration holders or applicants. Proposed rule changes do not change standards for licensure, certification or registration. Proposed rule changes do not make significant changes to the regulatory process.

March 18, 2005

Mary C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

**WAC 246-802-990 Acupuncture fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those

in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
License application	\$ 50.00
License renewal	90.00
Inactive license renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Expired inactive license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00
Acupuncture training program application	500.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-808-990 Chiropractic fees and renewal cycle.** (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for chiropractic license:

Title of Fee	Fee
Application/full examination or reexamination	\$300.00
Temporary permit application	150.00
Temporary practice permit	50.00
Preceptorship	100.00
License renewal	270.00
Late renewal penalty	135.00
Expired license reissuance	135.00
Inactive license renewal	150.00
Expired inactive license reissuance	75.00
Duplicate license	15.00
Certification of license	25.00

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(3) The following nonrefundable fees will be charged for chiropractic X-ray technician registration:

Title of Fee	Fee
Application	25.00
Original registration	25.00
Renewal	40.00
Late renewal penalty	40.00
Expired registration reissuance	40.00
Duplicate registration	15.00
Certification of registration	25.00

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-990 Licensed mental health counselors, marriage and family therapists, and social workers—Fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

Title	Fee
(2) The following nonrefundable fees will be charged for licensed marriage and family therapist:	
Application	\$50.00
Initial license	25.00
Renewal	83.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Duplicate license	10.00
Certification of license	10.00
(3) The following nonrefundable fees will be charged for licensed mental health counselor:	
Application	25.00
Initial license	25.00
Renewal	29.00
Late renewal penalty	29.00
Expired license reissuance	29.00
Duplicate license	10.00
Certification of license	10.00
(4) The following nonrefundable fees will be charged for licensed advanced social worker and licensed independent clinical social worker:	
Application	25.00
Initial license	25.00

Title	Fee
Renewal	42.00
Late renewal penalty	42.00
Expired license reissuance	42.00
Duplicate license	10.00
Certification of license	10.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-810-990 Counselors fees and renewal cycle.** (1) Certificates and registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

Title	Fee
(2) The following nonrefundable fees will be charged for registered counselor:	
Application and registration	\$ 40.00
Renewal	37.00
Late renewal penalty	37.00
Expired registration reissuance	37.00
Duplicate registration	15.00
Certification of registration	15.00
(3) The following nonrefundable fees will be charged for registered hypnotherapist:	
Application and registration	95.00
Renewal	130.00
Late renewal penalty	65.00
Expired registration reissuance	65.00
Duplicate registration	15.00
Certification of registration	15.00
(4) The following nonrefundable fees will be charged for certified marriage and family therapist:	
Application	50.00
Initial certification	25.00
Examination administration	25.00
Renewal	83.00
Late renewal penalty	50.00
Expired certification reissuance	50.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

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Title	Fee
(5) The following nonrefundable fees will be charged for certified mental health counselor:	
Application	25.00
Initial certification	25.00
Renewal	29.00
Late renewal penalty	29.00
Expired certification reissuance	29.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00
(6) The following nonrefundable fees will be charged for certified social worker:	
Application	25.00
Initial certification	25.00
Renewal	42.00
Late renewal penalty	42.00
Expired certification reissuance	42.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

**AMENDATORY SECTION** (Amending WSR 02-07-083, filed 3/19/02, effective 4/19/02)

**WAC 246-811-990 How often do I need to renew and what are the costs for certification?** (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for certified chemical dependency professional:

Title of Fee	Fee
Application	\$100.00
Initial certification	125.00
Renewal	125.00
Renewal retired active	62.50
Late renewal retired active	50.00
Late renewal penalty	62.50
Expired certification reissuance	62.50
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

**AMENDATORY SECTION** (Amending WSR 00-07-050, filed 3/8/00, effective 4/8/00)

**WAC 246-812-990 Denturist fees and renewal cycle.**

(1) Licenses must be renewed every other year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$ 1,000.00
Examination	1,500.00
Reexamination, written	500.00
Reexamination, practical	500.00
License renewal	2,750.00
Late renewal penalty	300.00
Expired license reissuance	300.00
Inactive license renewal	1,500.00
Expired inactive license reissuance	300.00
Duplicate license	15.00
Certification of license	25.00
Multiple location licenses	50.00

**AMENDATORY SECTION** (Amending WSR 05-01-018, filed 12/2/04, effective 3/22/05)

**WAC 246-815-990 Dental hygiene fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application examination and reexamination . . .	\$100.00
Renewal . . . . .	40.00
Late renewal penalty . . . . .	40.00
Expired license reissuance . . . . .	40.00
Credentialing application . . . . .	100.00
Limited license application . . . . .	100.00



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Title of Fee	Fee
Limited license renewal . . . . .	40.00
Limited license late renewal penalty . . . . .	40.00
Expired limited license reissuance . . . . .	40.00
Duplicate license . . . . .	15.00
Certification of license . . . . .	25.00
Education program evaluation . . . . .	200.00

Title of Fee	Fee
<b>Anesthesia permit</b>	
Initial application	50.00
Renewal - (three-year renewal cycle)	50.00
Late renewal penalty	50.00
Expired permit reissuance	50.00
On-site inspection fee	To be determined by future rule adoption.

\* In addition to the initial application fee above, applicants for licensure via examination will be required to submit a separate application and examination fee directly to the dental testing agency accepted by the dental quality assurance commission.

**AMENDATORY SECTION** (Amending WSR 01-11-166, filed 5/23/01, effective 7/1/01)

**WAC 246-817-990 Dentist fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except faculty and resident licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Faculty and resident licenses must be renewed every year on July 1 as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
<b>Original application by examination*</b>	
Initial application	\$ 325.00
<b>Original application - Without examination</b>	
Initial application	350.00
Initial license	350.00
<b>Faculty license application</b>	325.00
<b>Resident license application</b>	60.00
<b>License renewal:</b>	
Renewal	205.00
Surcharge - impaired dentist	25.00
Late renewal penalty	102.50
Expired license reissuance	102.50
<b>Duplicate license</b>	15.00
<b>Certification of license</b>	25.00

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-824-990 Dispensing optician fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
<b>Optician:</b>	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	50.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
Late renewal penalty	75.00
Expired license reissuance	62.50
Duplicate license	15.00
Certification of license	15.00
Apprentice registration	75.00
Endorsement application	100.00
Inactive license	35.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-822-990 Dietitian and nutritionist fees and renewal cycle.** (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a rea-

sonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application	\$75.00
Renewal	45.00
Late renewal penalty	45.00
Expired certificate reissuance	45.00
Duplicate certificate	15.00
Certification of certificate	25.00

**AMENDATORY SECTION** (Amending WSR 03-24-071, filed 12/1/03, effective 3/1/04)

**WAC 246-826-990 Health care assistant fees and renewal cycle.** (1) Certificates must be renewed every two years as provided in WAC 246-826-050 and chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
First certification	\$60.00
Renewal	60.00
Expired certificate reissuance	50.00
Recertification	60.00
Late renewal penalty	50.00
Duplicate	15.00

**AMENDATORY SECTION** (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

**WAC 246-828-990 Hearing instrument fitter/dispenser, audiologist and speech language pathologists fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Licensees must pay the following nonrefundable fees:

Title of Fee	Fee
License application	\$125.00
Initial license	100.00
Interim permit	100.00
Renewal	200.00
Inactive license	75.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Expired inactive license reissuance	50.00
License verification	15.00
Wall certificate	15.00
Duplicate license	15.00

**AMENDATORY SECTION** (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

**WAC 246-830-990 Massage fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00
Initial license	50.00
Renewal	25.00
Late renewal penalty	25.00
Expired license reissuance	25.00
Certification of license	10.00
Duplicate license	10.00

**AMENDATORY SECTION** (Amending WSR 04-22-113, filed 11/3/04, effective 2/17/05)

**WAC 246-834-990 Midwifery fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required pay-

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ment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$515.00
National examination administration (initial/retake)	103.00
State examination (initial/retake)	154.50
Renewal	978.75
Late renewal penalty	300.00
Duplicate license	25.00
Certification of license	25.00
Application fee—Midwife-in-training program	978.75
Expired license reissuance	300.00

**AMENDATORY SECTION** (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

**WAC 246-836-990 Naturopathic physician licensing fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Amount
Application initial/retake	\$ 25.00
State examination (initial/retake)	25.00
Initial license	25.00
License renewal	200.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Duplicate license	15.00
Certification of license	15.00
Application for reciprocity	25.00

**AMENDATORY SECTION** (Amending WSR 04-04-054, filed 1/30/04, effective 1/30/04)

**WAC 246-840-990 Fees and renewal cycle.** (1) Licenses for practical nurse and registered nurse must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the

program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Licenses for advanced registered nurse must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) Registrations for nursing technicians must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The renewal must be accompanied by an attestation as described in chapter 258, Laws of 2003. This attestation will include the nursing technician's anticipated graduation date. If the anticipated graduation date is within one year, the registration will expire thirty days after the anticipated graduation date. The expiration date may be extended to sixty days after graduation if the nursing technician can show good cause as defined in WAC 246-840-010(15). The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(4) The following nonrefundable fees shall be charged by the health professions quality assurance division of the department of health. Persons who hold an RN and an LPN license shall be charged separate fees for each license. Persons who are licensed as an advanced registered nurse practitioner in more than one specialty will be charged a fee for each specialty:

**RN/LPN fees:**

Title of Fee	Fee
Application (initial or endorsement)	\$65.00
License renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Inactive renewal	20.00
Expired inactive license reissuance	20.00
Inactive late renewal penalty	10.00
Duplicate license	20.00
Verification of licensure/education (written)	25.00

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Title of Fee	Fee
Advanced registered nurse fees:	
ARNP application with or without prescriptive authority (per speciality)	\$65.00
ARNP renewal with or without prescriptive authority (per speciality)	50.00
ARNP late renewal penalty (per speciality)	50.00
ARNP duplicate license (per speciality)	20.00
ARNP written verification of license (per speciality)	25.00

Title of Fee	Fee
Nurse technologist fees:	
Application fee registration	\$130.00
Renewal of registration	90.00
Duplicate registration	15.00
Registration late renewal penalty	50.00

**AMENDATORY SECTION** (Amending WSR 99-24-062, filed 11/29/99, effective 12/30/99)

**WAC 246-841-990 Nursing assistant—Fees and renewal cycle.** (1) Certificates and registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registrations:

Title of Fee	Fee
Application - registration	\$ 15.00
Renewal of registration	25.00
Duplicate registration	10.00
Registration late penalty	25.00
Expired registration reissuance	25.00

(3) The following nonrefundable fees will be charged for certifications:

Application for certification	15.00
Certification renewal	25.00
Duplicate certification	10.00
Certification late penalty	25.00
Expired registration reissuance	25.00

**AMENDATORY SECTION** (Amending WSR 99-24-098, filed 11/30/99, effective 12/31/99)

**WAC 246-843-990 Nursing home administrator fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - Original license	\$200.00
Administrator-in-training	100.00
Application - Endorsement	295.00
Temporary permit	190.00
Renewal	295.00
Inactive license renewal	110.00
Late renewal penalty	145.00
Expired license reissuance	147.50
Late renewal penalty - inactive	55.00
Expired inactive license reissuance	55.00
Duplicate license	15.00
Certification of license	15.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-845-990 Nursing pool fees and renewal cycle.** (1) Registrations must be renewed every year on the date of original issuance as provided in chapter 246-12 WAC, Part 3. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title	Fee
Registration application	\$100.00
Registration renewal	115.00
Late renewal penalty	57.50
Expired registration reissuance	57.50

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**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-847-990 Occupational therapy fees and renewal cycle.** (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for occupational therapist:

Title of Fee	Fee
Application and initial license fee	\$125.00
License renewal	95.00
Limited permit fee	40.00
Late renewal fee	50.00
Expired license reissuance	50.00
Inactive license	5.00
Expired inactive license reissuance	5.00
Duplicate	15.00
Certification of license	25.00

(3) The following nonrefundable fees will be charged for occupational therapy assistant:

Application and initial license fee	125.00
License renewal	70.00
Late renewal fee	50.00
Expired license reissuance	50.00
Inactive license	5.00
Expired inactive license reissuance	5.00
Limited permit fee	40.00
Duplicate	15.00
Certification of license	25.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-849-990 Ocularist fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application and examination	\$125.00
Renewal	225.00
Late renewal penalty	112.50
Expired license reissuance	112.50
Duplicate license	25.00
Certification of license	25.00
Apprentice registration	25.00
Apprentice renewal	25.00
Temporary practice permit	25.00
Retired active license	50.00

**AMENDATORY SECTION** (Amending WSR 03-21-116, filed 10/20/03, effective 12/31/03)

**WAC 246-850-990 Orthotic and prosthetic fees.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Orthotic application	\$250.00
Prosthetic application	250.00
Orthotic renewal	150.00
Prosthetic renewal	150.00
Late renewal penalty fee	75.00
Expired credential reissuance fee	75.00
Inactive credential renewal fee	125.00
Late inactive renewal fee	62.50
Retired active credential renewal fee	125.00
Late retired active credential renewal fee	62.50
Duplicate credential or wall certificate	15.00
Certification	25.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-851-990 Optometry fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of

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administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$125.00
Out-of-state seminar	100.00
License renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00

**AMENDATORY SECTION** (Amending WSR 99-24-063, filed 11/29/99, effective 12/30/99)

**WAC 246-853-990 Osteopathic fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) The following nonrefundable fees will be charged for osteopath:

Title of Fee	Fee
Active renewal	\$475.00
Active late renewal penalty	237.50
Certification of license	50.00

(4) The following nonrefundable fees will be charged for osteopathic physician:

Endorsement application	650.00
Active license renewal	475.00
Active late renewal penalty	237.50
Active expired license reissuance	237.50

Title of Fee	Fee
Inactive license renewal	350.00
Expired inactive license reissuance	175.00
Inactive late renewal penalty	175.00
Endorsement/state exam application	750.00
Reexam	100.00
Certification of license	50.00
Limited license application	300.00
Limited license renewal	250.00
Temporary permit application	70.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00

(5) The following nonrefundable fees will be charged for osteopathic physician assistant:

Application	250.00
Renewal	200.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Certification of license	30.00
Practice plan	70.00
Interim permit	167.00
License after exam	83.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**WAC 246-907-030 Pharmaceutical licensing periods and fees—Fees and renewal cycle.** (1) Pharmacist, pharmacy technician, and pharmacy intern licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Pharmacy location, controlled substance registration (pharmacy), pharmacy technician utilization, and shopkeepers differential hours licenses will expire on June 1 of each year.

(3) All other licenses, including health care entity licenses, registrations, permits, or certifications will expire on October 1 of each year.

(4) The following nonrefundable fees will be charged for pharmacy location:

Title of fee	Fee
Original pharmacy fee	\$365.00
Original pharmacy technician utilization fee	65.00
Renewal pharmacy fee	265.00
Renewal pharmacy technician utilization fee	75.00
Penalty pharmacy fee	132.50

(5) The following nonrefundable fees will be charged for vendor:

Original fee	75.00
Renewal fee	75.00
Penalty fee	50.00

(6) The following nonrefundable fees will be charged for pharmacist:

Original license fee	130.00
Renewal fee, active and inactive license	135.00
Renewal fee, retired license	20.00
Penalty fee	67.50
Expired license reissuance (active and inactive)	67.50
Reciprocity fee	330.00
Certification of license status to other states	20.00
Retired license	20.00
Temporary permit	65.00

(7) The following nonrefundable fees will be charged for shopkeeper:

Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

Shopkeeper - with differential hours:

Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

(8) The following nonrefundable fees will be charged for drug manufacturer:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(9) The following nonrefundable fees will be charged for drug wholesaler - full line:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(10) The following nonrefundable fees will be charged for drug wholesaler - OTC only:

Original fee	330.00
Renewal fee	330.00

Title of fee	Fee
Penalty fee	165.00
(11) The following nonrefundable fees will be charged for drug wholesaler - export:	
Original fee	590.00
Renewal fee	590.00
Penalty	295.00

(12) The following nonrefundable fees will be charged for drug wholesaler - export nonprofit humanitarian organization.

Original fee	25.00
Renewal fee	25.00
Penalty	25.00

(13) The following nonrefundable fees will be charged for pharmacy technician:

Original fee	50.00
Renewal fee	40.00
Penalty fee	40.00
Expired license reissuance	40.00

(14) The following nonrefundable fees will be charged for pharmacy intern:

Original registration fee	20.00
Renewal registration fee	20.00

(15) The following nonrefundable fees will be charged for Controlled Substances Act (CSA):

Registrations	
Dispensing registration fee (i.e. pharmacies and health care entities)	80.00
Dispensing renewal fee (i.e. pharmacies and health care entities)	65.00
Distributors registration fee (i.e. wholesalers)	115.00
Distributors renewal fee (i.e. wholesalers)	115.00
Manufacturers registration fee	115.00
Manufacturers renewal fee	115.00
Sodium pentobarbital for animal euthanization registration fee	40.00
Sodium pentobarbital for animal euthanization renewal fee	40.00
Other CSA registrations	40.00

(16) The following nonrefundable fees will be charged for legend drug sample - distributor:

Registration fees	
Original fee	365.00
Renewal fee	265.00
Penalty fee	132.50

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(17) The following nonrefundable fees will be charged for poison manufacturer/seller - license fees:

Title of fee	Fee
Original fee	40.00
Renewal fee	40.00

(18) The following nonrefundable fees will be charged for facility inspection fee:

200.00

(19) The following nonrefundable fees will be charged for precursor control permit:

Original fee	65.00
Renewal fee	65.00

(20) The following nonrefundable fees will be charged for license reissue:

Reissue fee	15.00
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(21) The following nonrefundable fees will be charged for health care entity:

Original fee	365.00
Renewal	265.00
Penalty	132.50

fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The applicant or licensee must pay the following nonrefundable fees:

Title of Fee	Fee
Physician assistants, certified physician assistants, physician assistant-surgical assistants, acupuncture physician assistants:	
Application*	\$50.00
Two-year renewal*	70.00
Expired license reissuance	35.00
Duplicate license	15.00
Impaired physician program surcharge *(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71.310 (2))	25.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-915-990 Physical therapy fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$100.00
License renewal	65.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Duplicate license	15.00
Certification	25.00

**AMENDATORY SECTION** (Amending WSR 02-05-009, filed 2/8/02, effective 3/11/02)

**WAC 246-918-990 Physician assistants fees and renewal cycle.** (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal

**AMENDATORY SECTION** (Amending WSR 02-05-009, filed 2/8/02, effective 3/11/02)

**WAC 246-919-990 Physician and surgeon fees and renewal cycle.** (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses and retired active physician licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program date. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) Retired active physician licenses shall be renewed every year. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a rea-



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sonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(4) The applicants and licensees must pay the following nonrefundable fees:

Title of Fee	Fee
Physicians and surgeons: Chapter 18.71 RCW	
Application*	\$300.00
Retired active physician license renewal*	100.00
Retired active late renewal penalty	50.00
Two-year renewal*	400.00
Late renewal penalty	100.00
Expired license reissuance	200.00
Certification of license	50.00
Duplicate license	15.00
Temporary permit	50.00
Application fee for transitioning from a postgraduate training limited license*	100.00
Postgraduate limited license fees: RCW 18.71.095	
Limited license application*	200.00
Limited license renewal*	200.00
Limited duplicate license	15.00
Impaired physician program *(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71-310(2))	25.00

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**WAC 246-922-990 Podiatry fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except for postgraduate training limited licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application (examination and reexamination)	\$825.00
Reciprocity application	825.00
License renewal	825.00
Inactive license renewal	135.00
Inactive late renewal penalty	67.50
Active late renewal penalty	300.00
Active expired license reissuance	300.00
Expired inactive license reissuance	67.50
Duplicate license	30.00
Certification of license	50.00
Retired active status	150.00
Temporary practice permit	50.00
Limited license application	400.00
Limited license renewal	480.00
Substance abuse monitoring surcharge	25.00

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**WAC 246-924-990 Psychology fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$260.00
Renewal	285.00
Renewal retired active	100.00
Late renewal penalty	142.50
Expired license reissuance	142.50
Duplicate license	25.00
Oral examination	350.00
Certification of license	25.00
Amendment of certificate of qualification	30.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-926-990 Radiological technologists certification and registration fees and renewal cycle.** (1) Certificates and registrations must be renewed every two years on

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the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - certification	\$45.00
Exam fee - certification	30.00
Application - registration	35.00
Certification renewal	45.00
Registration renewal	35.00
Late renewal penalty - certification	45.00
Late renewal penalty - registration	35.00
Expired certificate reissuance	45.00
Expired registration reissuance	35.00
Certification of registration or certificate	15.00
Duplicate registration of certificate	15.00

**AMENDATORY SECTION** (Amending WSR 03-09-065, filed 4/15/03, effective 7/1/03)

**WAC 246-927-990 How often do I need to renew and what are the costs for registration?** (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registered recreational therapists:

Title of Fee	Fee
Application	\$110.00
Renewal	85.00
Late renewal penalty	50.00
Expired registration reissuance	50.00
Duplicate registration	15.00
Certification of certificate	25.00

**AMENDATORY SECTION** (Amending WSR 01-11-165, filed 5/23/01, effective 6/23/01)

**WAC 246-928-990 Respiratory care fees and renewal cycle.** (1) Licenses must be renewed every two years

on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$ 70.00
Temporary practice permit	35.00
Duplicate license	15.00
Verification of licensure	15.00
Renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00

**AMENDATORY SECTION** (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

**WAC 246-930-990 Sex offender treatment provider fees and renewal cycle.** (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for:

Title of Fee	Fee
Sex offender treatment provider:	
Application and examination	\$ 500.00
Reexamination	250.00
Initial certification	100.00
Renewal	800.00
Inactive status	300.00
Late renewal penalty	300.00
Expired certificate reissuance	300.00
Expired inactive certificate reissuance	150.00
Duplicate certificate	15.00
Extension fee	1,475.00

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Title of Fee	Fee
(3) The following nonrefundable fees will be charged for affiliate treatment provider:	
Application and examination	200.00
Reexamination	100.00
Renewal	300.00
Inactive status	200.00
Late renewal penalty	150.00
Expired affiliate certificate reissuance	150.00
Expired inactive affiliate certificate reissuance	100.00
Duplicate certificate	15.00
Extension fee	850.00

Title of Fee	Fee
State examination (initial/retake)	\$125.00
Initial state license	115.00
Specialty licensure	115.00
Impaired veterinarian assessment	10.00
Temporary permit	200.00
State or specialty license renewal	120.00
Retired active license and renewal	55.00
Late renewal penalty (state and specialty license)	60.00
Expired license reissuance	60.00
Late renewal penalty (retired active license)	50.00
Duplicate license	15.00
Certification of license	15.00

**AMENDATORY SECTION** (Amending WSR 03-10-044, filed 5/1/03, effective 6/1/03)

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**WAC 246-933-590 Humane society and animal care and control agency (entity) fees and renewal cycle.** (1) Registrations must be renewed every year on August 1 as provided in chapter 246-12 WAC, Part 3. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

**WAC 246-935-990 Veterinary technician fees and renewal cycle.** (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The nonrefundable fees are:

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Entity registration	\$100.00
Entity renewal	75.00
Late renewal penalty	50.00
Expired registration reissuance	50.00

Title of Fee	Fee
State examination (initial/retake)	\$100.00
Initial registration	75.00
Renewal	65.00
Late renewal penalty	50.00
Expired registration reissuance	50.00
Duplicate registration	15.00
Certification of registration	15.00

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**AMENDATORY SECTION** (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

**WAC 246-933-990 Veterinarian fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

**WAC 246-937-990 Veterinary medication clerk fees and renewal cycle.** (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for

(2) The following nonrefundable fees will be charged:

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the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Initial registration	\$30.00
Renewal	30.00
Late renewal penalty	30.00
Expired registration reissuance	30.00
Duplicate registration	15.00

**AMENDATORY SECTION** (Amending WSR 99-24-097, filed 11/30/99, effective 12/31/99)

**WAC 246-939-990 Surgical technologists—Fees and renewal cycle.** (1) Registration must be renewed every year on registrant's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registration:

Title of Fee	Fee
Application for registration	\$50.00
Renewal of registration	125.00
Registration late fee	62.50
Duplicate registration	10.00
Expired registration reissuance	62.50
Registration issuance	25.00

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-930-995 Conversion to a birthday renewal cycle.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-907-995 Conversion to a birthday renewal cycle.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-922-995 Conversion to a birthday renewal cycle.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-849-995 Conversion to a birthday renewal cycle.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-812-995 Conversion to a birthday renewal cycle.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-824-995 Conversion to a birthday renewal cycle.

**WSR 05-07-111  
WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF AGRICULTURE  
[Filed March 21, 2005, 3:52 p.m.]**

The Washington State Department of Agriculture is formally withdrawing WSR 04-19-119 filed on September 21, 2004, regarding the Washington Red Raspberry Commission's Marketing Order, chapter 16-561 WAC.

William E. Brookreson  
Deputy Director

**WSR 05-07-112  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE  
[Filed March 21, 2005, 3:53 p.m.]**

Original Notice.

Title of Rule and Other Identifying Information: Rules of Washington State Hop Commodity Board, chapter 16-532 WAC.

Hearing Location(s): Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 4, 2005, at 1:30 p.m.

Date of Intended Adoption: May 18, 2005.

Submit Written Comments to: Lynn Briscoe, Commodity Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail lbriscoe@agr.wa.gov, fax (360) 902-2092, by May 5, 2005, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Rochelle Painter at (360) 902-2060, by April 27, 2005, TTY (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this rule making is to amend and adopt sections within the rules of the Washington State Hop Commodity Board, chapter 16-532 WAC. Proposed amendments and additions will update rule language and establish provisions for producer reporting. The following sections are affected by the proposed amendments:

1. Amend WAC 16-532-110 Requirements for collection of assessments.

2. New section WAC 16-532-115 Reporting.

**Reasons Supporting Proposal:** Rule language updates will improve the readability and clarity of the affected section and clarifying provisions for producer reporting are being added to aid producers in understanding the necessary reporting procedures.

**Statutory Authority for Adoption:** Chapter 15.65 RCW, specifically RCW 15.65.047 and 15.65.280, and chapter 34.05 RCW.

**Statute Being Implemented:** Chapter 15.65 RCW.

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

**Name of Proponent:** Washington Hop Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Lynn Briscoe, Olympia, Washington, (360) 902-2043; **Implementation and Enforcement:** Ann George, Moxee, Washington, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Technical amendments being proposed do not require a small business economic impact statement pursuant to RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Agriculture and the Washington Hop Commission are not named agencies in RCW 34.05.328 (5)(a)(i).

March 21, 2005

William E. Brookreson  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

**WAC 16-532-110 Requirements for collection of assessments.** (1) Assessments on all hops marketed or processed shall be paid at the rate specified in WAC 16-532-040 to the hop commodity board (commission) by the first handler receiving or handling such hops for or from a producer (~~or by the producer if processing occurs before the first sale~~). ~~((Such))~~ The assessments shall be deducted from the payment to be made by such handler to the producer. If process-

ing occurs before the first sale, the assessment shall be paid by the producer.

(2) Payment of such assessment shall be due and payable on the tenth day of the second calendar month following the receiving or delivery to said first handler or the assumption of control of a producer's hops, or following the date of processing, if processed prior to the first sale, by said first handler or producer.

(3) ~~((An inventory))~~ A report on all hops which are ((not marketed or processed)) produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced shall be submitted by the producer no later than January 31 of the following year.

(4) Any handler or producer failing to pay on or before the due date set forth for payment in this regulation, shall add ten percent to the total amount due as a cost for collection as prescribed in RCW 15.65.440.

#### NEW SECTION

**WAC 16-532-115 Reporting.** (1) A report on all hops which are produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced, shall be submitted by the producer no later than January 31 of the following year.

(2) A "custom processing" report on all hops processed but not sold will be submitted to the commission by the custom processor on the form prescribed by the commission.

WSR 05-07-113

PROPOSED RULES

HOP COMMISSION

[Filed March 21, 2005, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [05-04-073].

**Title of Rule and Other Identifying Information:** Rules of Washington State Hop Commodity Board, chapter 16-532 WAC.

**Hearing Location(s):** Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 4, 2005, at 1:30 p.m.

**Date of Intended Adoption:** May 18, 2005.

**Submit Written Comments to:** Ann George, Administrator, Washington Hop Commission, P.O. Box 1207, Moxee, WA 98936, e-mail ann@wahops.org, fax (509) 457-8561, by May 5, 2005, at 5:00 p.m.

**Assistance for Persons with Disabilities:** Contact Rochelle Painter at (360) 902-2060, by April 27, 2005, TTY (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this rule making is to add definitions and amend the board's

promotional hosting rules in chapter 16-532 WAC. Proposed additions and amendments will include:

1. New section WAC 16-532-103, adding "promotional hosting" and "hosting" definitions.
2. New section WAC 16-532-105, updating and moving the promotional hosting rules from the marketing order to the board's rules section of the chapter.

**Reasons Supporting Proposal:** Promotional hosting rules should be included within the rules of the Washington State Hop Commodity Board pursuant to RCW 15.65.305. A new section is being added to define "promotional hosting" and "hosting." The current promotional hosting rule is being updated and added as a rule of the Hop Commodity Board. WAC 16-532-065 will be repealed.

**Statutory Authority for Adoption:** Chapter 15.65 RCW, specifically RCW 15.65.305, and chapter 34.05 RCW.

**Statute Being Implemented:** Chapter 15.65 RCW.

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

**Name of Proponent:** Washington Hop Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Lynn Briscoe, Washington State Department of Agriculture, Olympia, (360) 902-2043; **Implementation and Enforcement:** Ann George, Moxee, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Technical amendments being proposed do not require a small business economic impact statement pursuant to RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington Hop Commission is not a named agency in RCW 34.05.328 (5)(a)(i).

March 15, 2005  
Ann E. George  
Administrator

#### NEW SECTION

**WAC 16-532-103 Rules for implementation of promotional hosting by the Washington state hop commodity board (commission)—Definitions.** For the purposes of WAC 16-532-105, the following definitions shall apply:

(1) **"Promotional hosting"** as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington-grown hops.

(2) **"Hosting"** may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

#### NEW SECTION

**WAC 16-532-105 Rules for implementation of promotional hosting by the Washington state hop board.** RCW 15.65.305 and 15.04.200 provide that agricultural commodity boards or commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity board or commission employees, agents, or commissioners.

The rules governing promotional hosting expenditures for the Washington state hop board (commission) shall be as follows:

(1) **Budget approval.** Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) **Officials and agents authorized to make expenditures.** The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

(a) Hop board members.

(b) **Administrators.** Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) **Payment and reimbursement.** All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required.

(b) General purpose of the hosting.

(c) Date of hosting.

(d) Location of the hosting.

(e) To whom payment was or will be made.

(f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission and administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of Washington-grown hops, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business.

(b) Foreign government officials.

(c) **Federal and state officials:** Provided, lodging, meals, and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer.

(d) The general public, at meetings and gatherings open to the general public.

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate and promote sales of Washington-grown hops.

## WSR 05-07-114

## PROPOSED RULES

## DEPARTMENT OF AGRICULTURE

[Filed March 21, 2005, 3:56 p.m.]

## Original Notice.

Title of Rule and Other Identifying Information: Washington Hop Commission Marketing Order, chapter 16-532 WAC.

Hearing Location(s): Washington Hop Commission, 301 West Prospect Place, Moxee, WA 98936, on May 4, 2005, at 1:30 p.m.

Date of Intended Adoption: September 22, 2005.

Submit Written Comments to: Lynn Briscoe, Commodity Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail lbriscoe@agr.wa.gov, fax (360) 902-2092, by May 5, 2005, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Rochelle Painter at (360) 902-2060, by April 27, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend sections within the commission's marketing order. Proposed amendments will update the definitions, decrease the board membership by two positions, decrease the annual assessment rate on all varieties of hops by \$.70 per affected unit, and repeal WAC 16-532-065. The following sections are affected by the proposed amendments:

1. Amend WAC 16-532-010 Definitions.
2. Amend WAC 16-532-020 Hop board.
3. Amend WAC 16-532-040 Assessments and collections.
4. Repeal WAC 16-532-065 Rules for implementation of promotional hosting by the Washington hop commission.

Reasons Supporting Proposal: The proposed amendments are intended to make the marketing order consistent with the commodity commission enabling statute, chapter 15.65 RCW, and to implement the petition received from the Washington Hop Commission in accordance with RCW 15.65.050.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 15.65 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Any rule proposal that results from this rule-making process will not be adopted unless the proposed rules are also approved in a referendum of affected hop producers pursuant to chapter 15.65 RCW.

Name of Proponent: Washington Hop Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Lynn Briscoe, Olympia, Washington, (360) 902-2043; Implementation and Enforcement: Washington Hop Commission, Moxee, Washington, (509) 453-4749, and Department of Agriculture, Olympia, Washington, (360) 902-2043.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any adoption of

amendments to chapter 16-532 WAC would ultimately be determined by a referendum vote of the affected parties. A formal small business economic impact statement under chapter 19.85 RCW is not required because of the exemption granted in RCW 15.65.570(2).

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Agriculture and the Washington Hop Commission are not named agencies in RCW 34.05.328 (5)(a)(i).

March 21, 2005  
William E. Brookreson  
Deputy Director

AMENDATORY SECTION (Amending WSR 98-13-122, filed 6/17/98, effective 7/18/98)

**WAC 16-532-010 Definitions.** For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

(6) "Commercial quantity" means any hops produced for market by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.

(8) "Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

(9) "Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

(10) "Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.

(11) "Marketing season" means the twelve month period beginning with January 1 of any year and ending December 31, both dates being inclusive.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.

(13) "Affected area" means the state of Washington.

(14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(15) "Affected unit" means two hundred pounds net of hops, or the amount of lupulin, extract or oil produced from two hundred pounds net of hops.

PROPOSED

~~((16)) "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington grown hops.~~

~~(17) "Hosting" may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.))~~

**AMENDATORY SECTION** (Amending WSR 99-10-095, filed 5/5/99, effective 6/5/99)

**WAC 16-532-020 Hop board.** (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

**(2) Board membership.**

(a) The board shall consist of ~~((ten))~~ eight members. ~~((Nine))~~ Seven members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

**(3) Board membership qualifications.**

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

**(4) Term of office.**

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((nine))~~ seven and the member appointed by the director position ~~((ten))~~ eight.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - until June 30, 1967  
Positions four, five and six - until June 30, 1966  
Positions seven, eight and nine - until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - until December 31, 1994  
Positions four, five and six - until December 31, 1993  
Positions seven, eight and nine - until December 31, 1992

(e) The term of office for the remaining producer board members serving at the time of the effective date of the 2005 amended marketing order shall be as follows:

Positions four, five, and six - until December 31, 2005

Positions one and two - until December 31, 2006

Positions three and seven - until December 31, 2007

**(5) Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

**(6) Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.-200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

**(7) Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

**(8) Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

**(9) Board compensation.** No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: Provided, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

**(10) Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.



(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates

or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**AMENDATORY SECTION** (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

**WAC 16-532-040 Assessments and collections. (1) Assessments.**

(a) The annual assessment on all varieties of hops shall be ~~((two))~~ one dollar~~((s))~~ and ~~((fifty))~~ eighty cents per affected unit.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons

from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-532-065	Rules for implementation of promotional hosting by the Washington hop commission.
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#### WSR 05-07-115

#### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed March 21, 2005, 4:57 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-04-097.

Title of Rule and Other Identifying Information: WAC 230-04-255 Directory may issue temporary licenses—Procedures—Restrictions.

Hearing Location(s): Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005, at 9:30 a.m.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by May 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The original rule was passed in 1974 and provided the director with the authority to issue a sixty day temporary license to qualified individuals and organizations. Throughout its existence, the commission has met on a periodic basis, generally once each

month, to approve licenses and conduct other business. This schedule does not always allow for the timely issuance of licenses. To address this, the commission authorized the director to issue temporary licenses to bridge the gap between when the prelicense investigation was completed and the commission held its next meeting. However, the commission retained sole licensing approval over manufacturers. Manufacturers, at that time, were primarily engaged in the production of punchboards and pull-tabs. These games were seen as extremely vulnerable to manipulation. Some of this vulnerability stemmed from manufacturers producing games where the purchaser (distributor or operator) would know where the winning tabs were located. This was seen as the primary threat to the fledgling gambling industry in Washington. The rule has not been amended for twenty-six years. With the advent of house-banked card rooms, the commission expressed the desire to be actively involved in the licensing approval process. To accomplish that goal, this rule was amended effective May 2000, to require house-banked card room licenses to be approved by the commission, and the director would not issue temporary licenses.

Reasons Supporting Proposal: Each month, staff are pressured by internal and external sources to get applicants on the commission meeting agenda, so their license can be approved and they can begin operations (most typically, this a house-banked card room applicant). The deadline to be included on a commission agenda is three weeks prior to the meeting. If deadlines are not met, applicants must wait until the next meeting for approval. This amendment would give the director authority to issue temporary licenses to manufacturers and house-banked card rooms.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendment will not impose additional costs on licensees.

A cost-benefit analysis is not required under RCW 34.05.328. Amendment does not impose additional costs to licensees.

March 21, 2005

Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

**WAC 230-04-255 Director may issue temporary licenses—Procedures—Restrictions.** The director may issue a temporary license upon the administrative approval of the application. The following procedures (~~and restrictions~~) apply to temporary licenses:

(1) ~~((The director shall not issue temporary licenses to:~~

~~(a) Manufacturers; and~~

~~(b) Applicants to operate house-banked card games;~~

~~(2)))~~ Temporary licenses shall allow an applicant to conduct such activity for a period not to exceed sixty days.

~~((3)))~~ (2) If the application is not approved by the commission during the sixty day period, the temporary license shall become void: Provided, That if the commission does not conduct a meeting within the sixty-day period, the director may approve an additional temporary license to expire no later than the day following the next scheduled public meeting;

~~((4)))~~ (3) Once approved by the commission, a temporary license will be replaced with the issuance of a license to expire one year from the initial date of the temporary license.

**WSR 05-07-117**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 21, 2005, 4:57 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-04-100.

Title of Rule and Other Identifying Information: Amending section WAC 230-04-270 Bad checks submitted as payment of fees.

Hearing Location(s): Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005, at 9:30 a.m.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by May 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule was adopted in 1990, to establish a processing charge for nonsufficient funds (NSF) checks submitted by applicants for a gambling license. The charge was set at \$15 and has not changed for the past fifteen years. The processing charge is below the average processing charge set by retailers and banks handling NSF checks.

This rule proposal would increase the processing charge from \$15 to \$30. The \$30 charge would be similar to that charged by banks and retailers in the Thurston County area.

Reasons Supporting Proposal: Handling bad checks costs the agency time and money. The change would reflect the impact that handling NSF checks has on the agency.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466;

Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amendment is to bring the processing charge in line with industry standard in the local area and to cover agency cost of processing NSF checks. Change has minor to negligible economic impact and only affects applicants and licensees that submit NSF checks.

A cost-benefit analysis is not required under RCW 34.05.328. Amendment has minor to negligible economic impact and only affects applicants and licensees that submit NSF checks.

March 21, 2005

Susan Arland

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 203, filed 1/18/90, effective 2/18/90)

**WAC 230-04-270 Bad checks submitted as payment of fees.** The payment of a license fee by a check, which for any reason is not promptly paid by the drawee bank, shall be grounds for immediate administrative closure of a new application, voiding of a temporary license, or revocation of a continuing license. If an application or license is administratively closed, voided or revoked under this section, a new application must be submitted with fees payable only by certified check, money order, or cash. Upon notification that a check is not negotiable or when a check must be resubmitted for payment for any reason, the commission shall:

(1) Add a processing ~~((fee of fifteen))~~ charge of thirty dollars to the required license fee; and

(2) Notify the applicant by phone or in writing that payment in full, by certified check, money order, or cash, must be remitted within five days of the notification date. If the proper fee is not received within five days, the commission will proceed with appropriate administrative action.

**WSR 05-07-118**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed March 21, 2005, 4:57 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-04-101.

Title of Rule and Other Identifying Information: Amending section WAC 230-04-142 Notification to the commission upon beginning, terminating, or changing employment—Public card room employees.

Hearing Location(s): Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005, at 9:30 a.m.

Date of Intended Adoption: May 13, 2005.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by May 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** This rule was first adopted in 1979, to require both card room operators and licensed card room employees (CRE) to immediately notify the commission when there was a change in a CRE's employment status. For example, if the CRE transferred to a new employer or began working for an additional employer, both the employer and CRE would immediately notify the commission of the change. A processing fee was due at the time the commission was notified of a change in a CRE's employment status.

In 2000, the process of notifying the commission of CRE employment changes was modified. As such, the commission amended this rule in February 2001, to require the employer to notify the commission of changes in a CRE's employment status. Additionally, the fee associated with changing employers was changed to be due at the time a CRE renewed their license, rather than each time a change of employment was made.

**Reasons Supporting Proposal:** During the past three years, staff has spent a significant amount of time tracking fees associated with CREs transferring to a new employer, or adding a new employer. Additionally, accrued fees become burdensome to CREs when renewing their license at the end of the year. CREs may have budgeted for the renewal fee, but didn't budget money to cover transfer fees and are therefore, unable to renew their license. This can lead to staffing burdens for card rooms, when their CREs can't pay the transfer fees, their license expires and they are unable to work.

Employers will continue to notify the commission of any changes in the CRE's employment status; however, any fees will be due at that time, rather than when the CRE renews their license.

**Statutory Authority for Adoption:** RCW 9.46.070.

**Statute Being Implemented:** Not applicable.

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

**Name of Proponent:** Washington State Gambling Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; **Implementation:** Rick Day, Director, Lacey, (360) 486-3446; and **Enforcement:** Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amendment does not increase costs to licensees.

A cost-benefit analysis is not required under RCW 34.05.328. Amendment does not increase costs to licensees.

March 21, 2005

Susan Arland  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 400, filed 2/9/01, effective 3/12/01)

**WAC 230-04-142 Notification to the commission upon beginning, terminating, or changing employment—Public card room employees.** A licensed public card room operator shall notify the commission in writing when a card room employee has begun work in the card room or has terminated employment for any reason.

(1) The notification shall be submitted on a form provided by the commission.

(2) Each notification shall be completed on or before the card room employee's first day of work or when the employer determines the card room employee will no longer be working, as applicable, and shall reach the administrative office of the commission in Lacey, not later than 5 p.m. on the seventh business day following the employee's first day of work or last day of work, as applicable.

(3) ~~((The fee for transferring, adding, or converting from Class III shall be set forth in WAC 230-04-204 and will be paid by the card room employee at the time of license renewal.))~~ A fee must be paid before a licensed card room employee or certified Class III employee begins working at another location. See WAC 230-04-204 for the amount of the fee.

(4) This rule shall not apply to persons operating a public card room under a Class B or Class D license only.

**WSR 05-07-119**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed March 21, 2005, 4:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-04-103.

**Title of Rule and Other Identifying Information:** Amendatory sections WAC 230-08-130 Quarterly activity reports by operators of punch boards and pull-tabs, 230-08-140 Quarterly activity reports by distributors, 230-08-150 Quarterly activity reports by manufacturers, 230-08-160 Quarterly activity reports by operators of social and public card rooms, 230-08-165 Quarterly activity reports by linked bingo prize providers, 230-12-305 Licensee to report to the commission civil, criminal and administrative actions filed against them, and 230-12-310 Licensees to report to the commission civil, criminal and administrative actions filed against them.

**Hearing Location(s):** Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005, at 9:30 a.m.

**Date of Intended Adoption:** May 13, 2005.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by May 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by May 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** RCW 9.46.070(8)

provides for the commission "to require that any license holder... submit such reports as the commission may deem necessary." Currently, information is requested from licensees on a quarterly basis to determine compliance with license class levels and to gather data to publish reports on the gambling activities in Washington state. Staff is proposing a change from quarterly activity reporting to semiannual activity reporting for all commercial operators (punchboard/pull-tabs, card rooms, linked bingo prize providers, distributors, and manufacturers). Additionally, charitable/nonprofit operators with less than a Class D bingo license will report semi-annually. Changes in reporting by licensees is necessary due to recent staff reductions in the unit that mails, audits, monitors, and processes the quarterly activity reports and prepares the statistical booklets. These staff reductions are the result of the \$2.5 million budget reduction adopted by the commission in response to the legislature transferring \$2.5 million from our budget to the state general fund in 2004.

**Reasons Supporting Proposal:** Semiannual reporting will continue to provide information needed by the commission to monitor license class levels to ensure licensees are operating in the correct license class based on annual gross receipts. Staff will continue to receive information needed to produce reports regarding gambling in Washington, while decreasing the amount of data and paper staff will need to process by hand. By reducing the number of times licensees report their activity to us from four to two times a year, the number of reports received will be reduced by 50%. Furthermore, the number of statistical booklets produced each year will decrease from five to three. This means less staff time will be needed to mail, audit, monitor, and input the data. However, we will still be getting the information needed from the licensees to determine compliance and gambling activities in Washington state. Finally, two housekeeping changes need to be made to WAC 230-12-305 and 230-12-310 to remove references to quarterly activity reports.

**Statutory Authority for Adoption:** RCW 9.46.070.

**Statute Being Implemented:** Not applicable.

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

**Name of Proponent:** Washington State Gambling Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; **Implementation:** Rick Day, Director, Lacey, (360) 486-3446; and **Enforcement:** Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

**No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendments will not impose additional costs to licensees.**

**A cost-benefit analysis is not required under RCW 34.05.328. No financial impact on licensees.**

March 21, 2005

Susan Arland

Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 95-07-094, filed 3/17/95, effective 7/1/95)

**WAC 230-08-130 ((Quarterly)) Activity reports by operators of punch boards and pull-tabs.** Each licensee for the operation of punch boards and pull-tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below:

(1) Reports shall be submitted ~~((detailing activities occurring during each of the following periods of the year))~~ as follows:

(a) Commercial licensees must report on activity occurring between:

- (i) January 1st ~~((through March 31st; (b) April 1st))~~ through June 30th of each year; and ~~((e))~~ (ii) July 1st ~~((through September 30th; and (d) October 1st))~~ through December 31st of each year.

(b) Charitable/nonprofit licensees must report punch board/pull-tab activity in accordance with subsection (1) of this section, unless they are also licensed for Class D or above bingo. Class D or above bingo licensees with a punch board/pull-tab license must report punch board/pull-tab activity, on the combined quarterly report provided by the commission, to determine compliance with WAC 230-20-059.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If a license is not renewed, a report for the period between the previous report filed and the expiration date shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(4) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or an employee, the preparer shall print his/her name and phone number on the report;

(5) The report shall be completed in accordance with the related instructions furnished with the report. ~~((The report shall include the following:~~

(a) ~~Cross-gambling receipts from punch boards and from pull-tabs;~~

(b) ~~Total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out for punch boards and for pull-tabs;~~

(c) ~~Full details of all expenses related to the purchase and operation of punch boards and pull-tabs;~~

(d) ~~Total net gambling income;~~

(e) ~~The number of punch boards and the number of pull-tab series removed from play during the period; and~~

(f) ~~The number of punch boards and the number of pull-tab series purchased during the period, less all unplayed devices returned for credit during the period.))~~

**AMENDATORY SECTION** (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

**WAC 230-08-140 ((Quarterly)) Activity reports by distributors.** Each licensed distributor shall submit an activity report to the commission concerning sales and services relating to gambling activities each quarter by completing a

report form furnished by the commission. The following requirements shall be followed for completion and filing of activity reports:

(1) ~~((Quarterly reporting periods are defined as))~~ Licenses must report on activity occurring between:

- (a) January 1st ~~((through March 31st;~~  
~~(b) April 1st))~~ through June 30th of each year; and  
~~((e))~~ (b) July 1st ~~((through September 30th; and~~  
~~(d) October 1st))~~ through December 31st of each year.

(2) The completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(3) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or their employee, then the preparer's name and business telephone number must be provided;

(4) The report shall ~~((include, among other items, the following:~~

~~(a) The gross sales of gambling related supplies or equipment or merchandise of any kind which could be used to operate, or in connection with, punch boards, pull tabs, pull tab dispensing devices, bingo, or amusement games, where such sales are made in the state of Washington or for use or distribution within this state;~~

~~(b) The quantity of each specific type of device, equipment or merchandise sold within this state or for distribution and use within this state by the licensee;~~

~~(c) A listing of the name and address of each person who was a distributor's representative for the licensee during the three month period or who attempted to solicit sales of such devices, equipment or merchandise, either within the state of Washington or for use or distribution within the state; and~~

~~(d) The number of employees in the state of Washington other than those listed in (e) of this subsection))~~ be completed in accordance with the related instructions furnished with the report.

(5) Each distributor with an active license must submit a report regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" shall be submitted;

(6) If a licensee does not renew their license, then they shall file a report for the period between the previous report filed and the expiration date of the license.

AMENDATORY SECTION (Amending Order 251, filed 5/17/94, effective 7/1/94)

**WAC 230-08-150 ((Quarterly)) Activity reports by manufacturers.** Each licensed manufacturer shall submit an activity report to the commission concerning all sales and services relating to gambling activities each quarter by completing a report form furnished by the commission. The following requirements shall be followed for completion and filing of activity reports:

(1) ~~((Quarterly reporting periods are defined as))~~ Licenses must report on activity occurring between:

- (a) January 1st ~~((through March 31st;~~  
~~(b) April 1st))~~ through June 30th of each year; and  
~~((e))~~ (b) July 1st ~~((through September 30th; and~~

~~(d) October 1st))~~ through December 31st of each year.

(2) The completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(3) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or their employee, then the preparer shall print his/her name and phone number on the report;

(4) The report shall ~~((include, among other items, the following:~~

~~(a) The gross sales of gambling related supplies or equipment, or merchandise of any kind which could be used to operate, or in connection with, punch boards, pull tabs, pull tab dispensing devices, bingo, or amusement games, when such sales are made in the state of Washington or for distribution or use within the state of Washington;~~

~~(b) The quantity of each specific type of such device, equipment, or merchandise sold within the state or for distribution or use within the state of Washington by the licensee;~~

~~(c) A listing of the name and address of each person who was a manufacturer's representative for the licensee or who solicited sales of such devices or equipment for or on behalf of the licensee within the state of Washington or for use or distribution within the state; and~~

~~(d) The number of employees in the state of Washington other than those listed in (e) of this subsection))~~ be completed in accordance with the related instructions furnished with the report.

(5) Each manufacturer with an active license must submit a report regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" shall be submitted;

(6) If a licensee does not renew their license, then they shall file a report for the period between the previous report filed and the expiration date of the license.

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

**WAC 230-08-160 ((Quarterly)) Activity reports by operators of social and public card rooms.** Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below: Provided, That persons licensed under Class "D" - general, no fee charged, are exempt from all portions of this section:

(1) ~~((Reports shall be submitted detailing activities occurring during each of the following periods of the year))~~ Licenses must report on activity occurring between:

- (a) January 1st ~~((through March 31st;~~  
~~(b) April 1st))~~ through June 30th of each year; and  
~~((e))~~ (b) July 1st ~~((through September 30th; and~~  
~~(d) October 1st))~~ through December 31st of each year.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If a license is not renewed, a report for the period between the previous report filed and the expiration date shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(4) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or an employee, the preparer shall print his/her name and phone number on the report;

(5) The report shall ~~((be completed in accordance with the related instructions furnished with the report. The report shall include the following:~~

~~(a) Gross gambling receipts;~~

~~(b) Full details of all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the card room;~~

~~(c) Full details of all other expenses related to the operation of the card room;~~

~~(d) Net gambling income or loss from the operation of the card room for the reporting period;~~

~~(e) The normal days and times of operation of the card room; and~~

~~(f) The total hours the card room was open during the period)) be completed in accordance with the related instructions furnished with the report.~~

**AMENDATORY SECTION** (Amending Order 369, filed 12/1/98, effective 1/1/99)

**WAC 230-08-165 ((Quarterly)) Activity reports by linked bingo prize providers.** Each licensed linked bingo prize provider shall submit an activity report to the commission concerning sales and services relating to gambling activities each quarter by completing a report form furnished by the commission. The following requirements shall be followed for completion and filing of activity reports:

(1) ~~((Quarterly reporting periods are defined as))~~ Licensees must report on activity occurring between:

~~(a) January 1st ((through March 31st;~~

~~(b) April 1st)) through June 30th of each year; and~~

~~((c)) (b) July 1st ((through September 30th; and~~

~~(d) October 1st)) through December 31st of each year;~~

(2) The completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(3) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or their employee, then the preparer's name and business telephone number must be provided;

(4) The report shall ~~((include, among other items, the following:~~

~~(a) The gross sales of gambling related supplies or equipment or merchandise of any kind which could be used to operate, or in connection with bingo games where such sales are made in the state of Washington or for use or for distribution within this state;~~

~~(b) The quantity of each specific type of device, equipment or merchandise sold within this state or for distribution and use within this state by the licensee;~~

~~(c) A listing of the name and address of each person who was a linked bingo prize provider's representative for the licensee during the three month period or who attempted to solicit sales of such devices, equipment or merchandise, either within the state of Washington or for use or distribution within the state;~~

~~(d) The number of employees in the state of Washington other than those listed in (c) of this subsection;~~

~~(e) The gross prizes disbursed for all linked bingo prizes managed;~~

~~(f) The balance of linked bingo prizes accrued; and~~

~~(g) A list of bingo licensees participating in linked bingo prizes managed)) be completed in accordance with the related instructions furnished with the report;~~

(5) Each linked bingo prize provider with an active license must submit a report regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" shall be submitted; and

(6) If a licensee does not renew their license, then they shall file a report for the period between the previous report filed and the expiration date of the license.

**AMENDATORY SECTION** (Amending Order 420, filed 5/15/03, effective 7/1/03)

**WAC 230-12-305 Licensee required to submit updated documents or information.** In addition to any other requirements set forth in these rules, persons licensed by the commission shall submit any new or updated documents or information including, but not limited to, the following:

(1) Articles of incorporation or by laws, or any other documents which set out the organizational structure and purposes;

(2) Internal Revenue Service tax exemption status (charitable/nonprofit organizations only);

(3) All contracts and agreements, whether oral or written which relate to gambling activities or alter the organizational structure of the licensee or its business activities in Washington state; and

(4) All cash or asset contributions, draws from lines of credit, and loans, from other than recognized financial institutions, which individually or collectively exceed a total of ten thousand dollars during any calendar year: Provided, That cash or asset contributions do not include donations to licensed charitable or nonprofit organizations.

**Submission timeline.**

(5) The new or updated documents and/or information shall be submitted to the commission ~~((by notation on the next quarterly activity report filed, and by attaching all details concerning each transaction. Provided, That licensees not required to submit quarterly activity reports shall submit the required information))~~ no later than sixty days following the transaction(s) date.

**AMENDATORY SECTION** (Amending Order 382, filed 4/14/00, effective 5/15/00)

**WAC 230-12-310 Licensees to report to the commission civil, criminal and administrative actions filed against them.** (1) Each licensee shall report to the commission within fourteen days, all criminal actions filed against the licensee or the licensee's president, chief executive officer, chairman of the board, treasurer (chief financial officer), partner, person holding a substantial interest or manager of the licensed gambling activity. The final disposition of the case must be ~~((attached with the next quarterly activity report filed with the commission. Organizations not required to submit quarterly activity reports shall send the report to))~~ received by the commission within thirty days after the final disposition.

(2) Each licensee shall report to the commission within thirty days, all civil and administrative actions filed by or against persons listed in subsection (1) of this section that involve ownership or control of the business, dissolutions, actions significantly affecting business interests, such as patent or copyright infringement and all administrative actions from other gambling regulatory agencies, including those from other countries and Indian tribes. ~~((This report shall be attached to the next quarterly activity report filed with the commission. Organizations not required to submit quarterly reports shall send the report to))~~ The final disposition of the case must be received by the commission within thirty days of ((their receipt of notice of the action filed and within thirty days after)) the final disposition.

(3) The report shall consist of a complete copy of the original documents filed. The licensee shall notify the commission of the final disposition of the case and include a copy of the final documents filed including, but not limited to, settlement agreements.

(4) The director may exempt reporting specific types of civil actions upon written request and for good cause shown.

#### WSR 05-07-120

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 22, 2005, 8:55 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-04-078.

**Title of Rule and Other Identifying Information:** The department is proposing to repeal chapter 16-239 WAC, WSDA grain inspection program—Definitions, standards, fees and charges and replace it with chapter 16-240 WAC, WSDA grain inspection program—Definitions, standards, and fees, which is written in a clear and readable style and format. The proposed new chapter:

- Simplifies grain inspection fees by deleting many minor fee categories.
- Changes the calculation of inspection fees assessed by the ton from a short-ton fee basis (2000 pounds) to a metric-ton fee basis (2204.6 pounds).

- Increases some line item fees in excess of the fiscal growth factor.

**Hearing Location(s):** Washington State Department of Agriculture, Natural Resources Building, Conference Room 271, 1111 Washington Street S.E., Olympia, WA 98504-2560, on Thursday, April 28, 2005, at 1:30 p.m.

**Date of Intended Adoption:** May 17, 2005.

**Submit Written Comments to:** Randy Deike, Grain Inspection Program Manager, Commodity Inspection Division, P.O. Box 42560, Olympia, WA 98504-2560, e-mail rdeike@agr.wa.gov, fax (360) 902-2085, by Thursday, April 28, 2005, 5:00 p.m.

**Assistance for Persons with Disabilities:** Contact Virginia Walsh by April 22, 2005, TTY (360) 902-1976 or (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of the proposed rule is to:

(1) Change the tonnage assessment basis from short tons (2000 pounds) to metric tons (2204.6) to align with industry practice.

(2) Delete many fee categories, simplify the fee schedule, and provide clarity to address customer concerns on the application of some fees.

(3) Adjust fees to account for high volume operations and clearly define notification procedures to ensure services.

(4) Increase current grain inspection fees where necessary to adjust for deleted fee categories and to cover the program's cost of doing business. The adjustments are necessary to allow the program to continue to provide the level of services that the industry expects and continue to comply with RCW 22.09.790, which requires that the department recover the costs it incurs for inspecting, weighing, and grading grain.

(5) Since the proposed changes in language and format are quite extensive, the program decided to repeal chapter 16-239 WAC and replace it with chapter 16-240 WAC. With the exception of the fee increases and a new service option, applicant assisted official railcar sampling, no new requirements are contained in chapter 16-240 WAC. The requirements in chapter 16-240 WAC are the same as those in chapter 16-239 WAC; they have simply been rewritten and reformatted to improve the rule's clarity.

**Reasons Supporting Proposal:** (1) The fee increases are necessary to comply with RCW 22.09.790. They help offset increased operational costs incurred in providing program services and help maintain operating reserves appropriate for a program supported entirely by user fees.

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

**Short Explanation of the Proposed Rule, its Purpose, and Anticipated Effects:** (1) Chapter 16-240 WAC is a rewrite of the current chapter 16-239 WAC in plain English wherever



PROPOSED

possible. With the exception of the increase in fees, no requirement in the current chapter 16-239 WAC has been changed. It is anticipated that the new, clearly written rule will result in:

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

(2) In the new chapter, the rule sections contained in chapter 16-240 WAC have been rearranged into a more logical sequence, retitled to reflect section content, and rewritten so they are easier to read and understand.

(3) Chapter 16-240 WAC reflects changes in user fees beyond the OFM fiscal growth rate factor for fiscal year 2006, effective July 1, 2005. It is anticipated that these adjustments in hourly and unit fees will provide the program with sufficient revenue to comply with RCW 22.09.790 and continue to provide the industry with the level of service that it requires.

(4) Fees and rates in chapter 16-240 WAC are presented using a tabular format as was used in chapter 16-239 WAC.

Description of Changes to Specific Rule Sections: A comparison between chapters 16-239 and 16-240 WAC may be found at [www.agr.wa.gov](http://www.agr.wa.gov).

**Summary of Fee Changes—Domestic  
Hourly Rates for Services Provided  
by the Grain Inspection Program—Domestic**

Service	Current Rate	Proposed Rate
1. Straight time hourly rate.	\$29.50	\$30.00
2. Overtime hourly rate.	\$7.70	\$15.00
3. Scale Authorization hourly rate. Applies to scales operating under USDA, GIPSA authority. Personnel from the QAQC Laboratory provide this service.	\$39.00	\$50.00
4. Service cancellation fee, per employee. Replaces some occasions currently cited as four-hour minimum standby fee.		\$150.00

**Services Provided under the United States Grain Standards Act—Domestic**

Service	Current Rate	Proposed Rate
1. Submitted samples. The new rate does not charge for barley dockage shown to tenths on the certificate. Canola submitted samples reduced from \$15.75 to \$9.00.	\$8.50	\$9.00
2. Reinspections based on file sample. Canola reinspections reduced from the hourly rate to \$9.00.	\$10.00	\$9.00

Service	Current Rate	Proposed Rate
3. Railcars. No change in probe sampling of railcars.	\$26.50	\$26.50
4. Applicant assisted official railcar sampling. New service: The reduced rate would apply when the applicant provides personnel to assist WSDA personnel in the probe sampling process. The service would be considered officially sampled and result in a white certificate.	N/A	\$17.00
5. Protein analysis.	\$6.90	\$7.00
6. Protein only or protein reinspection. Fees reduced to match the original analysis rate.	\$9.25	\$7.00
7. Additional nongrade determining factors.	\$2.75	\$3.00

**Services Provided under the  
Agricultural Marketing Act—Domestic**

Service	Current Rate	Proposed Rate
1. Submitted samples. Dockage breakdown is included in the proposed inspection fee of \$19.00. In the current schedule, dockage breakdown is provided as an additional factor at \$2.75 per determination.	\$15.75	\$19.00
2. Bagged commodities, per hundredweight. The proposed rate equates to \$4.32 for a 480-bag container lot or \$12.60 for a 1400-bag railcar lot.	\$0.071	\$0.080
3. Sample and inspect railcars. Currently, the hourly rate of \$29.50 applies to bulk commodities as they are generally presented as single unit railcars that require at least an hour to sample, inspect, and certify. The \$26.50 railcar fee applies when cars are presented in multiple. Under the new rule, in most instances, the proposed net increase is \$0.50 per railcar.	\$26.50/ \$29.50	\$30.00
4. Additional nongrade determining factors. Applies to any requested additional factors except for dockage breakdown.	\$2.75	\$3.00

Services Provided under the  
Agricultural Marketing Act—Domestic

Service	Current Rate	Proposed Rate
5. Falling number analysis. Includes liquefaction number, on request.	\$14.25	\$15.00

Services Provided under Washington  
State Rules—Domestic

Service	Current Rate	Proposed Rate
1. Submitted sample. Primarily applied for Buckwheat analysis under WSDA standards.	\$8.44	\$9.00
2. Sample pick up fee. This service is provided during harvest on program established routes from the Pasco and Spokane offices.	\$0.66	\$0.85
3. Phytosanitary certification. The current fee schedule provides for the \$7.50 certificate preparation fee plus at least one-half hour at the hourly rate of \$29.50 to accomplish the research necessary to issue the certificate. The hourly rate is assessed in one-half hour increments. Most phytosanitary certificates are issued at a fee of \$22.25 (one-half of \$29.50 plus \$7.50).	\$7.50/ \$22.75	\$25.00
4. Mileage (effective January 1, 2005). The proposal would change the mileage assessments from door to door for all services provided away from the inspection office to assessment of mileage only for those locations beyond ten miles from the inspection office. This change eliminates the burden of tracking mileage in small increments. Locations beyond ten miles will continue to pay door-to-door mileage assessments.		\$0.405

Summary of Fee Changes—Export  
Hourly Rates for Services Provided by the Grain Inspection  
Program—Export

Service	Current Rate	Proposed Rate
1. Straight time hourly rate.	\$29.50	\$30.00
2. Overtime hourly rate.	\$7.70	\$15.00
3. Scale authorization hourly rate. Applies to scales operating under USDA, GIPSA authority. Personnel from the QAQC Laboratory provide this service.	\$39.00	\$50.00

Summary of Fee Changes—Export  
Hourly Rates for Services Provided by the Grain Inspection  
Program—Export

Service	Current Rate	Proposed Rate
4. Service cancellation fee, per employee. Replaces some occasions currently cited as four-hour minimum standby fee and adds language to address cancelled vessel inspection services.		\$150.00

Services Provided under the  
United States Grain Standards Act—Export

Service	Current Rate	Proposed Rate
	(Short)	(Metric)
1. Barges, per ton (no change).	\$0.138	\$0.152
2. In, out, or local.		\$0.150
3. Vessels, first 2,500,000 metric tons.	\$0.142	\$0.20
4. Vessels, 2,500,001 to 4,000,000 metric tons.	\$0.131	\$0.15
5. Vessels, 4,000,001 to 5,500,000 metric tons.	\$0.128	\$0.10
6. Vessels, over 5,500,000 metric tons. The proposed vessel tonnage breakpoint fees would be assessed for metric ton volumes exported by a facility during a fiscal year. Under the proposed rate, additional factors on the load order are included in the tonnage rate.	\$0.120	\$0.05
The tonnage rates and breakpoints were adjusted to balance fee categories that are proposed for elimination or reduction. The change in tonnage assessments would result in an increase of 7.6% if the volumes handled in the 2004 fiscal year were duplicated. The first breakpoint of 2,500,000 metric tons equates to 2,755,750 short tons and the associated \$0.20 per metric ton equates to a rate of \$0.181 per short ton. The second breakpoint of 2,500,001-4,000,000 metric tons equates to 2,755,751- 4,409,200 short tons and the associated \$0.15 per metric ton equates to \$0.136 per short ton.		

PROPOSED

Services Provided under the United States Grain Standards Act—Export

Service	Current Rate	Proposed Rate
The third breakpoint of 4,000,001 to 5,500,000 metric tons equates to 4,409,201-6,062,650 short tons and the associated \$0.100 per metric ton equates to \$0.091 per short ton. The fourth breakpoint of over 5,500,000 metric tons equates to over 6,062,650 short tons and the associated \$0.050 per metric ton equates to \$0.045 per short ton.		
7. Sample, inspect, weigh container.	\$16.80	\$22.00
8. Submitted sample.	\$8.50	\$9.00
9. Protein in conjunction with grade.	\$6.90	\$7.00
10. Vessel stowage examination or reinspection. Under current rates, an examination of a seven-hold vessel at midstream would total \$247.30 (basic \$134.50 + two-hour minimum \$29.50 + \$29.50 plus extra holds + \$26.90 + \$26.90 = \$247.30) during regular office hours. Under current rates, an additional four-hour minimum + \$118.00 would apply if the service were provided on a Saturday, Sunday, or holiday. The proposed rate is a flat fee plus travel en route and return only, overtime, and mileage, if applicable. A service cancellation fee would be applied if applicable.		\$300.00
11. Other stowage examination services.	\$9.00	\$9.00

Services Provided under the Agricultural Marketing Act—Export

Service	Current Rate	Proposed Rate
1. Falling number determination. Under the proposed rule, includes liquefaction number on request.	\$14.25	\$15.00

Statutory Authority for Adoption: Section 309(2), chapter 25, Laws of 2003 1st sp.s., RCW 22.09.790, and chapter 34.05 RCW.

Statute Being Implemented: Chapter 22.09 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department surveyed seventy-two entities affected by the proposed amended fee schedules. Nineteen entities responded to the survey with three surveys returned as undeliverable. The response rate was 27.5% (19/69). All respondents were "small businesses" as defined by RCW 19.85-020(1). Based upon the responses received, the new costs imposed by the proposed fee schedules are \$00.03 per \$100 of sales (.0003%). The department has concluded that such an increase does not impose a "more than minor impact" upon the regulated industry. Therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. Washington State Department of Agriculture is not a named agency in RCW 34.05.328.

March 22, 2005  
Robert W. Gore  
Assistant Director

Chapter 16-240 WAC

WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, AND FEES

NEW SECTION

**WAC 16-240-010 Definitions.** "Department" means the Washington state department of agriculture.

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

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

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

"Metric ton" means two thousand two hundred four and six-tenths pounds.

"Official commercial inspection services" means a contractual agreement between the applicant and the department for services specified by the applicant that will be provided at an applicant's facility.

"Revenue minimum" means the amount of revenue that must be collected by the department to offset expenses. In order to act as an official inspection agency under the United States Grain Standards Act and the Agricultural Marketing Act of 1946, the program must collect revenue to offset expenses. The grain inspection program is supported entirely by the fees it generates from the services it provides as required by RCW 22.09.790. The circumstances under

PROPOSED

which charges occur to collect the revenue minimum are stated in WAC 16-240-038.

"Service point" means the Washington state department of agriculture offices and surrounding service areas authorized by the Federal Grain Inspection Service to provide sampling, inspecting, weighing, and certification services.

"USDA" means the United States Department of Agriculture.

#### NEW SECTION

**WAC 16-240-020 Washington state grain and commodity service points.** The offices located in the following cities are service points for providing sampling, inspecting, weighing, and certification services.

(1) Service points:

- (a) Colfax.
- (b) Kalama.
- (c) Olympia.
- (d) Pasco.
- (e) Seattle.
- (f) Spokane.
- (g) Tacoma.
- (h) Vancouver.

(2) Aberdeen has been delegated to Washington state as a service point by the Federal Grain Inspection Service. Services for Aberdeen are as follows:

(a) Services for Aberdeen may be requested through the Tacoma grain inspection office.

(b) Travel time and mileage will be assessed from Tacoma to Aberdeen for all services requested at Aberdeen until a permanent staff is established.

(3) Inspection points may be added or deleted within the department's delegated and designated service area.

#### NEW SECTION

**WAC 16-240-030 Commodities covered by chapter 22.09 RCW.** Commodities covered under chapter 22.09 RCW and this chapter with respect to sampling, inspection, weighing, and quality or constituent determinations include all:

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

#### NEW SECTION

**WAC 16-240-032 Grades and standards adopted by Washington state.** Washington state adopts the following grades and standards:

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

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

#### NEW SECTION

**WAC 16-240-034 Service requests.** An applicant must place a service request in order to ensure staffing:

(1) Service requests must be received by the inspection office by 2:00 p.m. of the last business day before the requested service.

(a) The notification requirement allows the department to secure adequate staffing to supply the requested service and to accommodate leave or adjust staffing for anticipated workloads.

(b) The notification requirement applies even if there is permanent staffing at the location (see WAC 16-240-036).

(c) Failure to meet the notification requirement may result in denial of service.

(2) Service requests beyond the office's usual scope or volume will be provided only if adequate numbers of qualified employees are available.

(3) The department reserves the right to determine the number of personnel necessary to provide the requested service.

#### NEW SECTION

**WAC 16-240-036 Permanent staffing requests.** An applicant may request the department to establish permanent staffing on shifts as shown below:

(1) Requests for permanent staffing of day, night, swing, or graveyard shifts must be made in writing at least seven business days prior to the beginning of the month for which the shift(s) are requested.

(a) Requests for permanent staffing of any night, swing or graveyard shift will be deemed to include a request for permanent staffing of the day shift.

(b) The requested shift(s) will be established if the department has an adequate number of trained personnel.

(c) Confirmation of staffing requirements must be received by the inspection office by 2:00 p.m. each day Monday through Friday, for the next service day, and by 2:00 p.m. of the last business day before a Saturday, Sunday, or holiday (see WAC 16-240-034).

(d) Failure to meet the notification requirement may result in denial of service.

(2) When the department is able to staff the permanent night, swing, or graveyard shift(s) requested by the applicant, the overtime rate established under WAC 16-240-048 will be waived for the requested shift(s).

(3) Once established, permanent shifts will continue for a minimum of one calendar month.

(a) The request for a permanent shift will remain in effect until canceled.

(b) Cancellation requests must be received, in writing, at least fifteen business days prior to the end of the month.

(c) Applicants will be assessed for any shifts established at their request until the cancellation notice period has expired.

NEW SECTION

**WAC 16-240-038 Revenue minimum.** The circumstances under which charges occur to collect the revenue minimum are as follows:

(1) When the volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, the straight time hourly rate will be assessed per hour, per employee.

(2) **Daily averaging at export locations:**

(a) When the **daily** volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, the department charges a fee to recover expenses.

(b) The straight time hourly rate will be assessed per hour, per employee.

(c) Service cancellation fees, WAC 16-240-054, are not considered to be revenue under daily averaging.

(3) **Monthly averaging at export locations:**

(a) When the applicant has requested the department to establish one or more permanent shifts, the applicant may request, in writing, that the revenue minimum required for staffing at the location be determined based on the completed invoices for the calendar month, instead of paying the fees for daily volumes of work.

(b) When the **monthly** volume of work at the established fees does not generate revenue equivalent to the straight time hourly rate per hour, per employee, including applicable supervisory and clerical employee hours, the department charges a fee to recover expenses.

(c) The straight time hourly rate will be assessed per hour, per employee.

(d) At export locations, the request for monthly averaging stays in effect until canceled.

(e) Requests to establish or cancel monthly averaging for the coming month must be received by 2:00 p.m. of the last business day in the month.

(f) Service cancellation fees, WAC 16-240-054, are not considered to be revenue under monthly averaging.

NEW SECTION

**WAC 16-240-040 Official commercial inspection services.** The department may provide on-site official commercial inspection services, at the applicant's request, when all of the following conditions are met:

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

(2) The applicant must provide a written document fully describing the services requested. The applicant must fully describe the requested services in writing so the department can determine appropriate staffing levels and develop a guarantee of expenses proposal.

(3) The department must be able to provide appropriate licensed personnel to accomplish the service requested.

(4) A guarantee of expenses is negotiated.

NEW SECTION

**WAC 16-240-042 Payment of fees and charges.** All department fees and charges for services rendered are due within thirty days of the statement date. If the department does not receive payment within thirty days:

(1) Services may be withheld until the delinquent account is paid; or

(2) Cash payment for subsequent services may be required.

The department assesses a penalty of twelve percent per annum on all delinquent account balances.

NEW SECTION

**WAC 16-240-044 GIPSA, FGIS scale authorization.** The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA, FGIS) has delegated official scale testing and scale authorization authority to the department.

(1) The GIPSA, FGIS scale authorization fee established in WAC 16-240-060, per hour, per employee is assessed when GIPSA, FGIS scale authorization services are performed.

(2) In addition to the hourly GIPSA, FGIS scale authorization fee; the department may assess travel time at the scale authorization hourly rate, mileage beyond ten miles, per diem, or overtime, if applicable.

(3) All scales in Washington state under USDA, GIPSA, FGIS jurisdiction must comply with the following testing requirements:

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

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

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

(i) Forwarded to USDA, GIPSA, FGIS;

(ii) Maintained by the department; and

(iii) Maintained at the facility where the scale is located.

(4) The scale authorization fee is assessed in one-half hour increments.

NEW SECTION

**WAC 16-240-046 Straight time rate.** The straight time rate is assessed as cited below.

(1) An hourly fee is specified in the schedule of fees.

(2) No other fee is established in the schedule of fees.

(3) The revenue minimum under WAC 16-240-038 applies.

(4) The revenue minimum required for staffing at export locations determined on a daily or monthly basis under WAC 16-240-038 applies.

(5) No contractual agreement supersedes the straight time rate.

(6) Straight time is assessed in one-half hour increments.

**NEW SECTION**

**WAC 16-240-048 Rates for working outside established business hours (overtime).** In addition to regular inspection and weighing fees and any applicable hourly fees, the department will charge the overtime rate per hour, per employee, including applicable supervisory and clerical employee hours, when a service is requested:

- (1) Anytime on Saturdays, Sundays, or holidays.
- (2) Before or after regularly scheduled office hours, Monday through Friday.
- (3) During established meal periods on any shift.
- (4) For services requested at unstaffed export locations.
- (5) Overtime is assessed in one-half hour increments.

**NEW SECTION**

**WAC 16-240-050 Calculating travel time, mileage and per diem.** The rules for assessing travel time, mileage, and per diem are as follows:

(1) **Travel time:** When department personnel perform services at locations other than service points, the applicant, in addition to the fee for the service performed, must pay the department for travel time as follows:

(a) Travel time for each department employee from the established service location to the inspection point and return at the hourly rates in effect at the time the service is performed; except

(b) Travel time for scale authorization is charged from the scale specialist's location to the scale location and return at the hourly scale authorization rate shown in WAC 16-240-060, USGSA—AMA—WSDA Table 1.

(2) **Mileage:** Mileage will be assessed to inspection locations beyond ten miles from a service point location. Mileage will be assessed from the service point location to the inspection point and return.

(a) For scale authorization services on scales located beyond ten miles from the scale specialist's location, mileage will be assessed from the scale specialist's location to the scale location and return.

(b) Mileage will be prorated among applicants when multiple service stops can be scheduled during a single service trip.

(c) The mileage rate is assessed according to the state of Washington office of financial management private vehicle mileage reimbursement rate in effect at the time the service is performed.

(3) **Per diem:** Per diem may be assessed when an employee is required to travel to provide services. The charge will be at the rate established by the state of Washington office of financial management that is in effect at the time the service is performed.

**NEW SECTION**

**WAC 16-240-052 Fees for stowage examination.** (1) The following rules apply for fees for stowage examination services on vessels or ocean-going barges.

(a) At anchor stowage examination services will be conducted at the convenience of the designated grain inspection

office during daylight hours under safe working and weather conditions.

(b) The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point.

(c) Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services.

(d) In addition to the fee in USGSA Table 7, the department may assess, as applicable, the following fees:

■ WAC 16-240-048 (rates outside of established business hours);

■ WAC 16-240-050 (travel, mileage beyond ten miles, per diem);

■ WAC 16-240-054 (service cancellation fee).

(2) The following rules apply for fees for other stowage examination services:

(a) Fees for stowage examination services will not be assessed when official sampling and inspection occurs at the time of loading or when official check loading is performed, unless the applicant requests an official stowage examination certificate.

(b) The stowage examination requirement associated with service at the time of loading may be waived in accordance with GIPSA, FGIS Directive 9020.1, available from United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

(c) The applicant is responsible for assuring stowage space is readily accessible to inspection personnel.

**NEW SECTION**

**WAC 16-240-054 Service cancellation fee.** A service cancellation fee applies when service is requested and then canceled or not performed.

(1) When a service is requested before or after the inspection office's established hours, a cancellation fee would apply as follows:

(a) When a service is requested before or after an office's standard Monday through Friday shifts, or anytime on Saturdays, Sundays, or holidays; and

(b) The requested service is canceled after 2:00 p.m. of the last business day before the requested service; then

(c) A service cancellation fee will be assessed per employee scheduled.

(2) At locations where monthly averaging has been instituted, a cancellation fee would apply as follows:

(a) A request for service must be filed by 2:00 p.m. on the last business day before service to guarantee full staffing at the service location;

(b) When full staff at the location is requested and then canceled or services are not actually performed through no fault of the department; then

(c) The service cancellation fee will be assessed per employee scheduled.

(3) When service is requested for a vessel inspection, a cancellation fee would apply as follows:

PROPOSED

(a) When a vessel inspection is requested and then canceled after 2:00 p.m. of the last business day before the requested service, a cancellation fee will apply.

(b) The service cancellation fee will be assessed per employee scheduled to inspect the vessel.

**NEW SECTION**

**WAC 16-240-060 WSDA grain program fees for service.** USGSA—AMA—WSDA Table 1 contains fees for GIPSA, FGIS scale authorization, straight-time hourly rate, overtime hourly rate, and service cancellation fees for services performed under the United States Grain Standards Act, the Agricultural Marketing Act of 1946, and Washington state rule.

**USGSA—AMA—WSDA Table 1  
WSDA Grain Program Fees for Service**

1. Scale authorization fee, per hour, per employee	\$50.00
2. Straight-time rate, rate per hour, per employee	\$30.00
3. Overtime rate, per hour, per employee	\$15.00
4. Service cancellation fee, per employee	\$150.00

**NEW SECTION**

**WAC 16-240-070 Fees for services under the United States Grain Standards Act.** (1) USGSA Tables 1 through 7 in this section contain fees for official sampling and/or inspection and/or weighing services and fees for other associated services under the United States Grain Standards Act (USGSA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not specifically cited in WAC for services under the United States Grain Standards Act are described below.

(a) Fees for other services under the United States Grain Standards Act not specifically cited in WAC 16-240-070 are provided at the rates contained in WAC 16-240-080 or 16-240-090 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(b) An applicant may be required to provide the necessary supplies and equipment when requesting a new or special type of analysis.

**USGSA Table 1  
Fees for Combination Inspection and Weighing Services**

1. In, out, or local, per metric ton	\$0.150
2. Vessels (export and domestic ocean-going)	
a. First 2,500,000 metric tons per fiscal year, per metric ton	\$0.200
b. From 2,500,001 to 4,000,000 metric tons per fiscal year, per metric ton	\$0.150
c. From 4,000,001 to 5,500,000 metric tons per fiscal year, per metric ton	\$0.100
d. Over 5,500,000 metric tons per fiscal year, per metric ton	\$0.050

**Note: For vessels (export and domestic ocean-going):**

■ The vessel tonnage assessment is applied in full lot increments and is reset at the beginning of each fiscal year. The fiscal year begins July 1 and ends the following June 30.

■ The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in USGSA Table 1 are charged at the per factor fee.

■ During vessel loading, assessments for other tests, such as protein analysis, falling number determinations, or mycotoxin analysis will be assessed at the per unit rates included in this fee schedule.

3. Trucks or containers, per truck or container	\$22.00
4. Additional nongrade determining factor analysis, per factor	\$3.00

**USGSA Table 2  
Fees for Official Sampling and Inspection Without Weighing Services**

1. Original or new sample reinspection trucks or containers sampled by approved grain probe, including factor only or sampling only services, per truck or container 1	\$17.00
2. Railcars sampled by USDA approved mechanical sampler, including factor only or sampling only services, per railcar 1, 2	\$17.00
3. Original or new sample reinspection railcars sampled by USDA approved grain probe, applicant assisted, including factor only or sampling only services, per railcar 1, 2	\$17.00
4. Original or new sample reinspection railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar 1, 2	\$26.50
1	
■ For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 2.	
■ Analysis that requires additional equipment or personnel will be provided at the hourly rate. Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans.	
2	
The per railcar rate applies to each railcar included in a batch grade. A batch grade is two or more cars that are combined, at the applicant's request, for a single grade.	
5. Additional nongrade determining factor analysis, per factor	\$3.00

PROPOSED

**USGSA Table 3**

**Fees for Official Class X Weighing Services Without an Inspection of Bulk Grain**

1. In, out, or local, per metric ton	\$0.130
2. Trucks or containers, per weight lot	\$15.00

**USGSA Table 4**

**Fees for Inspection of Submitted Samples, Fees for Reinspections Based on Official File Samples and Fees for Additional Factors**

1. Submitted samples, including factor-only inspections, per inspection 1, 2	\$9.00
2. Reinspections based on official file sample, including factor-only reinspections, per inspection 1, 2	\$9.00
3. Additional, nongrade determining factor analysis, per factor 2	\$3.00

- 1**
- When submitted samples are not of sufficient size to allow for official grade analysis, obtainable factors may be provided, upon request of the applicant, at the submitted sample rates shown above.
  - For barley, determining and certifying of dockage to tenths is included in the fees in USGSA Table 4.
- 2** Analysis that requires additional equipment or personnel will be provided at the hourly rate. Examples are special grades, such as the determination of waxy corn, or criteria analysis, such as stress cracks in corn or seed sizing in soybeans.

**USGSA Table 5**

**Fees for Official Analysis for Protein, Oil, or Other Official Constituents**

Original or reinspection based on file sample, per test	\$7.00
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- Note: The following applies to the fee in USGSA Table 5:**
- When a reinspection service includes a request for a new sample, the appropriate sampling fee will also be assessed.
  - Results for multiple criteria achieved in a single testing operation are provided at the single test rate unless certificated separately.

**USGSA Table 6**

**Fees for Testing for the Presence of Mycotoxins Using USDA Approved Methods**

Original, reinspection based on official file sample, or submitted sample, per test	\$37.50
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**Note:**

- When a reinspection service includes a request for a new sample, the appropriate sampling fee to obtain the sample will be assessed in addition to the per test fee shown earlier (see WAC 16-240-070, USGSA Table 2).

**USGSA Table 7**

**Fees for Stowage Examination Services on Vessels or Ocean-Going Barges and Fees for Other Stowage Examination Services**

1. Vessels or ocean-going barges stowage examination, original or reinspection, per request	\$300.00
2. Other stowage examinations of railcars, trucks, trailers, or containers, original or reinspection, per inspection	\$9.00

**NEW SECTION**

**WAC 16-240-080 Fees for services under the Agricultural Marketing Act of 1946.** (1) AMA Tables 1 through 5 in this section contain official sampling and/or inspection and/or weighing services and fees for other services under the Agricultural Marketing Act of 1946 (AMA). Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Fees that are not specifically cited in WAC for services under the Agricultural Marketing Act of 1946 are described below.

(a) Fees for other services under the Agricultural Marketing Act of 1946 not contained in WAC 16-240-080 are contained in WAC 16-240-070 or 16-240-090 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(b) An applicant may be required to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

**AMA Table 1**

**Fees for Combination Sampling, Inspection and Weighing Services, and Additional Factors**

1. In, out, or local, per metric ton 1, 2	\$0.150
2. Vessels (export or domestic), per metric ton	\$0.200
3. Trucks or containers, per truck or container 1, 2	\$30.00
4. Additional, nongrade determining factor analysis, per factor	\$3.00

- 1** The rates in the above section also apply to services provided under federal criteria inspection instructions, state established standards, and/or other applicant defined criteria.
- 2** Dockage breakdown is included in the basic inspection fee.



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- 3 The metric ton vessel rate includes all additional factor inspection services required by the load order. All other additional factor inspection services in AMA Table 1 are charged at the per factor fee.
- 4 Assessments for other tests, such as mycotoxin analysis, provided during vessel loading will be assessed at the per unit rates included in this fee schedule.

**AMA Table 2**

**Fees for Official Sampling and Inspection Without Weighing Services, and Additional Factors**

1. Trucks, containers, or tote lots, sampled by USDA approved grain probe, including factor only or sampling only services, per truck, container, or tote lot	<b>\$30.00</b>
2. Railcars sampled by USDA approved mechanical samplers, including factor only or sampling only services, per railcar	<b>\$30.00</b>
3. Railcars sampled by USDA approved grain probe, including factor only or sampling only services, per railcar	<b>\$30.00</b>
4. Inspection of bagged commodities, including factor only or sampling only services, per hundredweight (cwt)	<b>\$0.080</b>
5. Additional, nongrade determining factor analysis, per factor	<b>\$3.00</b>

**Note: The following applies to all fees in this table:**

- Dockage breakdown is included in the basic inspection fee.
- Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate.
- The rates shown above also apply to services provided under federal criteria inspection instructions.

**AMA Table 3**

**Fees for Official Weighing Services without Inspections**

1. In, out, or local, per metric ton	<b>\$0.130</b>
2. Trucks or containers, per weight lot	<b>\$15.00</b>

**AMA Table 4**

**Fees for Inspecting Submitted Samples**

1. Submitted sample, thresher run or processed, including factor-only inspections, per sample	<b>\$19.00</b>
2. Additional, nongrade determining factor analysis, per factor	<b>\$3.00</b>

**Note: The following applies to all fees in this table:**

- Dockage breakdown is included in the basic inspection fee.

- Analysis for special grade requirements or criteria analysis that requires additional equipment or personnel will be provided at the hourly rate.
- The rates shown above also apply to inspection services provided under federal criteria inspection instructions.
- When the size of a submitted sample is insufficient to perform official grade analysis, factor-only analysis is available on request of the applicant.

**AMA Table 5**

**Fees for Miscellaneous Services**

1. Falling number determinations, including liquefaction number on request, per determination	<b>\$15.00</b>
2. Sampling and handling of processed commodities, per hour, per employee	<b>\$30.00</b>
3. Laboratory analysis, at cost	<b>At cost</b>

**Note:**

- On request, shipping arrangements billed directly by shipper to the customer's shipping account may be coordinated by the department.

**NEW SECTION**

**WAC 16-240-090 Fees for other services performed by WSDA.** (1) WSDA Tables 1 through 3 in this section contain fees for other services performed at the request of the applicant when no USGSA or AMA standards exist. Services available include inspection, sampling, testing, weighing, laboratory analysis, and certification.

(2) Applicant-defined analysis may be available from the department.

(a) Hourly fees for sampling and/or sample preparation may be assessed.

(b) The analysis will be provided at the established hourly rate or may be provided at the cost quoted by the laboratory or organization providing the service or analysis.

(c) Applicant may be required to provide supplies and equipment when requesting a new analysis or special service.

**WSDA Table 1**

**Fees for Inspecting Miscellaneous Agricultural Commodities under Chapter 16-213 WAC**

1. Submitted sample, per sample	<b>\$9.00</b>
2. Railcars, sampled by USDA approved diverter-type mechanical samplers, per car	<b>\$17.00</b>
3. Railcars, sampled by USDA approved grain probe, per car	<b>\$26.50</b>
4. Trucks or containers, sampled by USDA approved grain probe, per truck or container	<b>\$17.00</b>

**Note: The following applies to all items in WSDA Table 1:**

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■ These rates also apply to inspection services provided under applicant-specified criteria or standards other than USGSA, AMA or WSDA. For example: Millet may be inspected under state of Montana standards, upon applicant request.

**WSDA Table 2  
Fees for Phytosanitary Certification**

1. In conjunction with official inspection, <b>per certificate</b>	<b>\$25.00</b>
2. For phytosanitary certification only, without official inspection, add required sampling time, <b>per hour, per employee</b>	<b>\$30.00</b>

**WSDA Table 3  
Fees for Miscellaneous Services**

1. Unofficial constituent analysis, <b>per test</b>	<b>\$7.00</b>
2. Sample pick-up fee, on department established routes, <b>per sample</b>	<b>\$0.85</b>
3. Laboratory analysis, provided at other than WSDA grain inspection program offices, <b>per analysis</b>	<b>At cost</b>

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-239-010 Definitions.
- WAC 16-239-020 Washington state grain and commodity inspection points.
- WAC 16-239-030 Commodities covered by chapter 22.09 RCW.
- WAC 16-239-040 Grades and standards adopted by Washington state.
- WAC 16-239-050 Scale testing.
- WAC 16-239-060 Guarantee of expenses.
- WAC 16-239-061 Guaranteed staffing levels.
- WAC 16-239-062 Additional fees to cover insufficient revenue at export locations.
- WAC 16-239-063 Official commercial inspection services.
- WAC 16-239-064 Calculating travel time, mileage and per diem.
- WAC 16-239-065 Payment of fees and charges.
- WAC 16-239-070 Basic WSDA grain program fees for service.
- WAC 16-239-071 Straight time rate.

- WAC 16-239-072 GIPSA/FGIS scale authorization fee.
- WAC 16-239-073 Overtime and night shift rates.
- WAC 16-239-074 Late notice fee.
- WAC 16-239-075 Call-back fee.
- WAC 16-239-076 Shift request fee.
- WAC 16-239-077 Shift cancellation fee.
- WAC 16-239-078 Four-hour minimum standby fee.
- WAC 16-239-079 Service cancellation fee.
- WAC 16-239-080 Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act.
- WAC 16-239-0801 Fees for combination inspection and weighing services.
- WAC 16-239-0802 Fees for official sampling and inspecting without weighing and fees for official sampling only.
- WAC 16-239-0803 Fees for official Class X weighing services without an inspection.
- WAC 16-239-0804 Fees for other official weighing services.
- WAC 16-239-0805 Fees for inspecting submitted samples.
- WAC 16-239-0806 Fees for factor analysis.
- WAC 16-239-0807 Fees for official constituent analysis using near-infrared transmittance (NIRT) technology.
- WAC 16-239-0808 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA," "Fluorometric," or similar methods.
- WAC 16-239-0809 Fees for stowage examination services on vessels or ocean-going barges.
- WAC 16-239-0810 Fees for other stowage examination services.
- WAC 16-239-0811 Fees for phytosanitary certification.
- WAC 16-239-0812 Fees for miscellaneous services.

WAC 16-239-0813	Fees for other services under the United States Grain Standards Act.
WAC 16-239-090	Fees for performing official Agricultural Marketing Act of 1946 services.
WAC 16-239-0901	Fees for combination inspection and weighing services.
WAC 16-239-0902	Fees for official sampling and inspecting without weighing and fees for official sampling only.
WAC 16-239-0903	Fees for official weighing services without inspections.
WAC 16-239-0904	Fees for other official weighing services.
WAC 16-239-0905	Fees for inspection of submitted samples.
WAC 16-239-0906	Fees for factor analysis.
WAC 16-239-0907	Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.
WAC 16-239-0908	Fees for stowage examination services on vessels or ocean-going barges.
WAC 16-239-0909	Fees for other stowage examination services.
WAC 16-239-0910	Fees for phytosanitary certification.
WAC 16-239-0911	Fees for miscellaneous services.
WAC 16-239-0912	Fees for other services under the Agricultural Marketing Act of 1946.
WAC 16-239-100	Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist.
WAC 16-239-1010	Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC.
WAC 16-239-1020	Fees for miscellaneous services.
WAC 16-239-1030	Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020.

**WSR 05-07-121**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed March 22, 2005, 10:43 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers compensation insurance, amendments will be made to the workers' compensation general reporting rules and risk classification descriptions.

Hearing Location(s): Department of Labor and Industries Building, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501, at Interstate 5, Exit 101, on April 29, 2005, at 1-3 p.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Department of Labor and Industries, Kathy Kimbel, Program Manager, Employer Services, P.O. Box 44140, Olympia, WA 98504-4140, e-mail Lanz235@lni.wa.gov, fax (360) 902-4729, by April 29, 2005, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by April 28, 2005, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes the following rule changes to the workers' compensation general reporting rules and risk classification descriptions:

- Repeal 1103 for pallet recycling services and merge it with 2903 for pallet manufacturing and repair.
- Add a subclassification to 3405 for machine shops utilizing CNC (computer numeric controlled) equipment.
- Reword 6306 for piano stores and remove word "primarily."
- Reword 7202 to clarify the employee relationship of real estate agents.
- Housekeeping changes.

WAC 296-17-31002, add classification 7100 to basic classification exceptions, 296-17-31013, delete classification 0506 from building construction classifications; WAC 296-17-524, change wording regarding erection of metal playground equipment; WAC 296-17-526, correct spelling of word desserts; WAC 296-17-527, housekeeping changes. Delete designations A and B; WAC 296-17-538, repeal pallet recycle service classification. Add activities to WAC 296-17-568 Classification 2903; WAC 296-17-568, include activities from WAC 296-17-538, classification 1103 pallet recycle service; WAC 296-17-58201, add new subclassification to 3405 for computer numeric controlled (CNC) machine shops; WAC 296-17-701, remove "primarily" from description of piano stores; and WAC 296-17-764, clarify employee relationship of real estate agents.

Reasons Supporting Proposal: Labor and industries is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or

industries within the state and is permitted to review and make changes to the plan, RCW 51.16.035 and 51.16.100. The department has conducted a review of these classifications and reporting rules and determined these rules are in need of revision.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau/Tammy Turner, Tumwater, Washington, (360) 902-4774;

Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act (RFA), chapter 19.85 RCW requires the agency to prepare a small business economic impact statement (SBEIS) if the proposed rule will have a disproportionate impact on the state's small businesses because of the size of those businesses. In this case the agency is exempt from conducting an SBEIS when the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. The Administrative Procedure Act (APA), chapter 34.05 RCW, requires the agency to prepare a cost/benefit analysis (CBA) prior to adopting a "significant legislative rule." The CBA determines whether the probable benefits of the rule are greater than its probable costs. In this case, the agency is exempt from conducting a CBA when the proposed rules set or adjust fees or rates pursuant to legislative standards, RCW 34.05.328 (5)(b)(vi).

March 22, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

**WAC 296-17-31002 General rule definitions.** In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) and can be found in **Appendix A** of this manual. Some words, however, are not defined by law. To reduce the misunderstanding which can result by our use of certain words or phrases not defined in law (*Title 51 RCW*), we have developed definitions which will govern what these words and phrases mean for purposes of this chapter (*chapter 296-17 WAC*).

**The following words or phrases mean:**

**Account:** A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

**Account manager:** An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

**Actual hours worked:** A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

**Example:** *A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of whether the employee is paid by the hour or by the number of yards of carpet installed.*

**All:** When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classification. This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

**And:** When this word is contained in any rule it is to be considered the same as the phrase "and/or."

**Basic classification:** A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupations that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifica-

tions 4806, 4900, 4904, 5206, 6301, 6302, 6303, 7100, 7101, and temporary help classifications 7104 through ((7121)) 7122. Classification descriptions contained in WAC 296-17-501 through 296-17-779, establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

**But not limited to:** When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

**Excludes or excluding:** When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

**Exposure:** Worker hours, worker days, licenses, material, payroll or other measurement which we use to determine the extent to which an employer's workers have been exposed to the hazards found within a particular business or industry classification.

**Governing classification:** Is the basic classification assigned to a business that produces the largest number of worker hours during a calendar year (*twelve months*). The governing classification rule applies only to situations where a business has been assigned two or more basic classifications and is used for the sole purpose of determining what classification applies to employees and covered owners who support two or more operations. The governing classification rule is not to be used to determine the basic classification of a business.

**Includes or including:** When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

**Industrial insurance:** Refer to the definition of "workers' compensation insurance."

**N.O.C.:** This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the variations. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

*Example: You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, tropical fish and birds, and quick print shops. We would assign classification 6406 "Retail stores, N.O.C." to your business.*

**Or:** Refer to the definition of the word "and."

**Premium:** The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

**Rate:** The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

**Risk:** All insured operations of one employer within the state of Washington.

**Temporary help:** The term "temporary help" means the same as temporary service contractors defined in (*Title 19 RCW*) and applies to any person, firm, association or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

**Underwriter:** Refer to the definition of an "account manager."

**Work day:** Any consecutive twenty-four hour period.

**Work hour:** Refer to the definition of "actual hours worked."

**Workers' compensation insurance:** The obligation imposed on an employer by the industrial insurance laws (*Title 51 RCW*) of the state of Washington to insure the payment of benefits prescribed by such laws.

**AMENDATORY SECTION** (Amending WSR 04-20-023, filed 9/28/04, effective 11/1/04)

**WAC 296-17-31013 Building construction. (1) Does this same classification approach apply to building and construction contractors?**

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

*Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we*

*assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the multiple business classification approach.*

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

**(2) Who does this rule apply to?**

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, ((0506-)) 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

**(3) Can I have a single classification assigned to my business to cover a specific construction project?**

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

**(4) How do I request the single classification for one of my construction projects?**

You should send your request to the attention of your (({policy}-{account})) account manager at the address below:

Department of Labor and Industries  
P.O. Box 44144  
Olympia, Washington 98504-4144

**(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?**

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

*Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.*

With this information we will estimate the premiums by classification.

*Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the*

*total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).*

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

*Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.*

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

*Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.*

**(6) How will I know what classification will apply to my construction project?**

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

**(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?**

No, but you should call your (({policy}-{account})) account manager to verify what other classifications would apply to the project. The name and phone number of your (({policy}-{account})) account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at (({+})360((+)-))-902-4817 and we will put you in contact with your assigned (({policy}-{account})) account manager.

**(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?**

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors in good standing by confirming their status on the department's website or contacting your account manager.

**(9) Am I required to keep any special records of subcontractors that I use?**

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;

- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker for whom you must report hours.

~~((10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."~~

~~(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flatwork."~~

~~(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction"~~

assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

~~(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."~~

~~(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification? No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.))~~

(10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame

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building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flatwork."

**(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site?** We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

**(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site?** Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."

**(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification?** No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

**AMENDATORY SECTION** (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

**WAC 296-17-31024 Classification premium rates.**

**(1) How do you determine what rate to charge me?**

Each classification has ((a)) corresponding base rates. The base rates assigned to your business will depend on the basic classification(s) ((or classifications)) assigned to your business.

**(2) What do you mean by a base rate?**

The base rate is a comparison of losses (*claims*) and exposure to produce a cost per unit of exposure. The base rate is an unmodified rate that all employers with an experience factor of 1.000 will pay in a specific classification.

**(3) Do all employers in the same classification pay the base rate?**

In practice, only a few employers pay the *base rate*. ((If you are a new employer, you will pay the base rate until you have reported worker hours during the current experience period. After you have reported hours during an experience period, your rate will be modified as of January 1, of the next calendar year.)) Most employers pay rates that are adjusted to take into account the employer's claims and premium reporting experience. We refer to ((that)) those modified rates as ((your)) experience rates. Your experience rate ((is the base rate adjusted by your own company's claims losses (experience factor). It can produce a premium)) can be higher or lower than the base rate. This means that employers with ((few claims)) fewer than expected losses will pay less than employers in the same classification who have ((many claims)) more than expected losses. Experience rating encourages strong safety and accident prevention programs. Details of how experience rating affects your premium are ((outlined)) found in WAC 296-17-850 through ((296-17-875)) 296-17-890. Your account manager can also answer questions about your individual experience factor. The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-526 Classification 0606.**

**0606-01 Vending, coin-, or token-operated machines: Installation service and/or repair**

Applies to establishments engaged in the installation, service and/or repair of vending, coin- or token-operated machines. Operations contemplated by this classification include, but are not limited to, delivering machines to desired location, unloading and setting up machines, servicing machines, collecting money, repairing machines, and restocking product into machines. Coin-operated machines include pay telephone booths, weight machines, juke boxes, change makers, pull tabs, slot machines, and similar gaming devices. Vending machine products include, but are not limited to, soft drinks, candies, sandwiches, stamps, cigarettes, frozen desserts, coffee, and personal hygiene products. This classification also includes the preparation of products such



as, but not limited to, salads, sandwiches, cookies, and ((deserts)) desserts, and honor snack food services when performed by employees of an employer subject to this classification.

This classification excludes honor snack services operated independently from, and not in connection with, coin-operated vending machine services which are to be reported separately in classification 1101; and the installation of parking meter units which is to be reported separately in classification 0105.

**0606-02 Fire extinguisher and fire safety equipment: Sales and service**

Applies to establishments engaged in the sales and servicing of fire extinguishers and related safety equipment. Operations contemplated by this classification include, but are not limited to, retail and wholesale store operations, field testing services, recharging services, and related safety training. Establishments subject to this classification routinely sell a variety of home and commercial type fire extinguishers, protective clothing, gloves, and hats, specialty shoes, smoke and fire alarms, and first-aid kits. Fire extinguisher sales and service companies may also carry other safety items such as traffic cones, construction and speed signs.

**0606-03 Money collecting service of coin-operated and vending machines**

Applies to establishments engaged in the removal and/or replacement of money into coin-operated machines. Operations contemplated by this classification are limited to the collection and replenishing of coins in coin-operated or vending machines. This classification also applies to replenishing currency in automated teller machines (cash machines) and removal of coins from parking meters and pay telephones.

This classification excludes the servicing of machines, placement of products into machines for sale, installation of machines, or any product preparation, which is to be reported separately in the applicable classification; installation of free standing automated teller machines which is to be reported separately in classification 0607; establishments engaged in the construction of structures which house automated teller machines, such as those found in parking lots of shopping centers, which are to be reported separately in the applicable construction classifications.

**0606-12 Coin- or token-operated amusement devices in stores or shopping malls, N.O.C.: Installation, removal, service and/or repair**

Applies to establishments engaged in the placement and servicing of coin- or token-operated amusement devices, not covered by another classification (N.O.C.), within stores and shopping malls for use by the general public. Operations contemplated by this classification include, but are not limited to, the installation, service, repair, or removal of the devices, such as, but not limited to, video games, pinball machines, carousels and small amusement rides for children. Establishments subject to this classification generally are not involved in the operations of arcades or amusement rides. If an establishment subject to this classification also operates a video or amusement arcade, such operations may be reported separately in classification 6406 provided all the conditions

of the general reporting rules covering the operation of a secondary business have been met.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

**WAC 296-17-538 Classification 1103.**

**1103-00 Coal and solid fuel dealers - yard operations**

Applies to establishments engaged in the sale and delivery of coal, pressed wood fiber logs (fire logs), wood stove pellets, wood chips, and sawdust. Operations contemplated by this classification include all related store, yard and delivery operations when conducted by employees of employers having operations subject to this classification.

This classification excludes all manufacturing operations which are to be reported separately in the classification applicable to the material and process used, and all mining operations which are to be reported separately in the applicable classification.

**1103-02 Firewood dealers - yard operations**

Applies to establishments engaged in the sale of firewood. This classification is limited to establishments operating a firewood sales lot where customers either pick up firewood or the dealer will make deliveries from. Operations contemplated by this classification are limited to yard and delivery operations.

This classification excludes firewood cutting operations conducted in timber or forest lands and firewood sales lots conducted from a logging landing which are both to be reported separately in the applicable logging classification.

*Special note:* Establishments subject to this classification may purchase pre-cut firewood from other nonrelated businesses or may have a cutting crew. The only cutting operations allowed in classification 1103 are those conducted in the sales lot.

**1103-04 Composting**

Applies to establishments engaged in composting yard waste or other materials. Depending on the type of yard waste accepted, grinders may be used to reduce the size of the material for faster composting. Once the material is an acceptable size for composting, it may be placed in static curing piles, turned periodically to aerate until it is adequately decomposed, then sometimes screened. Another method of curing is to place the waste material in long rows, called "windrows" which are turned periodically. Other establishments, either operated privately or by municipalities, may use processed and dewatered sludge which is mixed with other materials such as shredded yard waste, sawdust, or other wood waste. The mixture must be designed to have the right degree of moisture and air to maintain a temperature of between 130 and 160 degrees Fahrenheit. The end product, in either instance, is a "Class A" pathogen product, meaning it can be used in soil for raising vegetables and is referred to as "manufactured" soil. This classification includes delivery when performed by employees of an employer having operations subject to this classification.

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**~~(1103-05 Pallet recycle service—yard operations~~**

~~Applies to establishments engaged in the sale and/or repair of used wood pallets to others. Operations contemplated by this classification are limited to the pick up of discarded used pallets from stores, warehouses, or other facilities, transporting of pallets to the establishment's sorting and storage yard where they are sorted by grade and size, reloading of pallets onto trucks, and delivery of pallets to customers.~~

~~This classification excludes all pallet repair activities which are to be reported separately in classification 2903.)~~

**1103-06 Top soil, humus, peat and beauty bark dealers - yard operations**

Applies to establishments engaged in the sale of soils, humus, peat, and beauty bark to others. Operations contemplated by this classification are limited to the receipt of soils, peat, humus, bark and compost in bulk and the subsequent load out of bark, soil and related organic matter into customer vehicles. This classification includes custom mixing soils, incidental sales of landscaping rock, sand, gravel, and crushed rock, and delivery when performed by employees of an employer subject to this classification.

This classification excludes contract delivery by non-dealer employees who are to be reported separately in classification 1102, and digging of soils/humus/peat/gravel or grinding of bark which are to be reported separately in the applicable classification.

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-568 Classification 2903.****2903-00 Wood chip, hog fuel, bark, bark flour, fire log and lath: Manufacturing**

Applies to establishments engaged in the production of products such as, but not limited to, wood chips, hog fuel, bark, bark flour, fire logs, kindling, excelsior, particleboard, and similar wood by-products.

*Wood chips* are small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;

*Hog fuel* is made by grinding waste wood in a hog machine, is larger and coarser than wood chips, and is used to fire boilers or furnaces, often at the mill or plant at which the fuel was processed;

*Bark* is the outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

*Bark flour* is finely ground bark used as a filler or extender in adhesives;

*Fire logs* are made by forming sawdust into a log about 15 inches long and are used for fuel;

*Lath* is a narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

*Excelsior* is the curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products;

*Particleboard* is a panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

The degree of manual labor required to make these products varies depending upon the size of the operation and sophistication of the equipment. Raw materials include, but are not limited to, logs, mill waste, bark, sawdust, or chips. Machinery includes, but is not limited to, rip saws, cut-off saws, loaders, debarkers, hog chippers, hammer mills, conveyors, sorting screens, and storage bunkers. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. The operation of portable chipping or debarking mills is included in this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

**2903-06 Wood furniture stock: Manufacturing**

Applies to establishments engaged in the manufacture of wood furniture stock such as, but not limited to, tabletops, table or chair legs, chair backs or seats, panels for beds, turning squares (bolts of wood which are shaped on lathes into furniture legs) and furniture squares (standard sized - usually 2" x 2" -pieces of wood used in constructing frames of upholstered furniture). Stock may be mass produced or custom. Raw material includes dimensional lumber from hardwoods such as, but not limited to, ash or alder. If the lumber is not presurfaced, it is sanded and/or planed. It is cut to desired width and thickness with a rip saw; and cut to desired length with a cut-off saw. Pieces may be beveled with a table saw, bored with a horizontal boring machine, molded or shaped, and joints formed using a mortise, tenon or jointer. Finished stock is banded and/or palletized and usually shipped unfinished and unassembled to furniture manufacturing plants. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; manufacture of wood furniture and caskets which is to be reported separately in classification 2905; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

**2903-08 Wood door, jamb, window, sash, stair, molding and miscellaneous millwork: Manufacturing, prehanging or assembly**

Applies to establishments engaged in the manufacture, prehanging or assembly of wooden doors, door components, jambs, windows, sashes, stairs, mantels, moldings, turnings, and miscellaneous millwork such as, but not limited to, shutters, door and window grilles, skylights, pillars, wainscot, and similar architectural ornaments. Doors manufactured in

this classification may be for residential or commercial use, such as, but not limited to, garage, closet, warehouse, interior and exterior; they may be odd-size or standard, panel, solid, louver, hollow core, sliding, bifold and overhead. Component parts for stairs include, but are not limited to, risers, tread, balusters, hand rails, and newel posts. Fireplace mantels include both the shelf and the complete ornamental facing surrounding the firebox. Moldings include, but are not limited to, picture moldings, chair rails, quarter round, coves, and architectural molding and base. Raw materials include, but are not limited to, cut stock lumber, plywood, veneer, particleboard, cardboard, plastic laminates, glue, hardware, glass, and metal. Cutting and fitting of glass and metal components for doors and windows is an integral phase of the manufacturing process and is included within the scope of this classification. Machinery includes, but is not limited to, various types of saws (table, panel, rip, cut-off, radial arm, trim, circular, band, jig, and miter), molders, shapers, routers, planers, finger jointers, mortises, tenons, lathes, presses, various types of sanders, drill presses, hand drills, boring machines, pneumatic nail, screw and staple guns, spray guns, chisels, air compressors, glue spreaders, drying ovens, overhead vacuum lifts, conveyor systems, fork lifts, and pallet jacks. Some door manufacturers have "door machines" which route impressions in jambs and blanks for hinge placement, and bores holes in the blank for knobs and locks; some have computerized overhead vacuum lights, electronic gluers, hydraulic lift pits, or electronically controlled saws. Pre-hanging doors involves boring holes in door blanks for knobs and locks, routing impressions into the blanks and jambs for hinge replacement, mounting hinges, trimming door and jamb replacements to exact size. Finishing the products with stain, paint, oil, or lacquer is included in this classification when done by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops, and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; the manufacture of metal doors, jambs, windows, and sashes which is to be reported separately in classification 3404; and sawmill operations which are to be reported separately in classification 1002.

**Special note:** Lumber yards and building materials centers subject to classification 2009 are to be assigned classification 2903-08 in addition to their basic classification if they prehang door blanks.

#### **2903-10 Wood box, shook, pallet, bin: Manufacturing, assembly, or repair**

##### **Wood pallet dealer/recycle operations: Including repairs of pallets**

Applies to establishments engaged in the manufacture, assembly, or repair of wood pallets, boxes, bins, shook, ship-

ping crates, and storage containers. A shook is a set of unassembled sawn wood components for assembling a packing box or barrel. Shooks are usually sold to box assembly plants. Pallets may be constructed out of vertical and horizontal runners of dimensional lumber to form a slatted pallet or by attaching three evenly spaced rows of wooden blocks between two sheets of solid plywood to form a lid-block pallet. Usually, the manufacturer subject to this classification picks up pallets, boxes or shipping crates from the customer, brings them to the plant for repair, reconditioning, or rebuilding, then returns them to the customer. However, the *assembly or repair* of bins is often done at the customer's location, which is still to be reported in classification 2903-10 when performed by employees of the bin manufacturer. Raw materials include, but are not limited to, dimensional lumber, plywood, nails, staples, screws, glue, and paint. Machinery includes, but is not limited to, a variety of saws (table, rip, radial arms, cut-off, band or trim), planers, molders, drills, boring machines, notchers, nailing machines, pneumatic stapler, screw and nail guns, conveyors, roll cases, sorting tables, pallet jacks, and fork lifts. Incoming lumber is cut to specified lengths, widths, and thicknesses with saws, then planed, bored, tongued, and grooved. Pieces are nailed, stapled or glued together to form finished products. Cut ends of pallets, bins, and boxes may be painted for design or for color identification purposes. Customer's name may be imprinted on the product using stencils and paint or wood burning tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant (except bin assembly at a customer's location) which are to be reported separately in the classification applicable to the work being performed; pallet dealers which are to be reported separately in classification 1103; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002. Nonwood pallet/bin dealers are to be reported in the appropriate metal, fiberglass, or plastics classification.

~~((Special note: Classification 1103 for pallet dealers does not include the repair or assembly of pallets. Any assembly or repair of pallets is to be reported in classification 2903-10.))~~

#### **2903-12 Wood products, N.O.C.: Manufacturing or assembly**

Applies to establishments engaged in the manufacture or assembly of miscellaneous wood products which are not covered by another classification (N.O.C.), including, but not limited to, ladders, utility pole crossarms, beams, barricades, cable spools, slugs or ends for paper rolls, attic vents, prefabricated wall panels, gazebos, saunas, solariums, lattice panels, mall and park furnishings, playground equipment, docks and floats, parade floats, boat trailer bunks, cattle feeders, tree spreaders, tack strip, exhibit booths, weaving looms, and pottery wheels. Finishing of the product with stains or other lacquers is included in this classification when done by employees of employers subject to this classification. Raw materials include, but are not limited to, dimensional lumber, plywood, particleboard, lath, logs, glue, staples, screws,

nails, stains, paints, oils, and lacquers. Operations require substantial amounts of machine work, as well as hand assembly. Machinery includes, but is not limited to, saws (table, panel, cut-off, band, jig, miter, or chain), sanders, planers, routers, shapers, molders, jointers, drill presses, boring machines, hydraulic presses, pneumatic nail, screw and staple guns. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood household and sporting goods which is to be reported separately in classification 2909; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

### 2903-13 Veneer products: Manufacturing

Applies to establishments engaged in the manufacture of veneer products by laminating rough veneer to plywood or particleboard and applying plastic or polyester overlays. Laminated veneer sheets are generally sold to other manufacturers and used in the construction of items such as, but not limited to, cabinets, countertops, furniture, wall board, flooring, and shelving. Veneer products generally require no pre-finishing with paint, stain or lacquer. Raw materials include, but are not limited to, plywood, particleboard, polyester, paper, polyethylene, fiberglass, plastic laminates and glue. To make veneer products, sheets of rough veneer are individually fed through glue spreader machines which apply glue to both sides. Veneer sheets may be laminated to other veneer or to plywood or particleboard, cut to size with saws, then plastic or polyester overlays applied. Laminated sheets are fed through either hydraulic cold or hot presses to be bonded and cured. More sophisticated presses automatically feed the sheets through, and shear the laminated panels to standard 4' x 8' or 4' x 10' dimensions, or to specified lengths and widths for custom orders. Forklifts are used to move materials. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of household and sporting goods wooden ware which is to be reported separately in classification 2909; the manufacture of wood products not covered by another classification (N.O.C.) which is to be reported separately in classification 2903-12; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; the manufacture of rough veneer which is to be reported separately in classification 2904-00; lumber remanufacturing

which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

### 2903-20 Wood sign: Manufacturing

Applies to establishments engaged in the manufacture of interior or exterior signs made of wood or wood products. Raw materials include, but are not limited to, dimensional lumber, plywood, molding, acrylic, paint, stain, lacquer and hardware. When additional sizing is required, saws, such as table, panel, cut-off, or radial arm, are used to cut material to desired dimensions. Pieces may be further sized, shaped, and smoothed with routers, saws, planers, or sanders. Stain, paint, or other finishes may be applied as background colors, borders or designs, with pneumatic spray guns, airbrushes, or by hand. Lettering or designs can be painted directly on the sign, cut from separate stock and glued or screwed on, or carved, routed or sandblasted. Computer-cut vinyl lettering may also be applied. Sign painting and lettering is included in this classification when done by employees of the sign manufacturer. Hand drills or drill presses are used to mount wood lettering or designs, bore holes and attach hardware used in the subsequent installation of the sign. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the installation or removal of signs outside of buildings which is to be reported separately in classification 0403; the installation or removal of signs inside of buildings which is to be reported separately in classification 0513; sign painting or lettering on the inside of buildings which is to be reported separately in classification 4109; establishments that paint on or apply lettering to sign "backings" that are manufactured by others which is to be reported separately in classification 4109; the manufacture of metal or plastic signs which is to be reported separately in the classification applicable to the manufacturing process; and sawmill operations which are to be reported separately in classification 1002.

**Special note:** The majority of sign manufacturers also install their signs. Installation and removal of signs is to be reported separately.

### 2903-21 Wood truss: Manufacturing

Applies to establishments engaged in the manufacture of structural roof trusses, and/or ceiling and floor joists from wood or wood products. These products usually do not require a high degree of finishing work. Raw materials include, but are not limited to, dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8", which is kiln dried, machine stressed, and presurfaced), plywood, metal gussets, and hardware. Dimensional lumber is cut with gang, table, resaw, or radial arm saws. Cut stock is placed in a hydraulic jig assembly which holds the unassembled components in the properly aligned configuration. Pneumatic nailers are used to embed the nail clips which connect each joint of the truss. A gantry, which is an overhead crane traveling along a bridge-like frame, is used to relocate the truss along the assembly line. The assembled truss is placed in a stationary or moveable press which attaches reinforcing triangular shaped metal plates called gussets at each joint or angle. This is a shop or

plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all installation activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of door jambs, windows, sashes, stairs, molding and miscellaneous millwork which is to be reported separately in classification 2903-08; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

**Special note:** Truss manufacturers, whose primary customers are building contractors and building supply dealers, usually deliver their product. Delivery to the construction site often entails placing trusses onto the roof top, using boom lifts mounted on the delivery truck, which is included in this classification when performed by employees of employers subject to this classification.

### **2903-26 Lumber: Remanufacturing**

Applies to establishments engaged in lumber remanufacturing, which is the process of converting cants, plywood, or lumber into a more specialized or higher grade product. Cants are large slabs of wood, usually having one or more rounded edges, which have been cut from logs. The incoming stock is generally green, rough-cut, and may be owned by the customer or by the remanufacturer. Machinery includes, but is not limited to, a variety of saws, (chop, resaw, trim, rip, table, radial arm, and cut-off), planers, surfacers, sanders, molders, groovers, finger jointers, tenoners, gluers, kiln dryers, fork lifts, and trolley cars. Stock is kiln dried, resawed, planed, grooved, or otherwise treated, according to customer specification if the customer owns it, or to standard cuts if it is for resale. Remanufacturers sell lumber to construction contractors or manufacturers that use it in the construction of products such as, but not limited to, paneling, countertops, framing studs, siding, decking, fencing, railroad ties, or molding. Remanufacturers generally do not finish the material with stain, paint, or lacquer. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of roof trusses and ceiling and floor joints which is to be reported separately in classification 2903-21; veneer manufacturing which is to be reported separately in classification 2904; establishments that exclusively kiln dry and/or treat lumber with preservatives, fire retardants, or insecticides, and that do not perform any remanufacturing operations which are to be reported separately in classification 1003; and sawmill operations which are to be reported separately in classification 1002.

### **2903-27 Ridge cap and/or shim: Manufacturing**

Applies to establishments engaged in the production of shims and ridge caps. Shims are thin wedges of wood used for filling spaces or leveling. Ridge caps are shingles which are used as a covering for roof peaks. This is a shop or plant

only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

**Special note:** This classification must be assigned only by Classification Services after a field inspection of the business has been performed. If a classification must be assigned prior to the field inspection, assign classification 1005-02.

### **2903-28 Wood boat: Manufacturing, repair, or refinish**

Applies to establishments engaged in manufacturing, repairing, or refinishing wooden boats. Raw materials include, but are not limited to, dimensional lumber, plywood, glue, staples, screws, nails, stains, paints, oils, and lacquers. Machinery includes, but is not limited to, band saws, lathes, drill presses, jointers, planers and sanders. Other than pleasure craft, very few wooden boats have been manufactured over the last 50 years. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the manufacture of fiberglass boats which is to be reported separately in classification 3511, and the manufacture of metal boats which is to be reported separately in the classification applicable to the materials used and work being performed.

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

### **WAC 296-17-58201 Classification 3405.**

#### **~~(3405-01 Aircraft parts, N.O.C.: Manufacturing~~**

~~Applies to establishments engaged in the manufacture of aircraft parts not covered by another classification (N.O.C.); usually from steel and aluminum mixes and exotic metals. For the purpose of this rule, aircraft parts means the component parts making the aircraft operative and becoming part of the aircraft when being manufactured by the aircraft manufacturing company. The component parts manufactured in this classification are usually small, light weight, and can easily be held in the hand. Machinery includes, but is not limited to, mills, lathes, grinders, and forklifts. Computer Numerie Controlled (CNC) equipment is used most of the time for many of the parts being mass produced. Once pieces are cut and milled, they are usually deburred, then inspected and prepared for shipping in separate areas. Businesses in this classification routinely employ engineers and draftsmen who perform office work only who may be reported in classification 4904 provided all the conditions in the general reporting rule covering standard exception employees have been met. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.~~

~~**Special note:** This classification is not to be assigned to an employer who has operations reported separately in classifications 3402, 3404, 3510, 3511, 3512, or 5201 unless all the conditions in the general reporting rule covering the operation of a secondary business have been met.)~~

**3405-02 Precision machined parts and products, N.O.C.: Manufacturing**

Applies to establishments engaged in the manufacture of parts and products not otherwise classified (N.O.C.) of various sizes and metal compositions which are primarily produced with computer numeric controlled machinery and equipment and are frequently used by aerospace, aircraft, automotive, medical, and scientific industries.

This classification excludes establishments engaged in the manufacture of hand tools, hardware, or similar parts or products, N.O.C. which are not produced with computer numeric controlled machinery and equipment. This classification excludes all foundry operations involving the preparation of castings, the pouring of metal, and shake out operations which are to be reported separately in classification 5103.

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-524 Classification 0603.**

**0603-00 Machinery: Installation, service and/or repair, N.O.C.; Millwright work, N.O.C.**

Applies to contractors engaged in the installation, service and/or repair of heavy machinery or equipment at a customer's location which is not covered by another classification (N.O.C.). Millwright work and the service or repair of engines and gas machines is also included. A millwright is a technician who specializes in installing and repairing industrial machinery. Typical customers include, but are not limited to, wood, metal and plastic manufacturing plants, fuel refineries, and mills. Types of machinery installed and repaired includes, but is not limited to, escalators, conveyor systems, printing presses, lathes, mill saws, dairy equipment and wind machines. (Store operations of dairy equipment/supply dealers or wind machine dealers are to be reported separately in classification 6407.) Work contemplated by this classification includes, but is not limited to, the pouring of a concrete pad on which the machinery will be installed, cutting and welding of brackets and mountings, assembling component parts, any incidental electrical connections needed to complete the installation, and calibrating the controls and testing the machinery's operation when done by employees of an employer having operations subject to this classification. Placement of heavy machinery must often be done with cranes or by rigging hoists. This classification also includes the dismantling and removal of machinery and equipment covered by this classification.

**0603-05 Dynamos, electrical generators and turbines: Installation, service and/or repair**

Applies to contractors engaged in the installation, service and/or repair of dynamos, electrical generators and turbines at a customer's location. A dynamo is a generator of direct electrical current; a turbine is a mechanism that con-

verts moving fluid into mechanical power. Customers include, but are not limited to, electrical utilities, manufacturing plants, mills, and telecommunications companies. Work contemplated by this classification includes, but is not limited to, preparation of a concrete pad on which the machinery will be installed, cutting and welding of brackets and mountings, assembly of component parts if necessary, any incidental electrical connections needed to complete the installation, and calibrating and testing the machinery's operation when done by employees of an employer having operations subject to this classification. Placement of heavy machinery must often be done with cranes or by rigging hoists. Also included is the dismantling and removal of dynamos, generators and turbines.

This classification excludes the installation of underground overhead power lines and poles by an electric utility company which is to be reported separately in classification 1301; the installation of overhead power lines by a nonelectric utility contractor which is to be reported separately in classification 0509; and the installation of underground power lines by a nonelectric utility contractor which is to be reported separately in classification 0107.

**0603-07 Industrial plant maintenance by contractor**

Applies to contractors engaged in maintaining, repairing and installing machinery on a long-term contract basis for customers at the customers' location. Customers include, but are not limited to, manufacturing or chemical plants, petroleum refineries, food processing plants and mills. Work contemplated by this classification includes all routine maintenance and repair of a customer's equipment such as, but not limited to, cleaning, oiling and regularly scheduled maintenance and replacement of machinery or machinery parts, equipment and other mechanical installations that are part of the customer's building when done by employees of an employer having operations subject to this classification.

**0603-08 Metal playground equipment, portable bleachers or stages, above ground swimming pools: Installation, dismantling, and/or repair**

Applies to contractors engaged in the installation, dismantling, and/or repair of metal playground equipment, portable bleachers or stages, and above ground swimming pools. Playground equipment includes, but is not limited to, swings, monkey bars, merry-go-rounds, and slides. Work contemplated by this classification (~~((for the erection of playground equipment and portable bleachers or stages))~~) includes all operations necessary for the erection of metal playground equipment including, but not limited to, boring holes in the ground (usually with an auger) into which the various pieces of equipment will be set in concrete, any incidental cutting, welding, drilling and bolting of the tubular steel components which are usually from one to four inches in diameter, and fastening on the chains, swings, handlebars, sliding surface, platforms, bench seats, or other components. (~~((Activities in the installation of above ground pools are similar.))~~) This classification also includes the application of any finish material or paint when done by employees of an employer having operations subject to this classification.

This classification excludes the installation of wood playground equipment which is to be reported separately in classification 0516.

**0603-09 Commercial equipment: Installation, dismantling, service, and/or repair**

Applies to contractors engaged in the installation, dismantling, service, and/or repair of commercial equipment such as, but not limited to, commercial dishwashing units, bakery and restaurant ovens, stoves, grills, sanitizers, steam tables, car washing equipment, commercial laundry equipment, electric entry doors, dry cleaning equipment, gas pumps, or parimutuel totalizer equipment at horse racing facilities. Work contemplated by this classification includes, but is not limited to, placing and leveling the equipment, any assembly of component parts if necessary, connecting or bolting to the wall or floor, making any necessary incidental plumbing or electrical connections, and calibrating and testing the equipment when done by employees of an employer having operations subject to this classification. Some pieces of equipment in this classification may be large enough that they must be moved and positioned with hoists or cranes. Also included is the dismantling and removal of commercial equipment.

**AMENDATORY SECTION** (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

**WAC 296-17-527 Classification 0607.**

**0607-11 Household appliances: Installation, service and/or repair by nonstore service or repair company; dealers of used household appliances**

Applies to establishments engaged in the installation, service and/or repair of electrical or gas household appliances and to dealers of used electrical or gas household appliances. Many establishments covered by this classification have small retail store operations where they offer reconditioned or second hand appliances for sale, a parts department, and an area where appliances brought into the shop are repaired. Although this classification deals primarily with service away from the shop, the store, parts department and shop operations are included within the scope of this classification. The term "household appliances" includes, but is not limited to, stoves, ovens, ranges, dishwashers, refrigerators, trash compactors, television sets, residential type garage door openers, washing machines, and clothes dryers. This classification also applies to the installation, service or repair of automated teller machines. Repair services provided by establishments subject to this classification may also include related smaller appliances such as video players, portable television sets, stereo systems, microwave and toaster ovens, blenders, coffee makers and mixers. The *servicing* of water softening systems, coffee and juice machines, and beer taps is also included in this classification.

This classification excludes dealers of new household appliances who are to be reported separately in classification 6306; installation, service, and/or repair of commercial appliances such as those used in laundries, bakeries, and restaurants which is to be reported separately in classification 0603; installation, service, and repair of commercial garage doors

and openers which is to be reported separately in classification 0603; installation of water softening systems which is to be reported separately in classification 0306; and small table top or counter top appliance stores which are to be reported separately in classification 6406.

*Special note:* Classification 0607 is distinguishable from classification 6306-02 operations in that appliance stores covered in classification 6306-02 are engaged primarily in the sales of new appliances. Although classification 6306 includes repair of appliances, most repairs are related to warranty work and represent a minor part of the business. By contrast, the repair of appliances in classification 0607 is the primary activity of the business.

**0607-16 Television antenna or satellite dish: Installation, removal, service and/or repair**

Applies to establishments engaged in the installation, removal, service and/or repair of television antennas or satellite dish receiving units. Operations contemplated by this classification are limited to rooftop installation of television antennas or ground or rooftop-mounted satellite dish reception units. Establishments covered by this classification will generally employ technicians and installers to install systems and trouble shoot reception problems. Equipment is limited primarily to delivery trucks, vans, ladders, and small power and/or hand tools.

This classification excludes specialty contractors who install, remove, service or repair antennas, dish units, and/or other transmitting/receiving apparatus to a structure covered by classification 0508, who are to be reported separately in classification 0508; and establishments engaged in the sale of new console type and big screen televisions who also sell and install antennas which are to be reported separately in classification 6306.

**0607-17((A)) Safes or vaults(~~private mail boxes, or safe deposit boxes~~): Installation, removal, service and/or repair.**

**Lock sets and/or dead bolt locks: New installation**

Applies to contractors engaged in the installation, removal, service and/or repair of all types of safes or vaults regardless of size or application, private mail or postal boxes, or safe deposit box units within buildings. Safes and vaults are found in businesses such as, but not limited to, banks, jewelry stores, rare coin and stamp stores, grocery stores, and gasoline service stations, as well as in private residences. Services contemplated by this classification include, but are not limited to, safe opening services.

**~~((0607-17B Lock sets and/or dead bolt locks: New installation~~**

~~Applies to the))~~ **New installation** of lock sets and/or dead bolt locks on buildings or structures by contractor or by employees of a locksmith **also applies to this classification.** The term new installation applies to installing a lock set (locking doorknob) or a dead bolt where none previously existed. The process consists of measuring and marking where the unit is to be placed on the door, boring holes into the door to accept the lock set or dead bolt lock, and installing the lock set unit using a power drill and basic hand tools.

This classification excludes the installation of a *replacement* lock set or dead bolt lock unit by employees of a lock-

smith, and locksmith store operations which are to be reported separately in classification 6309.

**0607-18(A) Window/door blinds, shades, curtains and drapes: Installation**

Applies to contractors and employees of store operations who are engaged in the installation of indoor or outdoor window coverings, such as, but not limited to, blinds, shades, screens, exterior roll shutters and draperies or curtains, but does not include awnings. The process consists of marking the location of covering on the frame or opening, securing brackets or hardware, rods and poles, and installing the covering.

This classification excludes the installation of window and door awnings which is to be reported separately in the applicable classification, and the manufacture of coverings which is to be reported in the applicable classification.

*Special note:* Care should be taken when considering the assignment of a store classification to an establishment engaged in the installation of coverings to verify that a store exists. It is common for establishments subject to this classification to have show rooms to help customers visualize covering products available for sale. These establishments have little or no product available for immediate sale, as most items are special order from the manufacturer. A bona fide window/door covering store will have a large assortment of coverings, as well as related home interior products such as, but not limited to, pillows, small rugs, and accent pieces, readily available for sale to customers.

**0607-19 Advertising or merchandise display: Set up or removal within buildings by nonstore employees**

Applies to contractors engaged in the set up or removal of advertising or merchandise displays within buildings for retail or wholesale store customers. Operations contemplated by this classification will vary from seasonal panoramas with extensive carpentry, painting, and art work to dressing mannequins to be displayed in store windows.

This classification also applies to establishments engaged in providing merchandising services, not covered by another classification, (N.O.C.), without the responsibility of delivering products to the customer's place of business. Merchandising services contemplated by this classification include, but are not limited to, taking inventory of goods on hand, restocking, reordering, removing outdated or damaged merchandise from shelves, and/or assembling temporary displays.

This classification excludes employees of store operations engaged in setting up displays who are to be reported separately in the applicable store classification as this is a common store activity, and merchandising establishments or employees who deliver products to their customer's place of business, and may also perform related merchandising functions, who are to be reported separately in classification 1101.

**0607-21 Meat slicer or grinder: Installation, service and/or repair**

Applies to contractors and employees of equipment manufacturers engaged in the installation service and/or repair of meat cutting, slicing, or grinding equipment within stores, restaurants, or processing plants. Repair may be per-

formed at the customer's location or in a shop operated by an employer subject to this classification. This classification includes repair shops, field technicians, installers, and warehouse or parts department employees.

*Special note:* Establishments subject to this classification generally do not have store operations. Equipment is generally ordered from the manufacturer or distributor and shipped to the customer's location where it will be installed. In the event that an establishment subject to this classification has a store operation it is included within classification 0607.

**0607-22 Protective bumpers: Installation**

Applies to contractors engaged in the installation of protective bumpers on structures such as, but not limited to, store loading docks for freight or cargo. Operations contemplated by this classification are limited to measuring the dock to be fitted with a rubber bumper, finish cutting or otherwise fabricating the rubber pieces to fit the required application, and fastening the dock bumper with the use of hand tools. Dock bumpers are made of rubber from recycled tires or similar pliable materials.

This classification excludes the manufacture of loading dock bumpers which is to be reported separately in the applicable manufacturing classification.

**0607-23 Cellular phone systems or audio components: Installation in vehicles, service and repair**

Applies to establishments engaged in the installation of cellular phone systems and/or audio components in vehicles. Audio components include, but are not limited to, radios and stereo systems, speakers and amplifiers, alarm systems, television units, antennas, two-way radio systems. This classification applies to installation employees of stores that sell products as well as to auto service centers that specialize in the installation of products covered by this classification.

This classification excludes retail and wholesale store operations which are to be reported separately in the applicable store classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-701 Classification 6306.**

**6306-00 Stores: Furniture - wholesale or retail  
Stores: Billiard or pool table - wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique household furniture. This classification also includes the sale of related items such as, but not limited to, lamps, bedding, pillows, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with a furniture store operation. This classification includes the delivery and the incidental repair of merchandise sold. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and is readily available for sale and delivery to the customer. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification



applicable to the work being performed. For example, a furniture store could bid on a job to carpet all units of an apartment complex. If the carpet is ordered from the factory as opposed to carpet carried at the store and in the stores inventory, then the installation is to be reported separately in classification 0502. This classification also applies to stores that sell billiard or pool tables.

**Special note:** Care should be exercised when considering this classification for an antique or used furniture stores since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

#### **6306-01 Stores: Furniture - rental**

Applies to establishments engaged in the rental of new, used, or antique household furniture. This classification also includes the sales of related items such as, but not limited to, lamps, bedding, pillows, framed pictures, art pieces and sculptures when sold in connection with a furniture rental store operation. This classification includes the delivery and the incidental repair of merchandise rented. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. This classification also applies to establishments that provide rent-to-own purchasing options, and to establishments engaged in the sale or rental of hospital beds, motorized wheelchairs and similar patient appliances.

**Special note:** Care should be exercised when considering this classification for an antique or used furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

#### **6306-02 Stores: Appliance - wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of gas, electric, or propane household appliances. Household appliances include, but are not limited to, refrigerators, freezers, stoves, range tops, trash compactors, washing machines, clothes dryers, television consoles, big screen televisions, and television antennas or satellite dish receiving units. Appliance stores will routinely carry smaller appliances which are generally referred to as counter top units which include, but are not limited to, mixers, blenders, microwave ovens, toasters and espresso machines and are included in this classification when sold in connection with

the appliance store operation. This classification covers the sale of primarily new appliances although establishments subject to this classification accept trade-ins and sell some used appliances. Also included is the incidental repair of appliances sold by the appliance store, parts departments employees, and the delivery of products sold. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an appliance store could bid on a job to supply appliances for all units of an apartment complex. If the appliances are ordered from the factory as opposed to items carried at the store and in the stores inventory then the installation is to be reported separately in classification 0607. Establishments engaged in the sale of commercial appliances may be assigned to this classification provided such establishments operate a bonafide store operation. Generally, however, commercial appliances such as those used to equip bakeries and restaurants are factory ordered items which are made to a customer's specifications from a manufacturer's representative.

**Special note:** Care should be taken when considering this classification for an antique or used appliance store since such establishments are primarily engaged in reconditioning appliances (service and repair) for resale and are to be reported separately in classification 0607.

#### **6306-03 Stores: Piano or organ - wholesale or retail**

Applies to establishments engaged ((primarily)) in the wholesale or retail sale of new pianos and organs. This classification includes all operations associated with the store including service, repair, and delivery. It is common for stores subject to this classification to carry other musical instruments such as, but not limited to, guitars, drums and wind instruments as well as provide instructions on the use of instruments.

This classification excludes establishments engaged exclusively in piano tuning which are to be reported separately in classification 4107; stores that sell musical instruments other than pianos or organs which are to be reported separately in classification 6406; and establishments engaged in the reconditioning of organs and pianos accompanied by the related sales of reconditioned pianos and organs which are to be reported separately in classification 2906.

#### **6306-06 Stores: Office furniture - wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique office furniture. This classification also includes the sales of related items such as, but not limited to, lamps, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with an office furniture store operation. This classification includes the delivery of furniture and related items, and the incidental repair of office furniture items sold by the office furniture store such as upholstery repair and cleaning. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and readily available for sale and delivery to the customer. The contract installation of any merchandise that must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classifica-

**WSR 05-07-127**  
**PROPOSED RULES**  
**ACADEMIC ACHIEVEMENT AND**  
**ACCOUNTABILITY COMMISSION**

[Filed March 22, 2005, 1:57 p.m.]

tion applicable to the work being performed. For example, an office furniture store could bid on a job to supply modular desk units for a large office complex. If the desk units are ordered from the factory as opposed to units carried at the store and in the stores inventory, then the installation is to be reported separately in classification 2002.

**Special note:** Care should be exercised when considering this classification for an antique or used office furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing or upholstery work.

**AMENDATORY SECTION** (Amending WSR 99-18-068, filed 8/31/99, effective 10/1/99)

**WAC 296-17-764 Classification 7202.**

**7202-00 Real estate agencies**

Applies to establishments engaged in buying, selling, renting, and appraising real estate for others. A real estate licensee will study property listings, accompany clients to property sites to show the property, and assist in the completion of real estate documents such as real estate contracts, leases, and seller's disclosure documents. They will also hold open houses, conduct negotiations, and assist at the closing. This classification includes clerical office and sales personnel. Real estate sales personnel, including agents, are considered to be employees of the broker or real estate agency employing them.

This classification excludes building and/or property management services which are to be reported separately in classification 4910.

**WSR 05-07-126**

**WITHDRAWAL OF PROPOSED RULES**  
**ACADEMIC ACHIEVEMENT AND**  
**ACCOUNTABILITY COMMISSION**

[Filed March 22, 2005, 1:55 p.m.]

The Academic Achievement and Accountability Commission is withdrawing its proposed rule dealing with high school graduation goals. The proposed rule was published in the Washington State Register on March 2, 2005, as WSR 05-05-100.

The commission had originally scheduled to hear public testimony and potentially adopt the proposed rule on April 4, 2005. A new CR-102 is being filed and the proposed rule will now be scheduled for public testimony and probable adoption on May 9, 2005.

If you have any questions please do not hesitate to contact Christopher M. Thompson at 725-6032.

Christopher M. Thompson  
 Executive Director

Original Notice.

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

Title of Rule and Other Identifying Information: Performance improvement goals, as provided by RCW 28A.655.030 (1)(a), the Academic Achievement and Accountability Commission is authorized to adopt and revise performance improvement goals. School districts and schools are required to set high school graduation rate improvement goals and to align these goals with requirements of the federal No Child Left Behind Act.

Hearing Location(s): Tacoma School District Central Office Auditorium, 601 South Eighth Avenue, Tacoma, WA, on May 9, 2005, at 9:00 a.m.

Date of Intended Adoption: May 9, 2005.

Submit Written Comments to: Christopher M. Thompson, Executive Director, Academic Achievement and Accountability Commission, P.O. Box 47220, Olympia, WA 98504-7220, e-mail cthompson.aaac@ospi.wednet.edu, fax (360) 586-9438, by April 29, 2005.

Assistance for Persons with Disabilities: Contact Debra Crawford by May 2, 2005, TTY (360) 664-3631 or (360) 725-6034.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 28A.655.030 (1)(a) authorizes the Academic Achievement and Accountability Commission to adopt and revise performance improvement goals. The commission directs each school district board of directors to review district-wide graduation rate goals for 2006 and each year thereafter and to direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board by December 15, 2005. The minimum graduation rate goals through 2013 shall apply to each of the nine groups of students listed in WAC 3-20-200(2). The minimum goals shall be the lesser of either (a) 66% in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or (b) for any student group whose graduation rate falls below 66% in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal for districts and schools described in (a) above. Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 3-20-200(2) shall be not less than 85 five%

Reasons Supporting Proposal: The proposal repeals existing graduation rate improvement goals (in the Washington Administrative Code - WAC 3-20-300) in accordance with RCW 28A.655.030 (1)(a), which authorizes the commission to revise improvement goals. The proposal would change current rules which require no improvement in the

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graduation rate until 2014 if the school or district is at or above the 2003 state average graduation rate. Under current rules, if a school or district is below the 2003 state average graduation rate then that school or district would be required to improve its graduation rate by one percentage point over the previous year's target rate until the school or district met or exceeded the target 2003 state average graduation rate. The purpose of the revised rule is to encourage incremental improvement in graduation rates before 2014 and accelerate graduation rates for groups of students whose current rates are well below average.

Statutory Authority for Adoption: RCW 28A.655.030 (1)(a).

Statute Being Implemented: RCW 28A.655.030 (1)(a). Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Christopher M. Thompson, Old Capitol Building, 7th and Washington Street, (360) 725-6032; and Implementation: Mary Alice Heuschel, Office of Superintendent of Public Instruction, (360) 725-6115.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not apply to any small businesses nor to any other nongovernmental entity.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption because the rule relates only to internal governmental operations that are not subject to violation by a nongovernment party.

March 22, 2005  
Christopher M. Thompson  
Executive Director

**NEW SECTION**

**WAC 3-20-390 Definitions.** As used in Title 3 WAC:

- (1) "High school" means a public school in the state enrolling students in any of grades nine through twelve.
- (2) "Graduation rate" means the percentage of students who receive a regular high school diploma within four academic years of having enrolled for the first time as ninth grade students. Students who transfer to another school less than four academic years after initial enrollment in the ninth grade shall not be included in the calculation of the graduation rate for the school from which the student transfers. Students who become deceased shall not be included in the calculation of the graduation rate for the school last attended. Students who earn a regular high school diploma after their four academic years will be included in additional calculations and reports for the year a regular high school diploma is completed.
- (3) "Graduation rate goal" means the expected minimum graduation rate reported in a particular year for the prior year's graduating class. For example, the graduation rate goal for 2006 relates to students in the class of 2005.
- (4) "Graduating class" or "class of" or "cohort" of any particular year means the group of students who are scheduled to graduate in that particular year after having completed grades nine through twelve in four or fewer academic years.

**NEW SECTION**

**WAC 3-20-400 High school graduation.** (1) Each school district board of directors shall by December 15, 2005, revise district-wide graduation rate goals for 2006 and each year thereafter and shall direct each high school in the district to revise graduation rate goals for 2006 and each year thereafter, subject to approval by the board.

(2) The minimum graduation rate goals through 2013 shall be as follows for each of the nine groups of students listed in WAC 3-20-200(2):

(a) Sixty-six percent in 2005, one percentage point above the previous year's goal from 2006 through 2009, and three percentage points above the previous year's goal in 2010 through 2013; or

(b) For any student group whose graduation rate falls below sixty-six percent in 2005, the minimum goal for 2005 is two percentage points above that group's graduation rate in 2004, an additional two percentage points per year above the previous year's goal in 2006 through 2009, and an additional four percentage points per year above the previous year's goal in 2010 through 2013, until the rate for that group meets or exceeds the goal described in (a) of this subsection.

(3) Graduation rate goals in 2014 and each year thereafter for each group of students listed in WAC 3-20-200(2) shall be not less than eighty-five percent.

(4) School district boards of directors are authorized to adopt district-wide graduation rate goals and to approve high school graduation rate goals that exceed the minimum level required under this section. However, district-wide and high school graduation rate goals that exceed the minimum level required under this section shall not be used for federal or state accountability purposes.

**NEW SECTION**

**WAC 3-20-410 Incentive plan.** The office of superintendent of public instruction shall develop, in partnership with the academic achievement and accountability commission and other educational associations, an implementation plan to provide incentives, not limited to awards or grants, to schools and school districts that demonstrate improved graduation rates and lower dropout rates.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 3-20-300 High school graduation.

**WSR 05-07-133**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed March 22, 2005, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-19-101.

Title of Rule and Other Identifying Information: WAC 388-450A-0010 Can my subsidized income be garnished?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 26, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 27, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., April 26, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This a new rule to prevent TANF subsidized wages from being garnished per RCW 74.04.280 and to encourage participation by TANF parents in working TANF subsidized jobs.

Reasons Supporting Proposal: RCW 74.04.280 states that TANF funded programs may not be garnished. This WAC would stop any garnishment of WorkFirst programs such as Community Jobs and WorkFirst work-study, which are subsidized with TANF funds.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.280, 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, Lacey Government Center, (360) 725-4634.

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 outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

A cost-benefit analysis is not required under RCW 34.05.328. 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 adopting...without material change...Washington state statutes..."

March 18, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

## NEW SECTION

**WAC 388-450A-0010 Can my subsidized income be garnished?** (1) Your subsidized income cannot be garnished. Subsidized income is income that is partly or entirely paid from temporary assistance for needy families (TANF) funds. Examples of subsidized income are community jobs and WorkFirst work study.

(2) For how your subsidized income affects your benefits, see WAC 388-450-0035 or 388-450-0050.

## WSR 05-07-134 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed March 22, 2005, 4:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-18-069.

Title of Rule and Other Identifying Information: WAC 388-145-0100 What personal characteristics must I have to provide care to children at a center? and 388-145-0230 When is a license denied, suspended or revoked?, amendments are proposed for two sections of the licensing rules for emergency respite centers (ERC), chapter 388-145 WAC for clarity and consistency with licensing rule chapters for other residential facilities licensed by Children's Administration.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 26, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 27, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., April 26, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 22, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to both WAC sections make this chapter consistent with the licensing requirements of other chapters governing Children's Administration's licensed residential facilities. The changes further increase safety protections around the background investigations of individuals on the premises of emergency respite centers.

The amendments to WAC 388-145-0100 give the department the authority to deny employment on the basis of child protective services (CPS) and licensed resources (LR) history, if warranted. The major benefit is increasing safety for children in care at emergency respite centers.

A proposed amendment to WAC 388-145-0230 clarifies the meaning of the word "disqualify" to be consistent with what is actually meant by the rule. The word "disqualify" is replaced with the words "deny, suspend, or revoke." This adds clarity and consistency. This affects other individuals on the premises as well as the licensee, which will assist in the thoroughness of screening of potential employees, volunteers, and interns.

Statutory Authority for Adoption: RCW 74.15.030, 74.15.280.

Statute Being Implemented: RCW 74.15.030, 74.15.-280.

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

Name of Proponent: Department of Social and Health Services, Children's Administration (CA), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jean L. Croisant, 1115 Washington Street S.E., Olympia, WA, (360) 902-7992; and Enforcement: Licensed Resources/CA, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Children's Administration has determined based on information received that the costs of implementing the proposed rules do not impose new costs to the small businesses affected by them.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jean L. Croisant, P.O. Box 45710, Olympia, WA 98504-5710, phone (360) 902-7992, fax (360) 902-7992, e-mail loje300@dshs.wa.gov.

March 18, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-08-026, filed 3/26/03, effective 4/26/03)

**WAC 388-145-0100 What personal characteristics must ((#)) a person have to provide care to children at a center? If ((you are)) a person is requesting a license or a position as an employee, volunteer, intern, or contractor in an emergency respite center, ((you)) he/she must:**

(1) Demonstrate an understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional, and social needs of the children under ((your)) his/her care.

(2) Be able to furnish the child with a nurturing, respectful, supportive, and responsive environment.

(3) Not have been disqualified by our background check (chapter 388-06 WAC) before having unsupervised access to children.

(4) Not have been found to have committed child abuse or neglect.

(5) Not have had a license denied or revoked from an agency that provides care to children or vulnerable adults, unless the department determines that the denial or revocation was not based on a factor that may pose a risk to the health, safety or welfare of children.

**AMENDATORY SECTION** (Amending WSR 03-08-026, filed 3/26/03, effective 4/26/03)

**WAC 388-145-0230 When is a license denied, suspended or revoked?** (1) An emergency respite center 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 ((disqualify you)) deny, suspend, or revoke your license for any of the reasons that follow:

(a) Your facility fails to meet the health and safety requirements to receive a certificate of compliance as

required by the department of health and/or Washington state patrol fire protection bureau.

(b) You or anyone on the premises have been disqualified by your background check (see chapter 388-06 WAC).

(c) You or anyone on the premises 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.

(d) You or anyone on the premises had a license denied or revoked from an agency that provided care to children or vulnerable adults, unless the department determines that the denial or revocation was not based on a factor that may pose a risk to the health, safety or welfare of children.

(e) You try to get a license deceitfully, such as making false statements or leaving out important information on the application.

(f) You commit, permit or assist in an illegal act on the premises of an emergency respite center providing care to children.

(g) You are using illegal drugs, or excessively using alcohol and/or prescription drugs.

(h) You knowingly allowed employees or volunteers with false statements on their applications to work at your agency.

(i) You repeatedly lack qualified or an adequate number of staff to care for the number and types of children under your care.

(j) You have refused to allow our authorized staff and inspectors to have requested information or access to your facility, child and program files, and/or your staff and clients.

(k) You are unable to manage the property, fiscal responsibilities, or staff in your agency.

(l) You have failed to comply with the federal and state laws for any Native American children that you have under care.

WSR 05-07-135

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 22, 2005, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-12-093.

Title of Rule and Other Identifying Information: WAC 388-531-0150 Noncovered physician-related services, 388-531-0200 Physician-related services requiring prior authorization, 388-531-0250 Who can provide and bill for physician-related services, 388-531-0650 Hospital physician-related services not requiring authorization when provided in MAA-approved centers for excellence or hospitals authorized to provide the specific services, 388-531-1600 Bariatric surgery, 388-550-2300 Hospital and medical criteria requirements for bariatric surgery, 388-550-2800 Inpatient payment

methods and limits, and 388-550-4400 Services—Exempt from DRG payment.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 10, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 11, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 10, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by May 6, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Medical Assistance Administration (MAA) is proposing to amend/add the above listed WAC sections to establish standards for selection of surgeons and hospitals performing gastric bypass surgery for MAA clients and to establish criteria and pre- and postoperative requirements for clients that would further prevent the likelihood of complications.

Recent studies of gastric bypass surgeries in Washington show an increased likelihood of complications. Specifically for MAA clients following gastric bypass surgery, recent statistics show a 2.1% in-hospital mortality rate (compared to 0.9% for all other patients in Washington state) and a 3.6% 30-day mortality rate following the surgery (compared to 1.7% in all other Washington state patients). The mortality rates for MAA clients in both instances are more than double that of other patients. The national mortality rate from peer-reviewed literature for gastric by pass surgery is between 0% and 1%.

Because evidence shows that surgeon experience and competence is one of the most important factors in predicting the likelihood of complications the establishment of these rules are necessary.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.-520.

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

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

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; Implementation and Enforcement: Dr. Carolyn Coyne, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1904.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Dr. Carolyn Coyne, MD, MHA Senior Medical Consultant, Division of Medical Management, P.O. Box 45506, Olympia, WA 98504-5506, phone

(360) 725-1904, fax (360) 586-9727, e-mail coynecm@dshs.wa.gov.

March 17, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-08 issue of the Register.

## WSR 05-07-136

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 22, 2005, 4:44 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Chapter 388-101 WAC, Certified community residential services and support and other related sections.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 26, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 27, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., April 26, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending these rules is to correct the cross section references from chapter 388-820 WAC to the recodified chapter 388-101 WAC, Certified community residential services and support: WAC 388-101-1020 What definitions apply to this chapter?, 388-101-1220 What physical and safety requirements exist for residential services?, 388-101-1260 What are group homes?, 388-101-1400 When must a service provider document a client's refusal to participate in services?, 388-101-1420 Who pays for a client's residential services?, 388-101-1470 How does an agency apply for initial certification?, 388-101-1670 What are the minimum requirements for staff employed by service providers?, 388-101-1750 What information do service providers need to keep in client records?, 388-101-2150 May a client refuse health care services?, and 388-101-2310 What training is required before staff are qualified to perform delegated tasks?

Reasons Supporting Proposal: Directing the public to correct cross references from chapter 388-820 WAC to chapter 388-101 WAC.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

Statute Being Implemented: Chapter 71A.12 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal is being filed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 is not required to correct or clarify information in a rule without changing the rule's effect.

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

Name of Agency Personnel Responsible for Drafting: Jill Young, Blake Office Park East, 4500 10th Avenue S.E., Lacey, WA, (360) 725-3210; Implementation and Enforcement: Sheldon Plumer, Blake Office Park East, 4500 10th Avenue S.E., Lacey, WA, (360) 725-2403.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that they are exempt from preparing a small business economic impact statement under RCW 19.85.025 and 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. The department is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(iv) involving name changes and clarifying language of a rule without changing its effect.

March 17, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-23-070 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1020 What definitions apply to this chapter?** "Agency" refers to an entity interested in becoming a service provider that offers residential instruction and support services to clients.

"ADSA" refers to aging and disability services administration at DSHS. Residential care services and the division of developmental disabilities are divisions under aging and disability services.

"Certification" refers to the determination by RCS that an agency or service provider has satisfactorily complied with the requirements outlined in this chapter and in the department contract.

"Client" refers to a person who has a developmental disability and is eligible under RCW 71A.10.020. (For eligibility criteria, see chapter 388-825 WAC and WAC ((388-820-060)) 388-101-1210.)

"Client services" refers to instruction and support activities that benefit clients, as specified under WAC ((388-820-450)) 388-101-1800 through ((388-820-510)) 388-101-1860.

"Community protection services" (Community Protection Intensive Supported Living Services, or CP-ISLS) refers to intensive supported living services provided to clients who meet the criteria of "Individual with Community Protection Issues."

"Crisis diversion services (CDS)" refers to DDD-authorized crisis residential services and supports offered to clients on a temporary basis. These clients show a serious decline in mental functioning, making the client at risk for

psychiatric hospitalization (see WAC ((388-820-050)) 388-101-1200 and ((388-820-085)) 388-101-1250 for details).

"Crisis service plan" refers to a document that identifies needs and services a client will receive while placed in crisis diversion services.

"DDD" refers to the division of developmental disabilities of aging and disability services administration (ADSA).

"DSHS" refers to the department of social and health services of Washington state.

"Exceptions" refers to residential care services' (RCS) approval of a written request for an exception to a rule in this chapter. (There are no exceptions to RCWs.)

"Group home" refers to residential services provided in a dwelling that is:

- (1) Owned, leased, or rented by an entity other than the client;
- (2) Licensed by the applicable state authority; and
- (3) Operated by a provider.

(See WAC ((388-820-090)) 388-101-1260 for further details.)

"Group training home" refers to a certified nonprofit residential facility that provides full-time care, treatment, training, and maintenance for clients, as defined under RCW 71A.22.020(2).

"HCBS" refers to home and community based services waivers. This is a Title XIX Medicaid waiver program that serves a specific number of individuals. This waiver is for particular home and community based services not covered under the Medicaid state plan. (See WAC 388-825-170 for more details.)

"IFP" refers to individual financial plan. (See WAC ((388-820-620)) 388-101-2070.)

"IISP" refers to the individual instruction and support plan for clients. (See WAC ((388-820-560)) 388-101-2010 through ((388-820-580)) 388-101-2030.)

"Individual with community protection issues" refers to a client identified by DDD as needing one or more of the following criteria:

- (1) The person has been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW, including, but not limited to, rape, statutory rape, rape of a child, and child molestation;
- (2) The person has been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization;
- (3) The person has been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger;
- (4) The person has not been convicted and/or charged, but has a history of stalking, sexually violent, predatory, and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence;
- (5) The person has committed one or more violent crimes, such as murder, attempted murder, arson, first degree assault, kidnapping, or use of a weapon to commit a crime.

"Initial assessment" refers to a written evaluation that identifies a client's needs upon entry into crisis diversion services.

**"Instruction"** refers to goal-oriented teaching that is designed for acquiring and enhancing skills.

**"ISP"** refers to the individual service plan for clients. (See WAC ((388-820-520)) 388-101-1870 through ((388-820-550)) 388-101-1900.)

**"Nursing assistant"** refers to a person who is registered or certified by department of health under chapter 18.88A RCW. A nursing assistant performs certain nursing care tasks that are delegated by a registered nurse for a specific client in authorized settings. (See chapter 246-841 WAC for more details.)

**"POC"** refers to the plan of care for clients based on the criteria of the home and community based waivers. (See WAC ((388-820-520)) 388-101-1870 through ((388-820-550)) 388-101-1900.)

**"RCS"** refers to residential care services of aging and disability services (ADSA).

**"Regional support network (RSN)"** refers to a county, combination of counties or other member entities under contract with DSHS mental health division (MHD). These RSNs administer all mental health service activities within their jurisdiction, using available resources. (See WAC 388-865-200 for details.)

**"Reprisal"** refers to any negative action taken as retaliation against an employee.

**"Residential service"** refers to client services offered by certified service providers.

**"Secretary"** refers to the secretary of the department of social and health services or the secretary's designee.

**"Service provider"** refers to an agency RCS has certified and DDD has contracted to provide residential services to clients. Also refers to state operated living alternative (SOLA) program.

**"Severity"** refers to the seriousness of an incident. This is determined by the extent to which a client's physical, mental, or psychosocial well-being is or may be compromised or threatened.

**"SSP" (state supplemental payment)** refers to DDD administered state paid cash assistance program for certain clients of DDD. (See chapter 388-827 WAC for details.)

**"Support"** refers to assistance as requested or needed by a client, based on their abilities, needs, and goals.

**"Supported living"** refers to residential services provided to clients living in their own homes, which are owned, rented, or leased by the clients or their legal representatives. (See WAC ((388-820-080)) 388-101-1240 for more details.)

**"Trust account"** refers to a bank account containing two or more clients' funds where the service provider has the authority to make deposits and withdrawals.

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

**AMENDATORY SECTION** (Amending WSR 04-04-043 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1220 What physical and safety requirements exist for residential services?** (1) Crisis diversion service providers who offer services in a client's own home are exempt from the physical and safety requirements described in this section.

**For clients who receive more than forty hours of residential service per month.**

(2) When clients receive more than forty hours of residential services per month, the service provider must ensure that the following physical and safety requirements are met for the client:

- (a) A safe and healthy environment;
- (b) Accessible telephone equipment;
- (c) An evacuation plan developed and practiced with the client;
- (d) An entrance and/or exit that does not rely solely upon windows, ladders, folding stairs, or trap doors;
- (e) A safe storage area for flammable and combustible materials;
- (f) Unblocked exits;
- (g) A working smoke detector, with a light-alarm for clients with hearing impairments, located close to sleeping rooms;
- (h) A flashlight or a nonelectrical light source in working condition; and
- (i) Basic first-aid supplies.

**For clients who receive forty hours or less of residential service per month.**

(3) When clients receive forty hours or less of residential services per month, at least once every six months, the service provider must ensure the following physical safety requirements are met:

- (a) A safe and healthy environment;
- (b) An entrance and/or exit that does not rely solely upon windows, ladders, folding stairs, or trap doors;
- (c) A safe storage area for flammable and combustible materials;
- (d) Unblocked exits; and
- (e) A working smoke detector, with a light-alarm for clients with hearing impairments, located close to sleeping rooms.

(4) The following supports are also offered to clients who receive forty hours or less of residential services. These clients may choose not to participate in meeting these requirements. This choice must be documented by the service provider, as per WAC ((388-820-100)) 388-101-1400. The supports offered include:

- (a) Accessible telephone equipment;
- (b) An evacuation plan developed and practiced with the client;
- (c) A flashlight or a nonelectrical light source in working condition; and
- (d) Basic first-aid supplies.

**For all clients:**

(5) The service provider must ensure that documentation is kept, showing that physical safety requirements are met. The client may independently document that these requirements are met as long as the client's IISP shows this involvement.

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



**AMENDATORY SECTION** (Amending WSR04-23-070 [05-05-077], filed 2/15/05, effective 2/15/05)**WAC 388-101-1260 What are group homes?** (1)

Group homes are residences that are licensed as either a boarding home or an adult family home by RCS, under chapters 388-78A and 388-76 WAC, respectively.

(2) Group homes must have a contract with DDD.

(3) The service provider must ensure that group homes comply with all applicable licensing regulations.

(4) Group homes provide residential services to two or more clients who are unrelated to the provider.

(5) Clients who live in group homes pay costs of room and board from their own financial resources. (See WAC ((388-820-120)) 388-101-1420 for additional information.)

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

**AMENDATORY SECTION** (Amending WSR 04-04-043 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1400 When must a service provider document a client's refusal to participate in services?** (1) A service provider must document a client's refusal to participate in:

(a) Physical and safety requirements, as outlined in WAC ((388-820-070(3))) 388-101-1220(3); and

(b) Health services under WAC ((388-820-690)) 388-101-2140.

(2) Documentation must include the following:

(a) A description of events relating to the client's refusal to participate in these services;

(b) A plan to inform the client of the benefits of these services;

(c) A description of the service provider's efforts to give the services to the client; and

(d) Any health or safety concerns that the refusal may pose.

(3) The service provider must review this documentation with the client at least every six months. The client or client's guardian must sign the documentation after reviewing it.

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

**AMENDATORY SECTION** (Amending WSR04-04-043 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1420 Who pays for a client's residential services?** (1) DSHS must pay for contracted residential services provided to department-funded clients. Residential services are paid at the contracted rate.

(2) DSHS must require a client to share the cost of services when mandated by federal or state statute or regulation.

(3) Clients funded through SSP may purchase services through a separate agreement with the service provider.

(4) The service provider must inform DSHS when the client requires additional supports.

(a) The service provider must submit a written request with justification for additional service hours.

(b) DSHS may approve and provide payment for additional expenses or services.

(c) The service provider must retain a copy of department response.

(5) For a client who is receiving group home services and support:

(a) The client must pay for cost of care or services from earnings or other financial resources. Clients receiving SSI are responsible only for the cost of room and board.

(b) DSHS may pay for these services only after a client has used his or her own financial resources.

(c) When a client's guardian or legal representative controls the client's income, estate, or trust fund, he or she must reimburse the service provider as described in WAC ((388-820-120)) 388-101-1420.

(6) Clients receiving supported living services must pay for their own housing, utilities, food, clothing, and other personal and incidental expenses from earnings and other financial resources.

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

**AMENDATORY SECTION** (Amending WSR 04-23-070 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1470 How does an agency apply for initial certification?** To apply for initial certification, an agency must go through the following application procedures.

(1) DDD will review:

(a) Verification of financial stability;

(b) A budget forecast; and

(c) A staff-coverage schedule.

(2) After reviewing, DDD will send a letter of suggestion to RCS.

(3) The interested agency will submit to RCS:

(a) A letter of intent;

(b) Relevant experience and qualifications of the agency;

(c) A minimum of two professional references;

(d) The administrator's resume;

(e) A list of the agency board of directors and affiliations, if applicable;

(f) Policies, principles and procedures regarding health and safety and;

(g) Methods on the prevention and reporting of abuse, neglect, exploitation and mistreatment to clients according to state law.

RCS may request additional information as needed to complete the application process.

(4) Before applying to RCS, the interested agency will keep in their records the following:

(a) A letter of intent;

(b) A mission statement;

(c) A statement of assurance stating that the service provider will not discriminate against a client or employee (see WAC ((388-820-280)) 388-101-1630);

(d) Verification of financial stability;

(e) A budget forecast;

(f) A staff coverage;

(g) A staff in-service training plan;

(h) The agency's policies and procedures;

(i) Relevant experience and qualifications of the agency;

(j) A minimum of two professional references;

- (k) A copy of the license if applying for a group home;
- (l) The administrator's resume; and
- (m) A list of the agency board of directors and affiliations, if applicable.

(5) RCS must provide the county with a copy of the agency's letter of intent.

(6) The county may submit written recommendations about the application to RCS within thirty calendar days after receiving the letter of intent. RCS reviews the county's recommendations.

(7) An agency must comply within one hundred and eighty days of the certification's effective date with:

(a) Relevant federal, state, and local laws and ordinances; and

(b) RCS/DDD established requirements.

(8) After receiving all materials requested, a determination will be made on initial certification based on the information received. RCS notifies the agency in writing that all documentation has been received and determines if the agency meets the minimal requirements for initial certification.

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

**AMENDATORY SECTION** (Amending WSR 04-04-043 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1670 What are the minimum requirements for staff employed by service providers?** Service provider staff must meet the following minimum requirements:

(1) Pass background check as per WAC (~~(388-820-310)~~) 388-101-1660;

(2) Exhibit job-related competency and the ability to make independent judgments;

(3) Have a high school diploma or GED equivalent, unless the employees were hired before September 1, 1991;

(4) Be at least eighteen years of age when employed as a direct care staff, or at least twenty-one years of age when employed as an administrator; and

(5) Treat clients with dignity and consideration, respecting the clients' civil and human rights at all times.

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

**AMENDATORY SECTION** (Amending WSR 04-23-070 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-1750 What information do service providers need to keep in client records?** (1) Crisis diversion service providers are exempt from the client record requirements specified in this section. Instead, they must follow requirements outlined in WAC (~~(388-820-405)~~) 388-101-1760.

(2) Service providers must keep certain information in client records to fulfill DSHS requirements. The client's records must include, but not be limited to, the following:

(a) The client's name, address, and Social Security number.

(b) The name, address, and telephone number of the client's relative, guardian or legal representative.

(c) Copies of legal guardianship papers, if any.

(d) Client health records, including:

(i) The name, address, and telephone number of the client's physician, dentist, mental health service provider, and any other health care service provider;

(ii) Health care service providers' instructions about health care needed, including appointment dates and date of next appointment if appropriate;

(iii) Written documentation that the health care service providers' instructions have been followed; and

(iv) A record of major health events and surgeries when known.

(e) A copy of the client's most recent individual service plan or plan of care (ISP/POC).

(f) The client's individual instruction and support plan (IISP), including:

(i) Instruction and support activities for each client as a basis for review and evaluation of client's progress;

(ii) Semiannual review of the IISP;

(iii) Consultation with other service providers and other interested persons;

(iv) IISP revisions and changes; and

(v) Other activities relevant to the client that the client wants included.

(g) Progress notes and incident reports on clients.

(h) The client's financial records for funds managed by the service provider, including:

(i) Receipts, ledgers and records of the client's financial transactions; and

(ii) Client's related bankbooks, checkbooks, bank registers, tax records and bank statements.

(i) Burial plans and wills.

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

**AMENDATORY SECTION** (Amending WSR01-22-020 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-2150 May a client refuse health care services?** A client may refuse to participate in health care services. Service providers must document these situations, according to WAC (~~(388-820-100)~~) 388-101-1400.

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

**AMENDATORY SECTION** (Amending WSR 01-22-020 [05-05-077], filed 2/15/05, effective 2/15/05)

**WAC 388-101-2310 What training is required before staff are qualified to perform delegated tasks?** (1) Before performing delegated tasks, staff must:

(a) Be registered or certified as a nursing assistant (NAR or NAC, respectively);

(b) Complete nurse delegation core training approved by DSHS and receive a certificate; and

(c) Receive client-specific training from the delegating registered nurse.

(2) In addition, registered nursing assistants must complete thirty-two hours of staff training required by WAC (~~(388-820-330)~~) 388-101-1680 before doing nursing care tasks. Certified nursing assistants may perform delegated

tasks before completing the required thirty-two hours of staff training.

(3) After the staff member completes the required training, the service provider must keep:

(a) Written instructions provided by the delegating registered nurse; and

(b) A copy of the current registration or certification for each employee.

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

## WSR 05-07-142

### PROPOSED RULES

#### DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed March 23, 2005, 9:03 a.m.]

Supplemental Notice to WSR 04-24-001.

Preproposal statement of inquiry was filed as WSR 03-09-032.

Title of Rule and Other Identifying Information: Chapter 196-25 WAC, Business practices.

Hearing Location(s): LaQuinta Inn, 32124 25th Avenue South, Federal Way, WA 98003, on April 27, 2005, at 4:00 p.m.

Date of Intended Adoption: April 28, 2005.

Submit Written Comments to: Rick Notestine, P.O. Box 9025, Olympia, WA 98507-9025, engineers@dol.wa.gov, fax (360) 664-2551, by April 18, 2005.

Assistance for Persons with Disabilities: Contact Kim King by April 20, 2005, TTY (360) 664-8885 or (360) 664-1564.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to WAC 196-25-002 add or clarify definitions for resident engineer or resident land surveyor; business; designee, designated engineer, designated land surveyor; employee; and branch office.

Amendments to WAC 196-25-040 provide clarification on board notification of changes to business designees and name changes.

Reasons Supporting Proposal: This proposal is the result of a review of the board's rules in accordance with the Governor's Directive 97-02 and part of the board's ongoing rule review.

Statutory Authority for Adoption: Chapter 18.43 RCW. Statute Being Implemented: Chapter 18.43 RCW.

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

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, WA, (360) 664-1565.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule proposal does not impose any costs to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Neither the Department of Licensing nor the board of registration are one of the named agencies in this statute.

March 21, 2005

George A. Twiss

Executive Director

**AMENDATORY SECTION** (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

**WAC 196-25-002 Definitions. Board.** The Washington state board of registration for professional engineers and land surveyors.

**Professional engineer.** A person registered by the board under chapter 18.43 RCW to practice engineering in this state.

**Professional land surveyor.** A person registered by the board under chapter 18.43 RCW to practice land surveying in this state.

**Resident engineer or resident land surveyor.** A currently registered professional engineer or land surveyor who maintains a business headquarters or branch office as his/her normal place of employment, and is in responsible charge of the engineering and/or land surveying services.

**Business.** A corporation, professional service corporation (PS), joint stock association (JSA) or limited liability company (LLC) or professional limited liability company (PLLC) that is practicing or offering to practice, engineering or land surveying or both in this state.

**Designee, designated engineer, designated land surveyor.** A currently registered professional engineer designated by the business to be in responsible charge of engineering activities for the business in ((this state)) Washington, OR, a currently registered professional land surveyor designated by the business to be in responsible charge of land surveying activities for the business in ((this state)) Washington.

**Employee.** A person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the right to control and direct the employee in the material details of the scope, schedule and location of employment.

**Branch office.** One or more alternate locations in Washington of a business, not recognized as the business' main office or headquarters, which is established to offer and provide engineering and/or land surveying services from that location.

**Project office.** A temporary remote location of an engineering and/or land surveying business that is a convenient workplace for providing specific engineering and/or land surveying services only in support of a project.

**Certificate of authorization.** A certificate issued by the board, pursuant to chapter 18.43 RCW, to a business authorizing it to practice engineering or land surveying or both in this state. (Note: This is a different certificate than the certificate of authorization that may be filed with the secretary of state.)

**AMENDATORY SECTION** (Amending WSR 99-15-057, filed 7/15/99, effective 8/15/99)

**WAC 196-25-040 Provisions pertaining to ((both)) only corporations, joint stock associations and limited liability companies.** (1) If the business offers both engineering and land surveying services, there must be a designee for each profession. If a person is licensed in both engineering and land surveying, that person may be designated for both professions.

(2) An affidavit must be signed by the designee(s) stating that he or she knows they have been designated by the business as being responsible for the engineering and/or land surveying activities in the state of Washington.

(3) The designated engineer and/or designated land surveyor must be an employee of the business.

(4) No person may be the designated engineer or designated land surveyor at more than one business at any one time.

(5) ((#)) When there is a change in the designee(s), the business must notify the board in writing ((within)) no later than thirty days ((of)) after the effective date of the change and submit a new affidavit.

(6) If the business changes its name, the business must submit a copy of its amended certificate of authority or amended certificate of incorporation (for corporations) or a copy of the certificate of amendment (for LLC's), as filed with the secretary of state within thirty days of the ((filing)) name change.

(7) At the time of renewal, the corporation or limited liability company must submit a copy of the document issued to their company by the state of Washington master license service which states that the corporation or limited liability company has been "renewed by the authority of the secretary of state" and shows a current expiration date.

(8) The filing of the resolution shall not relieve the business of any responsibility or liability imposed upon it by law or by contract. Any business that is certified under chapter 18.43 RCW and this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

**WSR 05-07-144  
PROPOSED RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 23, 2005, 10:16 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 02-20-095.

**Title of Rule and Other Identifying Information:** Eligibility, job search, and suitable work requirements of individuals who left work to protect themselves or a member of their immediate family from domestic violence or stalking, and definition of terms.

**Hearing Location(s):** Employment Security Department, Maple Leaf Conference Room, 2nd Floor, 212 Maple Park, Olympia, WA, on May 11, 2005, at 1:30 p.m.

**Date of Intended Adoption:** May 20, 2005.

Submit Written Comments to: Larry Oline, Agency Rules Coordinator, P.O. Box 9046, Olympia, WA 98507-9046, e-mail loline@esd.wa.gov, fax (360) 438-3226, by May 10, 2005.

Assistance for Persons with Disabilities: Contact Mary Mendoza by May 10, 2005, TTY (360) 902-9589 or (360) 902-9281.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** New rules are adopted to clarify the factors the department will consider in determining whether an individual has established good cause for leaving work due to domestic violence or stalking. These rules define the terms "domestic violence" and "stalking" and specify the job search and suitable work requirements for these individuals.

**Reasons Supporting Proposal:** In 2002, the legislature amended state law to provide that individuals who voluntarily leave work to protect themselves or a member of their immediate family from domestic violence or stalking has good cause for leaving. This provision was readopted by the 2003 legislature.

**Statutory Authority for Adoption:** RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010.

**Statute Being Implemented:** RCW 50.20.050 (2)(b)(iv).

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

**Name of Proponent:** Employment Security Department, governmental.

**Name of Agency Personnel Responsible for Drafting:** Karen Malo, Olympia, Washington, (360) 902-0198; **Implementation and Enforcement:** Annette Copeland, Olympia, Washington, (360) 902-9390.

No small business economic impact statement has been prepared under chapter 19.85 RCW. All unemployment benefits paid to individuals who have been determined to have good cause for leaving work because of domestic violence or stalking are not charged against the individuals' employers. Costs are pooled and spread among all contribution-paying employers. Fewer than two hundred individuals per calendar year establish good cause for leaving work due to domestic violence or stalking so the cost of their benefits to individual employers is negligible.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are interpretive, not significant legislative rules.

March 18, 2005

Karen Turner Lee  
Commissioner

**NEW SECTION**

**WAC 192-150-112 Definitions—Domestic violence and stalking—RCW 50.20.050 (2)(b)(iv).** To constitute good cause for leaving work, your job separation must have been necessary to protect yourself or a member of your immediate family from domestic violence or stalking.

(1) **Immediate family** is defined in WAC 192-150-055 and means your spouse, children (including your unborn children), stepchildren, foster children, or parents of either

spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household

(2)(a) **Domestic violence** is defined in RCW 26.50.010. It includes the following acts committed between family or household members:

- (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault;
  - (ii) Sexual assault; or
  - (iii) Stalking.
- (b) The perpetrator of domestic violence must be a family or household member, which means:

- (i) Spouses and former spouses,
- (ii) Persons who have a child in common regardless of whether they have been married or have lived together at any time,

- (iii) Adult persons related by blood or marriage,
- (iv) Adult persons who are presently residing together or who have resided together in the past,

- (v) Persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship,

- (vi) Persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and

- (vii) Persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren.

(c) "Dating relationship" means a social relationship of a romantic nature.

(3) **Stalking** is defined by RCW 9A.46.110. It means:

- (a) Intentionally and repeatedly harassing or following another person;

- (b) Placing the person being harassed or followed in fear of injury to self or property, or to another person or the property of another person;

- (c) Intending to frighten, intimidate, or harass the other person;

- (d) Knowing or having reason to know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

- (i) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose.

- (ii) "Repeatedly" means on two or more separate occasions.

- (iii) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

- (iv) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

#### NEW SECTION

**WAC 192-150-113 Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).** (1) As a condition of eligibility for benefits, you are not required to exhaust reasonable alternatives prior to leaving work.

(2) The amount of notice you provide to your employer will not be a factor in evaluating whether you had good cause to leave work under this section. You will not be penalized for:

- (a) Failing to provide notice to your employer prior to leaving work;

- (b) Providing several weeks advance notice because you are making preparations to leave the situation;

- (c) Not disclosing the domestic violence or stalking to your employer;

- (d) Enduring domestic violence or stalking for an extended period of time before the job separation; or

- (e) Leaving work when there has not been a recent act of domestic violence or stalking, provided you had a reasonable fear of future domestic violence or stalking.

(3) The following factors will be considered in evaluating whether you had good cause to leave work under this section:

- (a) Domestic violence or stalking is the primary reason you left work, even if you gave a different reason for separation to your employer;

- (b) Your separation was necessary which, for purposes of this section, means you had a good faith belief that you needed to leave work based upon:

- (i) Your fear of domestic violence or stalking;

- (ii) Avoiding domestic violence or stalking; or

- (iii) The consequences of domestic violence or stalking, including but not limited to legal proceedings, health care, counseling, child custody, or child protection matters.

#### NEW SECTION

**WAC 192-170-060 Suitable work factors—Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).** When the department decides you left work for good cause due to domestic violence or stalking, you are required to be available for suitable work to receive benefits. Suitable work is work that is in keeping with your prior experience, employment or training. Suitability of work must also include consideration of your need to address the physical, psychological, legal and other effects of domestic violence or stalking. A job is not considered suitable when it would require you to be available on a day or at a specific time that conflicts with your need to address the effects of the domestic violence or stalking.

#### NEW SECTION

**WAC 192-180-014 Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c).** If you are allowed benefits because the department decides you left work for good cause due to domestic violence or stalking, you must make the number of job search contacts consistent with your need to address issues related to domestic violence or stalking. Each week

you claim benefits you must demonstrate an attachment to the labor market by being able to work, available for work, and actively seeking work. To meet the work search requirement of RCW 50.20.010 (1)(c), you must make at least one job search contact or participate in at least one approved in-person job search activity each week you claim benefits.

### WSR 05-07-155

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 23, 2005, 11:14 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-04-077.

**Title of Rule and Other Identifying Information:** The Washington State Department of Agriculture's (WSDA) fruit and vegetable inspection program is proposing to amend chapter 16-390 WAC, WSDA Fruit and vegetable inspection districts, inspection fees and other charges.

**Hearing Location(s):** WSU Tree Fruit Research and Extension Center (street parking only), 1100 North Western Avenue, Wenatchee, WA, on April 26, 2005, at 1:00 p.m.; and at the WSDA Yakima Office, Second Floor Conference Room, 21 North First Avenue, Yakima, WA, on April 27, 2005, at 11:00 a.m.

**Date of Intended Adoption:** May 26, 2005.

**Submit Written Comments to:** George Huffman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ghuffman@agr.wa.gov, fax (360) 902-2092, by close of business on April 27, 2005.

**Assistance for Persons with Disabilities:** Contact Virginia Walsh by April 19, 2005, TTY (360) 902-1996 or (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The proposed amendments to chapter 16-390 WAC, WSDA Fruit and vegetable inspection districts, inspection fees and other charges, will increase the following fees in excess of the Office of Financial Management fiscal growth rate factor:

- All cwt. fees.
- The minimum charge for a certificate of compliance (WAC 16-390-150 (4)(a)).
- The field or orchard per acre inspection fee (WAC 16-390-220(1)).

The department is also proposing a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc.

**Note:** The department's current hourly rates (regular and overtime), phytosanitary certification, minimum certification and customer assisted inspection program (CAIP) fees will not change. The fruit and vegetable inspection program is supported entirely by fees generated by the services it provides. RCW 15.17.150 gives the WSDA director the authority to adopt rules establishing fees necessary "to recover the costs of providing inspection and/or certification or other requested services." The proposed fee increases are neces-

sary to offset the increases in the fruit and vegetable inspection program operating expenses caused by inflation.

**Statutory Authority for Adoption:** Chapter 15.17 RCW, Standards of grades and packs, chapter 34.05 RCW, Administrative Procedure Act, and section 309(2), chapter 25, Laws of 2003 1st sp.s.

**Statute Being Implemented:** Chapter 15.17 RCW, Standards of grades and packs.

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

**Name of Proponent:** Washington State Department of Agriculture, governmental.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement (SBEIS) for proposed rules that impose more than a minor cost on the businesses in an industry. The department mailed an economic impact survey to each of the three hundred and ninety fruit and vegetable growers, shippers and packers on the fruit and vegetable inspection program customer list. Sixty-seven entities responded to the survey (17.2%). The total additional cost of compliance imposed by the proposed rule amendments as reported by the respondents was \$423,813.00.

RCW 19.85.040(1) requires that an agency determine whether the proposed rule will have a disproportionate impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the 10% of businesses that are the largest businesses required to comply. The statute suggests that the agency's cost analysis be based upon one or more of the following methods:

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

Due to the nature of the industry, the department has used the "one hundred dollars of sales" method and has found that the average cost imposed on small businesses per hundred dollars of sales is \$00.091 (.091%). The average cost imposed on the 10% of the largest businesses in the industry that are required to comply is \$00.037 (.037%). Based upon the survey results, the department has concluded that the proposed increase in fruit and vegetable program fees **does not** impose a "more than minor" cost on the regulated community and a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

March 23, 2005  
Robert W. Gore  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

**WAC 16-390-020 What are the fees for grade and condition certificates for fruit?** WSDA fees for grade and condition certificates for all fruits are:

(1) A minimum charge of sixteen dollars.

(2) The fees for **federal-state or state grade and condition certificates** of all fresh market apples, pears, and soft fruits in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Fruit	Fees per CWT or Fraction Thereof
Apples <u>on-line for domestic shipping, CA, etc.</u>	<del>\$(0.155)</del> <u>0.17</u>
Apples for export	<u>\$0.17</u>
Apricots, cherries, nectarines ((and)), peaches, plums, prunes, other soft fruits, grapes and berries	<del>\$(0.21)</del> <u>0.23</u>
Pears	<del>\$(0.12)</del> <u>0.17</u>
<del>((Plums, prunes, other soft fruits, grapes and berries))</del> Pears for export	<del>\$(0.16)</del> <u>0.17</u>

~~((3) The fees for state grade and condition certification of all fresh market apples, and pears that are in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:~~

Type of Fruit	Fees per CWT or Fraction Thereof
Apples	<del>\$0.145</del>
Pears	<del>\$0.11)</del>

(3) The department will give a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc. Packing of up to 4800 cwt per eight-hour shift, the normal inspection fee will be assessed, and every cwt of product above 4800 cwt for that same shift will be charged at \$0.12 cwt. Platform inspection fees will still apply (WAC 16-390-200).

(4) The department charges a fee of ~~((two))~~ three dollars ~~((and fifty cents))~~ per ton net weight (or fraction thereof) for all apples, pears, stone fruits, berries, and grapes in bulk or in containers that are inspected for processing.

(5) The department charges a fee of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars, when an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality.

**AMENDATORY SECTION** (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

**WAC 16-390-030** What are the fees for grade and condition certificates for vegetables? WSDA fees for grade and condition certificates for all vegetables are:

(1) A minimum charge of sixteen dollars.

(2) The fees for **federal-state or state grade and condition certificates** for all fresh market vegetables in containers (wrapped, place pack, face and fill), bags, master containers,

consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Vegetables	Fees per CWT or Fraction Thereof
Asparagus	<del>\$(0.21)</del> <u>0.23</u>
Cantaloupes and corn	<del>\$(0.125)</del> <u>0.14</u>
Onions	<del>\$(0.08)</del> <u>0.09</u>
Potatoes	<del>\$(0.06)</del> <u>0.07</u>
In-state processing potatoes Complete inspection	<del>\$(0.06)</del> <u>0.08</u> Rate shall be reduced for the level of service required
Tomatoes	<del>\$(0.19)</del> <u>0.21</u>

~~((3) The fee for state grade and condition certification of all fresh market asparagus in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags is listed in the following table:~~

Type of Vegetable	Fee per CWT or Fraction Thereof
Asparagus	<del>\$0.19</del>

~~(4))~~ (3) For the inspection of vegetables not listed, the department charges a fee of thirty-two dollars per hour.

~~((5))~~ (4) The department charges a fee of ~~((two))~~ three dollars ~~((fifty cents))~~ per ton net weight (or fraction thereof) for the inspection of vegetables to be processed, whether in bulk or in containers.

~~((6))~~ (5) When an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality, the department charges the rate of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars.

**AMENDATORY SECTION** (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

**WAC 16-390-150** What requirements apply to shipping permits and certificates of compliance for fruits and vegetables? (1) Each shipment of apples, apricots, Italian prunes, peaches, pears, dark sweet cherries, Rainier cherries and asparagus must be covered by a shipping permit. All other sweet cherries, whether certified or not, must have a shipping permit indicating freedom from cherry fruit fly larvae.

(2) Shipments of apricots, cherries, peaches, prunes, and asparagus to processors do not require a shipping permit.

(3) A permit or certificate of compliance may be issued without additional charge if the lot is certified.

(4) If the lot has not been certified, a permit or certificate of compliance may be issued based upon the following charges:

(a) The minimum charge for a permit or certificate of compliance is ~~((two))~~ three dollars ~~((fifty cents))~~.

(b) Two-thirds of the rate for federal-state or state grade and condition certificates applies.

(c) A permit to ship apples and/or pears to a by-product plant outside the state is three dollars.

PROPOSED

**AMENDATORY SECTION** (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

**WAC 16-390-220 What is the fee for a field or orchard inspection?** The fee for field or orchard inspections made at the applicant's request to determine the presence or absence of disease or insect infestation, or for some other reason is:

- (1) ~~((Two))~~ Three dollars ~~((and fifty cents))~~ per acre or fraction thereof; or
- (2) At the platform inspection rate specified in WAC 16-390-200(1).

**WSR 05-07-159  
PROPOSED RULES  
DEPARTMENT OF TRANSPORTATION**

[Filed March 23, 2005, 11:57 a.m.]

Supplemental Notice to WSR [05-05-058].

Preproposal statement of inquiry was filed as WSR 05-01-105.

Title of Rule and Other Identifying Information: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

The proposed rules revise the subject WACs by increasing the passenger and vehicle tolls specified in the WACs.

Hearing Location(s): Puget Sound Regional Council, 1011 Western Avenue, 5th Floor, Seattle, WA, on April 26, 2005, at 10:00 a.m. - 12 noon.

Date of Intended Adoption: April 26, 2005.

Submit Written Comments to: Raymond G. Deardorf, Washington State Ferries (WSF) Planning Director, 2911 Second Avenue, Seattle, WA 98121-1012, e-mail Dear-dorf@wsdot.wa.gov, fax (206) 515-3499, by April 26, 2005.

Assistance for Persons with Disabilities: Contact Transportation Commission Office by April 26, 2005, TTY (360) 705-7070 or (206) 515-3460.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of WSF's farebox revenue needs.

No major effects are anticipated.

Reasons Supporting Proposal: WSF's need for additional farebox revenue.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, 2911 Second Avenue, Seattle, WA 98121-1012, (206) 515-3491.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

A cost-benefit analysis is not required under RCW 34.05.328. WSF is anticipated to take in more farebox revenue from the proposed fare increase at the rate of approximately \$5,000,000 a year. Ridership dropoff stemming from the fare increase will not cause a net reduction in farebox revenues. Previous experience with fare hikes has shown that WSF gains more money in fare increases than it loses from reduced ridership, if any.

March 22, 2005  
Jennifer Ziegler, Administrator  
Transportation Commission

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-010 Ferry passenger tolls.**

**((EFFECTIVE 03:00 A.M. MAY 4, 2003))**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User			Annual Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
				Coupon-Book-20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>		
Via Passenger-Only Ferry *Seattle-Vashon	7.40	3.70	6.40	63.20	101.20	303.60	1,214.40	1.00
Via Passenger-Only Ferry Seattle to Bremerton	6.40	3.20	5.40	43.20 <sup>7</sup>	101.20	303.60	1,214.40	1.00
Via Passenger-Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	101.20	303.60	1,214.40	N/C
Via Auto Ferry *Fauntleroy-Southworth	4.20	2.10	3.40	33.60	53.80	161.40	645.60	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island								
*Edmonds-Kingston	5.40	2.70	4.40	43.20	69.20	207.60	830.40	1.00
Port Townsend-Keystone	2.10	1.05	1.70	33.60	53.80	161.40	645.60	0.50



PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book-20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly- Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
*Fautleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tablequah	3.50	1.70	2.80	28.00	44.80	134.40	537.60	1.00
*Mukilteo-Clinton	3.20	1.60	2.60	25.60	41.00	123.00	492.00	1.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor—Sun- day-Tuesday	8.00	4.00	6.40	57.20	N/A	N/A	N/A	2.00 <sup>8</sup>
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor— Wednesday-Saturday	8.80	4.40	7.10	57.20	N/A	N/A	N/A	2.00 <sup>8</sup>
Between Lopez, Shaw, Oreas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<b>International Travel</b>								
Anacortes to Sidney and Sidney to all destinations	13.10	6.50	10.50	N/A	N/A	N/A	N/A	4.00 <sup>9</sup>
From Lopez, Shaw <sup>1</sup> , Oreas and Friday Harbor to Sidney <sup>@</sup>	4.75	2.25	4.00	N/A	N/A	N/A	N/A	1.00 <sup>10</sup>
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round-trip) <sup>3</sup>	17.85	8.75	14.50	N/A	N/A	N/A	N/A	5.00 <sup>11</sup>

**EFFECTIVE 03:00 A.M. MAY 2, 2004**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon-Book-20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly- Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
<b>Via Passenger-Only Ferry</b>								
*Seattle-Vashon	7.70	3.80	6.60	65.60	105.00	315.00	1,260.00	1.00
Via Passenger-Only Ferry Seattle to Bremerton	6.70	3.30	5.60	45.60 <sup>7</sup>	105.00	315.00	1,260.00	1.00
Via Passenger-Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	105.00	315.00	1,260.00	N/C
<b>Via Auto-Ferry</b>								
*Fautleroy-Southworth	4.40	2.20	3.60	35.20	56.40	169.20	676.80	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge-Island- Edmonds-Kingston	5.70	2.80	4.60	45.60	73.00	219.00	876.00	1.00
Port Townsend-Keystone	3.20	1.10	1.80	35.20	56.40	169.20	676.80	0.50
<b>Fautleroy-Vashon</b>								
*Southworth-Vashon-								
*Pt. Defiance-Tablequah-	3.70	1.80	3.00	29.60	47.40	142.20	568.80	1.00
*Mukilteo-Clinton	3.40	1.70	2.80	27.20	43.60	130.80	523.20	1.00
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor—Sun- day-Tuesday	8.60	4.30	6.90	61.80	N/A	N/A	N/A	2.00 <sup>8</sup>
*Anacortes to Lopez, Shaw, Oreas or Friday Harbor— Wednesday-Saturday	9.50	4.70	7.60	61.80	N/A	N/A	N/A	2.00 <sup>8</sup>
Between Lopez, Shaw, Oreas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<b>International Travel</b>								
Anacortes to Sidney and Sidney to all destinations	13.80	6.90	11.10	N/A	N/A	N/A	N/A	4.00 <sup>9</sup>
From Lopez, Shaw <sup>1</sup> , Oreas and Friday Harbor to Sidney <sup>@</sup>	5.00	2.50	4.00	N/A	N/A	N/A	N/A	1.00 <sup>10</sup>
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round-trip) <sup>3</sup>	18.80	9.40	15.10	N/A	N/A	N/A	N/A	5.00 <sup>11</sup> )

**EFFECTIVE 03:00 A.M. MAY 29, 2005**

**PROPOSED**

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Commuter 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
<u>Via Passenger-Only Ferry</u>						
*Seattle-Vashon	8.10	4.00	6.90	68.80	108.80	1.00
<u>Via Auto Ferry</u>						
*Fauntleroy-Southworth	4.70	2.30	3.80	37.60	60.20	1.00
*Seattle-Bremerton						
*Seattle-Bainbridge Island						
*Edmonds-Kingston	6.10	3.00	4.90	48.80	79.10	1.00
Port Townsend-Keystone	2.35	1.15	1.90	37.60	60.20	0.50
*Fauntleroy-Vashon						
*Southworth-Vashon						
*Pt. Defiance-Tahlequah	4.00	2.00	3.20	32.00	52.20	1.00
*Mukilteo-Clinton	3.60	1.80	2.90	28.80	46.10	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tues- day	9.10	4.50	7.30	65.70	N/A	2.00 <sup>7</sup>
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Sat- urday	10.10	5.00	8.10	65.70	N/A	2.00 <sup>7</sup>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	14.70	7.30	11.80	N/A	N/A	4.00 <sup>8</sup>
From Lopez, Shaw, Orcas and Fri- day Harbor to Sidney@	5.50	2.75	4.70	N/A	N/A	1.00 <sup>2</sup>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	20.20	10.05	16.30	N/A	N/A	5.00 <sup>10</sup>

- @ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.
- \* These routes operate as a one-point toll collection system.

<sup>1</sup>FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride card valid for 90 days from the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery times. Starting May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available, except for customers qualifying for the senior/disabled and youth fares.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. ~~((The quarterly pass is based on 48 days of travel with a 20% discount and the annual pass is based on 192 days with a 20% discount.))~~ A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per

month at a 20% discount. Passes may be available in monthly, quarterly or annual denominations.

<sup>6</sup>BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

~~((<sup>7</sup>SEATTLE TO BREMERTON PASSENGER ONLY - Riders on Seattle to Bremerton passenger-only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled.))~~

~~((<sup>8</sup>)<sup>7</sup>BICYCLE SURCHARGE - This becomes \$4.00 during peak season (first Sunday in May until second Sunday in October).~~

~~((<sup>9</sup>)<sup>8</sup>BICYCLE SURCHARGE - This becomes \$6.00 during peak season.~~

~~((<sup>10</sup>)<sup>9</sup>BICYCLE SURCHARGE - This becomes \$2.00 during peak season.~~

~~((<sup>11</sup>)<sup>10</sup>BICYCLE SURCHARGE - This becomes \$8.00 during peak season.~~

CHILDREN/YOUTH - Children under ~~((five))~~ six years of age will be carried free when accompanied by parent or guardian. Children/youths ~~((five))~~ six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a

other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

**BUS PASSENGERS** - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

**MEDICARE CARD HOLDERS** - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

**PROMOTIONAL TOLLS** - A promotional rate may be established at the discretion of the WSF ((CEO)) Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF ((CEO)) Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

**SCHOOL GROUPS** - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors

and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

**BUNDLED SINGLE FARE BOOKS** - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the first ((Sunday)) of May following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

**PEAK SEASON SURCHARGE** - A 20% surcharge shall be applied to passengers from the first Sunday in May to the second Sunday in October, except those using frequent user ((tickets)) fare media, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

**GROUP OR VOLUME SALES** - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS** - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

PROPOSED

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

((EFFECTIVE 03:00 A.M. MAY 4, 2003))

ROUTES	Vehicle Under 20'	Vehicle w/Sr Under 20'	Vehicle Under 20' Over Height	Frequent User Coupon-book	Motoreycles Incl. Driver Stowage+ One-Way@	Motorecycle-w/Sr Citizen or Disabled Driver Stowage+ One-Way@	Motorecycle Oversize Charge+	Motorecycle Frequent User Ticket-book 20 Rides2@
	Incl. Driver One-Way	Citizen or Disabled Driver4	Charge+	20 Rides2				
Fauntleroy-Southworth Port Townsend/Keystone	7.50	6.45	7.50	120.00	3.20	2.15	1.10	51.20
Seattle-Bainbridge-Island Seattle-Bremerton-Edmonds-Kingston	9.50	8.15	9.50	152.00	4.10	2.75	1.40	65.60
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	12.25	10.45	12.25	98.00	5.30	3.50	1.80	42.40
Mukilteo-Clinton	5.75	4.95	5.75	92.00	2.50	1.70	0.90	40.00
10 Rides—5 Round Trips								
*Anacortes to Lopez—Sunday-Tuesday	20.00	16.00	20.00	82.50	10.60	6.60	2.60	87.80
*Lopez—Wednesday-Saturday	22.00	17.60	22.00	82.50	11.70	7.30	2.90	87.80
*Shaw, Orcas—Sunday-Tuesday	23.50	19.50	23.50	97.50	11.30	7.30	3.20	93.80
*Shaw, Orcas—Wednesday-Saturday	26.00	21.60	26.00	97.50	12.50	8.10	3.70	93.80
*Friday Harbor—Sunday-Tuesday	26.50	22.50	26.50	109.75	11.90	7.90	3.90	99.00
*Friday Harbor—Wednesday-Saturday	29.25	24.85	29.25	109.75	13.20	8.80	4.40	99.00

PROPOSED

ROUTES	Vehicle Under-20' Incl. Driver One-Way	Vehicle Under-20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under-20' Over-Height Charge <sup>1</sup>	Frequent User Coupon-book 20 Rides <sup>2</sup>	Motorcycles Incl. Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motorcycle Oversize Charge <sup>1</sup>	Motorcycle Frequent User Ticket-book 20 Rides <sup>2</sup> <sup>@</sup>
Between Lopez, Shaw, Oreas and Friday Harbor <sup>3</sup>	11.25	11.25	11.25	45.00	3.50	3.50	3.50	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	35.25	28.65	35.25	N/A	17.60	11.00	4.50	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	20.25	13.65	35.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Oreas and Friday Harbor to Sidney	10.25	7.75	10.25	N/A	6.25	3.75	1.50	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Oreas and Friday Harbor to Sidney <sup>7</sup>	3.25	0.75	10.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Oreas and Friday Harbor to Sidney (round trip) <sup>5</sup>	45.50	36.40	45.50	N/A	23.85	14.75	6.00	N/A

**EFFECTIVE 03:00 A.M. MAY 2, 2004**

ROUTES	Vehicle Under-20' Incl. Driver One-Way	Vehicle Under-20' w/Sr Citizen or Disabled Driver <sup>4</sup>	Vehicle Under-20' Over-Height Charge <sup>1</sup>	Frequent User Coupon-book 20 Rides <sup>2</sup>	Motorcycles Incl. Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>1</sup> One-Way <sup>@</sup>	Motorcycle Oversize Charge <sup>1</sup>	Motorcycle Frequent User Ticket-book 20 Rides <sup>2</sup> <sup>@</sup>
Fauntleroy-Southworth Port Townsend/Keystone	7.75	6.65	7.75	124.00	3.40	3.30	1.20	54.40
Seattle Bainbridge Island Seattle-Bremerton-Edmonds-Kingston	10.00	8.55	10.00	160.00	4.30	2.85	1.45	68.80
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	13.00	11.10	13.00	104.00	5.60	3.70	1.90	44.80
Mukilteo-Clinton	6.00	5.15	6.00	96.00	2.60	1.75	0.90	41.60
10 Rides - 5 Round Trips								
*Anacortes to Lopez - Sunday-Tuesday	20.75	16.45	20.75	86.25	11.10	6.80	3.50	92.30
*Lopez - Wednesday-Saturday	23.00	18.20	23.00	86.25	12.30	7.50	3.80	92.30
*Shaw, Oreas - Sunday-Tuesday	25.00	20.70	25.00	104.25	12.00	7.70	3.40	99.80
*Shaw, Oreas - Wednesday-Saturday	27.75	22.95	27.75	104.25	13.30	8.50	3.80	99.80
*Friday Harbor - Sunday-Tuesday	29.25	24.95	29.25	121.00	12.80	8.50	4.20	106.50
*Friday Harbor - Wednesday-Saturday	32.25	27.45	32.25	121.00	14.20	9.40	4.70	106.50
Between Lopez, Shaw, Oreas and Friday Harbor <sup>3</sup>	12.50	12.50	12.50	50.00	3.75	3.75	3.75	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	37.25	30.35	37.25	N/A	18.50	11.60	4.70	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	22.25	15.35	37.25	N/A	N/A	N/A	N/A	N/A

PROPOSED

ROUTES	Vehicle Under 20'	Vehicle Under 20' w/Sr	Vehicle Under 20' Over Height Charge <sup>1</sup>	Frequent User Coupon-book 20 Rides <sup>2</sup>	Motoreycles Incl. Driver Stowage-1 One-Way <sup>@</sup>	Motoreycle-w/Sr Citizen or Disabled Driver Stowage-1 One-Way <sup>@</sup>	Motoreycle-Oversize Charge <sup>1</sup>	Motoreycle Frequent User Ticket-book 20 Rides <sup>2@</sup>
	Incl. Driver One-Way	Citizen or Disabled Driver <sup>4</sup>						
Lopez, Shaw, Orcas and Friday Harbor to Sidney	11.00	8.50	11.00	N/A	6.75	4.25	1.75	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	4.00	1.50	11.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round-trip) <sup>5</sup>	48.25	38.85	48.25	N/A	25.25	15.85	6.45	N/A))

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ROUTES	Vehicle Under 20' w/Sr			
	Vehicle Under 20' Incl. Driver One Way	Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over Height Charge <sup>1</sup>	Frequent User Com-muter 20 Rides <sup>2</sup>
<u>Fauntleroy-Southworth Port</u>				
<u>Townsend/Keystone</u>	8.20	7.30	8.20	131.20
<u>Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston</u>	10.60	9.05	10.60	169.60
<u>*Fauntleroy-Vashon *Southworth-Vashon</u>				
<u>*Pt. Defiance-Tahlequah</u>	13.60	11.60	13.60	108.80
<u>Mukilteo-Clinton</u>	6.30	5.40	6.30	100.80
<b>10 Rides - 5 Round Trips</b>				
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	22.00	17.40	22.00	91.50
<u>*Lopez - Wednesday-Saturday</u>	24.40	19.30	24.40	91.50
<u>*Shaw, Orcas - Sunday-Tuesday</u>	26.40	21.80	26.40	109.90
<u>*Shaw, Orcas - Wednesday-Saturday</u>	29.30	24.20	29.30	109.90
<u>*Friday Harbor - Sunday-Tuesday</u>	31.40	26.80	31.40	130.50
<u>*Friday Harbor - Wednesday-Saturday</u>	34.80	29.70	34.80	130.50
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>2</sup></u>	13.90	13.90	13.90	55.60
<u>International Travel</u>				
<u>Anacortes to Sidney and Sidney to all destinations</u>	39.50	32.10	39.50	N/A
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations<sup>4</sup></u>	24.50	17.10	39.50	N/A
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	11.75	9.00	11.75	N/A
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>2</sup></u>	4.75	2.00	11.75	N/A
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>2</sup></u>	51.25	41.10	51.25	N/A

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PROPOSED

<u>ROUTES</u>	<u>Motorcycle<sup>1</sup> Incl. Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle w/Sr Citizen or Disabled Driver Stowage<sup>1</sup> One Way@</u>	<u>Motorcycle Oversize Charge<sup>1</sup></u>	<u>Motorcycle Frequent User Commuter 20 Rides<sup>2</sup>@</u>
<u>Fauntleroy-Southworth Port</u>				
<u>Townsend/Keystone</u>	<u>3.60</u>	<u>2.40</u>	<u>1.25</u>	<u>57.60</u>
<u>Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston</u>	<u>4.60</u>	<u>3.05</u>	<u>1.55</u>	<u>73.60</u>
<u>*Fauntleroy-Vashon *Southworth-Vashon</u>				
<u>*Pt. Defiance-Tahlequah</u>	<u>6.00</u>	<u>4.00</u>	<u>2.00</u>	<u>48.00</u>
<u>Mukilteo-Clinton</u>	<u>2.70</u>	<u>1.80</u>	<u>0.90</u>	<u>43.20</u>
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	<u>11.70</u>	<u>7.10</u>	<u>2.60</u>	<u>97.50</u>
<u>*Lopez - Wednesday-Saturday</u>	<u>13.00</u>	<u>7.90</u>	<u>2.90</u>	<u>97.50</u>
<u>*Shaw, Orcas - Sunday-Tuesday</u>	<u>12.60</u>	<u>8.00</u>	<u>3.50</u>	<u>105.00</u>
<u>*Shaw, Orcas - Wednesday-Saturday</u>	<u>14.00</u>	<u>8.90</u>	<u>3.90</u>	<u>105.00</u>
<u>*Friday Harbor - Sunday-Tuesday</u>	<u>13.60</u>	<u>9.00</u>	<u>4.50</u>	<u>113.30</u>
<u>*Friday Harbor - Wednesday-Saturday</u>	<u>15.10</u>	<u>10.00</u>	<u>5.00</u>	<u>113.30</u>
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>3</sup></u>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>N/A</u>
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>19.75</u>	<u>12.35</u>	<u>5.05</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations<sup>4</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>7.25</u>	<u>4.50</u>	<u>1.75</u>	<u>N/A</u>
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>2</sup></u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>1</sup></u>	<u>27.00</u>	<u>16.85</u>	<u>6.80</u>	<u>N/A</u>

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.  
 \* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversized motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride (10 ride in the San Juan Islands) card valid for 90 days from the date of purchase. From mail order deliveries, WSF may add addi-

tional days to allow for delivery time. Starting on May 1, 2006, purchase of this product at a toll booth will be 5% higher at terminals where kiosks are available, except for customers qualifying for the senior/disabled and youth fares.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>7</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSP's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the first Sunday in May to the second Sunday in

October except those using frequent user coupons. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using frequent user coupons.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF ((CEO)) Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the first ((Sunday)) of May following the date of purchase after which time the coupons shall not be accepted for passage. Unused coupons are not refundable. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

PROPOSED

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-040 Oversize vehicle ferry tolls.**

**EFFECTIVE 03:00 A.M. MAY ((4)) 1, ((2003)) 2005**

Oversize Vehicle Ferry Tolls<sup>1</sup>  
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft.
	To	To						
	Under	Under						
	30'	30'						
	Under	Over	To	To Under	To Under	To Under	To and include	Over 80'
	7'6"	7'6"	Under	50'	60'	70'	80'	@
	High	High	40'	50'	60'	70'	80'	
Fauntleroy-Southworth	((11.25))	((22.50))	((30.00))	((37.50))	((45.00))	((52.50))	((60.00))	((0.80))
Port Townsend/Keystone	12.50	24.60	32.80	41.00	49.20	57.40	65.60	0.90
Seattle-Bainbridge Island								
Seattle/Bremerton	((14.25))	((28.50))	((38.00))	((47.50))	((57.00))	((66.50))	((76.00))	((1.00))
Edmonds-Kingston	16.00	31.80	42.40	53.00	63.60	74.20	84.80	1.10
*Fauntleroy-Vashon								
*Southworth-Vashon	((18.50))	((36.75))	((49.00))	((61.25))	((73.50))	((85.75))	((98.00))	((1.30))
*Pt. Defiance-Tahlequah	20.50	40.80	54.40	68.00	81.60	95.20	108.80	1.40
Mukilteo-Clinton	((8.75))	((17.25))	((23.00))	((28.75))	((34.50))	((40.25))	((46.00))	((0.60))
	9.50	18.90	25.20	31.50	37.80	44.10	50.40	0.70
*Anacortes to Lopez - Sunday-Tuesday <sup>2</sup>	((30.00))	((60.00))	((80.00))	((100.00))	((120.00))	((140.00))	((160.00))	((2.00))
	33.00	66.00	88.00	110.00	132.00	154.00	176.00	2.20
*Anacortes to Shaw, Orcas - Sunday-Tuesday <sup>2</sup>	((35.25))	((70.50))	((94.00))	((117.50))	((141.00))	((164.50))	((188.00))	((2.40))
	39.75	79.20	105.60	132.00	158.40	184.80	211.20	2.70
*Anacortes to Friday Harbor - Sunday-Tuesday	((35.25))	((70.50))	((94.00))	((117.50))	((141.00))	((164.50))	((188.00))	((2.40))
	43.50	87.00	116.00	145.00	174.00	203.00	232.00	2.90
*Anacortes to Lopez - Wednesday-Saturday <sup>2</sup>	((33.00))	((66.00))	((88.00))	((110.00))	((132.00))	((154.00))	((176.00))	((2.20))
	36.75	73.20	97.60	122.00	146.40	170.80	195.20	2.50
Anacortes to Shaw, Orcas - Wednesday-Saturday <sup>2</sup>	((39.00))	((78.00))	((104.00))	((130.00))	((156.00))	((182.00))	((208.00))	((2.60))
	44.00	87.90	117.20	146.50	175.80	205.10	234.40	3.00

PROPOSED

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>								Cost Per Ft. Over 80' @
	Overall Unit Length - Including Driver								
	20' To Under 30'	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'		
	76" High	76" High	Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'		
*Anacortes to Friday Harbor - Wednesday-Saturday	((39.00)) 48.00	((78.00)) 96.00	((104.00)) 128.00	((130.00)) 160.00	((156.00)) 192.00	((182.00)) 224.00	((208.00)) 256.00	((2.60)) 3.20	
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	((17.00)) 21.00	((33.75)) 41.70	((45.00)) 55.60	((56.25)) 69.50	((67.50)) 83.40	((78.75)) 97.30	((90.00)) 111.20	N/A	
<i>International Travel</i>									
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	59.25	59.25	79.00	98.75	118.50	138.25	158.00	2.00	
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	((53.00)) 59.25	((105.75)) 118.50	((141.00)) 158.00	((176.25)) 197.50	((211.50)) 237.00	((246.75)) 276.50	((282.00)) 316.00	((3.60)) 4.00	
<i>Travelers with advanced reservations (\$15 fee)</i>									
Anacortes to Sidney and Sidney to all destinations - Recreational Vehicles and Buses	44.25	44.25	64.00	83.75	103.50	123.25	143.00	2.00	
<i>Travelers with advanced reservations (\$15 fee)</i>									
Anacortes to Sidney and Sidney to all destinations <sup>5</sup> - Commer- cial Vehicles	((38.00)) 44.25	((90.75)) 103.25	((126.00)) 143.00	((161.25)) 182.50	((196.50)) 222.00	((231.75)) 261.50	((267.00)) 301.00	((3.60)) 4.00	
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses	17.75	17.75	23.50	29.50	35.25	41.25	47.00	0.75	
- Commercial Vehicles	17.75	-35.25	-47.00	-58.75	70.50	-82.25	-94.00	1.20	
<i>Travelers with advanced reservations (\$7 fee) from</i>									
Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup> - Recreational Vehicles and Buses	((8.50)) 10.75	((33.75)) 10.75	((34.00)) 16.50	((44.25)) 22.50	((54.50)) 28.25	((64.75)) 34.25	((75.00)) 40.00	((1.10)) 0.60	
- Commercial Vehicles	-10.75	-28.25	40.00	-51.75	63.50	75.25	-87.00	0.60	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup> - Recreational Vehicles and Buses	((68.50)) 77.00	((136.50)) 77.00	((182.00)) 102.30	((227.50)) 128.25	((273.00)) 153.75	((318.50)) 179.50	((364.00)) 205.00	((4.70)) 2.75	
- Commercial Vehicles	77.00	153.75	205.00	256.25	307.50	358.75	410.00	5.20	

((EFFECTIVE 03:00 A.M. MAY 2, 2004

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>								Cost Per Ft. Over 80' @
	Overall Unit Length - Including Driver								
	20' To Under 30'	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'		
	76" High	76" High	Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'		
Fauntleroy-Southworth Port Townsend/Keystone	11.75	23.25	31.00	38.75	46.50	54.25	62.00	0.80	
Seattle-Bainbridge Island- Seattle/Bremerton	15.00	30.00	40.00	50.00	60.00	70.00	80.00	1.00	
*Fauntleroy-Vashon									
*Southworth-Vashon									
*Pt. Defiance-Tahlequah	19.50	39.00	52.00	65.00	78.00	91.00	104.00	1.30	
Mukilteo-Clinton	9.00	18.00	24.00	30.00	36.00	42.00	48.00	0.60	



PROPOSED

**Oversize Vehicle Ferry Tolls**  
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	70'	Cost Per Ft.
	To Under 30'	To Under 30'							
	Under 30'	Over 30'	To Under 40'	To Under 50'	To Under 60'	To Under 70'	To and include 80'	Over 80'	
	7'6" High	7'6" High	40'	50'	60'	70'	80'		@
*Anacortes to Lopez— Sunday-Tuesday <sup>2</sup>	31.25	62.25	83.00	103.75	124.50	145.25	166.00		2.10
*Anacortes to Shaw, Orcas— Sunday-Tuesday <sup>2</sup>	37.50	75.00	100.00	125.00	150.00	175.00	200.00		2.50
*Anacortes to Friday Harbor— Sunday-Tuesday	39.00	78.00	104.00	130.00	156.00	182.00	208.00		2.60
*Anacortes to Lopez— Wednesday-Saturday <sup>2</sup>	34.50	69.00	92.00	115.00	138.00	161.00	184.00		2.30
*Anacortes to Shaw, Orcas— Wednesday-Saturday <sup>2</sup>	41.75	83.25	111.00	138.75	166.50	194.25	222.00		2.80
*Anacortes to Friday Harbor— Wednesday-Saturday	43.25	86.25	115.00	143.75	172.50	201.25	230.00		2.90
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	18.75	37.50	50.00	62.50	75.00	87.50	100.00		N/A
<b>International Travel</b>									
Anacortes to Sidney and Sidney to all destinations	56.00	111.75	149.00	186.25	223.50	260.75	298.00		3.80
Travelers with advanced reservations (\$15 fee)									
Anacortes to Sidney and Sidney to all destinations <sup>5</sup>	41.00	96.75	134.00	171.25	208.50	245.75	283.00		3.80
Lopez, Shaw, Orcas and Friday Harbor to Sidney	16.50	33.00	44.00	55.00	66.00	77.00	88.00		1.10
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup>									
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round-trip) <sup>4</sup>	72.50	144.75	193.00	241.25	289.50	337.75	386.00		4.90

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll-collection system.)

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

<sup>2</sup>TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: ((May 4, 2003 - May 1, 2004, \$20.00) May 29, 2005 - April 30, 2007, \$37.50 base season, \$((37.50)) 50.00 peak season((+May 2, 2004 - April 30, 2005, \$28.75 base season, \$28.75 peak season)).

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>5</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, and Friday Harbor. The senior citizen discount shall apply to the driver of an oversize vehicle. A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PROPOSED

**PENALTY CHARGES** - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

**DISCOUNT FROM REGULAR TOLL** - Effective May ~~((4, 2003, through May 4, 2004))~~ 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount ~~((from))~~ from the regular ferry tolls. ~~((This discount is discontinued effective May 5, 2004.))~~ With the implementation of EFS in fall 2005, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules.

**GROUP OR VOLUME SALES** - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS** - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

**EMERGENCY TRIPS DURING NONSERVICE HOURS** - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

**BULK NEWSPAPERS** - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

**EXPRESS SHIPMENTS** - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

**MEDICAL SUPPLIES** - A flat handling charge of \$5.00 per shipment is charged.

**DISCLAIMER** - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ~~((2002))~~ 2004, through June 30, ~~((2003))~~ 2005:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$ <del>((1,077.29))</del> <u>1,191.00</u>	\$ <del>((895.07))</del> <u>1,019.00</u>
Jumbo	<del>((1,037.39))</del> <u>1,151.00</u>	<del>((868.24))</del> <u>991.00</u>
Super	<del>((999.22))</del> <u>1,102.00</u>	<del>((835.96))</del> <u>949.00</u>
Evergreen	<del>((775.62))</del> <u>822.00</u>	<del>((640.56))</del> <u>695.00</u>
Issaquah	<del>((810.73))</del> <u>871.00</u>	<del>((675.67))</del> <u>743.00</u>
Steel	<del>((649.13))</del> <u>687.00</u>	<del>((542.27))</del> <u>586.00</u>
Rhododendron	<del>((622.13))</del> <u>646.00</u>	<del>((515.27))</del> <u>545.00</u>
Hiyu	<del>((439.40))</del> <u>455.00</u>	<del>((380.09))</del> <u>398.00</u>
Passenger Only	521.78	445.57
Passenger Only Fast Ferry	595.00	516.34

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

**AMENDATORY SECTION** (Amending WSR 03-08-072, filed 4/1/03, effective 5/2/03)

**WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system.** Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel

**WSR 05-07-123**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed March 22, 2005, 10:46 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-849 WAC, Benzene and WAC 296-62-07523 Benzene.

**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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rule Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 24, 2005.**

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This expedited rule making will make housekeeping changes to benzene, chapter 296-849 WAC and amend the rules so that they are at-least-as-effective-as the Occupational Safety and Health Administration (OSHA) rules. In addition, when L&I rewrote the requirements relating to benzene, adopted as WSR 05-01-172 on December 21, 2004, it moved the benzene requirements to new chapter 296-849 WAC. The old benzene requirements in WAC 296-62-07523 were not repealed. This rule making will repeal this WAC section.

**Amended Sections:**

**WAC 296-849-100 Scope.**

- Corrected an incorrect reference.
- Added an omitted word "apply" to Step 2b.

**WAC 296-849-11030 Exposure evaluations.**

- Corrected bulleting errors in Step 6.

**WAC 296-849-12010 Periodic exposure evaluations.**

- Added an omitted requirement in Table 3, Periodic Exposure Evaluation Frequencies, to provide consistency with the federal OSHA requirement in CFR 1910.1028 (e)(3)(ii).

**WAC 296-849-12030 Medical evaluations.**

- Clarified bulleting by adding two additional "and" statements in Table 5, Medical Follow-up Requirements.

**WAC 296-849-13045 Respirators.**

- Correct bulleting errors under the first primary bullet.

**Repealed Sections:**

**WAC 296-62-07523 Benzene.**

Reasons Supporting Proposal: The department is expediting the rule making in order to make housekeeping changes and add a requirement that will make WISHA's safety and health rules at-least-as-effective-as the federal equivalent.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Wood, Tumwater, (360) 902-5495.

March 22, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

**WAC 296-849-100 Scope.** This chapter applies to all occupational exposure to benzene.

**Definition:**

*Exposure* is the contact an employee has with benzene, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

**Exemptions:** This chapter does not apply to any of the following:

- Liquids, vapors, mixtures in containers or pipelines, and gas in natural gas processing plants when benzene content is 0.1% or less.

- Gasoline and other fuels containing benzene once they leave the final bulk wholesale facility and are being:

- Transported;
- Sold;
- Distributed;
- Stored;
- Dispensed either:

- Outdoors;

OR

- Indoors four hours or less a day.

- Used as a fuel.

- Laboratories subject to the requirements in hazardous chemicals in laboratories, WAC 296-62-400, the General occupational health standards, chapter 296-62 WAC.

- Oil and gas drilling, production, and servicing operations.

- Solid materials that contain only trace amounts of benzene.

- Coke ovens.

All requirements in this chapter will not apply to every workplace with an occupational exposure. The following will show you which requirements apply to your workplace.

**Step 1:** If any of your work tasks are listed in Table 1, follow Table 1.

- Go to Step 2a if you have additional work tasks or other exposures that are not covered in Table 1.

**Table 1**  
**Requirements that Apply to Specific Tasks**

If employees do any of the following:	Then the only requirements in this chapter that apply to those tasks are:
Load and unload benzene at bulk storage facilities that use vapor control systems for all loading and unloading operations.	<ul style="list-style-type: none"> <li>The labeling requirement found in Preventive practices, WAC 296-849-11010.</li> </ul>
Perform tasks around sealed transport pipelines carrying gasoline, crude oil, or other liquids containing more than 0.1% benzene.	<ul style="list-style-type: none"> <li>This requirement found in Training, WAC 296-849-11050:                             <ul style="list-style-type: none"> <li>Make sure training and information includes specific information on benzene for each hazard communication training topic. For the list of hazard communication training topics, go to the Safety and health core rules, chapter 296-800 WAC, and find Inform and train your employees about hazardous chemicals in your workplace, WAC 296-800-17030.</li> </ul> </li> </ul>
Work with, or around, sealed containers of liquids containing more than 0.1% benzene.	<ul style="list-style-type: none"> <li>Emergency requirements found in Medical evaluations, WAC 296-849-12030.</li> <li>Requirements found in Medical records, WAC 296-849-12080.</li> </ul>
	<ul style="list-style-type: none"> <li>Respirator requirements found in Respirators, WAC 296-849-13045.</li> </ul>

**Step 2a:** Follow requirements in the basic rules sections, WAC 296-849-11010 through 296-849-11090, for tasks not listed in Table 1.

- This includes completing an exposure evaluation, as specified in Exposure evaluations, WAC ((296-849-11060)) 296-849-11030, to:

- Obtain employee fifteen-minute and eight-hour exposure monitoring results of airborne benzene;

AND

- Determine if employee exposure monitoring results are above, at, or below these values:

- Eight-hour time-weighted average (TWA<sub>8</sub>) . . . . . 1 parts per million (ppm).

- Fifteen-minute short-term exposure limit (STEL) . . . . . 5 ppm.

- Eight-hour action level (AL) . . . . . 0.5 ppm.

**Step 2b:** Use employee exposure monitoring results from Step 2a and follow Table 2 to find out which additional sections of this chapter apply to your workplace.

**Table 2**  
**Section Application**

If employee exposure monitoring results are:	Then continue to follow the basic rules, and these additional requirements:
<ul style="list-style-type: none"> <li>Above the TWA<sub>8</sub> or STEL</li> </ul>	<ul style="list-style-type: none"> <li>Exposure and medical monitoring, WAC 296-849-12005 through 296-849-12080;</li> <li>AND</li> <li>Exposure control areas, WAC 296-849-13005 through 296-849-13045.</li> </ul>
<ul style="list-style-type: none"> <li>At or below the TWA<sub>8</sub> or STEL;</li> <li>AND</li> <li>At or above AL</li> </ul>	<ul style="list-style-type: none"> <li>Exposure and medical monitoring, WAC 296-849-12005 through 296-849-12080.</li> </ul>
<ul style="list-style-type: none"> <li>Below the AL and STEL</li> </ul>	<ul style="list-style-type: none"> <li>No additional requirements apply.</li> </ul>

**AMENDATORY SECTION** (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

**WAC 296-849-11030 Exposure evaluations.**

**IMPORTANT:**

- When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

- Following this section will fulfill the requirements to identify and evaluate respiratory hazards found in another chapter, Respiratory hazards, chapter 296-841 WAC.

**You must:**

- Conduct an employee exposure evaluation to accurately determine airborne concentrations of benzene by completing Steps 1 through 7 of the exposure evaluation process, each time any of the following apply:

- No evaluation has been conducted.

- You have up to thirty days to complete an evaluation once benzene is introduced into your workplace.

- Changes have occurred in any of the following areas that may result in new or increased exposures:

- Production.

- Processes.

- Exposure controls such as ventilation systems or work practices.

- Personnel.

- You have any reason to suspect new or increased exposure may occur.

- Spills, leaks, or other releases have been cleaned up.

**Note:** As part of your exposure evaluation after cleanup, you will make sure exposure monitoring results have returned to prerelease levels.

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**Exposure evaluation process.****IMPORTANT:**

- If you are evaluating employee exposures during cleaning and repair of barges and tankers that contained benzene:
  - Collect samples that effectively measure benzene concentrations that employees may be exposed to;

**AND**

- Skip to Step 7.

• Following the exposure evaluation process is not necessary when you have documentation conclusively demonstrating benzene exposures for a particular operation and material cannot exceed the action level (AL) during any conditions reasonably anticipated.

– Documentation can be based on data or qualitative information, such as information about:

- The material.
- How the material is handled.
- The work conditions.

– Retain this documentation for as long as you rely on it.

**Step 1:** Identify all employees who have potential airborne exposure to benzene in your workplace.

**Step 2:** Identify operations where fifteen-minute exposures could exceed benzene's short-term exposure limit (STEL) of 5 parts per million (ppm).

• Include operations where it is reasonable to expect high, fifteen-minute exposures, such as operations where:

- Tanks are opened, filled, unloaded, or gauged.
- Containers or process equipment are opened.
- Benzene is used as a solvent for cleaning.

**Note:** You may use monitoring devices such as colorimetric indicator tubes or real-time monitors to screen for activities where employee exposure monitoring results could be high.

**Step 3:** Select employees from those working in the operations you identified in Step 2 who will have their fifteen-minute exposures measured.

**Step 4:** Select employees from those identified in Step 1 who will have their eight-hour exposures monitored.

• Make sure the exposures of the employees selected represent eight-hour exposures for all employees identified at Step 1, including each job classification, work area, and shift.

**Note:** A written description of the procedure used for obtaining representative employee exposure monitoring results needs to be kept as part of your exposure records required by this chapter in Exposure records, WAC 296-849-11090. This description can be created while completing Steps 3 through 6 of this exposure evaluation process.

**Step 5:** Determine how you will obtain employee monitoring results.

• Select and use a method that is accurate to  $\pm 25\%$ , with a confidence level of 95%.

**Note:** • Here are examples of methods that meet this accuracy requirement:

- OSHA Method 12 for air samples, found by going to <http://www.osha.gov/dts/sltc/methods/toc.html>.
- NIOSH Method 1500, found by going to <http://www.cdc.gov/niosh/homepage.html> and link to the *NIOSH Manual of Analytical Methods*.

**Step 6:** Obtain employee exposure monitoring results by collecting air samples representing employees identified at Step 1.

((–)) = Collect fifteen-minute samples from employees selected at Step 3.

((–)) = Sample at least one shift representative of the eight-hour exposure for each employee selected at Step 4.

- Make sure samples are collected from each selected employee's breathing zone.
- Collecting area samples is permitted after emergency releases.

**Note:** • You may use any sampling method that meets the accuracy specified in Step 5. Examples of these methods include:

– Real-time monitors that provide immediate exposure monitoring results.

– Equipment that collects samples that are sent to a laboratory for analysis.

• The following are examples of methods of monitoring representative of eight-hour exposures:

– Collect one or more continuous samples, for example, a single eight-hour sample or four two-hour samples.

– Take a minimum of five brief samples, such as fifteen-minute samples, during the work shift and at times selected randomly.

• For work shifts longer than eight hours, monitor the continuous eight-hour portion of the shift expected to have the highest average exposure concentration.

**Step 7:** Have the samples you collected analyzed to obtain monitoring results representing eight-hour and fifteen-minute exposures.

• Go to the scope of this chapter, WAC 296-849-100, and compare employee exposure monitoring results to the values found in Step 2a and follow Step 2b to determine if additional sections of this chapter apply.

**Note:** • You may contact your local WISHA consultant for help:

- Interpreting data or other information.

– Obtaining eight-hour or fifteen-minute employee exposure monitoring results.

• To contact a WISHA consultant:

– Go to another chapter, the Safety and health core rules, chapter 296-800 WAC, and find the resources section, and under "other resources," find service location for labor and industries.

### AMENDATORY SECTION (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

#### **WAC 296-849-12010 Periodic exposure evaluations.**

**Exemption:** Periodic exposure evaluations aren't required if exposure monitoring results conducted to fulfill requirements in Exposure evaluation, WAC 296-849-11030, are below the action level (AL) and short-term exposure limit (STEL).

#### **You must:**

• Obtain employee exposure monitoring results as specified in Table 3, by repeating Steps 3, 4, 6, and 7 of the exposure evaluation process found within this chapter, in Exposure evaluations, WAC 296-849-11030.

**Note:** If you document that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you can limit sample collection to the work shift with higher exposures and use results to represent all employees performing the operation on other shifts.

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**Table 3**  
**Periodic Exposure Evaluation Frequencies**

If exposure monitoring results	Then
<ul style="list-style-type: none"> <li>- Are between the: AL of 0.5 ppm AND</li> <li>- Eight-hour time-weighted average (TWA<sub>8</sub>) of 1 ppm</li> </ul>	<p>Conduct additional exposure evaluations at least every twelve months for the employees represented by the monitoring results.</p>
<p><u>Are above the TWA<sub>8</sub></u></p>	<p><u>Conduct additional exposure evaluations at least every six months for the employees represented by the monitoring results.</u></p>
<p>Have decreased to a concentration between the AL and TWA<sub>8</sub>; AND The decrease is demonstrated by two consecutive exposure evaluations, made at least seven days apart.</p>	<p>You may <b>decrease</b> your evaluation frequency to every twelve months for employees represented by the monitoring results.</p>
<p>Are above the short-term exposure limit (STEL) of 5 ppm</p>	<p>Repeat as often as necessary to evaluate employee exposure.</p>
<p>Have decreased to below the AL and the STEL AND The decrease is demonstrated by two consecutive evaluations, made at least seven days apart.</p>	<p>You may <b>stop</b> periodic exposure evaluations for employees represented by the monitoring results.</p>

EXPEDITED

**AMENDATORY SECTION** (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

**WAC 296-849-12030 Medical evaluations.**

**IMPORTANT:**

Medical evaluations conducted under this section will satisfy the medical evaluation requirement found in Respirators, chapter 296-842 WAC.

**You must:**

- Provide the relevant medical follow-up specified in Tables 4 and 5 to any employee exposed to benzene during an emergency.

- Make medical evaluations available to current employees who meet the following criteria:

- Potential or actual exposure to benzene at or above the action level (AL) for at least thirty days in any twelve-month period.

- Potential or actual exposure to benzene at or above either permissible exposure limit (PEL) for at least ten days in a twelve-month period.

- Past exposure to concentrations above 10 ppm benzene for at least thirty days in a twelve-month period before November 11, 1988.

- Current or past work as a tire building machine operator using solvents containing more than 0.1% benzene during tire building operations.

**You must:**

- Make medical evaluations available at no cost to employees.

- Pay all costs, including travel costs and wages associated with any time spent outside of the employee's normal work hours;

- Make medical evaluations available at reasonable times and places;

- Make medical evaluations available by completing Steps 1 through 6 of the medical evaluation process for each employee covered.

**Note:**

- Employees who wear respirators need to be medically evaluated to make sure the respirator will not harm them, before they are assigned work in areas requiring respirators. Employees who decline to receive medical examination and testing to monitor for health effects caused by benzene are not excluded from receiving a separate medical evaluation for a respirator use.

- If employers discourage participation in medical monitoring for health effects caused by benzene, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing, instituting proceeding, or testifying prohibited—Procedure—Remedy.

**Helpful tool:**

**Declination form for nonemergency related medical evaluations.**

- You may use this optional form to document employee decisions to decline participation in the medical evaluation process for exposure to benzene.

**Medical evaluation process:**

**Step 1:** Identify employees who qualify, as stated above, for medical evaluations.

**Step 2:** Make medical evaluations available for employees identified in Step 1 at the following times:

- Initially, before the employee starts a job or task assignment where benzene exposure will occur.

- Every twelve months from the initial medical evaluation.

- Whenever the employee develops signs or symptoms commonly associated with toxic benzene exposure.

- After benzene exposure from an emergency.

**Step 3:** Select a licensed health care professional (LHCP) who will conduct or supervise medical evaluations and make sure:

- Individuals who conduct pulmonary function tests have completed a training course in spirometry sponsored by an appropriate governmental, academic, or professional institution, if they are not licensed physicians;

AND

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**Table 4**  
**Content of Medical Evaluations**

When conducting	Include
An initial evaluation	<ul style="list-style-type: none"> <li>• A detailed history including:                             <ul style="list-style-type: none"> <li>– Past work exposure to benzene or other hematological toxins;</li> <li>– Exposure to marrow toxins outside of current employment;</li> <li>– Exposure to ionizing radiation;</li> <li>– Family history of blood dyscrasias including hematological neoplasms;</li> <li>– History of blood dyscrasias including genetic hemoglobin abnormalities, bleeding abnormalities, and abnormal function of formed blood elements;</li> <li>– History of renal or liver dysfunction;</li> <li>– History of medications routinely taken.</li> </ul> </li> <li>• A complete physical examination:                             <ul style="list-style-type: none"> <li>– Include a pulmonary function test and specific evaluation of the cardiopulmonary system if the employee is required to use a respirator for at least thirty days a year.</li> </ul> </li> <li>• A complete blood count including a:                             <ul style="list-style-type: none"> <li>– Leukocyte count with differential;</li> <li>– Quantitative thrombocyte count;</li> <li>– Hematocrit;</li> <li>– Hemoglobin;</li> <li>– Erythrocyte count and indices (MCV, MCH, MCHC).</li> </ul> </li> <li>• Additional tests the examining LHCP determines are necessary based on alterations in the components of the blood or other signs that may be related to benzene exposure.</li> <li>• <b>Medical follow-up as required in Table 5.</b></li> </ul>

• Your LHCP uses an accredited laboratory, such as one accredited by a nationally or state-recognized organization, to conduct laboratory tests.

**Step 4:** Make sure the LHCP receives all of the following before the medical evaluation is performed:

- A copy of:
  - This chapter.
  - The following information found in the General occupational health standards, chapter 296-62 WAC:
    - Appendix A, the substance safety data sheet—benzene, found in WAC 296-62-07525.
    - Appendix B, the substance technical guidelines—benzene, found in WAC 296-62-07527.
    - Appendix C, the medical surveillance guidelines for benzene, found in WAC 296-62-07529.
- A description of the duties of the employee being evaluated and how these duties relate to benzene exposure.
- The anticipated or representative exposure monitoring results for the employee being evaluated.
- A description of the personal protective equipment (PPE) each employee being evaluated uses or will use.
- Information from previous employment-related examinations when this information is not available to the examining LHCP.
- Instructions that the written opinions the LHCP provides, be **limited to** the following information:
  - Specific records, findings, or diagnosis relevant to the employee's ability to work around benzene.
  - The occupationally relevant results from examinations and tests.
  - A statement about whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to benzene.
  - Any recommended limitations for benzene exposure.
  - Whether or not the employee can use respirators and any recommended limitations for respirator or other PPE use.
  - A statement that the employee has been informed of medical results and medical conditions caused by benzene exposure requiring further explanation or treatment.

**Step 5:** Provide the medical evaluation to the employee. Make sure it includes the content listed in Table 4, Content of medical evaluations, and Table 5, Medical follow-up requirements.

**Step 6:** Obtain the LHCP's written opinion for each employee's medical evaluation and give a copy to the employee within fifteen days of the evaluation date.

• Make sure the written opinion is limited to the information specified for written opinions in Step 4.

**Note:** If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

**IMPORTANT:**

These tables apply when conducting medical evaluations, including medical follow-up for employees exposed to benzene during emergencies.

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When conducting	Include
Annual evaluations	<ul style="list-style-type: none"> <li>• An updated medical history covering:                             <ul style="list-style-type: none"> <li>– Any new exposure to potential marrow toxins;</li> <li>– Changes in medication use;</li> <li>– Any physical signs associated with blood disorders.</li> </ul> </li> <li>• A complete blood count including a:                             <ul style="list-style-type: none"> <li>– Leukocyte count with differential;</li> <li>– Quantitative thrombocyte count;</li> <li>– Hematocrit;</li> <li>– Hemoglobin;</li> <li>– Erythrocyte count and indices (MCV, MCH, MCHC).</li> </ul> </li> <li>• Additional tests that the examining LHCP determines necessary, based on alterations in the components of the blood or other signs that may be related to benzene exposure.</li> <li>• A pulmonary function test and specific evaluation of the cardiopulmonary system every three years if the employee is required to use a respirator for at least thirty days a year.</li> <li>• <b>Medical follow-up as required in Table 5.</b></li> </ul>
Evaluations triggered by employee signs and symptoms commonly associated with the toxic effects of benzene exposure	<ul style="list-style-type: none"> <li>• An additional medical examination that addresses elements the examining LHCP considers appropriate.</li> </ul>
Evaluations triggered by employee exposure during an emergency	<ul style="list-style-type: none"> <li>• A urinary phenol test performed on the exposed employee's urine sample within seventy-two hours of sample collection.                             <ul style="list-style-type: none"> <li>– The urine sample must be collected at the end of the work shift associated with the emergency;</li> <li>– The urine specific gravity must be corrected to 1.024.</li> </ul> </li> </ul>

When conducting	Include
	<ul style="list-style-type: none"> <li>• <b>Medical follow-up as required in Table 5.</b></li> </ul> <p><b>Reference:</b> Employees who are not covered by medical evaluation requirements in this chapter may be covered by medical evaluation requirements in other chapters such as Emergency response, chapter 296-824 WAC.</p>

**Table 5**  
**Medical Follow-up Requirements**

If	Then
<ul style="list-style-type: none"> <li>• The complete blood count test result is normal.</li> </ul>	<ul style="list-style-type: none"> <li>• No further evaluation is required.</li> </ul>
<ul style="list-style-type: none"> <li>• The complete blood count test shows any of the following abnormal conditions:                             <ul style="list-style-type: none"> <li>– A leukocyte count less than 4,000 per mm<sup>3</sup> or an abnormal differential count;</li> </ul> </li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>– A thrombocyte (platelet) count that is either:                             <ul style="list-style-type: none"> <li>■ More than 20% below the employee's most recent values;</li> </ul> </li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>■ Outside the normal limit (95% C.I.) according to the laboratory;</li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>– The hematocrit or hemoglobin level is either of the following, and can not be explained by other medical reasons:</li> </ul>	<ul style="list-style-type: none"> <li>• Repeat the complete blood count within two weeks:                             <ul style="list-style-type: none"> <li>– If the abnormal condition persists, refer the employee to a hematologist or an internist for follow-up medical examination and evaluation, unless the LHCP has good reason to believe it is unnecessary;</li> <li>– The hematologist or internist will determine what follow-up tests are necessary;</li> </ul> </li> </ul> <p style="text-align: center;"><b>AND</b></p> <ul style="list-style-type: none"> <li>• Follow the requirements found in Medical removal, WAC 296-849-12050.</li> </ul>



If	Then
<ul style="list-style-type: none"> <li>■ Below the normal limit (outside the 95% C.I.), as determined by the laboratory for the particular geographical area;</li> <li>OR</li> <li>■ Persistently decreasing compared to the employee's preexposure levels.</li> </ul>	
<p>Results from the <b>urinary phenol test</b> conducted during an emergency evaluation show phenol levels less than 75 mg/L.</p>	<ul style="list-style-type: none"> <li>• No further evaluation is required.</li> </ul>
<p>Results from the <b>urinary phenol test</b> conducted during an emergency evaluation show phenol levels equal or more than 75 mg/L.</p>	<ul style="list-style-type: none"> <li>• Provide a complete blood count monthly for three months. Include a:                             <ul style="list-style-type: none"> <li>- Leukocyte count with differential;</li> <li>- Thrombocyte count;</li> <li>- Erythrocyte count;</li> </ul>                             AND                         </li> <li>• If any of the abnormal conditions previously listed in this table for complete blood count results are found:                             <ul style="list-style-type: none"> <li>- Provide the employee with periodic examinations, if directed by the LHCP;</li> </ul>                             AND                         </li> <li>- Refer the employee to a hematologist or an internist for follow-up medical examination and evaluation unless the LHCP has good reason to believe a referral is unnecessary;</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>- Follow the requirements found in Medical removal, WAC 296-849-12050;</li> </ul> <p>AND</p>

If	Then
	<ul style="list-style-type: none"> <li>- The hematologist or internist will determine what follow-up tests are necessary.</li> </ul>

**AMENDATORY SECTION** (Amending WSR 05-01-172, filed 12/21/04, effective 3/1/05)

**WAC 296-849-13045 Respirators.**

**IMPORTANT:**

These requirements are in addition to the requirements found in other chapters:

- Respiratory hazards, chapter 296-841 WAC;
- Respirators, chapter 296-842 WAC.

**You must:**

- Provide respirators and require that employees use them in circumstances where exposure is above either permissible exposure limit (PEL) for benzene, including any of the following circumstances:

- Employees are in an exposure control area;
- Feasible exposure controls are being put in place;
- Where you determine that exposure controls are not feasible;

- Feasible exposure controls do not reduce exposures to, or below, a PEL((?));

((\*) = Emergencies.

- Meet these requirements to protect employees from benzene exposure above a PEL:

- Limit selection of escape respirators to either:

- A full-facepiece organic vapor gas mask;

OR

- A full-facepiece self-contained breathing apparatus (SCBA);

OR

- A hood-style SCBA that operates in positive-pressure mode.

- Make sure respirator cartridges or canisters are replaced at the beginning of each work shift, or sooner if their service life has expired.

- Make sure canisters on gas masks and powered air-purifying respirators (PAPRs) have a minimum service life of four hours when tested under these conditions:

- A benzene concentration of 150 ppm;
- A temperature of 25°C;
- A relative humidity of 85%;
- A flow rate of one of the following:
  - 64 liters per minute (lpm) for nonpowered air-purifying respirators;
  - 115 lpm for **tight-fitting** PAPRs;
  - 170 lpm for **loose-fitting** PAPRs.

- Provide an employee a respirator with low breathing resistance, such as a PAPR or an air-line respirator when the:

- Employee cannot use a negative-pressure respirator;

AND

- A licensed health care professional's (LHCP's) written opinion allows this type of respirator.

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**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-62-07523 Benzene.

**WSR 05-07-124  
EXPEDITED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 22, 2005, 10:47 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-45 WAC, Safety standards for electrical workers.

**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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 24, 2005.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this proposal is to be at-least-as-effective-as the Occupational Safety and Health Administration (OSHA). The department received letters from OSHA indicating that we were not as-effective-as the federal requirements relating to the electrical standard, chapter 296-45 WAC. For example:

- A qualified employee must position themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts.
- The fall protection requirements relating to lineman's belts, safety straps and lanyards currently reference the employer to another standard, therefore we are incorporating them into chapter 296-45 WAC.

**AMENDED SECTIONS:****WAC 296-45-25510 Fall protection.**

- Add a new subsection (2) relating to specific requirements about lineman's belts, safety straps, and lanyards. The language being proposed is the OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.

**WAC 296-45-315 Materials handling and storage.**

- Add a new paragraph (d) in subsection (4) relating to pole handling and framing operations. The lan-

guage being proposed is OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.

**WAC 296-45-325 Working on or near exposed energized parts.**

- Add language in paragraph (3) relating to qualified employees positioning themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.

**WAC 296-45-385 Overhead lines.**

- Revise language in subsection (2)(d) relating to installing and removing overhead lines. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.
- Add a new subsection (2)(n) relating to each pull being snubbed or dead ended. The language being proposed is OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.
- Add a new subsection (13)(d) and (e) relating to towers and structures. The language being proposed is OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.
- Add a new subsection (14) relating to conductors, subconductors, and overhead ground conductors being bonded to a tower. The language being proposed is OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.
- Renumbered current subsections (14), (15) and (16) to subsections (15), (16) and (17) because of the new subsection (14) mentioned above.

**WAC 296-45-475 Substations.**

- Add a new subsection (1)(d) relating to access and working space. The language being proposed is OSHA requirements and our proposed language is identical to OSHA. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.
- Revise language in subsection (3) relating to substation fences. This is being done as a result of WISHA receiving a "not at-least-as-effective-as" letter from OSHA.

**Reasons Supporting Proposal:** The department is updating the standard to be at-least-as-effective-as OSHA.

**Statutory Authority for Adoption:** RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

**Statute Being Implemented:** Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Wood, Tumwater, (360) 902-5495.

March 22, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

**WAC 296-45-25510 Fall protection.** (1) Personal fall arrest equipment shall meet the requirements of WAC 296-155-245.

(2) ~~((Body belts and safety straps for work positioning shall meet the requirements of WAC 296-155-245.))~~ Specific requirements for lineman's belts, safety straps and lanyards.

(a) All fabric used for safety straps must withstand an A.C. dielectric test of not less than 25,000 volts per foot "dry" for 3 minutes, without visible deterioration.

(b) All fabric and leather used must be tested for leakage current and must not exceed 1 milliampere when a potential of 3,000 volts is applied to the electrodes positioned 12 inches apart.

(c) Direct current tests may be permitted in lieu of alternating current tests.

(d) The cushion part of the body belt must:

(i) Contain no exposed rivets on the inside;

(ii) Be at least three (3) inches in width;

(iii) Be at least five thirty-seconds (5/32) inch thick, if made of leather; and

(iv) Have pocket tabs that extended at least 1 1/2 inches down and three (3) inches back of the inside of circle of each D ring for riveting on plier or tool pockets. On shifting D belts, this measurement for pocket tabs must be taken when the D ring section is centered.

(e) A maximum of four (4) tool loops must be so situated on the body belt that four (4) inches of the body belt in the center of the back, measuring from D ring to D ring, must be free of tool loops, and any other attachments.

(f) Suitable copper, steel, or equivalent liners must be used around bar of D rings to prevent wear between these members and the leather or fabric enclosing them.

(g) All stitching must be of a minimum 42-pound weight nylon or equivalent thread and must be lock stitched. Stitching parallel to an edge must not be less than three-sixteenths (3/16) inch from edge of narrowest member caught by the thread. The use of cross stitching on leather is prohibited.

(h) The keeper of snaphooks must have a spring tension that will not allow the keeper to begin to open with a weight of 2 1/2 pounds or less, but the keeper of snaphooks must begin to open with a weight of four (4) pounds, when the weight is supported on the keeper against the end of the nose.

(i) Testing of lineman's safety straps, body belts and lanyards must be in accordance with the following procedure:

(i) Attach one end of the safety strap or lanyard to a rigid support, the other end must be attached to a 250-pound canvas bag of sand;

(ii) Allow the 250-pound canvas bag of sand to free fall 4 feet for (safety strap test) and 6 feet for (lanyard test); in each case stopping the fall of the 250-pound bag;

(ii) Failure of the strap or lanyard must be indicated by any breakage, or slippage sufficient to permit the bag to fall free of the strap or lanyard. The entire "body belt assembly" must be tested using one D ring. A safety strap or lanyard must be used that is capable of passing the "impact loading test" and attached as required in (i)(i) of this subsection. The body belt must be secured to the 250-pound bag of sand at a point to simulate the waist of a man and allowed to drop as stated in (i)(ii) of this subsection. Failure of the body belt must be indicated by any breakage, or slippage sufficient to permit the bag to fall free of the body belt.

(3) Body belts, safety straps, lanyards, lifelines, and body harnesses shall be inspected before use each day to determine that the equipment is in safe working condition. Defective equipment may not be used.

(4) Employees shall not wear climbers while doing work where they are not required. Employees shall not continue to wear their climbers while working on the ground; except for momentary or short periods of time on the ground.

(5) Employees, when working from a hook ladder, must either belt themselves securely to the ladder, attach themselves to the structures by means of a safety line, or belt themselves to ladder safety equipment, which shall consist of a safety rope or belting threaded through the rungs or secured to the ladder at intervals of not more than three feet.

(6) Before an employee throws his/her weight on a belt, the employee shall determine that the snap or fasteners are properly engaged.

(7) Safety straps shall not be placed around poles above the cross-arm except where it is not possible for the strap to slide or be slipped over the top of the pole by inadvertence of the employee. Neither end of the strap shall be allowed to hang loose or dangle while the employee is ascending or descending poles or other structures.

(8) Body belts and safety straps shall not be stored with sharp-edged tools or near sharp objects. When a body belt, safety strap and climbers are kept in the same container, they shall be stored in such a manner as to avoid cutting or puncturing the material of the body belt or safety strap with the gaffs or climbers.

(9) Employees shall not attach metal hooks or other metal devices to body belts. Leather straps or rawhide thongs shall have hardwood or fibre crossbars. Leather straps and rawhide thongs shall not have metal or other conductive crossbars on them.

(10) Climbing gaffs shall be kept properly sharpened and shall be at least 1-1/8 inches in length.

(11) Lifelines shall be protected against being cut or abraded.

(12) Fall arrest equipment, work positioning equipment, or travel restricting equipment shall be used by employees working at elevated locations more than 4 feet (1.2 m) above the ground on poles, towers, or similar structures if other fall protection has not been provided. Fall protection equipment is not required to be used by a qualified employee climbing or changing location on poles, towers, or similar structures, unless conditions, such as, but not limited to, ice, high winds,

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the design of the structure (for example, no provision for holding on with hands), or the presence of contaminants on the structure, could cause the employee to lose his or her grip or footing.

Note 1: This subsection applies to structures that support overhead electric power generation, transmission, and distribution lines and equipment. It does not apply to portions of buildings, such as loading docks, to electric equipment, such as transformers and capacitors, nor to aerial lifts. Requirements for fall protection associated with walking and working surfaces are contained in WAC 296-155-245; requirements for fall protection associated with aerial lifts are contained in chapter 296-155 WAC, Part J-1.

Note 2: Employees undergoing training are not considered "qualified employees" for the purposes of this provision. Unqualified employees (including trainees) are required to use fall protection any time they are more than 4 feet (1.2 m) above the ground.

(13) The following requirements apply to personal fall arrest systems:

(a) When stopping or arresting a fall, personal fall arrest systems shall limit the maximum arresting force on an employee to 1800 pounds (8 kN) if used with a body harness.

(b) Personal fall arrest systems shall be rigged such that an employee can neither free fall more than 6 feet (1.8 m) nor contact any lower level.

(14) If vertical lifelines or droplines are used, not more than one employee may be attached to any one lifeline.

(15) Snaphooks may not be connected to loops made in webbing-type lanyards.

(16) Snaphooks may not be connected to each other.

**AMENDATORY SECTION** (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

**WAC 296-45-315 Materials handling and storage.** (1) General. Material handling and storage shall conform to the requirements of chapter 296-24 WAC, Part D.

(2) Materials storage near energized lines or equipment. In areas not restricted to qualified persons only, materials or equipment may not be stored closer to energized lines or exposed energized parts of equipment than the following distances plus an amount providing for the maximum sag and side swing of all conductors and providing for the height and movement of material handling equipment:

(a) For lines and equipment energized at 50 kV or less, the distance is 10 feet (305 cm).

(b) For lines and equipment energized at more than 50 kV, the distance is 10 feet (305 cm) plus 4 inches (10 cm) for every 10 kV over 50 kV.

(c) In areas restricted to qualified employees, material may not be stored within the working space about energized lines or equipment.

Note: Requirements for the size of the working space are contained in WAC 296-45-475(1) and 296-45-48515.

(3) Prior to unloading steel, poles, crossarms and similar materials, the load shall be thoroughly examined to determine if the load has shifted, binders or stakes have broken or the load is otherwise hazardous to employees. The hoist rope shall not be wrapped around the load. This provision shall not

apply to electric construction crews when setting or removing poles.

(4) Pole handling.

(a) During pole hauling operations, all loads shall be secured to prevent displacement, and a red flag shall be displayed at the trailing end of the longest pole.

(b) While loading and unloading materials, roadways shall not be blocked unless approved traffic control is used.

(c) When hauling poles during darkness, illuminated warning devices shall be attached to the trailing end of the longest pole in accordance with the state of Washington motor vehicle code.

(d) Framing. During framing operations, employees must not work under a pole or a structure suspended by a crane, A-frame or similar equipment unless the pole or structure is adequately supported.

(5) Tag lines. When necessary to control loads, tag lines or other approved devices shall be used.

(6) Oil filled equipment. During construction or repair of oil filled equipment, the oil may be stored in temporary containers other than those required by WAC 296-155-270, such as pillow tanks.

(7) Storage of tools and materials. All tools and materials shall be stored in a safe and orderly manner in yards for equipment and other areas.

**AMENDATORY SECTION** (Amending WSR 03-17-071, filed 8/19/03, effective 11/1/03)

**WAC 296-45-325 Working on or near exposed energized parts.** This section applies to work on exposed live parts, or near enough to them, to expose the employee to any hazard they present.

(1) General. Only qualified employees may work on or with exposed energized lines or parts of equipment. Only qualified employees may work in areas containing unguarded, uninsulated energized lines or parts of equipment operating at 50 volts or more. Electric lines and equipment shall be considered and treated as energized unless the provisions of WAC 296-45-175 through 296-45-17565 or 296-45-335 have been followed.

(2) Except as provided in subsection (3) of this section, at least two qualified employees shall be present while the following types of work are being performed:

(a) Installation, removal, or repair of lines that are energized at more than 600 volts;

(b) Installation, removal, or repair of deenergized lines if an employee is exposed to contact with other parts energized at more than 600 volts;

(c) Installation, removal, or repair of equipment, such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts;

(d) Work involving the use of mechanical equipment, other than insulated aerial lifts, near parts energized at more than 600 volts; and

(e) Other work that exposes an employee to electrical hazards greater than or equal to those posed by operations that are specifically listed in subsection (2)(a) through (d) of this section.

Note 1: One employee will serve principally as a standby person who must be so located that they may physically reach the other employee in the event of an accident either with their hand or with a hot stick twelve feet or less in length. The standby will be so positioned as to be able to observe the other employee, their bodily movements, and verbally warn of any impending dangers. In no case when working in pairs will employees work simultaneously on energized wires or parts of different phases or polarity;

Note 2: When installing or removing a hot line clamp connection on a multiphase system, it is permissible for the second employee to stand by at the lower controls of the aerial lift provided the connection or disconnection does not interrupt or pick up load. The hot line clamp and connecting jumper must be constructed so it cannot make contact with any other energized parts. The work must not be performed above lines or apparatus energized at more than 600 V.

Note 3: In cases of necessity the standby person may temporarily assist the other employee provided that they both work on wires or parts of the same phase or polarity. Both employees shall so position themselves so that the presence of the second person does not increase the hazard.

(3) The provisions of WAC 296-45-325(2) do not apply ~~(in the following circumstances:)~~ to (a) through (e) of this subsection. In addition to the requirements of subsection (4) of this section, a qualified employee working under this subsection (3), must position themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts.

(a) When re-fusing circuits or equipment with a hot stick.

(b) When operating switches by means of operating handle or switch sticks.

(c) When installing or removing a hot line clamp connection with an approved hot stick on a single-phase line or apparatus, providing that the connection or disconnection does not interrupt or pick up a load.

Note 1: The hot line clamp and connecting jumper must be constructed so that it cannot make contact with any other energized parts.

Note 2: On a multiphase feed this applies only when one single-phase line or apparatus is present on the load side.

(d) When installing or removing by hot stick simple load metering devices provided the connection does not interrupt or pickup load.

(e) Emergency repairs to the extent necessary to safeguard the general public.

(4) "Minimum approach distances." The employer shall ensure that no employee approaches or takes any conductive object closer to exposed energized parts than set forth in Table 1 through Table 4, unless:

The employee is insulated from the energized part (insulating gloves or insulating gloves and sleeves worn in accordance with subsection (6) of this section are considered insulation of the employee only with regard to the energized part upon which work is being performed); or

The energized part is insulated from the employee and from any other conductive object at a different potential.

Note 1: WAC 296-45-475 (5)(a) and 296-45-48525(1) contain requirements for the guarding and isolation of live parts. Parts of electric circuits that meet these two provisions are not considered as "exposed" unless a guard is removed or an employee enters the space intended to provide isolation from the live parts.

Note 2: When an employee is required to work on or within reach of any unprotected conductors that are or may become ener-

gized at more than 50 volts and less than 600 volts between phases, they shall take the following precautions:

1: They shall wear approved insulating gloves or insulating gloves and sleeves during the time they are working on such conductor, or

2: They shall cover, with approved devices, any adjacent unprotected conductor that could be touched by any part of their body, and use insulated tools.

3: Cables which are properly insulated for the voltages to which they are energized, shall be considered as an effective barrier to protect the employees and Table 1 need not apply.

(5) Initial determination.

(a) Before any work is performed, the location of energized lines and their condition, the location and condition of energized equipment, the condition of the poles, the location of circuits and equipment including power communication lines, CATV and fire alarm circuits, shall be determined as shall any other particular hazard of a particular work site.

(b) No work shall be performed on energized lines or parts until the voltage of such equipment and lines is determined.

(6) Type of insulation. If the employee is to be insulated from energized parts by the use of insulating gloves (under subsection (4) of this section), insulating sleeves shall also be used. However, insulating sleeves need not be used under the following conditions:

(a) If exposed energized parts on which work is not being performed are insulated from the employee; and

(b) If such insulation is placed from a position not exposing the employee's upper arm to contact with other energized parts.

(7) Working position. The employer shall ensure that each employee, to the extent that other safety-related conditions at the worksite permit, works in a position from which a slip or shock will not bring the employee's body into contact with exposed, uninsulated parts energized at a potential different from the employee.

(8) Making connections. The employer shall ensure that connections are made as follows:

(a) In connecting deenergized equipment or lines to an energized circuit by means of a conducting wire or device, an employee shall first attach the wire to the deenergized part;

(b) When disconnecting equipment or lines from an energized circuit by means of a conducting wire or device, an employee shall remove the source end first; and

(c) When lines or equipment are connected to or disconnected from energized circuits, loose conductors shall be kept away from exposed energized parts.

(9) Rubber gloves can only be used on 5,000 volts or less between phases.

(10) It shall not be permissible to consider one part of a high voltage switch or disconnect as deenergized for the purpose of doing work on it if the remainder of the switch or disconnect remains energized unless approved barriers are erected which will prevent employees who are doing the work on such equipment from coming in direct contact with the energized parts.

(11) Conductor support tools such as link sticks, strain carriers, and insulator cradles may be used: Provided, That the clear insulation is at least as long as the insulator string or

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the minimum distance specified in Table 1 for the operating voltage.

(12) Apparel.

(a) When work is performed within reaching distance of exposed energized parts of equipment, the employer shall ensure that each employee removes or renders nonconductive all exposed conductive articles, such as key or watch chains, rings, or wrist watches or bands, unless such articles do not increase the hazards associated with contact with the energized parts.

(b) The employer shall train each employee who is exposed to the hazards of flames or electric arcs in the hazards involved.

(c) The employer shall ensure that each employee who is exposed to the hazards of flames or electric arcs does not wear clothing that, when exposed to flames or electric arcs, could increase the extent of injury that would be sustained by the employee.

Note: Clothing made from the following types of fabrics, either alone or in blends, is prohibited by this subsection, unless the employer can demonstrate that the fabric has been treated to withstand the conditions that may be encountered or that the clothing is worn in such a manner as to eliminate the hazard involved: Acetate, nylon, polyester, rayon.

(d) Workers shall wear clothing appropriate to the season and the kind of work being performed. Shirts or jumpers must have full length sleeves that are rolled down. Protective hard hats and eye protection shall be worn when working on or near live parts or while climbing poles.

(13) Fuse handling. When fuses must be installed or removed with one or both terminals energized at more than 300 volts or with exposed parts energized at more than 50 volts, the employer shall ensure that tools or gloves rated for the voltage are used. When expulsion-type fuses are installed with one or both terminals energized at more than 300 volts, the employer shall ensure that each employee wears eye protection meeting the requirements of WAC 296-45-25505(1), uses a tool rated for the voltage, and is clear of the exhaust path of the fuse barrel.

(14) Covered (noninsulated) conductors. The requirements of this section which pertain to the hazards of exposed live parts also apply when work is performed in the proximity of covered (noninsulated) wires.

(15) Noncurrent-carrying metal parts. Noncurrent-carrying metal parts of equipment or devices, such as transformer cases and circuit breaker housings, shall be treated as energized at the highest voltage to which they are exposed, unless the employer inspects the installation and determines that these parts are grounded before work is performed.

(16) Opening circuits under load. Devices used to open circuits under load conditions shall be designed to interrupt the current involved.

Table 1: AC Live Work Minimum Approach Distance

Voltage in kilovolts phase to phase*	Distance to employee			
	Phase to ground		Phase to Phase	
	(m)	(ft-in)	(m)	(ft-in)
0 to 0.050	not specified		not specified	
0.051 to 0.300	avoid contact		avoid contact	
0.301 to 0.750	0.31	1-0	0.31	1-0

Voltage in kilovolts phase to phase*	Distance to employee			
	Phase to ground		Phase to Phase	
	(m)	(ft-in)	(m)	(ft-in)
0.751 to 15	0.65	2-2	0.67	2-3
15.1 to 36.0	0.77	2-7	0.86	2-10
36.1 to 46.0	0.84	2-9	0.96	3-2
46.1 to 72.5	1.00**	3-3**	1.20	3-11
72.6 to 121	0.95**	3-2**	1.29	4-3
138 to 145	1.09	3-7	1.50	4-11
161 to 169	1.22	4-0	1.71	5-8
230 to 242	1.59	5-3	2.27	7-6
345 to 362	2.59	8-6	3.80	12-6
500 to 550	3.42	11-3	5.50	18-1
765 to 800	4.53	14-11	7.91	26-0

\*For single-phase systems, use the highest voltage available.

For single-phase lines off three phase systems, use the phase-to-phase voltage of the system.

\*\*The 46.1 to 72.5 kV phase-to-ground 3-3 distance contains a 1-3 electrical component and a 2-0 inadvertent movement component while the 72.6 to 121 kV phase-to-ground 3-2 distance contains a 2-2 electrical component and a 1-0 inadvertent movement component.

Note 1: These distances take into consideration the highest switching surge an employee will be exposed to on any system with air as the insulating medium and the maximum voltages shown.

Note 2: The clear live-line tool distance shall equal or exceed the values for the indicated voltage ranges.

Note 3: See Appendix B to this section for information on how the minimum approach distances listed in the tables were derived.

**AMENDATORY SECTION** (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

**WAC 296-45-385 Overhead lines.** This section provides additional requirements for work performed on or near overhead lines and equipment.

(1) General.

(a) Before elevated structures and adjacent structures, such as poles or towers of the adjacent supporting poles, structures, and conductor supporting hardware, are subjected to such stresses as climbing or the installation or removal of equipment may impose, the employer shall ascertain that the structures are capable of sustaining the additional or unbalanced stresses. If the pole or other structure cannot withstand the loads which will be imposed, it shall be braced or otherwise supported so as to prevent failure.

Note: Appendix C contains test methods that can be used in ascertaining whether a wood pole is capable of sustaining the forces that would be imposed by an employee climbing the pole. This paragraph also requires the employer to ascertain that the pole can sustain all other forces that will be imposed by the work to be performed.

(b) When poles are set, moved, or removed near exposed energized overhead conductors, the pole may not contact the conductors.

(c) When a pole is set, moved, or removed near an exposed energized overhead conductor, the employer shall ensure that each employee wears electrical protective equipment or uses insulated devices when handling the pole and

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that no employee contacts the pole with uninsulated parts of his or her body.

(d) To protect employees from falling into holes into which poles are to be placed, the holes shall be attended by employees or physically guarded whenever anyone is working nearby.

(2) Installing and removing overhead lines. The following provisions apply to the installation and removal of overhead conductors or cable.

(a) The employer shall use the tension stringing method, barriers, or other equivalent measures to minimize the possibility that conductors and cables being installed or removed will contact energized power lines or equipment.

(b) When conductors are being strung in or removed, they shall be kept under positive control to prevent accidental contact with energized circuit.

(c) The protective measures required by WAC 296-45-375(10)(c) for mechanical equipment shall also be provided for conductors, cables, and pulling and tensioning equipment when the conductor or cable is being installed or removed close enough to energized conductors that any of the following failures could energize the pulling or tensioning equipment or the wire or cable being installed or removed:

- (i) Failure of the pulling or tensioning equipment;
- (ii) Failure of the wire or cable being pulled; or
- (iii) Failure of the previously installed lines or equipment.

(d) ~~((If the conductors being installed or removed cross over energized conductors in excess of 600 volts and if the design of the circuit interrupting devices protecting the lines so permits, the automatic reclosing feature of these devices shall be made inoperative.))~~ When conductors being installed or removed cross over energized conductors in excess of 600 volts, rope nets or guard structures must be installed unless provision is made to isolate or insulate the worker or the energized conductor. Where the design of the circuit-interrupting devices protecting the lines so permits, the automatic-reclosing feature of these devices must be made inoperative. In addition, the line being strung must be grounded on either side of the crossover or considered and worked as energized.

(e) Before lines are installed parallel to existing energized lines, the employer shall make a determination of the approximate voltage to be induced in the new lines, or work shall proceed on the assumption that the induced voltage is hazardous. Unless the employer can demonstrate that the lines being installed are not subject to the induction of a hazardous voltage or unless the lines are treated as energized, the following requirements also apply:

(i) Each bare conductor shall be grounded in increments so that no point along the conductor is more than 2 miles (3.22 km) from a ground.

(ii) The grounds required in subsection (2)(e)(i) of this section shall be left in place until the conductor installation is completed between dead ends.

(iii) The grounds required in subsection (2)(e)(i) of this section shall be removed as the last phase of aerial cleanup.

(iv) If employees are working on bare conductors, grounds shall also be installed at each location where these employees are working, and grounds shall be installed at all

open dead-end or catch-off points or the next adjacent structure.

(v) If two bare conductors are to be spliced, the conductors shall be bonded and grounded before being spliced.

(f) Reel handling equipment, including pulling and tensioning devices, shall be in safe operating condition and shall be leveled and aligned.

(g) Load ratings of stringing lines, pulling lines, conductor grips, load-bearing hardware and accessories, rigging, and hoists may not be exceeded.

(h) Each pull must be snubbed or dead ended at both ends before subsequent pulls.

(3) Pulling lines and accessories shall be inspected prior to each use and replaced or repaired when damaged or when there is a reasonable basis to doubt the dependability of such lines or accessories.

(4) Conductor grips may not be used on wire rope, unless the grip is specifically designed for this application.

(5) Reliable communications, through two-way radios or other equivalent means, shall be maintained between the reel tender and the pulling rig operator.

(6) The pulling rig may only be operated when it is safe to do so.

Note: Examples of unsafe conditions include employees in locations prohibited by subsection (7) of this section, conductor and pulling line hang-ups, and slipping of the conductor grip.

(7) While the conductor or pulling line is being pulled (in motion) with a power-driven device, employees are not permitted directly under overhead operations or on the cross arm, except as necessary to guide the stringing sock or board over or through the stringing sheave.

(8) Live-line bare-hand work is prohibited.

(9) When winches, trucks, or tractors are being used to raise poles, materials, to pull in wires, to pull slack or in any other operation, there shall be an operator at the controls unless the machinery or process is stopped.

(10) Leadworkers shall designate an employee to give signals when required.

(11) Raising poles, towers or fixtures in the close proximity of high voltage conductors shall be done under the supervision of a qualified employee.

(12) Employees shall not crawl over insulator strings but shall use a platform or other approved device to work from when making dead ends or doing other work beyond strings of insulators, at such distance that they cannot reach the work from the pole or fixture. While working on the platform or other device, they shall be secured with safety straps or a rope to prevent falling. The provision of this subsection does not apply to extra high voltage bundle conductors when the use of such equipment may produce additional hazard. Climbing over dead end assemblies is permissible only after they have been completed and pinned in the final position.

(13) Towers and structures. The following requirements apply to work performed on towers or other structures which support overhead lines.

(a) The employer shall ensure that no employee is under a tower or structure while work is in progress, except where the employer can demonstrate that such a working position is necessary to assist employees working above.

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(b) Tag lines or other similar devices shall be used to maintain control of tower sections being raised or positioned, unless the employer can demonstrate that the use of such devices would create a greater hazard.

(c) The loadline may not be detached from a member or section until the load is safely secured.

(d) No one must be permitted to remain in the footing while equipment is being spotted for placement.

(e) A designated employee must be utilized to determine that required clearance is maintained in moving equipment under or near energized lines.

(14) All conductors, subconductors, and overhead ground conductors must be bonded to the tower at any isolated tower where it may be necessary to complete work on the transmission line.

(15) A transmission clipping crew shall have a minimum of two structures clipped in between the crew and the conductor being sagged.

(16) While on patrol at night and operating a motor vehicle on public highways, there shall be two employees, at least one of whom shall be a journey level lineworker or otherwise qualified employee. If repair to line or equipment is found to be of such nature as to require two lineworkers, work shall not proceed until additional help has been obtained provided that in cases of emergency where delay would increase the danger to life, limb, or substantial property, one employee may clear the hazard without assistance.

(17) Except during emergency restoration procedures, work shall be discontinued when adverse weather conditions would make the work hazardous in spite of the work practices required by this section.

**Note:** Thunderstorms in the immediate vicinity, high winds, snow storms, and ice storms are examples of adverse weather conditions that are presumed to make this work too hazardous to perform, except under emergency conditions.

#### AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

**WAC 296-45-475 Substations.** This section provides additional requirements for substations and for work performed in them.

(1) Access and working space. Sufficient access and working space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment.

**Note:** Guidelines for the dimensions of access and working space about electric equipment in substations are contained in American National Standard-National Electrical Safety Code, ANSI C2-1997. Installations meeting the ANSI provisions comply with WAC 296-45-475(1). An installation that does not conform to this ANSI standard will, nonetheless, be considered as complying with WAC 296-45-475(1) if the employer can demonstrate that the installation provides ready and safe access based on the following evidence:

(a) That the installation conforms to the edition of ANSI C2 that was in effect at the time the installation was made;

(b) That the configuration of the installation enables employees to maintain the minimum approach distances required by WAC 296-45-325(5) while they are working on exposed, energized parts; and

(c) That the precautions taken when work is performed on the installation provide protection equivalent to the protection that would be provided by access and working space meeting ANSI C2-1997.

(d) Precaution must be taken to prevent accidental operation of relays or other protective devices due to jarring, vibration, or improper wiring.

(2) Draw-out-type circuit breakers. When draw-out-type circuit breakers are removed or inserted, the breaker shall be in the open position. The control circuit shall also be rendered inoperative, if the design of the equipment permits.

(3) Substation fences. Conductive fences around substations ~~((shall))~~ must be grounded. When a substation fence ~~((is))~~ must be expanded or ~~((a section is))~~ removed ~~((;))~~ fence ~~((grounding))~~ continuity ~~((shall))~~ must be maintained ~~((;))~~ and bonding ~~((shall))~~ must be used to prevent electrical discontinuity. A temporary fence affording similar protection when the site is unattended, must be provided. Adequate interconnection with ground must be maintained between temporary fence and permanent fence.

(4) Guarding of rooms containing electric supply equipment.

(a) Rooms and spaces in which electric supply lines or equipment are installed shall meet the requirements of subsection (4)(b) through (e) of this section under the following conditions:

(i) If exposed live parts operating at 50 to 150 volts to ground are located within 8 feet of the ground or other working surface inside the room or space;

(ii) If live parts operating at 151 to 600 volts and located within 8 feet of the ground or other working surface inside the room or space are guarded only by location, as permitted under subsection (5)(a) of this section; or

(iii) If live parts operating at more than 600 volts are located within the room or space, unless:

(A) The live parts are enclosed within grounded, metal-enclosed equipment whose only openings are designed so that foreign objects inserted in these openings will be deflected from energized parts; or

(B) The live parts are installed at a height above ground and any other working surface that provides protection at the voltage to which they are energized corresponding to the protection provided by an 8-foot height at 50 volts.

(b) The rooms and spaces shall be so enclosed within fences, screens, partitions, or walls as to minimize the possibility that unqualified persons will enter.

(c) Signs warning unqualified persons to keep out shall be displayed at entrances to the rooms and spaces.

(d) Entrances to rooms and spaces that are not under the observation of an attendant shall be kept locked.

(e) Unqualified persons may not enter the rooms or spaces while the electric supply lines or equipment are energized.

(5) Guarding of energized parts.

(a) Guards shall be provided around all live parts operating at more than 150 volts to ground without an insulating covering, unless the location of the live parts gives sufficient horizontal or vertical or a combination of these clearances to minimize the possibility of accidental employee contact.



**Note:** Guidelines for the dimensions of clearance distances about electric equipment in substations are contained in American National Standard-National Electrical Safety Code, ANSI C2-1997. Installations meeting the ANSI provisions comply with subsection (5)(a) of this section. An installation that does not conform to this ANSI standard will, nonetheless, be considered as complying with subsection (5)(a) of this section if the employer can demonstrate that the installation provides sufficient clearance based on the following evidence:

(i) That the installation conforms to the edition of ANSI C2 that was in effect at the time the installation was made;

(ii) That each employee is isolated from energized parts at the point of closest approach; and

(iii) That the precautions taken when work is performed on the installation provide protection equivalent to the protection that would be provided by horizontal and vertical clearances meeting ANSI C2-1997.

(b) Except for fuse replacement and other necessary access by qualified persons, the guarding of energized parts within a compartment shall be maintained during operation and maintenance functions to prevent accidental contact with energized parts and to prevent tools or other equipment from being dropped on energized parts.

(c) When guards are removed from energized equipment, barriers shall be installed around the work area to prevent employees who are not working on the equipment, but who are in the area, from contacting the exposed live parts.

(6) Substation entry.

(a) Upon entering an attended substation, each employee other than those regularly working in the station shall report his or her presence to the employee in charge in order to receive information on special system conditions affecting employee safety.

(b) The job briefing required by WAC 296-45-135 shall cover such additional subjects as the location of energized equipment in or adjacent to the work area and the limits of any deenergized work area.

**WSR 05-07-125**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed March 22, 2005, 10:48 a.m.]

**Title of Rule and Other Identifying Information:** Machine safety, respirators and respiratory hazards, the department recently adopted chapter 296-806 WAC, Machine safety; chapter 296-841 WAC, Respiratory hazards; and chapter 296-842 WAC, Respirators. The department will update references to these rules throughout the L&I WAC sections. See Purpose below.

**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 THIS USE**

**OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rule Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 24, 2005.**

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this proposal is to update references throughout L&I WAC sections: WAC 296-54-51150 Respiratory protection, 296-56-60110 Respiratory protection, 296-78-665 Sanding machines, 296-78-71015 Tanks and chemicals, 296-78-84005 Dry kilns, 296-79-29007 Bleach plant, 296-155-17625 Employee information and training, 296-155-525 Cranes and Derricks, 296-155-655 General protection requirements, 296-304-09007 Respiratory protection, 296-305-04001 Respiratory equipment protection, and 296-305-05503 Summary of training requirements. There are no anticipated effects.

**Reasons Supporting Proposal:** The department recently adopted chapter 296-806 WAC, Machine safety; chapter 296-841 WAC, Respiratory hazards; and chapter 296-842 WAC, Respirators. The department needs to update references to these rules throughout other L&I WAC sections.

**Statutory Authority for Adoption:** RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

**Statute Being Implemented:** Chapter 49.17 RCW.

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

**Name of Proponent:** Department of Labor and Industries, governmental.

**Name of Agency Personnel Responsible for Drafting:** Tracy Spencer, Tumwater, (360) 902-5530; **Implementation and Enforcement:** Michael Wood, Tumwater, (360) 902-5495.

March 22, 2005

Judy Schurke

Acting Director

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-54-51150 Respiratory protection.** The employer must provide respiratory protection when required by ~~((the general occupational health standards,))~~ chapter 296-842 WAC, Respirators.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-56-60110 Respiratory protection.** The respiratory protection requirements of ~~((the general occupational health standards,))~~ chapter 296-842 WAC, Respirators, apply.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-78-665 Sanding machines.** (1) Each belt sanding machine shall have both pulleys enclosed in such a manner as to guard the points where the belt runs onto the

pulleys. The edges of the unused run of belt shall be enclosed or otherwise guarded from contact by employees.

(2) Each drum sanding machine shall be provided with a guard so arranged as to completely enclose the revolving drum except such portion required for the application of the material to be finished. Guards with hinges to facilitate the insertion of sandpaper may be installed. The exhaust hood may form part or all of this guard. When so used, the hood shall conform to the specifications as given under exhaust systems in WAC 296-78-710.

(3) All standard stationary sanding machines shall be provided with exhaust systems in conformity with the section of this code dealing with exhaust systems.

(4) All portable sanding machines shall be provided with means of removing excessive dust, or employees using equipment shall be provided with such necessary respiratory protective equipment as will conform to the requirements of ~~((the general occupational health standards,))~~ chapter 296-842 WAC, Respirators.

(5) The requirements of WAC ~~((296-806-475 Sanding machines, 296-24-16533, general safety and health standards,))~~ 296-806-475, sanding machines, shall be applicable to sanding machines.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-78-71015 Tanks and chemicals.** (1) All open vats and tanks into which workers may fall shall be guarded with standard railings or screen guards in all cases where such guarding is possible with regard to practical operation.

(2) Foundations of elevated tanks shall be accessible for inspections. When the tank platform is more than five feet above the ground a stairway or ladder shall be permanently attached.

(3) Every open tank over five feet in height shall be equipped with fixed standard ladders both inside and out, extending from the bottom to the rim of the tank arranged to be accessible to each other, so far as local conditions permit.

(4) The use of chemicals for treating of lumber for prevention of sap stain or mold or as preservatives, shall conform to the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks).

(a) Storage, handling, and use of chemicals. Threshold limits. Employees shall not be exposed to airborne concentration of toxic dusts, vapors, mists or gases that exceed the threshold limit values set forth in chapter 296-62 WAC, Part H, and chapter ~~((296-62 WAC, Part E, general occupational health standards,))~~ 296-841 WAC, Respiratory hazard.

(b) Protective equipment. The use of chemicals shall be controlled so as to protect employees from harmful exposure to toxic materials. Where necessary, employees shall be provided with and required to wear such protective equipment as will afford adequate protection against harmful exposure as required by WAC 296-800-160, and chapter 296-842 WAC, ~~((general occupational health standards,))~~ Respirators.

(5)(a) Means shall be provided and used to collect any excess of chemicals used in treating lumber so as to protect

workers from accidental contact with harmful concentrations of toxic chemicals or fumes.

(b) Dip tanks containing flammable or combustible liquids shall be constructed, maintained and used in accordance with chapter 296-835 WAC, Dipping and coating operations (dip tanks).

(c) An evacuation plan shall be developed and implemented for all employees working in the vicinity of dip tanks using flammable and/or combustible liquids. A copy of the plan shall be available at the establishment for inspection at all times. Every employee shall be made aware of the evacuation plan and know what to do in the event of an emergency and be evacuated in accordance with the plan. The plan shall be reviewed with employees at least quarterly and documented.

(d) When automatic foam, automatic carbon dioxide or automatic dry chemical extinguishing systems are used, an alarm device shall be activated to alert employees in the dip tank area before and during the activation of the system. The following combinations of extinguishment systems when used in conjunction with the evacuation plan as stated above will be acceptable in lieu of bottom drains:

(i) A dip tank cover with an automatic foam extinguishing system under the cover, or an automatic carbon dioxide system, or an automatic dry chemical extinguishing system, or an automatic water spray extinguishing system;

(ii) An automatic dry chemical extinguishing system with an automatic carbon dioxide system or a second automatic dry chemical extinguishing system or an automatic foam extinguishing system;

(iii) An automatic carbon dioxide system with a second automatic carbon dioxide system or an automatic foam extinguishing system.

(e) The automatic water spray extinguishing systems, automatic foam extinguishing systems, and dip tank covers shall conform with the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks). The automatic carbon dioxide systems and dry chemical extinguishing system shall conform with the requirements of WAC 296-24-615 and 296-24-620.

(6) Where workers are engaged in the treating of lumber with chemicals or are required to handle lumber or other materials so treated, the workers shall be provided with, at no cost to the worker, and required to use such protective equipment as will provide complete protection against contact with toxic chemicals or fumes therefrom.

(7) Sanitation requirements. The requirements of WAC 296-800-220 and 296-800-230 (safety and health core rules), shall govern sanitation practices.

(8) The sides of steam vats and soaking pits unless otherwise guarded shall extend forty-two inches above the floor level. The floor adjacent thereto shall be of nonslip construction.

(9) Large steam vats or soaking pits, divided into sections, shall be provided with substantial walkways between each section, each walkway to be provided with standard railings which may be removable if necessary.

(10) Covers shall be removed only from that portion of the steaming vats on which workers are working and a porta-

ble railing shall be placed at this point to protect the operators.

(11) Workers shall not ride or step on logs in steam vats.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-78-84005 Dry kilns.** (1) Transfer, kiln and dolly tracks shall be properly maintained at all times and shall have a grade of not more than one and one-fourth percent. Bumpers or stops shall be installed at the ends of all tracks capable of stopping a normal load for which the track is installed. A means shall be provided for chocking or blocking cars.

(2) Doors.

(a) Main kiln doors. Main kiln doors shall be provided with a method of holding them open while kiln is being loaded.

(b) Counterweights on vertical lift doors shall be boxed or otherwise guarded.

(c) Means shall be provided to firmly secure main doors, when they are disengaged from carriers and hangers, to prevent toppling.

(3) Kilns whose operation requires inside inspection shall be maintained with not less than eighteen inches clearance between loaded cars and the walls of the kiln. The requirements for personal protective equipment specified in WAC 296-800-160, safety and health core rules, and chapter 296-842 WAC, (~~general occupational health standards~~) **Respirators**, shall be complied with.

(4) Kiln loads shall be equipped or arranged for easy attachment and detachment of transfer cables. Means for stopping kiln cars shall be available at all times.

(5) Cars shall not be moved until tracks are clear and workers are out of the bight of transfer lines.

(6) When kiln or dolly loads of lumber are permitted to coast through or adjacent to any work area, audible warning shall be given.

(7) Stickers shall not be allowed to protrude more than two inches from the sides of kiln stacks.

(8) Yards and storage areas shall be kept reasonably free of debris and unnecessary obstruction. Warning signs shall be conspicuously posted wherever there is danger from moving vehicles or equipment.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-79-29007 Bleach plant.** (1) Work areas used for preparation and processing of bleaching mixtures must be equipped with properly designed exhaust ventilation systems capable of clearing the area of toxic gases. See chapters 296-62 and 296-841 WAC(~~, Part L~~).

(2) Bleaching containers, such as cells, towers, etc., except the Bellmer type, must be completely covered on the top, with the exception of one small opening large enough to allow filling but too small to admit a person.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-155-17625 Employee information and training.** (1) General.

(a) The employer shall communicate information concerning lead hazards according to the requirements of WISHA's Hazard Communication Standard for the construction industry, chapter 296-800 WAC, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) For all employees who are subject to exposure to lead at or above the action level on any day or who are subject to exposure to lead compounds which may cause skin or eye irritation (e.g., lead arsenate, lead azide), the employer shall provide a training program in accordance with subsection (2) of this section and assure employee participation.

(c) The employer shall provide the training program as initial training prior to the time of job assignment or prior to the start up date for this requirement, whichever comes last.

(d) The employer shall also provide the training program at least annually for each employee who is subject to lead exposure at or above the action level on any day.

(2) Training program. The employer shall assure that each employee is trained in the following:

(a) The content of this standard and its appendices;

(b) The specific nature of the operations which could result in exposure to lead above the action level;

(c) The training requirements for respiratory protection as required by (~~chapter 296-62 WAC, Part E (see)~~) WAC 296-842-110, 296-842-19005, and 296-842-16005(~~(3)~~);

(d) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females and hazards to the fetus and additional precautions for employees who are pregnant);

(e) The engineering controls and work practices associated with the employee's job assignment including training of employees to follow relevant good work practices described in Appendix B, WAC 296-155-17652;

(f) The contents of any compliance plan in effect;

(g) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician; and

(h) The employee's right of access to records under Part B, chapter 296-62 WAC and chapter 296-800 WAC.

(3) Access to information and training materials.

(a) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(b) The employer shall provide, upon request, all materials relating to the employee information and training program to affected employees and their designated representatives, and the director.

EXPEDITED

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-155-525 Cranes and derricks.** (1) Definitions applicable to this part:

**Accessory** - a secondary part or assembly of parts which contributes to the overall function and usefulness of a machine.

**Administrative or regulatory authority** - a governmental agency, or the employer in the absence of governmental jurisdiction.

**Angle indicator (boom)** - an accessory which measures the angle of the boom to the horizontal.

**Appointed** - assigned specific responsibilities by the employer or the employer's representative.

**Authorized person** - means a person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

**Auxiliary hoist** - a secondary hoist rope system used either in conjunction with, or independently of, the main hoist system.

**Axis of rotation** - the vertical axis around which the crane superstructure rotates.

**Axle** - the shaft or spindle with which or about which a wheel rotates. On wheel-mounted cranes it refers to a type of axle assembly including housings, gearing, differential, bearings, and mounting appurtenances.

**Axle (bogie)** - two or more axles mounted in tandem in a frame so as to divide the load between the axles and permit vertical oscillation of the wheels.

**Ballast** - weight used to supplement the weight of the machine in providing stability for lifting working loads (the term ballast is normally associated with locomotive cranes).

**Base, anchor bolt** - a crane base that is bolted to a footing.

**Base, expendable** - for static-mounting cranes, a style of bottom mast section or member that is cast into a concrete footing block; all or part of this component is lost to future installations.

**Base, fixed** - a crane base that does not travel. It may be expendable, knee braced, or anchor bolted.

**Base (mounting)** - the traveling base on which the rotating superstructure of a locomotive or crawler crane is mounted.

**Base, tower crane** - the lowermost supporting component of the crane.

**Base, travel** - a crane base that is a ballasted platform mounted on trucks that ride along rails.

**Boom (crane)** - a member hinged at the rotating superstructure and used for supporting the existing tackle.

**Boom angle** - the angle above or below horizontal of the longitudinal axis of the base boom section.

**Boom hoist mechanism** - means for supporting the boom and controlling the boom angle.

**Boom point** - the outer extremity of the crane boom, containing the hoist sheave assembly.

**Boom point sheave assembly** - an assembly of sheaves and pin built as an integral part of the boom point.

**Boom stop** - a device used to limit the angle of the boom at the highest recommended position.

**Brake** - a device used for retarding or stopping motion.

**Brace, tower** - a structural attachment placed between a crane tower and an adjacent structure to pass loads to the adjacent structure and permit the crane to be erected to greater than free standing height.

**Buffer** - an energy absorbing device for reducing impact when a moving crane or trolley reaches the end of its permitted travel.

**Cab** - a housing which covers the rotating superstructure machinery, or the operator's or driver's station.

**Climbing frame** - a frame used with climbing cranes to transmit operational and climbing reactions to the host building frame.

**Climbing ladder** - a steel member with crossbars (used in parts) suspended from a climbing frame and used as jacking support points when some cranes climb.

**Clutch** - a means for engagement or disengagement of power.

**Commercial truck vehicle** - a commercial motor vehicle designed primarily for the transportation of property in connection with business and industry.

**Counterweight** - weight used to supplement the weight of the machine in providing stability for lifting working loads.

**Counterweight jib** - a horizontal member of a crane on which the counterweights and usually the hoisting machinery are mounted.

**Crane carrier** - the undercarriage of a wheel-mounted crane specifically designed for transporting the rotating crane superstructure. It may or may not provide its own travel mechanism. It is distinguished from a commercial truck vehicle in that it is not designed to transport personnel, materials, or equipment other than the crane-rotating superstructure.

**Cross-over points** - in multiple layer spooling of rope on a drum, those points of rope contact where the rope crosses the preceding rope layer.

**Designated** - selected or assigned by the employer or the employer's representative as being competent to perform specific duties.

**Drum** - the cylindrical member around which a rope is wound for lifting and lowering the load or boom.

**Dynamic (loading)** - loads introduced into the machine or its components due to accelerating or decelerating forces.

**Flange point** - a point of contact between rope and drum flange where the rope changes layers.

**Free standing height** - that height of a crane which is supported by the tower (mast) alone without assistance from braces, guys, or other means.

**Gage, track** - the horizontal distance between two rails measured perpendicular to the direction of travel.

**Gantry (A-frame)** - a structural frame, extending above the superstructure, to which the boom support ropes are reeved.

**High strength (traction) bolts** - high strength tensile bolts used in the assembly of crane sections. The bolts are installed in tension by torquing or other means at a level greater than that produced by in- or out-of-service loads for the purpose of reducing the likelihood of bolt fatigue failure.

**Hoist mechanism** - a hoist drum and rope reeving system used for lifting and lowering loads.

**Jib** - an extension attached to the boom point to provide added boom length for lifting specified loads. The jib may be in line with the boom or offset to various angles in the vertical plane of the boom.

**Jib backstop** - a device which will restrain the jib from turning over backward.

**Job site** - work area defined by the construction contract.

**Limiting device** - a mechanical device which is operated by some part of a power driven machine or equipment to control loads or motions of the machine or equipment.

**Load (working)** - the external load in pounds (kilograms) applied to the crane, including the weight of load-attaching equipment such as lower load block, shackles, and slings.

**Load block, lower** - the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended by the hoisting ropes.

**Load block, upper** - the assembly of shackle, swivel, sheaves, pins, and frame suspended from the boom point.

**Load ratings** - crane ratings in pounds (kilograms) established by the manufacturer.

**Mast (boom)** - a frame hinged at or near the boom hinge for use in connection with supporting a boom. The head of the mast is usually supported and raised or lowered by the boom hoist ropes.

**Mast (jib)** - a frame hinged at or near the boom point for use in connection with supporting a jib.

**Normal operating conditions.**

**Cab- or station-operated cranes** - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices on the crane, and no other persons except those appointed are to be on the crane.

**Ground- or floor-operated cranes** - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices that are mounted to the crane but operated with the operator off the crane, and no other persons except those appointed are to be on the crane.

**Remote-operated cranes** - conditions during which a crane is performing functions within the manufacturer's operating recommendations. Under these conditions, the operator is at the operating control devices that are mounted to any part of the crane, and no other persons except those appointed are to be on the crane.

**Out-of-service** - the condition of a crane when unloaded, without power and with the controls unattended and prepared to endure winds above the in-service level.

**Outriggers** - extendable or fixed members attached to the mounting base, which rest on supports at the outer ends used to support the crane.

**Pawl (dog)** - a device for positively holding a member against motion in one or more directions.

**Payload** - that load or loads being transported by the commercial truck chassis from place to place.

**Pendant** - a rope or strand of specified length with fixed end connections.

**Pitch diameter** - the diameter of a sheave or rope drum measured at the center line of the rope.

**Power-controlled lowering** - a system or device in the power train, other than the load hoist brake, which can control the lowering rate of speed of the load hoist mechanism.

**Qualified person** - a person who, by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter and work.

**Radius (load)** - the horizontal distance from a projection of the axis of rotation to the base of the crane, before loading, to the center of the vertical hoist line or tackle with load applied.

**Rail clamp** - a tong-like metal device mounted on a locomotive crane car, which can be connected to the track.

**Reeving** - a rope system in which the rope travels around drums and sheaves.

**Remote control station** - a location, not on the crane, from which the operator can control all the crane movements.

**Repetitive pickup point** - when operating on a short cycle operation, the rope being used on a single layer and being spooled repetitively over a short portion of the drum.

**Rope** - refers to wire rope unless otherwise specified.

**Rotation resistant rope** - a wire rope consisting of an inner layer of strand laid in one direction covered by a layer of strand laid in the opposite direction. This has the effect of counteracting torque by reducing the tendency of the finished rope to rotate.

**Running rope** - a rope which travels around sheaves or drums.

**Shall** - this word indicates that the rule is mandatory and must be followed.

**Service, light** - service that involves irregular operation with loads generally about one-half or less of the rated load; a service crane at a storage yard or building site would be an example.

**Service, normal** - service that involves operating occasionally at rated load but normally at less than eighty-five percent of the rated load and not more than ten lift cycles per hour except for isolated instances; a crane used for concrete placement at a building site would be an example.

**Service, heavy** - service that involves operating at eighty-five percent to one hundred percent of the rated load or in excess of ten lift cycles per hour as a regular specified procedure; some cranes operating at material yards or in industrial applications may fall into this category.

**Sheave** - a grooved wheel or pulley used with a rope to change the direction and point of application of a pulling force.

**Should** - this word indicates that the rule is a recommendation, the advisability of which depends on the facts in each situation.

**Side loading** - a load applied to an angle to the vertical plane of the boom.

**Stabilizer** - stabilizers are extendable or fixed members attached to the mounting base to increase the stability of the crane, but which may not have the capability of relieving all of the weight from wheels or tracks.

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**Standby crane** - a crane which is not in regular service but which is used occasionally or intermittently as required.

**Standing (guy) rope** - a supporting rope which maintains a constant distance between the points of attachment to the two components connected by the rope.

**Structural competence** - the ability of the machine and its components to withstand the stresses imposed by applied loads.

**Superstructure** - the rotating upper frame structure of the machine and the operating machinery mounted thereon.

**Swing** - rotation of the superstructure for movement of loads in a horizontal direction about the axis of rotation.

**Swing mechanism** - the machinery involved in providing rotation of the superstructure.

**Swivel** - a load carrying member with thrust bearings to permit rotation under load in a plane perpendicular to the direction of the load.

**Swiveling** - the rotation of the load attachment portion (hook or shackle) of a load block (lower) or hook assembly about its axis of suspension in relation to the load line(s).

**Tackle** - an assembly of ropes and sheaves arranged for lifting, lowering, or pulling.

**Telescoping boom** - consists of a base boom from which one or more boom sections are telescoped for additional length.

**Telescoping (tower crane)** - a process whereby the height of a traveling or fixed base crane is increased typically by raising the inner tower and then adding sections at the top of the outer tower; there are also cranes that are telescoped by adding to the inner tower from below.

**Tower (mast)** - a vertical structural frame consisting of columns and bracing capable of supporting an upperstructure with its working and dynamic loads and transmitting them to the supporting surface or structure.

**Traction (high strength) bolts** - see high strength bolts.

**Transit** - the moving or transporting of a crane from one job site to another.

**Travel** - the function of the machine moving under its own power from one location to another on a job site.

**Trolley** - the device that travels along the load jib and contains the upper load block.

**Two-blocking** - the condition in which the lower load block or hook assembly comes in contact with the upper load block or boom point sheave assembly.

**Weathervaning** - wind induced rotation of a crane upperstructure, when out-of-service, to expose minimal surface area to the wind.

**Wedge** - a tapered wood or steel device used to provide stability to cranes during use as a climber. When the wedges are tightened against the four main legs of the tower, they convert overturning moments into horizontal forces to be resisted by the floor framing or slab.

**Wheel base** - the distance between centers of front and rear axles. For a multiple axle assembly the axle center for wheel base measurement is taken as the midpoint of the assembly.

**Whipline (runner or auxiliary)** - a secondary rope system usually of lighter load capacity than that provided by the main rope system.

**Winch head** - a power driven spool for handling of loads by means of friction between fiber or wire rope and the spool.

(2) General requirements.

(a) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of any and all cranes and derricks. Where manufacturer's specifications are not available the limitations assigned to the equipment shall be based on the determinations of a qualified engineer, competent in this field and such determinations will be appropriately documented and recorded. Attachments used with cranes shall not exceed the capacity, rating, or scope recommended by the manufacturer.

(b) Rated load capacities, and recommended operating speeds, and special hazard warnings, or instruction, shall be conspicuously posted on all equipment. Instructions or warnings shall be visible to the operator while at the control station.

(c) Hand signals to crane and derrick operators shall be those prescribed by the applicable ANSI standard for the type of crane in use. An illustration of the signals shall be posted at the job site.

(d) The employer shall designate a competent person who shall inspect all machinery and equipment prior to each use, and periodically during use to make sure it is in safe operating condition. Any deficiencies shall be repaired, or defective parts replaced, before continued use.

(e) A thorough, annual inspection of the hoisting machinery shall be made by a competent person, or by a government or private agency recognized by the department. The employer shall maintain a permanent record of the dates and results of all inspections for each hoisting machine and piece of equipment.

(f) A tag line or guide rope shall be used on all loads that swing freely. Guide ropes or tag lines shall be held by experienced persons.

(g) Care shall be taken to guard against injury to workers, or damage to scaffolds or buildings, from swinging loads.

(h) The operator shall avoid carrying loads over people.

(i) When work is stopped or when the derrick is not in operation, the boom shall be lowered to a horizontal position or tied in place to prevent it whipping with the wind or other external force.

(j) Only authorized personnel shall make sling hitches on loads.

(k) Workers shall not be allowed to ride on loads handled by derricks.

(l) Operators shall observe signals only from duly authorized persons. Under no circumstances shall a load be moved until the signal is received from authorized personnel.

(m) Belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, chains, or other reciprocating, rotating, or other moving parts or equipment shall be guarded if such parts are exposed to contact by employees, or otherwise create a hazard. Guarding shall meet the requirements of chapter ((296-806 WAC, Machine safety} {296-24 WAC})) 296-806 WAC, Machine safety.

(n) A minimum distance of thirty inches clearance shall be maintained between the swing radius of the greatest extension of the crane superstructure or counterweights and a stationary object, including the crane itself, while the crane is in

operation. When this clearance cannot be maintained, suitable barricades or safeguards shall be used to isolate the pinch point hazard area.

(o) All exhaust pipes shall be guarded or insulated where contact by employees, in the performance of normal duties, is possible.

(3) Additional requirements.

(a) Whenever internal combustion engine powered equipment exhausts in enclosed spaces, tests shall be made and recorded to see that employees are not exposed to unsafe concentrations of toxic gases or oxygen deficient atmospheres. (See chapter 296-62 WAC, the general occupational health standards and chapter 296-841 WAC, identifying and controlling respiratory hazards.)

(b) All cab glazing shall be safety glazing material. Windows shall be provided in the front and on both sides of the cab or operator's compartment with visibility forward and to either side. Visibility forward shall include a vertical range adequate to cover the boom point at all times. The front window may have a section which can be readily removed or held open, if desired. If the section is of the type held in the open position, it shall be secured to prevent inadvertent closure. A windshield wiper should be provided on the front window.

(c)(i) Where necessary for rigging or service requirements, a ladder or steps shall be provided to give access to a cab roof.

(ii) On cranes, guardrails, handholds and steps shall be provided for easy access to the car and cab in accordance with chapter 296-155 WAC, Part C-1 and Part J.

(iii) Platforms and walkways shall have anti-skid surfaces.

(d) Fuel tank filler pipe shall be located in such a position, or protected in such manner, as to not allow spill or overflow to run onto the engine, exhaust, or electrical equipment of any machine being fueled.

(i) An accessible fire extinguisher of 5BC rating, or higher, shall be available at all operator stations or cabs of equipment.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(ii) All fuels shall be transported, stored, and handled to meet the rules of Part D of this chapter. When fuel is transported by vehicles on public highways, department of transportation rules concerning such vehicular transportation are considered applicable.

(e) Except where electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated proximate to power lines only in accordance with the following:

(i) For lines rated 50 kV. or below, minimum clearance between the lines and any part of the crane or load shall be 10 feet;

(ii) For lines rated over 50 kV., minimum clearance between the lines and any part of the crane or load shall be 10 feet plus 0.4 inch for each 1 kV. over 50 kV., or twice the length of the line insulator, but never less than 10 feet;

(iii) In transit with no load and boom lowered, the equipment clearance shall be a minimum of 4 feet for voltages less than 50 kV., and 10 feet for voltages over 50 kV. up to and including 345 kV., and 16 feet for voltages up to and including 750 kV.;

(iv) A person shall be designated to observe clearance of the equipment and give timely warning to insure that the required separation is maintained for all operations where it is difficult for the operator to maintain the desired clearance by visual means;

(v) Cage-type boom guards, insulating links, or proximity warning devices may be used on cranes, but the use of such devices shall not alter the requirements of any other regulation of this part even if such device is required by law or regulation;

(vi) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate that it is not an energized line and it has been visibly grounded;

(vii) Prior to work near transmitter tower where an electrical charge can be induced in the equipment or materials being handled, the transmitter shall be deenergized or tests shall be made to determine if electrical charge is induced on the crane.

(f) The following precautions shall be taken when necessary to dissipate induced voltage:

(i) The equipment shall be provided with an electrical ground directly to the upper rotating structure supporting the boom; and

(ii) Ground jumper cables shall be attached to materials being handled by boom equipment when electrical charge is induced while working near energized transmitters. Crews shall be provided with nonconductive poles having large alligator clips or other similar protection to attach the ground cable to the load.

(iii) Combustible and flammable materials shall be removed from the immediate area prior to operations.

(g) No modifications or additions which affect the capacity or safe operation of the equipment shall be made by the employer without the manufacturer's or a qualified engineer's written approval. If such modifications or changes are made, the capacity, operation, and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no case shall the original safety factor of the equipment be reduced.

(h) The employer shall comply with Power Crane and Shovel Association, Mobile Hydraulic Crane Standard No. 2.

(i) Sideboom cranes mounted on wheel or crawler tractors shall meet the requirements of SAE J743a-1964.

(4) Crawler, locomotive, and truck cranes.

(a) All jibs shall have positive stops to prevent their movement of more than 5° above the straight line of the jib and boom on conventional type crane booms. The use of cable type belly slings does not constitute compliance with this standard.

(b) All crawler, truck or locomotive cranes in use shall meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in the ANSI B30.5-1989, Safety Code for Crawler, Locomotive and Truck Cranes.

(5) Tower cranes.

(a) Tower cranes shall be erected, jumped and dismantled under the immediate supervision of a competent person, designated by the employer.

(b) Tower cranes shall be erected, maintained and used in accordance with the manufacturer's specifications, recommendations and procedures. All modifications shall be approved by the manufacturer and engineered by a professional engineer. The safety factors shall not be reduced by any modifications. The crane plates and charts shall be changed to reflect any modifications made.

(c) A professional engineer shall certify that the crane foundations and underlying soil are adequate support for the tower crane with its maximum overturning movement.

(d) Tower cranes shall be positioned whereby they can swing 360° without either the counterweight or jib striking any building, structure or other object, except:

(i) If the crane can strike an object or another crane, suitable limit switches shall be installed which will prohibit contact with such objects, or;

(ii) Direct voice communications shall be established between any operator of the tower crane(s) involved and a signalperson so stationed where the boom and/or counterweight movement, and the object with which it may contact can be observed so that the operator(s) can be warned of imminent danger.

(iii) A secondary means of positive communications shall be established as a back-up for possible direct voice communication failure.

(iv) Radio communication systems without tone coded squelch are prohibited. Citizens band radios shall not be used as a means of communications for tower cranes.

(e) Prior to installing a climbing tower crane within an existing building or new construction, a structural engineer shall certify that the building is designed to withstand the torque and floor loading created by the crane to be installed.

(f) Tower cranes erected on a new foundation shall be tested in accordance with ANSI B30.3-1990 Chapter 3-1.

(i) The test shall consist of suspending a load of not less than 110% of the rated capacity for 15 minutes. The load shall be suspended from the furthest point of the length of boom (jib) to be used. The results of this test shall be within the manufacturer's recommendations and/or specifications.

(ii) A record of each test shall be made and signed by the person responsible for conducting the test. Such records shall be maintained on the construction site for the duration of the construction work for which it was erected and subsequently made a part of the firm's permanent equipment records. Records shall be made available to authorized representatives of the department, upon request.

(g) A capacity chart shall be furnished by each crane manufacturer which shall include a full and complete range of crane load ratings at all stated operating radii for each allowable speed and each recommended counterweight load.

(i) Such chart shall be posted in the operator's cab or at the remote control stand in use. In lieu of the chart at the remote control stand, a minimum of two weight capacity signs shall be affixed to the jib or boom.

(ii) The chart shall be visible and readable to the operator while at the normal operating position.

(h) Operating controls shall be properly marked to indicate the function of the controls in each position.

(i) An operating and maintenance manual written in the English language shall be provided with each tower crane.

(j) Limit switches shall be installed and shall be kept properly adjusted. They shall be protected or isolated in a manner which will prevent unauthorized tampering. Limit switches shall provide the following functions:

(i) Safely limit the travel of the trolley to prevent it from hitting the outer end of the jib.

(ii) Limit the upward travel of the load block to prevent two-blocking.

(iii) Lower over travel limiting devices shall be provided for all load hoists where the hook area is not visible to the operator.

(iv) Limit the load being lifted in a manner whereby no more than 110% of the maximum rated load can be lifted or moved.

(k) The crane shall not be used to pull vehicles of any type, remove piling, loosen form work, pull away loads which are attached to the ground or walls, or for any operation other than the proper handling of freely suspended loads.

(l) When the operator may be exposed to the hazard of falling objects, the tower crane cab and/or remote control station shall have adequate overhead protection.

(m) The operator shall be protected from the weather. If enclosed cabs are provided they shall provide clear visibility in all directions and glass shall be approved safety glass or the equivalent.

(n) An approved and safe means shall be provided for access to operator's cab and machinery platform.

(o) When necessary for inspection or maintenance purposes, ladders, walkways with railing or other devices shall be provided.

(p) Each tower crane shall be provided with a slewing brake capable of preventing the jib or boom from rotating in either direction and stopping the rotation of the jib or boom while loaded, when desired. Such brake shall have a holding device which, when set, will hold the jib or boom in a fixed location without additional attention of the operator. When the crane is out of operation, the jib or boom shall be pointed downwind and the slewing brake shall be released so as to permit the jib or boom to weathervane, providing the jib or boom has a clear 360 degree rotation. Where a 360 degree rotation is not provided, the jib or boom shall be pointed downwind from the prevailing wind and the slewing brake set.

(q) Each tower crane shall be provided with a braking system on the trolley capable of stopping and holding the trolley in any desired position while carrying a maximum load. This brake shall be capable of being locked in a fixed location without additional attention of the operator. An automatic brake or device shall be installed which will immediately stop and lock the trolley in position in the event of a breakage of the trolley rope.

(r) All electrical equipment shall be properly grounded and protection shall be provided against lightning.

(s) When the operator is actually operating the crane, the operator shall remain in a stationary position.



(t) All crane brakes shall automatically set in event of power failure. Swing brakes shall also function in this manner or be capable of being set manually.

(u) Climbing jack systems used for raising a tower crane shall be equipped with over-pressure relief valves, direct-reading pressure gauges, and pilot-operated hydraulic check valves installed in a manner which will prevent jack from retracting should a hydraulic line or fitting rupture or fail.

(v) During periods of high winds or weather affecting visibility, i.e., fog, etc., only loads shall be handled that are consistent with good safety practices. Good safety practices shall be mutually agreed upon by the operator and the person in charge of the construction job, with due consideration given to manufacturer's specifications and recommendations.

(w) Counterweights shall be securely fastened in place and shall not exceed the weight as recommended by the manufacturer for the length of jib being used. However, an amount of counterweight as recommended by the manufacturer shall be used.

(x) Tower cranes shall be inspected and maintained in accordance with the manufacturer's recommendations or more frequently if there is reason to suspect a possible defect or weakening of any portion of the structure or equipment.

(y) Guy wires, wedges, braces or other supports shall be inspected at the beginning and at midpoint of each working shift to ascertain that they are functioning as intended.

(6) Additional tower crane requirements.

(a) An approved method must be instituted for transmitting signals to the operator. Standard hand signals for crane operations must be used, whenever possible; however, if conditions are such that hand signals are ineffective, radio-controlled or electric-whistle signal or two-way voice communication must be used. (See WAC 296-155-525 (5)(d).)

(b) Tower cranes shall not be erected or raised when the wind velocity at the worksite exceeds 20 m.p.h. or that specified by the manufacturer.

(c) Tower crane operators shall be trained and experienced in tower crane operations; however, for gaining experience, persons may operate the tower crane if under the immediate supervision of an experienced operator.

(d) Adequate clearance shall be maintained between moving and rotating structures of the crane and fixed objects to allow the passage of employees without harm.

(e) Employees required to perform duties on the horizontal boom of hammerhead tower cranes shall be protected against falling by guardrails or by a full body harness and lanyards attached to crane or to lifelines in conformance with Part C-1 of this chapter.

(f) Buffers shall be provided at both ends of travel of the trolley.

(g) Cranes mounted on rail tracks shall be equipped with limit switches limiting the travel of the crane on the track and stops or buffers at each end of the tracks.

(h) All hammerhead tower cranes in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, inspection, and operation as prescribed by the manufacturer.

(i) Access ladders inside the telescoping sections of tower cranes are exempt from those sections of the safety standards pertaining to cleat length and cleat spacing, but

shall conform to manufacturer's recommendations and specifications.

(7) Overhead and gantry cranes.

(a) The rated load of the crane shall be plainly marked on each side of the crane, and if the crane has more than one hoisting unit, each hoist shall have its rated load marked on it or its load block, and this marking shall be clearly legible from the ground or floor.

(b) Bridge trucks shall be equipped with sweeps which extend below the top of the rail and project in front of the truck wheels.

(c) Except for floor-operated cranes, a gong or other effective audible warning signal shall be provided for each crane equipped with a power traveling mechanism.

(d) All overhead and gantry cranes in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, inspection, and operation as prescribed in ANSI B30.2.0-1990, Safety Code for Overhead and Gantry Cranes.

(8) Derricks. All derricks in use shall meet the applicable requirements for design, construction, installation, inspection, testing, maintenance, and operation as prescribed in American National Standard Institute B30.6-1990, Safety Code for Derricks.

(9) Floating cranes and derricks.

(a) Mobile cranes mounted on barges.

(i) When a mobile crane is mounted on a barge, the rated load of the crane shall not exceed the original capacity specified by the manufacturer.

(ii) A load rating chart, with clearly legible letters and figures, shall be provided with each crane, and securely fixed at a location easily visible to the operator.

(iii) When load ratings are reduced to stay within the limits for list of the barge with a crane mounted on it, a new load rating chart shall be provided.

(iv) Mobile cranes on barges shall be positively secured.

(b) Permanently mounted floating cranes and derricks.

(i) When cranes and derricks are permanently installed on a barge, the capacity and limitations of use shall be based on competent design criteria.

(ii) A load rating chart with clearly legible letters and figures shall be provided and securely fixed at a location easily visible to the operator.

(iii) Floating cranes and floating derricks in use shall meet the applicable requirements for design, construction, installation, testing, maintenance, and operation as prescribed by the manufacturer.

(c) Protection of employees working on barges. The employer shall comply with the applicable requirements for protection of employees as specified in WAC 296-155-630.

(10) Mobile cranes and excavation machines.

(a) In all power driven shovel operations the person in charge shall issue instructions necessary to prevent accidents, to detect and correct unsafe acts and dangerous conditions, and to enforce all safety rules and regulations.

The person in charge shall also issue instructions on the proper method of using tools and handling material.

(b) Where the ground is soft or uneven, timbering and planking shall be used to provide firm foundation and distribute the load.

(c) In case of a breakdown, the shovel shall be moved away from the foot of the slope before repairs are made.

(d) All persons shall keep away from the range of the shovel's swing and shall not be permitted to stand back of the shovel or in line with the swing of the dipper during operation or moving of shovel.

(e) Unauthorized persons shall not be allowed on the shovel during operations, and the operator shall not converse with other persons while operating machine.

(f) The shovel dipper shall rest on the ground or on blocking during shut down periods.

(g) Shovels shall be inspected daily and all defects promptly repaired.

(h) All rubber tired mobile cranes shall be equipped with outriggers and sufficient blocking to properly stabilize crane while operating.

(i) Rubber tired mobile cranes shall be equipped with rear view mirrors.

(j) Positive boom stops shall be provided on all mobile cranes of the wheel and crawler type.

(k) Length of a crane boom and amount of counterweight shall not exceed manufacturer's rated capacity for equipment involved; except on isolated cases where permission is granted by the department.

(l) On all cranes where wedge brackets are used as terminal connections, the proper size wedge shall be used.

(m) On all mobile cranes, the hoist and boom drums shall be provided with a positive operated pawl or dog which shall be used in addition to the brake to hold the load and boom when they are suspended. Counterweight operated dogs are prohibited.

(n) Oiling and greasing shall be done under safe conditions with machine at rest, except when motion of machine is necessary.

(o) All steps, running boards, and boom ladder shall be of substantial construction and in good repair at all times.

(p) Operators shall not leave the cab while master clutch is engaged.

(q) Fire extinguishers shall be readily accessible and within reach of operator at all times.

(r) All shovel and crane cabs shall be kept clean and free of excess oil and grease on floor and machinery. Oily and greasy rags shall be disposed of immediately after use and not allowed to accumulate.

(s) Tools shall not be left on the cab floor. Spare cans of oil or fuel, and spare parts, shall not be stored in cabs, except in approved racks provided for that purpose.

(t) Mats or planking shall be used in moving shovels or cranes over soft or uneven ground.

(u) Cranes or shovels setting on steep grades shall be securely blocked or secured with a tail hold.

(v) Smoking shall be prohibited while fueling or oiling machines.

(w) Gasoline powered motors shall be stopped during refueling.

(x) Handling of movable feed line (bologna) shall be accomplished with insulated hooks and lineman's rubber gloves.

(y) Where cables cross roads they shall be elevated or placed in a trench.

(z) On all power shovels, including back-hoe types, of one-half cubic yard capacity or over, and on all dragline cranes or all-purpose cranes of the crawler or wheel type, two persons shall constitute the minimum working crew. It is mandatory that one be a qualified operator of the equipment in use. The job title of the other crew member may be oiler, rigger, signal person, or a laborer. The primary purpose of the second crew member is to signal the operator when the operator's vision is impaired or obscured and to be on-hand in case of emergency.

(i) Second-crew persons shall be properly trained in their second-person required skills.

(ii) The second crew member shall be close enough to the machine in operation to be aware of any emergency, if one arises, and to assure the machine is operated with necessary and appropriate signals to the operator.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-155-655 General protection requirements.**

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to ~~((public))~~ vehicular traffic ~~((must-shall))~~ shall be provided with ~~((-))~~ and ~~((must-shall))~~ shall wear ~~((high-visibility- warning-vests-or-other-suitable))~~ high-visibility garments ~~((meeting-the-requirements-of-WAC-296-155-200; General-requirements-for-personal-protective-equipment-(PPE))-marked-with-or-made-of-reflectorized-or-high-visibility-material))~~ meeting the requirements of WAC 296-155-200. General requirements for personal protective equipment (PPE).

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation ~~((in-accordance-with-parts-B-1-and-C-of-this-chapter-respectively)))~~ in accordance with chapter 296-842 WAC.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 10 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-304-09007 Respiratory protection.** The employer must provide respiratory protection that meets the requirements of ~~((the general occupational health standards,))~~ chapter 296-842 WAC, Respirators.

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-305-04001 Respiratory equipment protection.** (1) Fire fighter's self-contained breathing apparatus (SCBA) shall:

- (a) Be pressure demand type (positive pressure);
- (b) Operate in the positive pressure mode only;
- (c) Have a minimum of thirty minutes service duration;
- (d) Be NIOSH certified; and
- (e) Meet the requirements of the 1992 or 1997 edition of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981.

(2) Closed circuit SCBA shall:

- (a) Be positive pressure;
- (b) Be NIOSH certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments shall adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-842 WAC, ~~((Respiratory protection))~~ Respirators and Part I-1, Asbestos, Tremolite, Anthophyllite, and Actinolite. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection; ANSI Z88.5 - Practices for Respiratory Protection for Fire Service; various NFPA publications (1981, 1404, 1500, etc.), and the Washington State Fire Service Training Program for respiratory training and usage.

(5) When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality as specified in subsection (21) of this section and in chapter 296-842 WAC.

(6) When the fire department makes its own breathing air or uses vendor purchased breathing air, the air quality from compressors, cascade systems cylinders, shall be tested at least quarterly as specified in subsection (21) of this section.

(7) Fit testing shall be conducted in accordance with this section and chapter 296-842 WAC, ~~((Respiratory protection))~~ Respirators.

(a) Each new member shall be tested before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only fire fighters with a properly fitting facepiece shall be permitted by the fire department to function in a hazardous atmosphere with SCBA. (Reference WAC 296-842-18005.)

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery,

or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) The fit test procedures and test exercises described in WAC 296-62-07162, Asbestos, Appendix C, shall be followed unless stated otherwise in this chapter.

(f) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Fire fighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If a spectacle, goggle, or face shield must be worn with a facepiece, it shall be worn so as to not adversely affect the seal of the facepiece to the face. See WAC 296-62-07170 (2).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all fire fighters who enter into hazardous atmospheres during structural fire fighting activities.

(11) Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute minimum capacity positive pressure escape bottle.

(a) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen

minutes and when not more than twenty percent of the noted air supply will be used during entry.

(b) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(12) Respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous;

(13) Anytime fire fighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(14) Fire fighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Fire fighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the respirator;

(c) Understanding the safety features and limitations of the respirator; and

(d) Donning and doffing the respirator.

(16) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacture of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members shall be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records shall remain part of the member training file.

(18) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

(19) In cases where there is a reported failure of a respirator, it shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Fire fighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1 - Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 24 ppm or less.

(22) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

Additional reference: Chapter 296-842 WAC.

AMENDATORY SECTION (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-305-05503 Summary of training requirements.** (1) Training on noise must conform to chapter 296-817 WAC, Hearing loss prevention (noise), and WAC 296-305-02005.

(2) Training on medical procedures shall conform to WAC 296-305-02501.

(3) Training on respiratory equipment shall conform to chapter 296-842 WAC, (~~Respiratory protection~~) Respirators, and WAC 296-305-04001.

(4) Training on employee right-to-know procedures shall conform to WAC 296-800-170, chemical hazard communication program.

(5) Training on overhaul procedures and operations shall conform to WAC 296-305-05001.

(6) Training on wildland fires shall conform to WAC 296-305-07001 through 296-305-07019.

(7) Training on confined space entry and/or rescue shall conform to chapter 296-62 WAC, Part M, Permit-required confined spaces and WAC 296-305-05003.

(8) Live fire training in structures shall conform to NFPA 1403 and this section.

(9) The employer shall provide training and education for all members commensurate with those duties and functions that members are expected to perform. Such training and education shall be provided to members before they perform emergency activities. Fire service leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(10) The employer shall assure that training and education is conducted frequently enough to assure that each member is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger members or other employees. All members shall be provided with training at least annually. In addition, members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

**WSR 05-07-143  
EXPEDITED RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 23, 2005, 10:15 a.m.]

Title of Rule and Other Identifying Information: WAC 192-32-010 through 192-32-135, which deal with timber retraining benefits.

**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 THIS USE

OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Juanita Myers, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY May 23, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 192-32-010 through 192-32-135 will be repealed.

Reasons Supporting Proposal: These regulations were adopted to implement the timber retraining benefits program. The statute authorizing that program, RCW 50.22.090, was repealed effective June 30, 2001. All participants in the program have completed their approved training and the regulations are no longer needed.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Statute Being Implemented: RCW 50.22.090.

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

Name of Proponent: Employment Security Department, governmental.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, Olympia, Washington, (360) 902-9665; Implementation and Enforcement: Annette Copeland, Olympia, Washington, (360) 902-9303.

March 18, 2005

Karen Turner Lee

Commissioner

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

192-32-010	Definitions
192-32-035	Residence in rural natural resources impact area at time of last separation from work.
192-32-050	Benefits payable only to workers enrolled in approved training
192-32-085	Full-time training
192-32-095	Certification of satisfactory progress
192-32-100	Modifying a training plan
192-32-115	Out-of-state training
192-32-130	Five weeks for work search following training
192-32-135	Thirteen weeks for remedial training

EXPEDITED

**WSR 05-07-153**  
**EXPEDITED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed March 23, 2005, 11:11 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-406 WAC, Standards for apricots.

**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 THIS 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 Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 23, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (1)(c) allows the Washington State Department of Agriculture (WSDA) to file notice for the expedited adoption of rules if "the proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect." The WSDA has rewritten, reformatting and reorganized chapter 16-406 WAC, Standards for apricots, in a clear and readable format so the rule is easier to understand and use. **No new requirements are included in the rewritten chapter 16-406 WAC.**

**EXPEDITED**

**Table Explaining Rewritten Chapter 16-406 WAC, Standards for Apricots**

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
	WAC 16-406-005 What definitions are important to understanding this chapter?	New section, this is considered a new section because the department renumbered WAC 16-406-050. The contents of the new WAC 16-406-005 and the old WAC 16-406-050 are essentially the same. Some terms like "aggregate," "department" and "director" have been added because they are used in the chapter. Other definitions "damage," "mature" and "serious damage" have been shortened because they are discussed in specific rule sections in the rewritten chapter 16-406 WAC.
	WAC 16-406-010 How do you determine the maturity of an apricot?	New section, created because the definition of "maturity" in the current chapter 16-406 WAC was so large.
	WAC 16-406-012 Do all apricot varieties mature in the same way?	New section, created because the definition of "maturity" in the current chapter 16-406 WAC was so large.
	WAC 16-406-015 What is considered "damage" and "serious damage" to apricots?	New section, created because the definitions of "damage" and "serious damage" in the current chapter 16-406 WAC were so large.
WAC 16-406-020 Tolerances.	WAC 16-406-020 What tolerances apply to apricots?	Amended section, by rewriting the section title in the form of a question and reformatting the section content in a clear and readable style. There are no changes in requirements.
WAC 16-406-025 Application of tolerances.	WAC 16-406-025 How are apricot tolerances applied to individual samples?	Amended section, by rewriting the section title in the form of a question and presenting the section content in a table format. There are no changes in requirements.
WAC 16-406-030 Marking and packing requirements.	WAC 16-406-030 What marking and packing requirements apply to apricots?	Amended section, by rewriting the section title in the form of a question and reformatting the section content in a clear and readable style. There are no changes in requirements.
WAC 16-406-040 Culls for fresh market.	<del>WAC 16-406-040 Culls for fresh market.</del>	Repealed section, this section was repealed but its content was moved to WAC 16-406-005 What definitions are important to understanding this chapter?
WAC 16-406-050 Definition of terms.	<del>WAC 16-406-050 Definition of terms.</del>	Repealed section, this section was repealed and replaced with the new section WAC 16-406-005 What definitions are important to understanding this chapter?
WAC 16-406-060 Definition of grades.	WAC 16-406-060 What grades apply to apricots?	Amended section, by rewriting the section title in the form of a question and presenting the section content in a table format. There are no changes in requirements.

Reasons Supporting Proposal: The department believes that the rewritten chapter 16-406 WAC is easier to understand and use and should be a benefit to department inspectors and the Washington state apricot industry. The rewritten chapter 16-406 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and complies with the executive order's "clarity criteria."

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050 and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

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

March 23, 2005  
 Robert W. Gore  
 Assistant Director

Chapter 16-406 WAC

**WASHINGTON STANDARDS FOR APRICOTS**

**NEW SECTION**

**WAC 16-406-005** What definitions are important to understanding this chapter? The following definitions are important to this chapter:

**"Aggregate"** means that injury areas on an apricot's surface may be combined into one circular area with a diameter equal to the maximum diameter specified for the particular injury.

**"Damage"** means an injury to an apricot that is readily apparent during grading and handling.

**"Department"** means the Washington state department of agriculture.

**"Diameter"** means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end.

(1) Apricots having a diameter of 1-1/2 inches or larger, ring measurement, may be considered "large."

(2) Apricots having a diameter of less than 1-1/2 inches may be considered "small."

**"Director"** means the director of the Washington state department of agriculture or the director's designee.

**"Mature"** means apricots have reached a growth stage that will insure the proper completion of the ripening process.

**"Serious damage"** means:

(1) Immaturity; or

(2) Any deformity; or

(3) Injuries either causing skin breaks exceeding 3/8 of an inch in diameter or that seriously affects the apricot's appearance.

**"Well formed"** means having a shape that is characteristic of the variety.

**NEW SECTION**

**WAC 16-406-010** How do you determine the maturity of an apricot? The information in the following table must be considered when determining an apricot's maturity:

MATURITY CHARACTERISTIC	EXPLANATION
(1) Ambering	"Ambering," which many authorities on apricots recognize as an indicator of maturity, refers to the replacement of the green colored flesh immediately around the pit with an amber shade of flesh.
(2) Springiness	"Springiness" develops in connection with the separation of the flesh from the pit. It is an indication that the apricot is reaching proper tree maturity for picking for fresh shipment. Springiness may be detected by: •External pressure on the apricot; or •Cutting the apricot in half at right angles to the longitudinal axis and noting how one-half or both halves slip away from the pit.

MATURITY CHARACTERISTIC	EXPLANATION
(3) Taste	On a tree whose fruit is ready for harvest for fresh shipment, it is quite common to find apricots that are fairly palatable because they have lost much of their green taste. However, in using this test, do not be misled by apricots that, because of worm infestation, may be maturing abnormally.
(4) Separation of fruit from the stem	The way apricots separate from their stems is an indication of their maturity. For example, immature apricots tend to tear the adjacent skin and flesh more than apricots that are near proper maturity.

**NEW SECTION**

**WAC 16-406-012** Do all apricot varieties mature in the same way? Not all varieties of apricots mature in the same way. The varieties listed in the following table have not reached a stage of maturity that will insure a proper completion of the ripening process until they have developed a characteristic yellow color (shades Nos. 3 or 4 on U.S. standard ground color chart) over the minimum surface area shown:

APRICOT VARIETY	MINIMUM YELLOW SURFACE AREA STATED AS A PERCENTAGE OF AN APRICOT'S TOTAL SURFACE AREA
Moorpark	20%
Gilbert or Newcastle	50%
Tilton	40%
Blenheim	40%
Royal	40%

**NEW SECTION**

**WAC 16-406-015** What is considered "damage" and "serious damage" to apricots? The following tables explain the differences between "damage" and "serious damage" as applied to apricots:

Table 1  
"Damage" and "Serious Damage" for All Varieties of Apricots except the Riland Variety

Except for the Riland variety, the following are considered damage:	Except for the Riland variety, the following are considered serious damage:
(1) Well-healed growth cracks over 3/8 of an inch in length.	(1) Well-healed growth cracks that are more than 1/2 inch in length.
(2) Punctures over 3/16 of an inch in diameter.	
(3) Stem pulls over 3/8 of an inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russetting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(2) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(3) Hail marks that are more than:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or



Except for the Riland variety, the following are considered damage:	Except for the Riland variety, the following are considered serious damage:
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

Table 2

"Damage" and "Serious Damage" for the Riland Variety of Apricots

For the Riland variety, the following are considered damage:	For the Riland variety, the following are considered serious damage:
(1) Growth cracks exceeding 3/8 inches in length.	(1) Growth cracks that are not well healed and are more than 1/2 inch in length.
(2) Punctures exceeding 1/4 of an inch in diameter.	
(3) Stem pulls exceeding 1/2 inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russeting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(2) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(3) Hail marks that are more than:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

**AMENDATORY SECTION** (Amending WSR 99-17-003, filed 8/4/99, effective 9/4/99)

**WAC 16-406-020 ((Tolerances)) What tolerances apply to apricots?** ((1) In order to allow for variations incident to proper grading and handling, not more than a total of ten percent of the apricots in any lot may be below the requirements of grade, provided that not more than five percent shall be seriously damaged by insects, and not more than one percent shall be allowed for decay or internal breakdown. Provided, That in addition in Washington No. 1 not more than ten percent, by count, of the apricots in any lot may be damaged but not seriously damaged by bruising.

(2) When applying the foregoing tolerances to the combination grade no part of any tolerance shall be used to reduce the percentage of Washington No. 1 apricots required in the combination, but individual containers may have not more than ten percent less than the percentage of Washington No. 1 required, provided that the entire lot averages within the percentage specified.) (1) To allow for variations incident to proper grading and handling, the following tolerances apply to apricots:

(a) No more than ten percent of the apricots in any lot may be below grade requirements.

(b) Serious damage by insects must affect no more than five percent of the apricots in any lot.

(c) No more than one percent must be affected by decay or internal breakdown.

(d) In addition, for Washington No. 1 grade, no more than ten percent, by count, of the apricots in any lot may be damaged (but not seriously damaged) by bruising.

(2) When applying the tolerances in subsection (1) of this section to the Washington combination grade:

(a) No part of any tolerance must be used to reduce the percentage of Washington No. 1 apricots required for the combination grade.

(b) However, individual containers may contain forty percent Washington No. 1 grade apricots if the entire lot averages fifty percent.

**AMENDATORY SECTION** (Amending WSR 03-24-008, filed 11/20/03, effective 12/21/03)

**WAC 16-406-025 ((Application of tolerances)) How are apricot tolerances applied to individual samples?** ((1) The contents of individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for this grade.

(2) For packages which contain more than ten pounds, and a tolerance of ten percent or more is provided, individual samples in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than ten pounds and a tolerance of less than ten percent is provided, individual samples in any lot shall have not more than double the tolerance specified. Provided, That not more than one apricot which is affected by decay or internal breakdown may be permitted in any sample.

(3) Washington No. 1 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may have more than three times the tolerances specified, except that at least one defective apricot may be permitted in any sample. Provided, That not more than one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.

(4) Washington No. 2 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may contain more than three times the tolerances specified.) If the averages for the entire lot are within the tolerances specified for the grade, the contents of individual samples are subject to the following limitations:

Package Weight and/or Apricot Grade	With a Tolerance of:	Individual Sample in Any Lot:	Defects Allowed in a Sample
(1) Packages containing more than ten pounds	Ten percent or more	Must have no more than one and one-half times the tolerance specified	No more than one apricot affected by decay or internal breakdown is permitted in any sample.
(2) Packages containing more than ten pounds	Less than ten percent	Must have no more than double the tolerance specified	No more than one apricot affected by decay or internal breakdown is permitted in any sample.

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<u>Package Weight and/or Apricot Grade</u>	<u>With a Tolerance of:</u>	<u>Individual Sample in Any Lot:</u>	<u>Defects Allowed in a Sample</u>
(3) Washington No. 1 grade packages containing ten pounds or less	Ten percent or less	May have more than three times the tolerances specified	At least one defective apricot may be permitted in any sample and one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.
(4) Washington No. 2 grade packages containing ten pounds or less	Ten percent or less	May have more than three times the tolerances specified	N/A

**AMENDATORY SECTION** (Amending WSR 99-17-003, filed 8/4/99, effective 9/4/99)

**WAC 16-406-030 ((Marking and packing requirements.)) What marking and packing requirements apply to apricots?** (((1) When the numerical count is used, the apricots in any container shall not vary more than one fourth inch in diameter. In order to allow for variations incident to proper sizing, not more than ten percent, by count, of the apricots in any package may be below the minimum size specified. The determination of grade may be made on the count basis.

(2) When apricots are prepared for market and/or offered for sale in containers, open or closed, such containers shall have stamped thereon the variety, grade, and packer's, grower's or shipper's name and address, count, or net weight and minimum diameter.

(These marking requirements do not apply to apricots being sold or shipped to canneries))

Note: The marking requirements in this section do not apply to apricots being sold or shipped to canneries.

(1) When a numerical count is used to pack apricots, the apricots in any container must not vary more than one-quarter inch in diameter.

(2) To allow for variations incident to proper sizing, no more than ten percent, by count, of the apricots in any package may be below the specified minimum size.

(3) Numerical count may be used to determine apricot grades.

(4) When apricots are prepared for market and/or offered for sale in containers (either open or closed), the following information must be clearly stamped on each container:

- (a) Variety;
- (b) Grade;
- (c) Packer's, grower's or shipper's name and address; and
- (d) Count; or
- (e) Net weight and minimum diameter.

**AMENDATORY SECTION** (Amending Order 1015, Regulation A, filed 4/29/66)

**WAC 16-406-060 ((Definition of grades.)) What grades apply to apricots?** (((1) Washington No. 1 shall consist of apricots of one variety which are mature but not soft, overripe or shriveled, and which are well formed, visibly clean and free from decay, worm holes, and from damage caused by dirt, limb rubs, growth cracks, bruises, scale, hail, disease, insects or mechanical or other means. (See tolerances WAC 16-406-020)

(2) Washington No. 2 shall consist of apricots of one variety which are mature but not soft, overripe or shriveled, but which are fairly clean and free from decay, worm holes, and from serious damage caused by growth cracks, bruises, hail, insect pests, mechanical or other means. (See tolerances WAC 16-406-020)

(3) Washington combination shall consist of a combination of Washington No. 1 and Washington No. 2 and may be packed. When such a combination is packed, at least fifty percent of the apricots in any container shall meet the requirements of Washington No. 1. (See tolerances WAC 16-406-020)

(4) Culls shall consist of apricots which are immature or seriously damaged by growth cracks, nail, insect pests, mechanical or other means. (See marking and packing requirements WAC 16-406-030))) The following table identifies apricot grades and describes their characteristics:

<u>WASHINGTON APRICOT GRADES</u>	<u>CHARACTERISTICS</u>
(1) Washington No. 1	Washington No. 1 grade apricots consist of apricots of one variety that are: <ul style="list-style-type: none"> <li>•Mature but not soft</li> <li>•Not overripe or shriveled</li> <li>•Well formed</li> <li>•Visibly clean</li> <li>•Free from decay and worm holes</li> <li>•Free from damage caused by dirt, limb rubs, growth cracks, bruises, scale, hail, disease, insects or mechanical or other means. (See tolerances WAC 16-407-060.)</li> </ul>
(2) Washington No. 2	Washington No. 2 grade apricots consist of apricots of one variety that are: <ul style="list-style-type: none"> <li>•Mature but not soft</li> <li>•Not overripe or shriveled</li> <li>•Fairly clean</li> <li>•Free from decay and worm holes</li> <li>•Free from serious damage caused by growth cracks, bruises, hail, insect pests, mechanical or other means. (See tolerances WAC 16-407-060.)</li> </ul>
(3) Washington combination	•Washington combination grade consists of a combination of Washington No. 1 and Washington No. 2 grade apricots. <ul style="list-style-type: none"> <li>•Washington combination grade apricots may be packed.</li> <li>•When packed, at least fifty percent of the apricots in any container must meet the requirements of Washington No. 1 grade. (See tolerances WAC 16-407-060.)</li> </ul>

WASHINGTON APRICOT GRADES	CHARACTERISTICS
(4) Culls	<p><u>Culls consist of apricots that are immature or seriously damaged by growth cracks, hail, insect pests, mechanical or other means. (See marking and packing requirements WAC 16-406-030.)</u></p> <p><u>Cull apricots for fresh market must be clearly marked with the word CULLS, in large letters at least two inches high, on closed type of containers.</u></p>

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 THIS 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 Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 23, 2005.

EXPEDITED

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-406-040 Culls for fresh market.
- WAC 16-406-050 Definition of terms.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (1)(c) allows the Washington State Department of Agriculture (WSDA) to file notice for the expedited adoption of rules if "the proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect." The WSDA has rewritten, reformat- ted and reorganized chapter 16-414 WAC, Cherries, in a clear and readable format so the rule is easier to understand and use. **No new requirements are included in the rewritten chapter 16-414 WAC.**

WSR 05-07-154

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 23, 2005, 11:12 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-414 WAC, Cherries.

Table Explaining Rewritten Chapter 16-414 WAC, Cherries

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
<b>Part I - SWEET CHERRIES</b>		
	WAC 16-414-005 What definitions are important to this chapter?	New section, this is considered a new section because the department renumbered WAC 16-414-030. The contents of the new WAC 16-414-005 and the old WAC 16-414-030 are essentially the same. Some terms like "department," "director" and "off-size" have been added because they are used in the chapter. Other definitions like "shipping point" have been moved into the definition section because they were buried in rule sections of the current chapter 16-414 WAC.
WAC 16-414-010 Washington No. 1 grade and tolerances defined.	WAC 16-414-010 What are Washington No. 1 and Northwest No. 1 grade sweet cherries?	Amended section, by rewriting the section title in the form of a question and presenting the section content in a table format comparing Washington No. 1 Grade with Northwest No. 1 Grade sweet cherries. There are no changes in requirements.
	WAC 16-414-011 What size requirements apply to sweet cherries?	New section, created because putting size requirements into a separate section improved the clarity of the rule. Size requirements were formally in WAC 16-414-010 of the current rule. For clarity, the department has added the size requirements for "8" and "8 1/2."
	WAC 16-414-012 What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination?	New section, created a new section in a table format for clarity. The table compares the tolerances for Washington No. 1 Grade and Northwest No. 1 Grade. This is much clearer than the way the same information was presented in current WAC 16-414-010 and 16-414-015.
	WAC 16-414-014 What tolerances apply to sweet cherries that are "off-size?"	New section, created a new section for clarity. This is much clearer than the way the same information was presented in current WAC 16-414-010 and 16-414-015.
WAC 16-414-015 Northwest No. 1 grade and tolerances defined.	<del>WAC 16-414-015 Northwest No. 1 grade and tolerances defined.</del>	Repealed section, this section was repealed but its content was moved to new sections WAC 16-414-012 and 16-414-014.
	WAC 16-414-016 Does Washington State adopt the U.S. standards for grades of sweet cherries?	New section, created a new section written in a clear and readable style. This section replaces WAC 16-414-095 in the current chapter 16-414 WAC.
WAC 16-414-020 Tolerances.	WAC 16-416-020 How are individual sample tolerances applied to Washington No. 1 and Northwest No. 1 grade sweet cherries?	Amended section, by rewriting the section title in the form of a question and rewriting and reformatting the section content in a clear and readable style. There are no changes in requirements.
WAC 16-414-030 Definitions.	<del>WAC 16-414-030 Definitions.</del>	Repealed section, this section was repealed but its content was moved to WAC 16-414-005 What definitions are important to this chapter?

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
WAC 16-414-040 Damage.	<del>WAC 16-414-040 Damage.</del>	Repealed section, this section was repealed but its content was moved to new sections WAC 16-414-005 and 16-414-045. There are no new requirements.
	WAC 16-414-045 What specific defects are considered damage to Washington standards?	New section, created a new section for clarity. This is much clearer than the way the same information is presented in current WAC 16-414-020. Definition of "damage" was moved to new section WAC 16-414-005.
WAC 16-414-050 Diameter.	<del>WAC 16-414-050 Diameter.</del>	Repealed section, this section was repealed but its content, which was a definition, was moved to new WAC 16-414-005.
WAC 16-414-060 Serious damage.	<del>WAC 16-414-060 Serious damage.</del>	Repealed section, this section was repealed but its content was moved to new sections WAC 16-414-005 and 16-414-065. There are no new requirements.
	WAC 16-414-065 What specific defects are considered "serious damage" to Washington standards?	New section, created a new section for clarity. This is much clearer than the way the same information is presented in current WAC 16-414-060. Definition of "serious damage" was moved to new section WAC 16-414-005.
WAC 16-414-070 Permanent defects.	<del>WAC 16-414-070 Permanent defects.</del>	Repealed section, this section was repealed but its content, which was a definition, was moved to new WAC 16-414-005.
WAC 16-414-080 Condition defects.	<del>WAC 16-414-080 Condition defects.</del>	Repealed section, this section was repealed but its content, which was a definition, was moved to new WAC 16-414-005.
WAC 16-414-085 Container requirements.	WAC 16-414-085 What requirements apply to containers used to ship sweet cherries?	Amended section, by rewriting the section title in the form of a question and presenting the section content in a clear and readable style. There are no changes in requirements.
	WAC 16-414-086 Can the director grant exemptions to the container requirements listed in WAC 16-414-085?	New section, created a new section for clarity. This section replaces WAC 16-414-085(2) in the current chapter 16-414 WAC. There are no new requirements.
WAC 16-414-090 Marking containers.	WAC 16-414-090 What marking requirements apply to sweet cherry containers?	Amended section, by rewriting the section title in the form of a question and presenting the section content in a clear and readable style. There are no changes in requirements.
WAC 16-414-095 Adoption of United States standards as state standards.	<del>WAC 16-414-095 Adoption of United States standards as state standards.</del>	Repealed section, this section was repealed but its content was moved to new WAC 16-414-016.
<b>Part II - SULPHURED CHERRIES</b>		
WAC 16-414-100 Grades.	<del>WAC 16-414-100 Grades.</del>	Repealed section, this section was repealed but its content was moved to new WAC 16-414-107.
	WAC 16-414-105 What definitions are important to sulphured cherries?	New section, created a new section for clarity. This section replaces WAC 16-414-130 in the current chapter 16-414 WAC.
	WAC 16-414-107 What are the Washington state grades for sulphured cherries?	New section, created a new section for clarity. This is much clearer than the way the same information was presented in current WAC 16-414-100.
	WAC 16-414-108 What are the tolerances for Washington state sulphured cherries?	New section, created a new section for clarity. This is much clearer than the way the same information was presented in current WAC 16-414-100.
WAC 16-414-110 Sizes.	WAC 16-414-110 What are the size requirements for all grades of Washington sulphured whole cherries?	Amended section, by rewriting the section title in the form of a question and rewriting and reformatting the section content in a clear and readable style. There are no changes in requirements.
WAC 16-414-120 Application of tolerances for certification of lots of Washington No. 1 or Washington No. 2 grade sulphured cherries.	WAC 16-414-120 What are the tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries?	Amended section, by rewriting the section title in the form of a question and rewriting and reformatting the section content in a clear and readable style. There are no changes in requirements. However, subsection (2) of the current WAC 16-414-120 has been moved to the new section WAC 16-414-125 to increase clarity.
	WAC 16-414-125 What tolerances apply to sulphured pitted cherries?	New section, created a new section for clarity. Content was moved from current WAC 16-414-120(2).
WAC 16-414-130 Definitions.	<del>WAC 16-414-130 Definitions.</del>	Repealed section, this section was repealed but its content was reformatted and renumbered as WAC 16-414-105.
	WAC 16-414-145 What specific defects are considered damage to Washington standards for sulphured cherries?	New section, created a new section for clarity. This is much clearer than the way the same information is presented in current WAC 16-414-130. Definition of "damage" was moved to new section WAC 16-414-105.
	WAC 16-414-155 What specific defects are considered damage to Washington standards for sulphured cherries?	New section, created a new section for clarity. This is much clearer than the way the same information is presented in current WAC 16-414-130. Definition of "serious damage" was moved to new section WAC 16-414-105.

**Reasons Supporting Proposal:** The department believes that the rewritten chapter 16-414 WAC is easier to understand and use and should be a benefit to department inspectors and the Washington state cherry industry. The rewritten chapter 16-414 WAC is a result of the department's ongoing

Executive Order 97-02 rule review effort and complies with the executive order's "clarity criteria."

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050 and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

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

March 23, 2005  
Robert W. Gore  
Assistant Director

**Chapter 16-414 WAC**

**WASHINGTON STANDARDS FOR CHERRIES**

**Part I  
SWEET CHERRIES**

**NEW SECTION**

**WAC 16-414-005 What definitions are important to this chapter?** "Clean" means cherries are practically free from dirt, dust, spray residue, or other foreign material. For example, clean means the product is practically free from leaves, fruit spurs, bark, twigs, dirt or foreign material.

"Condition defects" means defects that may develop or change during shipment or storage. Condition defects include, but are not limited to, decayed or soft cherries and such other factors as pitting, shriveling, sunken areas, brown discoloration and bruising that, because of its location appears to have occurred after packing.

"Damage" means any injury or specific defect described in WAC 16-414-045 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Face packed" means the cherries in the top layer of any container are placed so the stem ends are pointing downward toward the bottom of the container.

"Fairly well colored" means that at least ninety-five percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

"Firm" means the cherries:

- (1) Possess a firm, fleshy texture;
- (2) Retain their approximate original shape;
- (3) Are not shriveled; and
- (4) Do not show more than slight collapsed areas of flesh.

"Mature" means cherries have reached the stage of growth that will insure the proper completion of the ripening process.

"Permanent defects" means defects that are not subject to change during shipping or storage. Permanent defects

include, but are not limited to, factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical injury that, because of its location, appears to have occurred before shipment.

"Off-size" means a cherry whose diameter fails to meet a designated size when measured at right angles to a line from its stem to its blossom end.

"Serious damage" means any specific defect described in WAC 16-414-065 or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects that seriously detracts from the appearance, edible quality or marketing quality of cherries.

"Shipping point" means:

- (1) The point of origin of the shipment in the producing area or at the port of loading; or
- (2) The port of entry into the United States in the case of shipments from outside the continental United States.

"Similar varietal characteristics" means the cherries in any container are similar in color and shape.

"Well formed" means a cherry has the normal shape characteristic of the variety. Mature well-developed doubles are considered well formed if the halves are approximately evenly formed with a variation of no more than 2/64 of an inch.

**AMENDATORY SECTION** (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

**WAC 16-414-010 (~~Washington No. 1 grade and tolerances defined.~~) What are Washington No. 1 grade and Northwest No. 1 grade sweet cherries?** ~~((1) Washington No. 1 shall consist of sweet cherries which meet the following requirements: Similar varietal characteristics; mature; fairly well colored; well formed and clean; free from decay insect larvae or holes caused by them; soft overripe or shriveled, underdeveloped doubles and sunscald; and free from damage by any other cause.~~

~~(2) Size.~~

~~(a) The minimum diameter of each cherry shall be not less than 54/64 inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.~~

~~(b) When containers of cherries are marked with a row count/row size designation, the row count/row size marked shall be one of those shown in column 1 of the following table and shall be of the corresponding minimum diameter size shown in column 2:~~

<del>Column 1</del>	<del>Column 2</del>
<del>Row count/Row size</del>	<del>Diameter in inches</del>
<del>9</del>	<del>75/64</del>
<del>9-1/2</del>	<del>71/64</del>
<del>10</del>	<del>67/64</del>
<del>10-1/2</del>	<del>64/64</del>
<del>11</del>	<del>61/64</del>
<del>11-1/2</del>	<del>57/64</del>
<del>12</del>	<del>54/64</del>

**EXPEDITED**

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(3) **Tolerances.** In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

(a) **For defects at shipping point.** Washington No. 1. Eight percent for cherries which fail to meet the requirements for this grade. Provided, That included in this amount not more than four percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of one percent for cherries which are affected by decay.

**Note:** Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(b) **For defects en route or at destination.**

Washington No. 1. Twenty four percent for cherries in any lot which fail to meet the requirements for this grade. Provided, That included in this amount not more than the following percentages shall be allowed for defects listed:

- (i) Eight percent for cherries which fail to meet the requirements for this grade because of permanent defects; or
- (ii) Six percent for cherries which are seriously damaged, including therein not more than four percent for cherries which are seriously damaged by permanent defects and not more than two percent for cherries which are affected by decay.

(c) **For off size.**

(i) Not more than ten percent, by count, of cherries in any inspection lot shall measure less than 54/64 inches in diameter.

(ii) Ten percent, by count, for cherries which fail to meet any specified maximum diameter when such maximum diameter is marked on the container or specified in terms of fractions of inches.

(iii) When the containers are marked with row count/row size or the lot is specified by row count/row size, not more than ten percent, by count, of the cherries in any inspection lot may fail to meet the corresponding diameter size as defined in subsection (2)(b) of this section.) The following table describes the characteristics of Washington No. 1 grade and Northwest No. 1 grade sweet cherries:

<u>Washington No. 1 Grade Sweet Cherries</u>	<u>Northwest No. 1 Grade Sweet Cherries</u>
<u>Washington No. 1 sweet cherries must meet the following requirements:</u>	<u>Northwest No. 1 sweet cherries must meet the:</u>
<u>(1) Similar varietal characteristics;</u>	<u>(1) Quality requirements of Washington No. 1 sweet cherries listed in this table; and</u>
<u>(2) Mature;</u>	<u>(2) Size requirements listed in WAC 16-414-011.</u>
<u>(3) Not soft overripe or shriveled;</u>	
<u>(4) Fairly well colored;</u>	
<u>(5) Well formed;</u>	

<u>Washington No. 1 Grade Sweet Cherries</u>	<u>Northwest No. 1 Grade Sweet Cherries</u>
<u>(6) No underdeveloped doubles;</u>	
<u>(7) Clean;</u>	
<u>(8) Free from decay, insect larvae or holes caused by them and sunscald; and</u>	
<u>(9) Free from damage by any other cause.</u>	

**NEW SECTION**

**WAC 16-414-011** What size requirements apply to sweet cherries? (1) The minimum diameter of each cherry must be at least 54/64 inch.

(2) The maximum diameter of the cherries in any lot may be specified according to the facts.

(3) When containers of cherries are marked with a row count/row size designation, the row count/row size marked must comply with the corresponding minimum diameter size as shown in the following table:

<b>If containers of cherries are marked with the following row count/row size designations:</b>	<b>Then minimum diameter size of the cherries in inches must be:</b>
8	84/64
8 1/2	79/64
9	75/64
9 1/2	71/64
10	67/64
10 1/2	64/64
11	61/64
11 1/2	57/64
12	54/64

**NEW SECTION**

**WAC 16-414-012** What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination? To allow for variations incident to proper grading and handling at the shipping point, en route or at their destination, the following tolerances, by count, are established for Washington No. 1 and Northwest No. 1 grade sweet cherries:

<u>Washington No. 1 Grade Sweet Cherries</u>	<u>Northwest No. 1 Grade Sweet Cherries</u>
<u>(1) Tolerances applied at shipping point</u>	<u>(1) Tolerances applied at shipping point</u>
<u>(a) Eight percent for cherries that fail to meet the requirements for Washington No. 1 grade.</u>	<u>(a) Ten percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.</u>

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(b) Of the total tolerance of eight percent, no more than four percent is allowed for defects causing serious damage.	(b) Of the total tolerance of ten percent, no more than five percent is allowed for defects causing serious damage.
(c) Of the four percent tolerance for serious damage defects, no more than one-half of one percent is allowed for cherries affected by decay.	(c) Of the five percent tolerance for serious damage defects, no more than one percent is allowed for cherries affected by decay.
	(d) The contents of individual samples or containers in any lot must not be limited to the percentage of grade defects discussed in WAC 16-414-020.
(2) Tolerances applied en route or at destination	(2) Tolerances applied en route or at destination
(a) Twenty-four percent for cherries in any lot that fail to meet the requirements for Washington No. 1 grade.	(a) Twenty-four percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of twenty-four percent, no more than eight percent is allowed for cherries that fail to meet the requirements for Washington No. 1 grade because of permanent defects.	(b) Of the total tolerance of twenty-four percent, no more than ten percent, by count, is allowed for cherries that fail to meet the requirements for Northwest No. 1 grade because of permanent defects.
(c) Of the total tolerance of twenty-four percent, no more than six percent is allowed for cherries that are seriously damaged, including no more than:	(c) Of the total tolerance of twenty-four percent, no more than seven percent, by count, is allowed for cherries that are seriously damaged, including no more than:
(i) Four percent for cherries seriously damaged by permanent defects; and	(i) Five percent for cherries seriously damaged by permanent defects; and
(ii) Two percent for cherries affected by decay.	(ii) Two percent for cherries affected by decay.

**NEW SECTION**

**WAC 16-414-014 What tolerances apply to sweet cherries that are "off-size"?** To allow for variations in size incident to proper grading and handling, the following tolerances, by count, are established for off-size grade sweet cherries:

- (1) No more than ten percent of the cherries in any inspection lot must measure less than 54/64 inches in diameter.
- (2) Ten percent for cherries that fail to meet any specified maximum diameter when that maximum diameter is marked on the container or specified in terms of fractions of inches.
- (3) When containers are marked with row count/row size or a lot is specified by row count/row size, no more than ten percent of the cherries in any inspection lot may fail to meet the corresponding diameter size listed in the table in WAC 16-414-011(3).
- (4) When containers are marked with a "minimum diameter," no more than five percent of the cherries in the container may fail to meet the corresponding diameter.

**NEW SECTION**

**WAC 16-414-016 Does Washington state adopt the U.S. standards for grades of sweet cherries?** In addition to the standards for sweet cherries contained in this chapter, the Washington state department of agriculture adopts the United States standards for grades of sweet cherries (effective May 7, 1971) as they apply to U.S. No. 1 grade cherries, except the minimum size of cherries and tolerances for undersize cherries must meet the requirements for Washington No. 1 grade.

**AMENDATORY SECTION** (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

**WAC 16-414-020 ((Application of tolerances.)) How are individual sample tolerances applied to Washington No. 1 and Northwest No. 1 grade sweet cherries? ((+)) Individual samples shall have not more than double the tolerances specified, except that at least two defective and two off-size specimens may be permitted in any sample. Provided, That the averages for the entire lot are within the tolerances specified for the grade.**

(2) When containers are marked with row count/row size or the lot is specified by row count/row size, the individual samples or containers shall not be limited as to the percentage of cherries which are smaller than the diameter corresponding to the particular row count/row size, except that not more than twenty percent, by count, of the cherries in any sample or container shall measure less than 54/64 inches in diameter.) **Tolerances are applied to Washington No. 1 and Northwest No. 1 sweet cherries as follows:**

- (1) **Individual samples must have no more than double the tolerances specified. However, if the averages for the entire lot are within the tolerances specified for the grade, at least two defective and two off-size specimens may be allowed in any sample.**
- (2) **When containers are marked with row count/row size or when a lot is specified by row count/row size, the individual samples or containers must not be limited by the percentage of cherries that are smaller than the diameter corresponding to the particular row count/row size. However, no more than twenty percent, by count, of the cherries in any sample or container must measure less than 54/64 inches in diameter.**
- (3) **When marked with minimum size, individual samples may have no more than double the tolerances specified.**

**NEW SECTION**

**WAC 16-414-045 What specific defects are considered damage to Washington standards?** The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Cracks within the stem cavity	Cracks within the stem cavity are considered damage when: <ul style="list-style-type: none"> <li>• Deep or not well healed; or</li> <li>• The cherry's appearance is affected to a greater extent than a cherry that has a superficial well healed crack one-sixteenth inch in width extending one-half the greatest circumference of the stem cavity.</li> </ul>

EXPEDITED

EXPEDITED

DEFECT	DESCRIPTION
(2) Cracks outside of the stem cavity	Cracks outside of the stem cavity are considered damage when: <ul style="list-style-type: none"> <li>• Deep or not well healed; or</li> <li>• The crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling; or</li> <li>• Materially affecting the cherry's appearance.</li> </ul>
(3) Hail marks	Hail marks are considered damage when: <ul style="list-style-type: none"> <li>• Deep or not well healed; or</li> <li>• The aggregate area exceeds the area of a circle three-sixteenths inch in diameter.</li> </ul>
(4) Evidence of insects	Evidence of insects is considered damage when: <ul style="list-style-type: none"> <li>• Scale or more than one scale mark is present; or</li> <li>• Any insect materially affects the cherry's appearance.</li> </ul>
(5) Limb rubs	Limb rubs are considered damage when they affect the cherry's appearance more than the amount of scarring that is permitted.
(6) Pulled stems	Pulled stems are considered damage when the skin or flesh is slightly torn.
(7) Russeting	Russeting is considered damage when affecting the cherry's appearance more than the amount of scarring permitted.
(8) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> <li>• Bird pecks;</li> <li>• Sunburn;</li> <li>• Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or</li> <li>• Any cherry with flesh that is materially discolored.</li> </ul>
(9) Scars	Scars are considered damage when: <ul style="list-style-type: none"> <li>• Excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter; or</li> <li>• Smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter.</li> </ul>
(10) Skin breaks	Skin breaks are considered damage when: <ul style="list-style-type: none"> <li>• Not well healed; or</li> <li>• The cherry's appearance is materially affected.</li> </ul>
(11) Sutures	Sutures are considered damage when: <ul style="list-style-type: none"> <li>• Excessively deep; or</li> <li>• Causing the cherry's shape to be less than well formed.</li> </ul>

**NEW SECTION**

**WAC 16-414-065** What specific defects are considered "serious damage" to Washington standards? The defects listed in the following table are considered "serious damage":

DEFECT	DESCRIPTION
(1) Cracks	Cracks are considered serious damage if they are not well healed.
(2) Insect larvae or holes caused by them	The presence of insect larvae or holes caused by insect larvae is considered serious damage.
(3) Pulled stems	Pulled stems are considered serious damage if they cause: <ul style="list-style-type: none"> <li>• A more than slight tear in the cherry skin or flesh; or</li> <li>• The cherry to leak.</li> </ul>
(4) Skin breaks	Skin breaks are considered serious damage if they are not well healed.
(5) Decay	Any sign of decay is considered serious damage.

**AMENDATORY SECTION** (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

**WAC 16-414-085** (~~Container requirements~~) What requirements apply to containers used to ship sweet cherries? (~~All sweet cherries except Rainier, Royal Anne, and similar varieties commonly known as "light sweet cherries," shall be placed in containers which meet the following requirements:~~

~~(1) The net weight of loose packed (jumble filled) cherries in any container shall be twelve pounds or less, or twenty pounds or more. The net weight of face packed cherries in any container shall be fifteen pounds, or twelve pounds or less. Provided, That containers with a net weight of twelve pounds or less may be packed together with like containers in a master shipping container.~~

~~(2) The director may, upon the recommendation by the Washington state horticultural association's cherry committee, allow the use of containers not specified in subsection (1) of this section, as experimental containers for the purpose of test or trial marketing. Provided, That cherries placed in such containers shall meet the quality requirements of the Washington No. 1, U.S. No. 1, or Northwest No. 1 grade, and that at least ninety percent, by count, of the cherries in any lot of such containers shall measure not less than 54/64 inches in diameter, by requesting a waiver.)~~ Except for varieties commonly known as "light sweet cherries," all sweet cherries must be placed in containers that meet the following requirements:

(1) The net weight of loose packed (jumble filled) cherries in any container must either be:

(a) Twelve pounds or less; or

(b) Twenty pounds or more.

(2) The net weight of face packed cherries in any container must either be:

(a) Fifteen pounds; or

(b) Twelve pounds or less.

(3) Containers with a net weight of twelve pounds or less may be packed together with like containers in a master shipping container.



EXPEDITED

**NEW SECTION**

**WAC 16-414-086 Can the director grant exemptions to the container requirements listed in WAC 16-414-085?**

(1) Upon the recommendation of the Washington State Horticultural Association's cherry committee, the director may waive the container requirements in WAC 16-414-085 and allow the use of experimental containers for the purpose of test or trial marketing.

(2) Cherries placed in experimental containers:

(a) Must meet the quality requirements of Washington No. 1, U.S. No. 1, or Northwest No. 1 grade; and

(b) At least ninety percent, by count, must measure at least 54/64 inches in diameter.

**AMENDATORY SECTION** (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

**WAC 16-414-090 ((~~Marking containers.~~) What marking requirements apply to sweet cherry containers?**

**((~~Containers shall be conspicuously and legibly stamped with the name and the address of the grower, packer or shipper, the net weight, and shall be marked with the true variety name or "sweet cherries." The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1.~~) (1) Containers must be conspicuously and legibly stamped with the:**

**(a) Name and the address of the grower, packer or shipper;**

**(b) Net weight; and**

**(c) True variety name or "sweet cherries."**

**(2) The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1.**

**Part II  
SULPHURED CHERRIES**

**NEW SECTION**

**WAC 16-414-105 What definitions are important to sulphured cherries? "Damage"** means any injury or specific defect described in WAC 16-414-145 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

**"Fairly well bleached"** means the cherries possess a reasonably uniform color typical of reasonably well bleached sulphured cherries for that variety.

**"Pit"** means an entire pit or portion of a pit that is attached to a sulphured cherry or located within the pit cavity.

**"Properly matured"** means that stage of ripeness when a cherry is ready for brining.

**"Serious damage"** means any injury that seriously affects the appearance or market quality of the product.

**"Sulphured cherries"** means properly matured whole cherries of similar varietal characteristics packed in a solution of sulphur dioxide of sufficient strength to preserve the cherries without adding hardening agents.

**"Sulphured cherries with pits"** means whole cherries, with or without stems, from which the pits have not been removed. If:

(1) Without stems, not more than twenty percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

**"Sulphured cherries without pits"** means whole cherries with or without stems from which the pits have been removed. If:

(1) Without stems (cocktail), not more than seven percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

**"Unclassified cherries"** means sulphured cherries that do not conform to the descriptions of "sulphured cherries with pits" or sulphured cherries without pits.

**"Well bleached"** means the cherries possess a practically uniform color that is typical of well bleached sulphured cherries for that variety.

**NEW SECTION**

**WAC 16-414-107 What are the Washington state grades for sulphured cherries?** The following table lists and describes the various grades of Washington state sulphured cherries:

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> <li>• Properly matured;</li> <li>• Of similar varietal characteristics;</li> <li>• Clean;</li> <li>• Firm;</li> <li>• Well formed;</li> <li>• Well bleached; and</li> <li>• Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.</li> </ul>
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> <li>• Portions of sliced cherries with no particle smaller than an estimated one-third or larger than an estimated two-thirds of a whole cherry;</li> <li>• Properly matured;</li> <li>• Of similar varietal characteristics;</li> <li>• Clean;</li> <li>• Firm;</li> <li>• Well formed;</li> <li>• Well bleached; and</li> <li>• Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.</li> </ul>
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> <li>• Properly matured;</li> <li>• Of similar varietal characteristics;</li> <li>• Clean;</li> <li>• Fairly firm;</li> <li>• Well formed;</li> <li>• Fairly well bleached; and</li> <li>• Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.</li> </ul>

EXPEDITED

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> <li>• Properly matured cherries;</li> <li>• Of similar varietal characteristics;</li> <li>• Clean;</li> <li>• Fairly firm;</li> <li>• Well formed;</li> <li>• Fairly well bleached; and</li> <li>• Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.</li> </ul>
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> <li>• A combination of Washington No. 1 and Washington No. 2 cherries of any style; and</li> <li>• Unless otherwise specified, packed in a lot that averages at least fifty percent Washington No. 1 quality cherries.</li> </ul>
(6) Washington No. 3 grade sulphured cherries	<ul style="list-style-type: none"> <li>• Cherries that fail to meet the requirements of the above grades; and</li> <li>• Practically free of stems, leaves, fruit spurs, bark, dirt or foreign material.</li> </ul>

**NEW SECTION**

**WAC 16-414-108** What are the tolerances for Washington sulphured cherries? The following table describes the tolerances for various grades of Washington sulphured cherries:

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
	<ul style="list-style-type: none"> <li>• The tolerances for combination grade sulphured cherries are on a container basis. However, individual containers in any lot may vary from the specified tolerances, if the averages for the entire lot, based on sample inspections, are within the specified tolerances.</li> <li>• For the entire lot, no part of any tolerance must reduce the requirement that fifty percent of cherries in the combination must be of the higher grade. However, individual containers may have at least thirty-five percent of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.</li> <li>• When other combinations are specified, individual containers may not have more than fifteen percent less than the percentage specified of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.</li> </ul>
(6) Washington No. 3 grade sulphured cherries	There are no applicable tolerances for Washington No. 3 grade sulphured cherries.

**AMENDATORY SECTION** (Amending Order 1708, filed 6/20/80)

**WAC 16-414-110 ((Sizes,))** What are the size requirements for all grades of Washington sulphured whole cherries? ((The following approximate sizes shall be considered as standards for all grades of sulphured cherries except for halved cherries.

- (1) Extra small: 14 mm. to and including 16 mm.
- (2) Small: 16 mm. to and including 18 mm.
- (3) Medium: 18 mm. to and including 20 mm.
- (4) Large: 20 mm. to and including 22 mm.
- (5) Extra large: 22 mm. and over.

A tolerance of five percent for cherries which fail to meet the specified minimum diameter and ten percent for cherries that fail to meet the specified maximum diameter shall be allowed.)) (1) The following table lists the standard sizes for all grades of Washington whole sulphured cherries.

SIZE DESIGNATION	SIZE RANGE
Extra small	14 mm to and including 16 mm
Small	16 mm to and including 18 mm
Medium	18 mm to and including 20 mm
Large	20 mm to and including 22 mm
Extra large	22 mm and over

- (2) The following tolerances are allowed:
  - (a) Five percent for cherries that fail to meet the specified minimum diameter; and
  - (b) Ten percent for cherries that fail to meet the specified maximum diameter.

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> <li>• At least ninety-five percent of the cherries of any lot must meet the requirements of "firm."</li> <li>• In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.</li> </ul>
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> <li>• At least ninety-five percent of the cherries of any lot must meet the requirements of "firm."</li> <li>• In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.</li> </ul>
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> <li>• At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm."</li> <li>• In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.</li> </ul>
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> <li>• At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm."</li> <li>• In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.</li> </ul>
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> <li>• A tolerance of not more than ten percent is allowed for cherries that are below the requirements of Washington No. 2 grade.</li> </ul>

**AMENDATORY SECTION** (Amending Order 1708, filed 6/20/80)

**WAC 16-414-120** (~~Application of tolerances for certification of lots of Washington No. 1 or Washington No. 2 grade sulphured cherries.~~) **What are the tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries?** ~~((1) The tolerances for certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries shall be on a container basis. However, not to exceed one sixth of the individual containers in any lot may vary from the specified tolerances provided the averages for the entire lot, based on sample inspection, are within the tolerances specified. For a tolerance of ten percent or more, individual containers in any lot may contain not more than one and one half times the tolerance specified. For a tolerance of less than ten percent, individual containers in any lot may contain not more than double the tolerance specified.~~

**(2) In pitted cherries:**

~~(a) Of extra small and small sizes there shall not be found in excess of two pits per each forty ounces of cherries.~~

~~(b) Of medium, large or mixed sizes, there shall not be found in excess of one pit per each forty ounces of cherries.~~

~~(c) Of extra large size there shall not be found in excess of one pit per each sixty ounces of cherries.)~~ **(1) Tolerances for the certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries must be on a container basis.**

**(2) At least one-sixth of the individual containers in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspection, are within the specified tolerances.**

**(3) For a tolerance of ten percent or more, individual containers in any lot may contain no more than one and one-half times the specified tolerance.**

**(4) For a tolerance of less than ten percent, individual containers in any lot may contain no more than double the specified tolerances.**

**NEW SECTION**

**WAC 16-414-125** **What tolerances apply to sulphured pitted cherries?** The following tolerances apply to sulphured pitted cherries:

IF THE CHERRY SIZE IS:	THEN THE TOLERANCE IS:
(1) Extra small and small sizes	No more than two pits per each forty ounces of cherries
(2) Medium, large or mixed sizes	No more than one pit per each forty ounces of cherries
(3) Extra large size	No more than one pit per each sixty ounces of cherries

**NEW SECTION**

**WAC 16-414-145** **What specific defects are considered damage to Washington standards for sulphured cherries?** The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Mechanical injury	Any of the following mechanical injuries are considered damage: <ul style="list-style-type: none"> <li>• Open pitter hole; or</li> <li>• Pitter hole where there is a material loss of flesh; or</li> <li>• Pitter tear or pitter tears; or</li> <li>• Other mechanical injuries that materially affect the appearance of the cherry.</li> </ul>
(2) Surface discoloration	Surface discoloration for Washington No. 1 whole cherries is considered damage when any: <ul style="list-style-type: none"> <li>• Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or</li> <li>• Dark surface discoloration exceeds, in the aggregate, the area of a circle three-sixteenths inches in diameter, but does not exceed, in the aggregate, one-eighth of the cherry's surface.</li> </ul>
(3) Surface discoloration	Surface discoloration for Washington No. 1 halved cherries is considered damage when any: <ul style="list-style-type: none"> <li>• Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or</li> <li>• Dark surface discoloration exceeds, in the aggregate, the area of a circle one-sixteenth inch in diameter.</li> </ul>
(4) Rain cracks	Rain cracks on Washington No. 1 whole cherries are considered damage if: <ul style="list-style-type: none"> <li>• In the stem basin and more than one-fourth inch in length; or</li> <li>• Outside the stem basin and more than three-sixteenths of an inch in length, measured on the circumference.</li> </ul>
(5) Rain cracks	Rain cracks on Washington No. 1 halved cherries are considered damage if: <ul style="list-style-type: none"> <li>• In the stem basin and more than one-eighth inch in length; or</li> <li>• Outside the stem basin. (Note: No rain cracks are allowed outside the stem basin.)</li> </ul>
(6) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> <li>• Insect injury;</li> <li>• Bird pecks;</li> <li>• Limb rub;</li> <li>• Hail marks;</li> <li>• Sunburn;</li> <li>• Solution cracks;</li> <li>• Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or</li> <li>• Any cherry with flesh that is materially discolored.</li> </ul>

**NEW SECTION**

**WAC 16-414-155** **What specific defects are considered damage to Washington standards for sulphured cherries?** The defects listed in the following table are considered "damage":

EXPEDITED

DEFECT	DESCRIPTION
(1) Deformed cherry or double cherry	Any deformed sulphured cherry or double sulphured cherry is considered serious damage.
(2) Mechanical injury	Mechanical injury to Washington No. 2 whole cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> <li>• Open pitter holes;</li> <li>• Pitter hole where there is a serious loss of flesh;</li> <li>• Pitter tears; or</li> <li>• Other mechanical injury that seriously affects the cherry's appearance.</li> </ul>
(3) Mechanical injury	Mechanical injury to Washington No. 2 halved cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> <li>• Open pitter holes;</li> <li>• Pitter hole where there is a serious loss of flesh;</li> <li>• Pitter tears; or</li> <li>• Other mechanical injury that seriously affects the cherry's appearance.</li> </ul>
(4) Surface discoloration	Surface discoloration is considered serious damage when any: <ul style="list-style-type: none"> <li>• Light surface discoloration exceeds, in the aggregate, 1/2 of the cherry's surface; or</li> <li>• Dark surface discoloration exceeds, in the aggregate, 1/8 of the cherry's surface.</li> </ul>
(5) Rain cracks	Rain cracks on Washington No. 2 whole cherries are considered serious damage if: <ul style="list-style-type: none"> <li>• In the stem basin and more than 1/2 inch in length; or</li> <li>• Outside the stem basin and more than 3/8 of an inch in length, measured on the circumference.</li> </ul>
(6) Rain cracks	Rain cracks on Washington No. 2 halved cherries are considered serious damage if: <ul style="list-style-type: none"> <li>• In the stem basin and more than 1/4 inch in length; or</li> <li>• Outside the stem basin more than 3/16 of an inch in length, measured on the circumference.</li> </ul>
(7) Blemished	Any blemish or combination of blemishes are considered serious damage if they seriously: <ul style="list-style-type: none"> <li>• Affect the appearance of the cherry; or</li> <li>• Discolor the flesh of the cherry.</li> </ul>

WAC 16-414-095

WAC 16-414-100

WAC 16-414-130

Adoption of United States standards as state standards.

Grades.

Definitions.

EXPEDITED

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-414-015	Northwest No. 1 grade and tolerances defined.
WAC 16-414-030	Definitions.
WAC 16-414-040	Damage.
WAC 16-414-050	Diameter.
WAC 16-414-060	Serious damage.
WAC 16-414-070	Permanent defects.
WAC 16-414-080	Condition defects.

**WSR 05-07-006**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Filed March 3, 2005, 4:23 p.m., effective April 3, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Improve the regulatory framework of chapter 284-43 WAC, Subchapter I. This rule making will eliminate outdated provisions and bring the regulation into compliance with HB 2460 (chapter 244, Laws of 2004) and E2SSB 6067 (chapter 79, Laws of 2000).

Citation of Existing Rules Affected by this Order: Repealing WAC 284-43-900 and 284-43-955; and amending WAC 284-43-905, 284-43-910, 284-43-915, 284-43-920, 284-43-925, 284-43-930, 284-43-935, 284-43-940, 284-43-945, and 284-43-950.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.46.200.

Adopted under notice filed as WSR 04-24-099 on December 1, 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 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 1, 2005.

Mike Kreidler  
Insurance Commissioner

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-905 Applicability and scope.** This subchapter applies to health benefit plans as defined in RCW 48.43.005~~((9))~~, and contracts for limited health care services as defined in RCW 48.44.035~~((1))~~, offered by health care service contractors and health maintenance organizations ~~((registered))~~ transacting business in this state under chapter 48.44 or 48.46 RCW. It applies to such plans purchased directly by individuals, small employers, ~~((and))~~ large employers~~((,or))~~ and other organizations.

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-910 Definitions.** For the purpose of this subchapter:

(1) "Adjusted earned premium" means the amount of "earned premium" the "carrier" would have earned had the

"carrier" charged current "premium rates" for all applicable "plans."

~~((2))~~ ~~((("Amount charged" means all sums charged, received, or deposited as consideration for a "contract" or "group contract" or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or similar fee or charge made by the carrier in consideration for a "contract" or "group contract" is considered part of the "amount charged."))~~

~~((3))~~ "Annualized earned premium" means the "earned premium" that would be earned in a twelve-month period if earned at the same rate as during the applicable period.

~~((4))~~ ~~((3))~~ "Anticipated loss ratio" means the "projected incurred claims" divided by the "projected earned premium."

~~((5))~~ ~~((4))~~ "Base rate" means the ~~((amount charged))~~ "premium" for a specific "plan," expressed as a monthly amount per "covered person or subscriber," prior to any adjustments for geographic area, age, family size, wellness activities~~((,tenure,))~~ or any other factors as may be allowed.

~~((6))~~ ~~((5))~~ "Capitation expenses" means the amount paid to a provider or facility on a per "covered person" basis, or as part of risk-sharing provisions, for the coverage of specified health care services.

~~((7))~~ ~~((6))~~ "Carrier" means a health care service contractor or health maintenance organization.

~~((8))~~ ~~((7))~~ "Certificate" means the statement of coverage document furnished "subscribers" covered under a "group contract."

~~((9))~~ ~~((8))~~ "Claim reserves" means the "claims" that have been reported but not paid plus the "claims" that have not been reported but may be reasonably expected.

~~((10))~~ ~~((9))~~ "Claims" means the cost to the "carrier" of health care services provided to a "covered person" or paid to or on behalf of the "covered person" in accordance with the terms of a "plan." This includes "capitation payments" or other similar payments made to ~~((providers))~~ providers or facilities for the purpose of paying for health care services for a "covered person."

~~((11))~~ ~~((10))~~ "Community rate" means the weighted average of all "premium rates" within a filing with the weights determined according to current enrollment.

~~((12))~~ ~~((11))~~ "Contract" means an agreement to provide health care services or pay health care costs for or on behalf of a "subscriber" or group of "subscribers" and such eligible dependents as may be included therein.

~~((13))~~ ~~((12))~~ "Contract form" means the prototype of a "contract" and any associated riders and endorsements filed with the commissioner by a health care service contractor or health maintenance organization.

~~((14))~~ ~~((13))~~ "Contribution to surplus, contingency charges, or risk charges" means the portion of the "projected earned premium" not associated directly with "claims" or "expenses~~((, that in the case of investor-owned companies, provide the carrier with a fair rate of return on investor-supplied capital commensurate with the risk assumed by the overall business of the carrier. In the case of a not for profit carrier, these are the portion of the "projected earned premium" that provide assurance of the carrier's solvency))~~."

~~((15))~~ (14) "Covered person(s)" ~~((means all "subscribers" and their eligible dependents))~~ or "enrollee" has the same meaning as that contained in RCW 48.43.005.

~~((16))~~ (15) "Current community rate" means the weighted average of the "community rates" at the renewal or initial effective dates of each plan for the year immediately preceding the renewal period, with weights determined according to current enrollment.

~~((17))~~ (16) "Current enrollment" means the monthly average number and demographic makeup of the "covered persons" for the applicable contracts during the most recent twelve months for which information is available to the carrier.

~~((18))~~ (17) "Earned premium" means the ~~("amount charged")~~ "premium" plus any rate credits or recoupments, applicable to an accounting period whether received before, during, or after such period.

~~((19))~~ (18) "Expenses" means costs that include but are not limited to the following:

- (a) Claim adjudication costs;
- (b) Utilization management costs if distinguishable from "claims";
- (c) Home office and field overhead;
- (d) Acquisition and selling costs;
- (e) Taxes; and
- (f) All other costs except "claims."

~~((20))~~ (19) "Experience period" means the most recent twelve-month period from which the carrier accumulates the data to support a filing.

~~((21))~~ (20) "Extraordinary expenses" means "expenses" resulting from occurrences atypical of the normal business activities of the "carrier" that are not expected to recur regularly in the near future.

~~((22))~~ (21) "Group contract" or "group plan" means an agreement issued to an employer, corporation, labor union, association, trust, or other organization to provide health care services to employees or members of such entities and the dependents of such employees or members.

~~((23))~~ (22) "Incurred claims" means "claims" paid during the applicable period plus the "claim reserves" as of the end of the applicable period minus the "claim reserves" as of the beginning of the applicable period. Alternatively, for the purpose of providing monthly data or trend analysis, "incurred claims" may be defined as the current best estimate of the "claims" for services provided during the applicable period.

~~((24))~~ (23) "Individual contract" means a "contract" issued to and covering an individual. An "individual contract" may include dependents.

~~((25))~~ (24) "Investment earnings" means the income, dividends, and realized capital gains earned on an asset.

~~((26))~~ (25) "Loss ratio" means "incurred claims" as a percentage of "earned premiums" before any deductions.

~~((27))~~ (26) "Medical care component of the consumer price index for all urban consumers" means the similarly named figure published monthly by the United States Bureau of Labor Statistics.

~~((28))~~ (27) "Net worth or reserves and unassigned funds" means the excess of assets over liabilities on a statutory basis.

~~((29))~~ (28) "Plan" means a "contract" that is a health benefit(s) plan as defined in RCW 48.43.005~~((9))~~ or a "contract" for limited health care services as defined in RCW 48.44.035~~((1))~~.

(29) "Premium" has the same meaning as that contained in RCW 48.43.005.

(30) "Premium rate" means the ~~("amount charged")~~ "premium" per "subscriber" or "covered person" obtained by adjusting the "base rate" for geographic area, family size, age, wellness activities, ~~((tenure,))~~ or any other factors as may be allowed.

(31) "Projected earned premium" means the "earned premium" that would be derived from applying the proposed "premium rates" to the current enrollment.

(32) "Projected incurred claims" means the estimate of "incurred claims" for the rate renewal period based on the current enrollment.

(33) "Proposed community rate" means the weighted average of the "community rates" at the renewal dates of each plan for the renewal period, with weights determined according to current enrollment.

(34) "Provider" ~~((means any health professional, hospital, or other institution, organization, prescription drug vendor, or person that furnishes health care services and is licensed or otherwise authorized to furnish such services))~~ has the same meaning as that contained in RCW 48.43.005.

(35) "Rate renewal period" means the period for which the proposed "premium rates" are intended to remain in effect.

(36) "Rate schedule" means the schedule of all "base rates" for "plans" included in the filing.

(37) "Requested increase in the community rate" means the amount, expressed as a percentage, by which the "proposed community rate" exceeds the "current community rate."

(38) "Service type" means the category of service for which "claims" are paid, such as hospital, professional, dental, prescription drug, or other.

(39) "Small group contracts" or "small group plans" means the class of "group contracts" issued to "small employers" ~~((with no more than fifty eligible employees, including sole proprietors. "Small employer"))~~, as that term is defined ~~((at))~~ in RCW 48.43.005~~((13))~~.

(40) "Staffing data" means statistics on the number of ~~((=))~~providers~~((=))~~ and associated compensation required to provide a fixed number of services or provide services to a fixed number of "covered persons."

(41) "Subscriber" means a person on whose behalf a "contract" or "certificate" is issued.

(42) "Unit cost data" means statistics on the cost per health care service provided to a "covered person."

(43) "Utilization data" means statistics on the number of services used by a fixed number of "covered persons" over a fixed length of time.

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-915 Demonstration that benefits provided are not reasonable in relation to the amount**

charged for a contract per RCW 48.44.020 ~~((2)(d))~~ and 48.46.060 ~~((3)(d))~~. ~~((In addition to the requirements of)) (1) The provisions of this section are in addition to the requirements set forth in RCW 48.44.022, 48.44.023, 48.46.064, and 48.46.066(, where applicable:~~

~~(1) For individual and small group plans, benefits shall be found not to be unreasonable in relation to the amount charged if one or more of the following is true:~~

~~(a) The requested increase in the community rate is zero percent or less and the anticipated loss ratio is seventy percent or more; or~~

~~(b) The anticipated loss ratio is eighty percent or more and the requested increase in the community rate is not more than the applicable rate in the following table:~~

CPI*	Maximum Rate Increase
7% or less	CPI* + 3%
7% to 10%	10%
10% or more	CPI*

~~((\*) CPI refers to the rate of increase in the medical care component of the consumer price index for all urban consumers.~~

~~(2) For group plans other than small group plans, benefits shall be found not to be unreasonable in relation to amount charged if the anticipated loss ratio is eighty percent or more).~~

~~((3) If the conditions of subsection (1) or (2) of this section are not met,) (2) Benefits ((shall be found not to be unreasonable)) will be found not to be unreasonable if the projected earned premium for the rate renewal period is equal to the following:~~

~~(a) An actuarially sound estimate of incurred claims associated with the filing for the rate renewal period, where the actuarial estimate of claims ((shall)) recognizes, as applicable, the savings and costs associated with managed care provisions of the plans included in the filing; plus~~

~~(b) An actuarially sound estimate of prudently incurred expenses associated with the plans included in the filing for the rate renewal period, where the estimate ((shall be)) is based on an equitable and consistent expense allocation or assignment methodology; plus~~

~~(c) An actuarially sound provision for contribution to surplus, contingency charges, or risk charges, where the justification ((shall)) recognizes the carrier's investment earnings on assets other than those related to claim reserves or other similar liabilities; minus~~

~~(d) An actuarially sound estimate of the forecasted investment earnings on assets related to claim reserves or other similar liabilities for the plans included in the filing for the rate renewal period.~~

~~((4)) (3) The contribution to surplus, contingency charges, or risk charges in subsection ~~((3))~~ (2)(c) of this section, ((shall)) will not be required to be less than zero.~~

~~((5) For the purposes of this section, the rate of increase in the medical care component of the consumer price index for all urban consumers shall be measured by comparing the index for the month immediately preceding the month in which the filing is submitted to the index for the corresponding calendar month for the prior year.)~~

AMENDATORY SECTION (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-920** When a carrier is required to file. ~~(1) ((Every contract form and any modification thereof, and every rate schedule and any change thereof shall be filed with the commissioner.)) Carriers must file with the commissioner every contract form and rate schedule and modification of a contract form and rate schedule:~~

~~(a) Before ((being)) the contract form is offered for sale to the public and before the rate schedule is used; and~~

~~(b) Within thirty days after the end of an eighteen-month period during which a previous filing has remained unchanged for such period, including contract forms filed prior to the effective date of this regulation.~~

~~(2) Filings of negotiated contract forms, and applicable rate schedules, that are placed into effect at time of negotiation or that have a retroactive effective date are not required to be filed in accordance with subsection (1)(a) and (b) of this section, but ((shall)) must be filed within thirty working days after the earlier of:~~

~~(a) The date group contract negotiations are completed; or~~

~~(b) The date renewal premiums are implemented.~~

~~(3) An explanation for any filing delayed beyond the thirty-day period as described in subsection (2) of this section ((shall)) must be given on the filing document as set forth in WAC 284-43-950.~~

~~(4) If ((a return copy)) written confirmation of the ((filing)) commissioner's final action is desired, ((it shall be submitted in duplicate)) the carrier must submit with the filing duplicate copies of the filing transmittal and cover letter, along with a return self-addressed, stamped envelope. The duplicate ((copy will be stamped by the commissioner to indicate receipt of the filing)) transmittal will note the commissioner's final action and will be returned to the sender ((if a)) in the return ((self-addressed)) envelope ((is)) enclosed with the filing.~~

AMENDATORY SECTION (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-925** General contents of all filings. Each filing required ~~((to be made pursuant to))~~ by WAC 284-43-920 ~~((shall))~~ must be submitted with the filing transmittal form prescribed by and available from the commissioner. The form ~~((with))~~ must include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information. Filings ~~((shall))~~ also must include the information required on the filing summary set forth in WAC 284-43-945 for ~~((individual and))~~ small group plans and rate schedules or as set forth in WAC 284-43-950 for group plans and rate schedules other than those for small groups.

AMENDATORY SECTION (Amending Matter No. R 98-8, filed 5/20/98, effective 6/20/98)

**WAC 284-43-930** Contents of ~~((individual and))~~ small group filings. Under RCW ~~((48.44.022(3) and 48.46.064(3))~~ 48.44.023 and 48.46.066 the experience of all ~~((indi-~~

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~~vidual plans shall be pooled; and under RCW 48.44.023 (3)(i) and 48.46.066 (3)(i) the experience of all~~) small group plans ~~((shall))~~ must be pooled. Filings for ~~((individual plans shall include base rates for all individual plans and filings for))~~ small group plans ~~((shall))~~ must include base rates ~~((for all))~~ and annual base rate changes in dollar and percentage amounts for each small group plan ~~((s))~~. Each ~~((individual and))~~ small group filing ~~((shall))~~ must include ~~((all of))~~ the following information and documents:

(1) An actuarially sound estimate of incurred claims. Experience data, assumptions, and justifications of the carrier's projected incurred claims ~~((shall))~~ must be provided in a manner consistent with the carrier's rate-making methodology and incorporate the following elements:

(a) A brief description of the carrier's rate-making methodology, including identification of the data used and the kinds of assumptions and projections made.

(b) The number of subscribers by family size, or covered persons for the plans included in the filing. These figures ~~((shall))~~ must be shown for each month or quarter of the experience period and the prior two periods if not included in previous filings. This data ~~((shall))~~ must be presented in aggregate for the plans included in the filing and in aggregate for all of the carrier's plans.

(c) Earned premium for each month or quarter of the experience period and the prior two periods if not included in previous filings, for the plans included in the filing.

(d) An estimate of the adjusted earned premium for each month or quarter of the experience period and prior two periods for the plans included in the filing.

(e) Claims data for each month or quarter of the experience period and the prior two periods. Examples of claims data are ~~((;))~~ incurred claims, capitation payments, utilization data, unit cost data, and staffing data. The specific data elements included in the filing ~~((shall))~~ must be consistent with the carrier's rate-making methodology.

(f) Documentation and justification of any adjustments made to the experience data.

(g) Documentation and justification of the factors and methods used to forecast incurred claims.

(2) An actuarially sound estimate of prudently incurred expenses. Experience data, assumptions, and justifications ~~((shall))~~ must be provided by the carrier as follows:

(a) A breakdown of the carrier's expenses allocated or assigned to the plans included in the filing for the experience period or for the period corresponding to the most recent "annual statement";

(i) ~~((Health care service contractors shall provide))~~ An expense breakdown at least as detailed as the annual statement schedule "Underwriting and Investment Exhibit, Part 3, Analysis of Expenses" as revised from time to time;

(ii) ~~((Health maintenance organizations shall provide an expense breakdown at least as detailed as the "Annual Statement, Report #2: Statement of Revenues, Expenses and Net Worth," for administrative expenses as revised from time to time;~~

(iii)) The allocation and assignment methodology used in (a)(i) ~~((or (ii)))~~ of this subsection may be based on readily available data and easily applied calculations;

(b) Identification of any extraordinary experience period expenses ~~((that are extraordinary));~~ and

(c) Documentation and justification of the assignment or allocation of expenses to the plans included in the filing; and

(d) Documentation and justification of forecasted changes in expenses.

(3) An actuarially sound provision for contribution to surplus, contingency charges, or risk charges. Assumptions and justifications ~~((shall))~~ must be provided by ~~((a))~~ the carrier as follows:

(a) The methodology, justification, and calculations used to determine the contribution to surplus, contingency charges, or risk charges included in the proposed base rates; and

(b) The carrier's net worth or reserves and unassigned surplus at the beginning and end of the experience period ~~((and at the end of the experience period)).~~

(4) An actuarially sound estimate of forecasted investment earnings on assets related to claim reserves or other similar liabilities. The carrier ~~((shall))~~ must include documentation and justification of forecasted investment earnings identified in dollars, and as a percentage of total premiums and the amount credited to the plans included in the filing.

(5) Adjustment of the base rate. Experience data, assumptions, justifications, and methodology descriptions ~~((shall))~~ must be provided ~~((that))~~ and must include:

(a) Justifications for adjustments to the base rate, supported by data if appropriate, attributable to geographic region, age, family size ~~((; use of))~~ and wellness activities ~~((; and tenure discounts));~~

(b) Justifications, supported by data if appropriate, of any other factors or circumstances used to adjust the base rates; and

(c) Description of the methodology used to adjust the base rate to obtain the premium rate for a specific individual or group, which is detailed enough to allow the commissioner to replicate the calculation of premium rates if given the necessary data.

(6) Actuarial certification. Certification by an actuary, ~~((as defined by WAC 284-05-060, that the benefits and services to be provided are reasonable in relation to the amount charged))~~ as required by RCW 48.44.023(3) and 48.46.066 (3).

(7) The requirements of subsections (1) through (6) of this section may be waived or modified upon the finding by the commissioner that a plan contains or involves unique provisions or circumstances and that the requirements represent an extraordinary administrative burden on the carrier. ~~((An example of such a situation could include a plan offered by a relatively small carrier, where such plan has limited benefits and is designed to generate an unusually small premium.))~~

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-935 Experience records.** (1) ~~((Every carrier shall maintain for each plan for the five most recent years, records of:))~~ For each plan, carriers must maintain the following records for five years:

(a) Incurred claims;



- (b) Earned premiums; and
- (c) Expenses.

(2) Such records (~~shall~~) must include data for rider and endorsement forms that are used with the contract forms. Separate data may be maintained for each rider or endorsement form as appropriate. For recordkeeping purposes, carriers may combine experience under contract forms that provide substantially similar coverage (~~may be combined for recordkeeping purposes~~).

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-940 Evaluating experience data.** In determining the credibility and appropriateness of experience data, consideration (~~shall~~) will be given to all relevant factors, including:

- (1) Statistical credibility of the amount charged and services and benefits paid, such as low exposure, low loss frequency, and recoupment;
- (2) Actual and projected trends relative to changes in medical costs and changes in utilization;
- (3) The mix of business by risk classification; and
- (4) Adverse selection or lapse factors reasonably expected in connection with revisions to plan provisions, services, benefits, and amount charged.

**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-945 Summary for (~~individual and~~) small group contract filings.**

**(~~INDIVIDUAL AND~~) SMALL GROUP FILING SUMMARY**

Carrier Name _____
Address _____
Carrier ( <del>Identification</del> ) Identification Number _____

Rate Renewal Period:	From _____	To _____
Date Submitted:	_____	
((Type of Filing: Individual Plans <input type="checkbox"/> Group Plans <input type="checkbox"/> ))		

**Proposed Rate Summary**

Current community rate _____	per month
Proposed community rate _____	per month
Percentage change _____	%
Portion of carrier's total enrollment affected _____	%
Portion of carrier's total premium revenue affected _____	%

**Components of Proposed Community Rate**

	Dollars Per Month	% of Total
a) Claims		
b) Expenses		
c) Contribution to surplus, contingency charges, or risk charges		
d) Investment earnings		
e) Total (a + b + c - d)		

**Summary of Pooled Experience**

	Experience Period		First Prior Period		Second Prior Period	
	From	To	From	To	From	To
Member Months						
Earned Premium						
Paid Claims						
Beginning Claim Reserve						
Ending Claim Reserve						
Incurred Claims						
Expenses						
Gain/Loss						
((Contribution to Corporate Surplus))						
Loss Ratio Percentage						

**General Information**

1. Trend Factor Summary

Type of Service	Annual Trend Assumed	Portion of Claim Dollars
Hospital	%	%
Professional	%	%
Prescription Drugs	%	%
Dental	%	%
Other	%	%

2. List the effective date and the rate of increase for all rate changes in the past three rate periods.

1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_  
 Date % Date % Date %

3. Since the previous filing, have any changes been made to the factors or methodology for adjusting base rates?

- Geographic Area  Yes  No
- Family Size  Yes  No
- Age  Yes  No
- Wellness Activities  Yes  No
- ((Tenure Discounts  Yes  No))
- Other (specify)  Yes  No

4. Attach a table showing the base rate for each plan affected by this filing.

5. Attach comments or additional information.

6. Preparer's Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

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**AMENDATORY SECTION** (Amending Matter No. R 97-2, filed 1/23/98, effective 3/1/98)

**WAC 284-43-950 Summary for group contract filings other than small group contract filings.**

**Summary of Contract Experience**

**GROUPS OTHER THAN SMALL GROUPS FILING SUMMARY**

Carrier Name _____	
Address _____	
_____	
_____	
<b>((Carrier Identification Number Contract Holder)) Contract Holder/Pool Category and Name (Check One Box)</b>	
<input type="checkbox"/> <b>Single Employer Group:</b>	
Employer Name: _____	
<input type="checkbox"/> <b>Multiemployer other than Association/Trust Groups</b>	
Group Pool Name: _____	
<input type="checkbox"/> <b>Association/Trust Groups</b>	
Association/Trust Group Name: _____	
Contract Form Number _____	
<b>((Contract Number)) Rate Form Number (if different from Contract Form Number)</b>	
Product Name _____	

If additional space is required to list the contract/rate form number and product name, attach a separate sheet.

Rate Renewal Period:	From:	To:
Date Submitted:		
Type of Filing (Check One Box)	<input type="checkbox"/> <b>New Group Contract ((☐))</b>	<input type="checkbox"/> <b>Revision of Existing Group Contract ((☐))</b>

**Proposed Rate Schedules:** Attach a separate sheet to list all proposed tier rates.

**Rate Summary ((of New Rate Development))**

Current Rate(s) (Composite per employee or per member)	\$ _____ per member per month
((Experience)) Percentage Rate Change	_____ %
((Recoupment)) New Rate	\$ _____ per member per month
((Reserves)) Average Number of Enrollees Each Month During the Experience Period (if the average number of enrollees is equal to or less than fifty, explain why this is not a small group, as defined in RCW 48.43.005.)	_____
((Benefit Changes)) Anticipated Loss Ratio	_____ %
((Total New Rates)) Portion of carrier's total enrollment affected	_____ %
Portion of carrier's total premium revenue affected	_____ %

	Experience Period		First Prior Period		Second Prior Period	
	From	To	From	To	From	To
Member Months						
Billed Premium						
((Paid)) Incurred Claims						
((Beginning Claim-Reserve)) Expenses						
((Ending Claim-Reserve)) Gain/Loss						
((Incurred-Claims)) Experience Refund/Credit or Recoupment						
((Expenses)) Earned Premium (Billed Premium - /+ Refund/Credit or Recoupment)						
((Gain/Loss)) Loss Ratio Percentage						
((Experience Refund or Credit)						
Earned Premium						
Contribution to Corporate Surplus						
Loss Ratio Percentage)						

Attach comments or additional ((information)) information.

Preparer's Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 284-43-900 Authority and purpose.
- WAC 284-43-955 Effective date.

**WSR 05-07-011**

**PERMANENT RULES**

**LIQUOR CONTROL BOARD**

[Filed March 4, 2005, 4:31 p.m., effective April 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify current rules and adopt current agency practices as rules. These amended rules will eliminate redundant language, require the board to notify local officials of license renewals ninety days before expiration, require local officials to submit input to the board thirty days before a liquor license expires, clarifies what happens when a citizen objects to a liquor license renewal, and makes technical changes.

Citation of Existing Rules Affected by this Order: Amending WAC 314-09-010 and 314-09-015.

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Statutory Authority for Adoption: RCW 66.08.030 and 66.24.010.

Adopted under notice filed as WSR 04-24-096 on December 1, 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 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 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: February 23, 2005.

Merritt D. Long  
Chairman

**AMENDATORY SECTION** (Amending WSR 01-03-087, filed 1/17/01)

**WAC 314-09-010 Objections to liquor license applications.** (1) **How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license or permit?** Per RCW 66.24.010 (8)(9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following entities, any person or group may comment in writing to the board regarding an (~~liquor license~~) application.

Type of Application	Entities the board will notify
<ul style="list-style-type: none"> <li>Applications for an annual license or permit at a new location that would allow the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go; and</li> <li>Applications to change the class of an existing annual liquor license or permit that allows the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go.</li> </ul>	<ul style="list-style-type: none"> <li>Governmental jurisdictions in which the premises is located, and</li> <li>Schools, churches, and public institutions within 500 feet of the premises to be licensed (as measured according to RCW 66.24.010(9)).</li> </ul>
<ul style="list-style-type: none"> <li>Applications for any annual or special occasion liquor license or permit that allows the sale and/or service of alcohol beverage; and</li> <li>Changes of ownership at existing licensed premises.</li> </ul>	<ul style="list-style-type: none"> <li>Governmental jurisdictions only.</li> </ul>

(2) **What will happen if a person or entity objects to a liquor license application?** When deciding whether to issue or deny (~~an annual~~) a liquor license application or permit, the board will give due consideration to input from govern-

mental jurisdictions in which the premises is located; private schools, churches, and public institutions within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and other persons or groups. **Note:** (~~((a))~~) Per RCW 66.24.010(9), the board (~~will~~) shall not issue a new liquor license if a tax-supported public elementary or secondary school within 500 feet of the premises to be licensed objects to the application (500 feet as measured according to RCW 66.24.010(9)).

~~((b))~~ At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license application. If the board decides to hold a public meeting, it will notify all persons or entities who have legal standing to be notified of a liquor license application under RCW 66.24.010, and all persons who gave comment on the application. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (~~chapter 34.05 RCW~~).

~~((c))~~ (a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

~~((d))~~ (b) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

(i) Reapply for the license or permit no sooner than one year from the original denial date; or

(ii) Submit a written request, within twenty days of the date (~~of~~) of licensee's receipt of the denial letter, for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

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

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

**AMENDATORY SECTION** (Amending WSR 01-03-087, filed 1/17/01)

**WAC 314-09-015 Objections to liquor license renewals.** (1) **How can local governmental jurisdictions object to the renewal of a liquor license?**

(a) The board will give governmental jurisdictions (~~(sixty))~~ ninety days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

(b) Per RCW 66.24.010(8), if a governmental jurisdiction wants to object to the renewal of a liquor license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

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(c) This letter must be received by the board at least ~~((fifteen))~~ thirty days before the liquor license expires. The objection must state specific reasons and facts that show issuance of the liquor license at the proposed location or to the applicant business will detrimentally impact the safety, health, or welfare of the community.

(d) If the objection is received within 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation by the Enforcement Division.

(e) Objections from the public will be referred to the appropriate governmental jurisdiction for action under subsection (2) below. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate governmental jurisdiction. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a governmental jurisdiction objects to the renewal of a liquor license?** (a) The board will give due consideration to a governmental jurisdiction's objection to a liquor license renewal of a premises in its jurisdiction. Based on the governmental jurisdiction's input and any information in the licensing file, the board will decide to either renew the liquor license, or to proceed with non-renewal.

~~((b) At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license renewal. If the board decides to hold a public meeting, it will notify the governmental jurisdiction(s) and any other persons who gave comment on the renewal. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).))~~

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

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

## WSR 05-07-012

### PERMANENT RULES

### LIQUOR CONTROL BOARD

[Filed March 4, 2005, 4:32 p.m., effective April 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To make it easier for applicants who are applying for a liquor license to understand the licensing process and what they need to do to complete their application. A new chapter is created that contains provisions relating to the qualifications and steps necessary to receive a liquor license.

Citation of Existing Rules Affected by this Order: Repealing WAC 314-12-005 Under what conditions may the board delegate authority to approve licenses, 314-12-025 Applicants for temporary licenses—Fee—Who qualifies, 314-12-060 Death or incapacity of licensee, 314-12-080 Limitation on reapplication, 314-12-100 Change of name and

314-12-110 Change of locations; and amending WAC 314-12-020.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

Adopted under notice filed as WSR 04-24-095 on December 1, 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 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 17, Amended 1, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 17, Amended 1, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 17, Amended 1, Repealed 6.

Date Adopted: February 23, 2005.

Merritt D. Long  
Chairman

## Chapter 314-07 WAC

### How to Apply for a Liquor License

#### NEW SECTION

**WAC 314-07-005 What is the purpose of this chapter?** RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. The purpose of this chapter is to outline the qualifications and steps necessary to receive a liquor license or permit.

#### NEW SECTION

**WAC 314-07-010 Definitions.** Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person who is a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(3) "Financier" - A "financier" means any person who has made or will make an investment in the licensed business of more than ten thousand dollars or of more than 10% of the initial cash outlay needed to open the business.

(4) "Licensee" or "liquor licensee" means any entity that holds a liquor license or permit, or any person who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(5) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor control

board notifying public institutions of liquor license applications.)

**NEW SECTION**

**WAC 314-07-015 General information about liquor licenses.** (1) When the board issues a liquor license, it should not be construed as granting a vested right in any of the privileges of the license. Rather, a person or entity must meet certain qualifications to receive a liquor license, which are continuing qualifications in order to maintain the license.

(2) A liquor license applicant may not exercise any of the privileges of a liquor license until the board approves the license application (see WAC 314-07-055 regarding temporary licenses).

(3) In approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license.

**NEW SECTION**

**WAC 314-07-020 Liquor license qualifications and application process.** Each liquor license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the liquor license application. Following is a general outline of the liquor license application process.

(1) Per RCW 66.24.010, the board shall send a notice to the local authority regarding the liquor license application. The local authority has 20 days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(a) The local authority may submit a written request to the board for an extension for good cause shown.

(b) If the application is within a board-recognized Alcohol Impact Area, the board will give the local authority 60 days to comment on the liquor license application or assumption (see WAC 314-12-215(7) for more information).

(2) For an application for a new liquor license privilege, the board may require a public posting notice to be posted at the site for fourteen days.

(3) For an application for a new liquor license privilege, the board shall notify any schools, churches, or public colleges or universities within 500 feet of the business (see RCW 66.24.010(9) for more information.)

(4) The board will verify that the proposed business meets the minimum requirements for the type of license or privilege requested.

(5) The board may conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-07-040 and WAC 314-07-045.

(6) The board may conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(7) The board may provide a briefing on liquor laws and rules.

(8) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant

has complied with all the requirements of the license or privilege requested.

(9) Per RCW 66.24.010 (2)(a), all applicants must have resided in the state of Washington for at least one month prior to issuance of a liquor license. For true parties of interest in a corporation or a limited liability company, the entity meets this residency requirement if the entity was formed in Washington or has a certificate of authority to do business in Washington.

(10) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application will be administratively closed.

**NEW SECTION**

**WAC 314-07-035 What persons or entities have to qualify for a liquor license?** Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

Type of Entity	Persons considered "true party of interest"
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership or limited liability partnership	<ul style="list-style-type: none"> <li>All general partners and spouses;</li> <li>All limited partners that have more than 10% interest in the partnership and their spouses.</li> </ul>
Limited liability company	<ul style="list-style-type: none"> <li>All members with more than 10% interest in the LLC and spouses. (Note: In order for the liquor control board to identify the true parties of interest, we will need to know all parties that have an interest in the limited liability company or have a pending interest.)</li> <li>All managers and their spouses.</li> </ul>
Privately held corporation	<ul style="list-style-type: none"> <li>All corporate officers (or persons with equivalent title).</li> <li>All stockholders who hold more than 10% of the issued or outstanding stock. (Note: In order for the liquor control board to identify the true parties of interest, we will need to know all parties who have been issued or will be issued corporate stock.)</li> </ul>
Publicly held corporation	All corporate officers (or persons with equivalent title).

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Type of Entity	Persons considered "true party of interest"
Multi-Level Ownership Structures	The liquor control board will review each entity to determine which individuals are true parties of interest according to the guidelines in this rule.
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ten percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <ul style="list-style-type: none"> <li>■ "Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business.</li> <li>■ "Net sales" means gross sales minus cost of goods sold.</li> </ul>

history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a liquor license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within 90 days, the board will administratively close the application.

**NEW SECTION**

**WAC 314-07-045 What liquor law or rule violation history might prevent an applicant from receiving a liquor license?** The board will conduct an investigation of all applicants' liquor law or rule administrative violation history. The board will not normally issue a liquor license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-29-020 through WAC 314-29-035)	Period of Consideration
<ul style="list-style-type: none"> <li>■ Three or more public safety violations,</li> <li>■ Four or more conduct violations, or</li> <li>■ Five or more regulatory violations.</li> </ul>	<ul style="list-style-type: none"> <li>■ Violations issued within two years of the date the application is received by the board's licensing and regulation division.</li> <li>■ Violations issued within the last two years the true party(ies) of interest were licensed.</li> </ul>

**NEW SECTION**

**WAC 314-07-055 Temporary retail license.** Applicants may apply for a temporary retail liquor license in addition to an annual license for the same business. If granted, the temporary license allows the applicant to operate for a period of up to 60 days while the annual license application is being processed.

(2) For purposes of this section, "true party of interest" does **not** mean:

(a) A person or entity receiving reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

**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.

**NEW SECTION**

**WAC 314-07-040 What criminal history might prevent a liquor license applicant from receiving or keeping a liquor license?** (1) When the board processes a criminal

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Type of Application	Qualification and process to receive a temporary retail license
<p><b>(1) Existing licensed business:</b> Applicant is applying for a license for a business that has an existing license at the location, and all of the following apply:</p> <ul style="list-style-type: none"> <li>• The applicant is applying for the same license privilege(s).</li> <li>• The current license privilege is valid and has not expired.</li> <li>• There are no liquor violations pending on the current license.</li> </ul>	<p>In order to receive a temporary license, the applicant(s) must:</p> <ul style="list-style-type: none"> <li>• Fill out a form provided by the board signed by both the current licensee and the current landlord.</li> <li>• Pay a \$50 fee.</li> <li>• Turn in all documents necessary to complete the initial licensing investigation.</li> <li>• Clear a criminal history check, per WAC 314-07-040.</li> <li>• Complete a briefing on liquor laws and regulations, per WAC 314-07-020(7).</li> </ul>
<p><b>(2)(a) New business or new license type:</b></p> <ul style="list-style-type: none"> <li>• Applicant is applying for a license at a business location that does not hold a current, valid liquor license.</li> <li>• Applicant is applying for a license or a business that has an existing license at the location, but the applicant is applying for a different license privilege(s).</li> </ul> <p>or</p> <p><b>(b) Existing licensed business as described in subsection (1)</b></p>	<p>In order to receive a temporary license, the applicant(s) must:</p> <ul style="list-style-type: none"> <li>• Fill out a form provided by the board.</li> <li>• Clear a criminal history check, per WAC 314-07-040.</li> <li>• Complete a briefing on liquor laws and regulations, per WAC 314-07-020(7).</li> <li>• The local authority and any churches, schools, or public colleges or universities within 500 feet of the proposed licensed business must have responded to the liquor control board's notice of liquor license application, or the time period must have passed. See WAC 314-07-020, subsections (1), (2), and (3) for more information.</li> <li>• When the annual liquor license is issued, the fee will be pro-rated back to the date of issuance of the temporary license.</li> </ul>

(1) Failure to meet qualifications or requirements for the specific liquor license or privilege, as outlined in this Title 314 WAC and Title 66 RCW.

(2) Failure to submit information or documentation requested by the board.

(3) Misrepresentation of fact by any applicant or financier.

(4) Failure to meet the criminal history standards outlined in WAC 314-07-040.

(5) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

(6) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

(7) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)). The objection must state specific reasons and facts that show issuance of the liquor license at the proposed location or to the applicant business will detrimentally impact the safety, health, or welfare of the community.

(8) Objection from the following entities if they are within 500 feet of the proposed business: a public school, a private school that meets the requirements of chapter 28A.195 RCW, a church, or a public college or university. See WAC 314-09-010 and RCW 66.24.010(9) for more information. Note: Per RCW 66.24.010(9), the board may not issue a new liquor license if the board receives objection from a public school within 500 feet of the proposed licensed business.

(9) The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state.

**NEW SECTION**

**WAC 314-07-070 Process if the board denies a liquor license application.** If the board denies a liquor license application, the applicants may:

(1) request an administrative hearing per chapter 34.05 RCW, the administrative procedure act.

(2) reapply for the license no sooner than one year from the original denial date.

**NEW SECTION**

**WAC 314-07-080 Ownership changes.** (a) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-07-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in any of the true party(ies) of interest in a: sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application	Annual fee for current license privilege.

(3) For the purposes of this section, "retail liquor license" shall include all classes of liquor licenses that allow the holder to sell liquor directly to the public.

(4) The privilege of having a temporary license issued upon an application for license does not apply to breweries or wineries, even though these licensees have limited distributor and retail privileges under their manufacturers' licenses.

(5) A temporary license under subsection (1) above may be issued for a non-retail distributor license applicant.

**NEW SECTION**

**WAC 314-07-065 Reasons the board may deny a liquor license application.** Following is a list of reasons the board may deny a liquor license application. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application.

Type of change	Type of application	Fee
Change in any of the true party(ies) of interest for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder	\$75
Change in any of the true party(ies) of interest in a limited liability company.	Application for change of limited liability company member and/or manager	\$75

(b) The board may inquire into all matters in connection with any such sale of stock or proposed change in officers.

(c) The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation.

**NEW SECTION**

**WAC 314-07-085 Change of location** (1) Changing your liquor license to a new location requires an application, per the process outlined in WAC 314-07-015(2).

(2) Type of change of location application:

Submit a change of location application and pay a \$75 fee if:	Submit a liquor license application and pay the appropriate fee for the type of liquor license you are applying for if:
<ul style="list-style-type: none"> <li>■ You are not changing the type of liquor license that you have at the current location;</li> <li>■ There is no change in any of the true parties of interest; <u>and</u></li> <li>■ Your liquor license is current.</li> </ul>	<ul style="list-style-type: none"> <li>■ You are changing the type of liquor license from what you have at the current location;</li> <li>■ There is a change in any of the true parties of interest; <u>or</u></li> <li>■ Your liquor license is not current.</li> </ul>

**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.

**NEW SECTION**

**WAC 314-07-090 Change of business name.** (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of licensing, master license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See WAC 434-12 for guidelines for trade names.

**NEW SECTION**

**WAC 314-07-095 Discontinue liquor sales.** You must notify the board's enforcement and education division if you plan to stop doing business for more than 30 days, or if you plan to permanently discontinue liquor sales.

**NEW SECTION**

**WAC 314-07-100 Death or incapacity of licensee.** (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue liquor sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a liquor license for the business.

**NEW SECTION**

**WAC 314-07-110 Are liquor license fees refundable?** When a license is suspended or cancelled, or the licensed business is discontinued, the unused portion of the liquor license fee will not be refunded. There are two exceptions:

(1) Per RCW 66.24.420 (1)(b), a spirits, beer, and wine restaurant that is located in an unincorporated city or town may receive a refund of the unused portion of their license fees, calculated per calendar quarter.

(2) Per RCW 66.24.015, if a liquor license application is denied or is administratively closed by the board, the application fee will be refunded less a seventy-five dollar non-refundable processing fee.

**NEW SECTION**

**WAC 314-07-120 Board delegation of authority to approve liquor licenses.** Per RCW 66.24.010(2), the board may delegate to designated staff members, in writing, the authority to approve unopposed or uncontested license applications.

**AMENDATORY SECTION** (Amending WSR 01-03-087, filed 1/17/01)

**WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.** (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital com-

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munity, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

~~(4) An applicant for any license or permit issued by the liquor control board, who employs an attorney or agent in connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.~~

(5) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

(6) The board may, at its discretion and for good cause shown, reconsider an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board

determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.

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

REPEALER

The following sections of the Washington Administrative Code would be deleted and not replaced:

- WAC 314-12-005 Under what conditions may the board delegate authority to approve liquor licenses as provided in RCW 66.24.010(2)?
- WAC 314-12-025 Applicants for temporary licenses—Fee—Who qualifies.
- WAC 314-12-060 Death or incapacity of licensee.
- WAC 314-12-080 Limitation on reapplications.
- WAC 314-12-100 Change of name.
- WAC 314-12-110 Change of location.

**WSR 05-07-024**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 (Medical Quality Assurance Commission)  
 [Filed March 7, 2005, 4:50 p.m., effective April 7, 2005]

Effective Date of Rule: Thirty-one days after filing.  
 Purpose: This rule identifies the postgraduate training programs that are acceptable for licensure in the state of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 246-919-330 Postgraduate medical training defined.

Statutory Authority for Adoption: RCW 18.71.017 and 18.71.050.

Adopted under notice filed as WSR 04-22-112 on November 3, 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: February 15, 2005.

Blake T. Maresh  
Executive Director

**AMENDATORY SECTION** (Amending WSR 01-18-087, filed 9/5/01, effective 10/6/01)

**WAC 246-919-330 Postgraduate medical training defined.** (1) For the purposes of this chapter, postgraduate medical training means clinical training approved by the commission in general medicine or surgery, or a ~~((recognized))~~ specialty or subspecialty in the field of medicine or surgery as recognized by the American Board of Medical Specialties and listed in the 2004 Official ABMS Annual Report and Reference Handbook, published March 18, 2004. ~~((The training must be acquired after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. Only satisfactory clinical performance evaluations will be accepted. This definition includes, but is not limited to, internships, residencies and fellowships in medical or surgical subjects.))~~

(2) The commission approves only the following postgraduate clinical training courses:

(a) Programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) which are listed in the 1984-85 directory of residency programs, or programs approved by the Accreditation Council at the time of residency.

(b) Programs accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or programs accredited by the RCPSC or CFPC at the time of residency.

(3) Postgraduate medical training includes, but is not limited to, internships, residencies and medical or surgical fellowships.

(4) The physician must acquire this training after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. The commission will accept only satisfactory clinical performance evaluations.

**WSR 05-07-031**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed March 9, 2005, 4:11 p.m., effective April 9, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule change to WAC 388-474-0012 What is a state supplemental payment and who can get it?, is necessary to update program language and clarify who is eligible for state supplemental payment (SSP). Under the proposed rules, foster children receiving specific services from Children's Administration Behavior Rehabilitation Services (BRS) for part or all of a month and not eligible for foster care reimbursement under Title IV-E of the Social Security Act would be eligible and receiving SSP payments.

Citation of Existing Rules Affected by this Order: Amending 388-474-0012.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Adopted under notice filed as WSR 04-24-076 on November 30, 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 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.

Date Adopted: March 4, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-21-125, filed 10/20/03, effective 11/1/03)

**WAC 388-474-0012 What is a state supplemental payment and who can get it?** (1) The state supplemental payment (SSP) is a state-~~((paid))~~funded cash assistance program for certain clients who the Social Security Administration determines are eligible for Supplemental Security Income (SSI).

(2) You can get an SSP if:

(a) You are a grandfathered SSI recipient under WAC 388-474-0001;

(b) You are an individual with an ineligible spouse under WAC 388-474-0001;

(c) You receive SSI because you are age sixty-five or older under WAC 388-474-0001;

(d) You receive SSI because you are blind under WAC 388-474-0001; ~~((e))~~

(e) You are determined eligible for SSP by the division of developmental disabilities; or

(f) You are eligible for and receive SSI as a foster child receiving specific services through children's administration behavior rehabilitation services (BRS) for part or all of a month, and not eligible for foster care reimbursement under Title IV-E of the Social Security Act.

**WSR 05-07-032**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed March 9, 2005, 4:12 p.m., effective April 9, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendment removes the requirement for a licensed medical practitioner to verify that the client is pregnant. Also other subsections were rewritten to clarify the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-462-0015 Medical eligibility for pregnant women.

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

Other Authority: RCW 74.09.500, 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 05-03-081 on January 17, 2005.

Changes Other than Editing from Proposed to Adopted Version: Editing changes only.

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.

Date Adopted: March 4, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

**WAC 388-462-0015 Medical ~~((programs))~~ eligibility for pregnant women. Eligibility requirements for pregnancy medical are described below.**

(1) A pregnant woman is eligible for ~~((medical services described in this chapter only when her pregnancy is confirmed by a licensed medical practitioner, licensed laboratory, community clinic, family planning clinic, or health department clinic.~~

(2) A pregnant woman is eligible for CN Medicaid coverage if she meets the following requirements as described in ~~WAC 388-503-0505))~~ categoryically needy (CN) scope of care if she meets the following requirements:

(a) Citizenship or immigration status (chapter 388-424 WAC); and

(b) Social security account number (chapter 388-474 WAC); and

(c) Is a Washington state ~~((residence))~~ resident (chapter 388-468 WAC); and

(d) Has countable income ~~((meets the standard))~~ as described in WAC 388-478-0075.

~~((3))~~ (2) A pregnant woman is considered for medically needy (MN) ~~((program coverage))~~ scope of care if she meets the requirements in subsection ~~((2))~~ (1)(a) through (c) of this section and:

(a) ~~((Her))~~ Has countable income ~~((is greater than))~~ that exceeds the standard in subsection ~~((2))~~ (1)(d) of this section; and

(b) ~~((Her))~~ Has countable resources that do not exceed the standard in WAC 388-478-0070.

~~((4))~~ (3) A pregnant woman ~~((is))~~ may be eligible for ~~((CN scope of care under the state funded pregnant woman program))~~ non-citizen pregnancy medical if she is not eligible for ~~((programs))~~ medical described in subsections (1) and (2) of this section due to citizenship, immigrant status, or social security number requirements.

~~((5))~~ (4) A pregnant woman ~~((is considered for MN scope of care under the state funded pregnant woman program if))~~ meeting the eligibility criteria in subsection (3) is eligible for:

(a) ~~((She is not eligible for the program under subsection (4) of this section because her income exceeds the standard))~~ CN scope of care when the countable income is at or below the income standard described in subsection (1)(d); ~~((and))~~ or

(b) ~~((Her resources do not exceed the standard in WAC 388-478-0070.))~~ MN scope of care when:

(i) The countable income exceeds the standard in subsection (1)(d); and

(ii) The resources do not exceed the standard described in WAC 388-478-0070.

~~((6))~~ A pregnant woman is considered for the medically indigent (MI) program if her resources exceed the standards in WAC 388-478-0070.

(7) ~~Only the~~ (5) Consider as income ~~((of an unmarried father of an unborn child))~~ to the pregnant woman the amount that is actually contributed to ~~((a pregnant woman is considered as income to her.~~

~~((8))~~ There are no resource limits for the programs described in subsections (2) and (4) of this section.

~~((9))~~ her by the father of her unborn child when the pregnant woman is not married to the father.

(6) The assignment of child support and medical support rights as described in chapter 388-422 WAC do not apply to pregnant women.

~~((10))~~ Unless stated otherwise, this section contains the only eligibility requirements for pregnant women to qualify for medical coverage.

~~((11))~~ (7) A woman who was eligible for and received medical coverage on the last day of pregnancy is eligible for extended medical benefits for postpartum care ~~((through the end of the month:~~

(a) Which includes the sixtieth day from the end of the pregnancy, for a pregnant woman receiving medical in any program except medically indigent (MI); or

(b) The pregnancy ends, for a pregnant woman receiving MI benefits)) for a minimum of sixty days from the end of her

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pregnancy. This extension continues through the end of the month in which the sixtieth day falls.

~~((12))~~ (8) A woman who was eligible for ((a)) medical ~~(program)~~ coverage on the last day of pregnancy is eligible for family planning services for twelve months from the end of the pregnancy even when eligibility for pregnancy was determined after the pregnancy ended.

### WSR 05-07-033

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 9, 2005, 4:14 p.m., effective April 9, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendment complies with the January 1, 2005, federal increases in the long-term care program standards for spousal allocation and maintenance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-513-1380.

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

Other Authority: RCW 74.09.500, 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 05-03-109 on January 19, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 4, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-04-072, filed 2/2/04, effective 3/4/04)

**WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services.** This section describes how the department defines the resource standard and available resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for:

(i) A single client; or

(ii) A legally married client with a community spouse, subject to the provisions described in subsections (5) through (8); or

(b) Three thousand dollars for a legally married couple, unless subsection (2) applies.

(2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1)(a) to each spouse, unless doing so would make one of the spouses ineligible.

(3) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-475-0300, Resource eligibility and limits;

(b) WAC 388-475-0250, How to determine who owns a resource;

(c) WAC 388-470-0060(6), Resources of an alien's sponsor; and

(d) WAC 388-506-0620, SSI-related medical clients.

(4) For LTC services the department determines a client's nonexcluded resources as follows:

(a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-475-0350 through 388-475-0550;

(b) For an SSI-related client who has a community spouse, the department:

(i) Excludes resources described in WAC 388-513-1360; and

(ii) Adds together the available resources of both spouses according to subsection (5)(a) or (b) as appropriate;

(c) For a client not described in subsection (4)(a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.

(5) The department determines available resources of a legally married client, when both spouses are institutionalized, by following WAC 388-506-0620 (5) and (6). For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of nonexcluded resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(6) If subsection (5)(b) applies, the department determines the amount of resources that are allocated to the community spouse before determining nonexcluded resources used to establish eligibility for the institutionalized spouse, as follows:

(a) If the client's current period of institutional status began on or after October 1, 1989 and before August 1, 2003, the department allocates the maximum amount of resources ordinarily allowed by law. The maximum allocation amount

is (~~ninety-two~~) ninety-five thousand (~~seven~~) one hundred (~~sixty~~) dollars effective January 1, (~~2004~~) 2005; or

(b) If the client's current period of institutional status began on or after August 1, 2003, the department allocates the greater of:

(i) A spousal share equal to one-half of the couple's combined nonexcluded resources as of the beginning of the current period of institutional status, up to the amount described in subsection (6)(a); or

(ii) The state spousal resource standard of forty thousand dollars.

(7) The amount of the spousal share described in (6)(b)(i) is determined sometime between the date that the current period of institutional status began and the date that eligibility for LTC services is determined. The following rules apply to the determination of the spousal share:

(a) Prior to an application for LTC services, the couple's combined countable resources are evaluated from the date of the current period of institutional status at the request of either member of the couple. The determination of the spousal share is completed when necessary documentation and/or verification is provided; or

(b) The determination of the spousal share is completed as part of the application for LTC services if the client was institutionalized prior to the month of application, and declares the spousal share exceeds the state spousal resource standard. The client will be required to provide verification of the couple's combined countable resources held at the beginning of the current period of institutional status.

(8) The amount of allocated resources described in subsection (6) can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC or by consent order, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(9) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (10)(a), (b), or (c) applies.

(10) A redetermination of the couple's resources as described in subsections (4)(b) or (c) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's nonexcluded resources exceed the standard described in subsection (1)(a), if subsection (5)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (6) or (8) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

AMENDATORY SECTION (Amending WSR 04-04-072, filed 2/2/04, effective 3/4/04)

**WAC 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services.** This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical facility, the department applies all subsections of this rule.

(2) For a client receiving waived services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, the department applies rules used for the community options program entry system (COPES).

(4) Excess resources are reduced in an amount equal to incurred medical expenses (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance charges;

(b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and

(c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395 (2)(a) or (b).

(5) The department allocates nonexcluded income up to a total of the medically needy income level (MNIL) in the following order:

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives a VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(b) Federal, state, or local income taxes owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnisheed for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ~~((2004))~~ 2005, two thousand three hundred ~~((nineteen))~~ seventy-eight dollars, unless a greater amount is allocated as described in subsection (8) of this section. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand ~~((six))~~ five hundred ~~((ninety-two))~~ sixty-two dollars; and

(B) Excess shelter expenses as specified under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse who:

(i) Resides with the community spouse, equal to one-third of the amount that one thousand ~~((six))~~ five hundred ~~((ninety-two))~~ sixty-two dollars exceeds the dependent family member's income.

(ii) Does not reside with the community spouse, equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption and reviews the client's circumstances after ninety days.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred ~~((fifty-five))~~ sixty-nine dollars, effective April 1, ~~((2003))~~ 2004; and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.

### WSR 05-07-036

#### PERMANENT RULES

#### BENTON CLEAN

#### AIR AUTHORITY

[Filed March 10, 2005, 9:45 a.m., effective April 10, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Updating outdated references to WACs and RCWs. Also making the document easier to read, clarifying language, adding definitions. A list of sources required to register has also been added.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 04-24-028 on November 23, 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 17, 2005.

David A. Lauer

Control Officer

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-09 issue of the Register.

**WSR 05-07-045**

**PERMANENT RULES**

**ENVIRONMENTAL HEARINGS OFFICE**

(Environmental and Land Use Hearings Board)

[Filed March 11, 2005, 9:04 a.m., effective March 11, 2005]

Effective Date of Rule: March 11, 2005.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Under RCW 34.05.380(3) the agency for good cause finds that state law requires immediate adoption of the rule. During the 2003 session, the legislature adopted ESSB 5776 creating the new Environmental and Land Use Hearings Board (ELUHB) in the Environmental Hearings Office (EHO). The statute requires that the EHO adopt implementing rules.

Purpose: During the 2003 session, the legislature adopted ESSB 5776 creating the new ELUHB in the EHO. The statute requires that the EHO adopt implementing rules. The rules would govern the procedural operation of the new board.

Statutory Authority for Adoption: Chapter 43.21L RCW (ESSB 5776) and RCW 34.05.360.

Adopted under notice filed as WSR 04-18-015 on August 23, 2004.

Changes Other than Editing from Proposed to Adopted Version: The final rule as adopted contains certain changes designed to clarify points raised by comments received on the proposed rules. While many of the modifications are arguably editorial, they are included in this description to provide the best information for interested parties.

1. All references to ESSB 5776 were replaced with chapter 43.21L RCW.

2. The term "local government" was removed from the definitions section in WAC 199-08-305 because it is not a term defined in chapter 43.21L RCW. This resulted in renumbering of the remaining definitions.

3. A reference to declaratory rulings was deleted from WAC 199-08-310 as outside the authority granted to the board by chapter 43.21L RCW.

4. An omitted reference to record review has been added to WAC 199-08-315(2) to more accurately reflect the scope of the board's statutory jurisdiction.

5. A section relating to appearances by the Office of the Attorney General or the Department of Ecology at WAC 199-08-355 was deleted in response to a comment that it did not apply to the type of proceedings coming before the ELUHB.

6. A comment was received indicating a need to clarify references to the terms "prehearing conference" and "initial hearing." To clarify the specific procedures for each type of occurrence, prior sections WAC 199-08-427, 199-08-450, and 199-08-455 were revised. (See table below 10.) WAC 199-08-435 now contains procedures for requesting the initial hearing and raising mandatory motions. An obsolete cross-reference relating to stipulations was eliminated from prior WAC 199-08-427. WAC 199-08-440 now outlines the process for scheduling an initial hearing. Additional language in WAC 199-08-445 addresses procedures for conducting the initial hearing. WAC 199-08-450 sets forth a process for "case conferences," which is used as a more accurate term for the type of conference contemplated by the prior

reference to a "prehearing conference." The motions practice described in WAC 199-08-465 was also refined to make clear the difference between motions brought as part of the initial hearing and other motions in the case.

7. The language "if available" was added to WAC 199-08-340(3) in response to a comment indicating the permit application may not always be available for inclusion with a petition for review.

8. Language allowing the board to take official notice of local government rules, ordinances and plans was added to WAC 199-08-515 in response to a comment received.

9. References to a party initiating and paying for a conference call were deleted from WAC 199-08-465 and 199-08-475 to be consistent with the board's practice, which does not require the requesting party to pay for conference calls.

10. The sections contained in the proposed rule were reordered to provide more topical groupings. This resulted in different numbers for many of the sections. The numbering changes are reflected below:

<u>New number</u>	<u>Original number</u>
199-08-300	199-08-300
199-08-305	199-08-305
199-08-310	199-08-310
199-08-315	199-08-315
199-08-320	199-08-320
199-08-325	199-08-325
199-08-330	199-08-335
199-08-335	199-08-340
199-08-340	199-08-350
199-08-345	199-08-430
199-08-350	199-08-385
199-08-355	199-08-390
199-08-360	199-08-395
199-08-365	199-08-400
199-08-370	199-08-405
199-08-375	199-08-410
199-08-380	199-08-415
199-08-385	199-08-420
199-08-390	199-08-425
199-08-395	199-08-445
199-08-400	199-08-426
199-08-425	199-08-435
199-08-430	199-08-440
199-08-435	199-08-427
199-08-440	199-08-450
199-08-445	N/A
199-08-450	199-08-465
199-08-455	199-08-428
199-08-460	199-08-429
199-08-465	199-08-475
199-08-470	199-08-465

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<u>New number</u>	<u>Original number</u>
199-08-475	199-08-470
199-08-480	199-08-480
199-08-485	199-08-485
199-08-490	199-08-490
199-08-495	199-08-495
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chapter 199-08 WAC is to provide rules of practice before the environmental and land use hearings board (hereinafter "board"). The interpretation of these rules may be guided, where relevant, by the civil rules of superior court (hereinafter "civil rules") and the rules of evidence for the superior courts of the state of Washington, as those rules have been construed by Washington state courts.

(2) Except where in conflict with the board's rules, Washington statutes regarding pretrial procedures, civil rules and rules of evidence shall be followed in proceedings before the board unless the presiding officer determines that the evidence, although in conflict with the rules, is admissible pursuant to WAC 199-08-515.

(3) This chapter shall govern practice before the board. The rules in this chapter are consistent with the model rules of procedure issued by the office of administrative hearings, chapter 10-08 WAC except where specifically noted.

**NEW SECTION**

**WAC 199-08-305 Definitions.** As used in this chapter the following terms shall have the following meanings:

(1) "Agency" means any state or local governmental entity.

(2) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in chapter 34.05 RCW. The terms "appeal," "adjudicative proceeding" and "case" are used interchangeably in this chapter.

(3) "Board" means the environmental and land use hearings board, a quasi-judicial body created pursuant to chapter 43.21L RCW and described in WAC 199-08-315.

(4) "Filing" of a document means actual receipt by the board during regular office hours. Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency, local government and parties. Filing by facsimile is permitted of documents ten pages or less if the original document is concurrently mailed or submitted to a commercial delivery service.

(5) "Final decision" means the highest and last decision available within the permit agency with respect to a permit application to the agency, including, but not limited to, decisions resulting from internal appeals available within the agency for the permit decision.

(6) "Participating permit agency" means any permit agency in which the applicant for a qualifying project has filed an application for an environmental or land use permit that is required for the qualifying project.

(7) "Party" means:

(a) A person to whom any local government or agency decision is specifically directed;

(b) A person named as a party to the appeal, or allowed to intervene or joined as a party by the board;

(c) Any participating permit agency.

(8) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, use of, or interference with the land, air, or water in the state. This document must be required to be obtained from a state agency or local gov-

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 All [49], Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

William H. Lynch, Chair  
Environmental and  
Land Use Hearings Board

**Chapter 199-08 WAC**

**PRACTICE AND PROCEDURE—BEFORE THE ENVIRONMENTAL AND LAND USE HEARINGS BOARD**

**PART A GENERAL**

**NEW SECTION**

**WAC 199-08-300 Purpose of this chapter and applicability of the board's rules of practice to the civil rules of procedure and the rules of evidence.** (1) The purpose of

PERMANENT



ernment, including, but not limited to, counties, cities, and air agencies, prior to constructing or operating a qualifying project. Local government permits include, but are not limited to, subdivisions, binding site plans, planned unit developments, shoreline permits or other approvals under RCW 90.58.140, master plan approvals, site plan approvals, permits or approvals required by critical area ordinances, conditional use permits, variances, and site-specific rezones authorized by a comprehensive plan or subarea plan or other equivalent documents however titled or denominated. Local government permits excluded under this definition include the adoption or amendment of a comprehensive plan, subarea plan, legislative actions or development regulations, certifications by local health districts of water and sewer availability, and building, grading, flood hazard, utility connection, and other nondiscretionary construction permits.

(9) "Permit agency" means any state agency or local government, including, but not limited to, air agencies, authorized by law to issue permits.

(10) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

(11) "Petition for review" is a document that when properly filed with the board initiates an adjudicative proceeding before the board.

(12) "Presiding officer" means any member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or the vice-chairperson.

(13) "Service" of a document means delivery of the document to the other parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Facsimile transmission with mailing or submission to a commercial delivery service of copies on the same day. Service by facsimile is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to a delivery service of the copies.

(d) Commercial delivery service. Service by commercial delivery service is regarded as complete upon delivery to the delivery company with charges prepaid.

(14) "Qualifying project" means an economic development project that is:

(a) Located within a county that in its entirety qualifies as a distressed area as defined in RCW 43.168.020(3), and a rural natural resources impact area as defined in RCW 43.160.020;

(b) Designed to provide at least thirty full-time year-round jobs; and

(c) Designated as a qualifying project by the office of permit assistance established under chapter 43.42 RCW if a request for a determination of such designation is made to the office by the project applicant as provided by law.

## NEW SECTION

**WAC 199-08-310 Computation of time.** (1) In computing any period of time prescribed or allowed by these rules or applicable statute, the day of the act after which the designated period of time begins to run is not to be included. The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the next succeeding day which is neither a Saturday, Sunday nor a legal holiday is included. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(2) This section also pertains to the period for filing with the board any petition for review.

## PART B

### BOARD ADMINISTRATION AND JURISDICTION

## NEW SECTION

**WAC 199-08-315 Board membership, function and jurisdiction.** (1) **Members.** An environmental and land use hearings board is established within the environmental hearings office created under RCW 43.21B.005. The environmental and land use hearings board shall be composed of six members, as provided in RCW 90.58.170. The chairperson of the pollution control hearings board shall be the chairperson of the environmental and land use hearings board. The members of the environmental and land use hearings board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

(2) **Function and jurisdiction.** This board is a quasi-judicial body with powers to conduct de novo and record review consistent with chapter 43.21L RCW to adjudicate or determine appeals from any person aggrieved by the granting, denying or rescinding of a permit issued pursuant to chapter 43.21L RCW.

(3) **Expedited review.** The board shall provide expedited review of petitions filed under this chapter. Any matter reviewed on the decision record must be set for hearing within sixty days of the date set for submitting the decision record of all participating permit agencies, absent a showing of good cause for a different date or a stipulation of the parties. Any matter reviewed de novo must be set for hearing or trial no later than one hundred twenty days after the initial hearing date. The board shall issue a final decision and order within thirty days after the final hearing required in this section.

(4) **Administrative appeals judges.** The chairperson may appoint any member of the board or an administrative appeals judge from the environmental hearings office to be the presiding officer.

(5) This section is intended to be general and informational only and failure herein to list matters over which the board has jurisdiction shall not constitute a waiver or withdrawal of that jurisdiction.

NEW SECTION

**WAC 199-08-320 Office hours, telephone number, telefacsimile number and address of the board.** (1) The administrative business of the board, except rule making, is performed by the environmental hearings office. To the extent necessary for rule making, the appeals board holds regular meetings at 10:00 a.m. on the second Tuesday of each month at the address set forth below.

(2) The board is organized within the Environmental Hearings Office, 4224 6th Avenue S.E., Building No. 2 Rowe Six, Lacey, Washington. The mailing address is:

Environmental and Land Use Hearings Board  
4224 6th Avenue S.E., Building No. 2, Rowe Six  
P.O. Box 40903  
Lacey, WA 98504-0903

(3) The telephone number of the board is 360-459-6327. The telefacsimile number is 360-438-7699.

(4) The office hours of the environmental hearings office are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays.

NEW SECTION

**WAC 199-08-325 Public information about practice before the board and public records.** (1) Questions about board procedures may be directed to the environmental hearings office by e-mail at [eho@eho.wa.gov](mailto:eho@eho.wa.gov), by regular mail or, during regular office hours, by telephone or by telefacsimile. The board's website address is: [www.eho.wa.gov](http://www.eho.wa.gov).

(2) Case files of appeals pending before the board, past written opinions of the board and other public records maintained by the board under chapter 198-12 WAC are available for public inspection and copying during regular office hours at the environmental hearings office. The form for requests for public records is set forth in WAC 198-12-140. Any person seeking to make copies of such public records may copy the documents at the environmental hearings office for a reasonable charge per page.

**PART C****FILING AN APPEAL WITH THE BOARD AND SERVICE**NEW SECTION

**WAC 199-08-330 Types of petitions before the board.** The board is empowered to hear and decide the following:

Petitions for review of final decisions made by state agencies and local governments on permit applications for qualifying economic development projects.

NEW SECTION

**WAC 199-08-335 Where to file a petition for review and number of copies.** (1) Proceedings for review under this chapter shall be commenced by filing a petition with the environmental and land use hearings board. An adjudicative proceeding before the board shall be begun by filing a petition

for review and one copy at the environmental hearings office. The board shall acknowledge filing of the petition for review by a stamp and the board's stamp on the petition shall be prima facie evidence of the date of filing. The board may thereafter require that additional copies be filed.

(2) Such petition is barred, and the board may not grant review, unless the petition is timely filed with the board and timely served on the following persons who shall be parties to the review of the petition:

(a) The participating permit agencies, which for purposes of the petition shall be:

(i) If a state agency, the director thereof; and

(ii) If a local government, the jurisdiction's corporate entity which shall be served as provided in RCW 4.28.080; and

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address as applicant in the application to the participating permit agencies;

(ii) Each person identified in project application documents as an owner of the property at issue or, if none, each person identified as a taxpayer for the property at issue in the records of the county assessor.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance by the permit agency of the permit for the qualifying project.

(4) For the purposes of this section, the date on which a permit decision is issued is:

(a) Three days after a written decision is mailed by the permit agency to the project applicant or, if not mailed, the date on which the permit agency provides notice that a written decision is publicly available; or

(b) If (a) of this subsection does not apply, the date the decision is entered into the public record.

(5) Service on all parties shall be by personal service or by mail. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

NEW SECTION

**WAC 199-08-340 Contents of the petition for review.** Petitions for review to the board pursuant to chapter 43.21L RCW and shall contain:

(1) The name, mailing address, telephone number and telefacsimile number (if available) of the appealing party, and of the representative, if any;

(2) Identification of the parties, by listing in the caption or otherwise. In every case, the agency and/or the local government whose decision is being appealed and the person to whom the decision is directed shall be named as parties;

(3) A copy of the application form without attachments, if available, which was filed with the local government pursuant to legal requirements;

(4) A copy of the decision or permit appealed from;

(5) A short and plain statement showing the grounds upon which the appealing party considers such decision or permit to be unjust or unlawful;

(6) A clear and concise statement upon which the appealing party relies to sustain his or her grounds for appeal;

(7) A clear and concise statement of fact demonstrating that the petitioner has standing to seek board review;

(8) A separate and concise statement of each error alleged to have been committed;

(9) The relief sought, including the specific nature and extent;

(10) The signature of the representative of the appealing party or of the appealing party. The signature of the representative or the appealing party shall constitute a certificate by the signatory that the signatory has read the petition and that it is consistent with civil rule 11;

(11) All pleadings shall be so construed as to do substantial justice.

#### NEW SECTION

**WAC 199-08-345 Correction or amendment of notice.** (1) Within thirty days of receipt by the board, if any petition for review is found to be defective or insufficient, the board may require the party filing the petition for review to correct, clarify or amend the same to conform to the requirements of any relevant statutes and the board's rules. The board may refuse to schedule any conference or hearing thereon until compliance with such requirements, or may issue an appropriate order, which may include providing for dismissal of the petition upon failure to comply within a specified time.

(2) Other amendments and supplemental pleadings shall conform to civil rule 15.

### **PART D**

#### **APPEARANCE AND PRACTICE BEFORE THE BOARD**

#### NEW SECTION

**WAC 199-08-350 Persons who may appear before the board.** (1) Any person has the right to represent himself or herself in a proceeding before the board.

(2) The only persons who are qualified to represent another person or entity before the board are the following:

(a) Attorneys at law duly qualified and entitled to practice before the highest court of record of any state.

(b) An authorized officer, partner, owner, employee or member of an association, partnership, corporation, organization, government agency or local government.

(c) Legal interns admitted to practice under the applicable admission to practice rules of the Washington state court rules as long as the conditions and limitations of the applicable rules are satisfied.

(d) Any other individual designated by an entity to serve as a spokesperson in a case with the approval of the board's presiding officer.

(3) When an active part, as a representative of a participating agency, was taken in the same case or proceeding by a former employee, said former employee of:

(a) Any participating agency; or

(b) A member of the legal staff of a local governmental agency; or

(c) The attorney general's staff, may not appear in a representative capacity on behalf of other parties in a formal board proceeding, except when permitted by applicable state conflict of interest laws.

(4) No former member of the board shall, for a period of one year after the termination of his or her membership, represent a party before the board on any matter.

#### NEW SECTION

**WAC 199-08-355 Appearance by representative.** (1) An attorney or authorized representative as defined in WAC 199-08-385 may appear for a party by either of the following actions:

(a) Filing a written notice of appearance, a petition for review or another pleading containing the name of the party to be represented, and the name, address and telephone number of the representative; or

(b) Entering an appearance at the time and place of a conference or hearing on the appeal, and notifying the presiding officer conducting the same of the party to be represented and the name, address and telephone number of the representative.

(2) Copies of every written notice of appearance or pleading that identifies the representative shall be served by the representative on all other parties or their representatives of record at the time the original is filed with the board.

(3) After a representative appears on behalf of a party, the board shall serve all future notices, orders and correspondence upon such representative. Service upon the representative shall constitute service upon the party, except for final orders, which shall be served on both the party and the representative.

(4) After a representative appears on behalf of a party, and gives notice to all other parties to the appeal, all future pleadings and correspondence shall be served upon that representative. Service upon the representative shall constitute service upon the party.

#### NEW SECTION

**WAC 199-08-360 Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately so notify the board and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record, together with the written consent of the prior attorney or representative, and if such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

#### NEW SECTION

**WAC 199-08-365 Conduct before the board by representatives.** All persons who are representing parties before the board shall conform to the standards of ethical conduct required of attorneys before the courts of Washington even if the representative is not an attorney. Representatives who, in

the opinion of the presiding officer, violate those ethical standards may be reprimanded or sanctioned. Sanctions may include, among other measures, the imposition of costs and the exclusion of the representative from the proceedings. The board may, after notifying the representative and holding a hearing, take appropriate disciplinary action including, but not limited to, barring such person from representing another party in any future board proceedings.

#### NEW SECTION

**WAC 199-08-370 Parties not represented by legal counsel—Waiver of rules to prevent manifest injustice.** The presiding officer may waive any of these rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel where necessary to avoid manifest injustice.

#### NEW SECTION

**WAC 199-08-375 Presiding officer duties and powers.** It shall be the duty of the presiding officer to conduct conferences or hearings in cases assigned in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of these rules:

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas and protective orders as provided in the Administrative Procedure Act.
- (3) To rule on all procedural matters, objections and motions.
- (4) To rule on all offers of proof and receive relevant evidence.
- (5) To question witnesses called by the parties in an impartial manner to develop any facts deemed necessary for a fair and adequate decision.
- (6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as deemed necessary to decide the matter fairly and equitably.
- (7) To take appropriate disciplinary action with respect to representatives of parties appearing before the board.
- (8) To issue orders joining other parties, on motion of any party, or in the judgment of the presiding officer, when it appears that such other parties may have an interest in, or may be affected by, the proceedings.
- (9) To consolidate matters for hearing when such consolidation will expedite disposition of the matters and avoid duplication of testimony and when the rights of the parties will not be prejudiced thereby.
- (10) To hold case conferences.
- (11) To permit and regulate the taking of discovery.
- (12) To regulate the course of the hearing.
- (13) To dismiss a petition for review or take other appropriate disciplinary actions, where a party or representative fails to appear or participate in a prehearing conference, hearing or at any other stage of the appeal proceeding.
- (14) To take any other action necessary and authorized by these rules and the law.

#### NEW SECTION

**WAC 199-08-380 Mediation.** The board may, on occasion, recommend that the parties to an appeal engage in mediation. One or more parties may also recommend to the other parties or the presiding officer that mediation occur. Subject to availability, an administrative appeals judge from the environmental hearings office may serve as the mediator for the board. In the event that the mediation proves unsuccessful and the case proceeds to hearing, any administrative appeals judge who served as a mediator will neither preside over the hearing nor have any contact with the board members regarding the case other than to inform them that the mediation did not result in a settlement.

#### NEW SECTION

**WAC 199-08-385 Subpoenas.** (1) **Issuance.** Subpoenas may be issued by any member of the board, the presiding officer assigned to the case or by the attorney of record, as provided in the Administrative Procedure Act. Each subpoena shall be subscribed with the signature of the issuing person. Parties desiring subpoenas to be signed by the presiding officer or a board member shall make a showing of general relevance and reasonable scope of the testimony or evidence sought, shall prepare the subpoenas for issuance, shall send them to the board's office for signature, and, upon return, shall make arrangements for service.

(2) **Form.** Every subpoena shall name the environmental and land use board and the title of the proceedings, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

(3) **Service.** Service of subpoenas to a witness who is not party to the case shall be made by personally serving a copy of the subpoena to such person, in accordance with civil rule 45, and tendering on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law. All costs shall be paid by the party seeking the attendance of the witness.

(4) **Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or presiding officer of the case. Failure to make proof of service does not affect the validity of the service.

(5) **Quashing.** Upon motion made promptly (at or before the time specified in the subpoena for compliance) by the person subpoenaed and upon notice to the party for whom the subpoena was issued, the board or its presiding officer may:

- (a) Quash; or
- (b) Modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or
- (c) Condition denial of the motion upon just and reasonable conditions.

(6) **Geographical scope.** Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

**PART E**  
**PREHEARING PRACTICE**

**NEW SECTION**

**WAC 199-08-390 Dismissal of petitions for review on jurisdictional grounds.** (1) Timely filing of the petition for review, and other petitions within the board's jurisdiction is required for the board to acquire jurisdiction.

(2) Any party may challenge the jurisdiction of the board to hear a petition for review on jurisdictional grounds, and the board may independently raise the jurisdictional issue. The board may, when satisfied that it does not have jurisdiction, dismiss the petition for review.

**NEW SECTION**

**WAC 199-08-395 Answers to petitions for review.** A party need not file an answer to a petition for review filed pursuant to these rules.

**NEW SECTION**

**WAC 199-08-400 Certification of permit applications.** (1) Within seven days after receipt of service of the petition filed pursuant to law, the project applicant shall file with the board and serve on all parties an affidavit certifying all applications for permits that the project applicant has filed with participating permit agencies for the qualifying project, provided, however, that no permit may be included that has been issued and appealed to an administrative hearings board or to court prior to the date of service of the petition filed with the board under this chapter. The board shall request verification from the participating agencies of the permit applications certified in the project applicant's affidavit and of the expected date for final decision on the permit applications. Filing of the affidavit shall toll the schedule for hearing by the board until twenty-one days after issuance of the final permit decision on the last permit required for the qualifying project that has been certified in the project applicant's affidavit and verified by a participating agency as applied for, unless the petition filed and served by the petitioner relates to the final permit decision.

**NEW SECTION**

**WAC 199-08-425 Intervention.** (1) The presiding officer may grant a petition for intervention by any person at any time, upon determining that the petitioner qualifies as an intervenor pursuant to civil rule 24, that the intervention will serve the interests of justice and that the prompt and orderly conduct of the appeal will not be impaired.

(2) The presiding officer may impose conditions upon the intervenor's participation in the proceedings.

**NEW SECTION**

**WAC 199-08-430 Joinder of parties.** The presiding officer shall order the joinder of the permittee, permitting agency or any other interested person or entity in accordance with civil rule 19. The presiding officer may also permit the

joinder of persons who are not necessary to the determination of the appeal in accordance with civil rule 20.

**NEW SECTION**

**WAC 199-08-435 Request for initial hearing, jurisdictional motions.** Initial hearing.

(1) Within seven days after the expiration of the appeal period for the final permit decision on the last permit required for the qualifying project, the petitioner shall request an initial hearing on jurisdictional and other preliminary matters, and, if applicable, on other pretrial matters. This initial hearing shall be set no sooner than thirty-five days and not later than fifty days after the expiration of the appeal period for the final permit.

(2) The parties shall raise all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner.

(3) The defenses of lack of standing, untimely filing or service of the petition, lack of good faith or improper purpose in filing, and failure to join persons needed for just adjudication are waived if not raised by timely motion to be heard at the initial hearing, unless the board allows discovery on such issues.

(4) The parties may waive the initial hearing by scheduling with the board a date for the hearing or hearings on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, sets the date on which the permit decision record or records of the applicable permit agency or agencies, if any, must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and schedules a hearing or hearings on the merits.

**NEW SECTION**

**WAC 199-08-440 Scheduling of initial hearing and motions.** (1) Upon receipt of petitioner's request for an initial hearing, which complies with the requirements of these regulations, the board shall promptly mail to each party a scheduling letter, which sets the time and location of the initial hearing.

(2) The letter setting the initial hearing date and time will be mailed at least thirty-five days before the initial hearing date. The letter may also set the schedule for filing and briefing motions that must be heard at the initial hearing in accordance with WAC 199-08-435. The letter must notify the parties that an interpreter can be made available, upon reasonable notice to the board, for a witness or party who does not speak English or is hearing-impaired. The letter will control the proceedings at the initial hearing unless modified for good cause by the presiding officer.

**NEW SECTION**

**WAC 199-08-445 Initial hearing.** (1) The initial hearing shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and make all necessary procedural rulings.

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(2) The presiding officer shall designate a portion of the initial hearing for oral argument for any motions raised for resolution pursuant to WAC 199-08-435, if oral argument has been granted for the motions.

(3) At the conclusion of the initial hearing, the presiding officer shall issue an order that sets the date on which the permit decision record or records of the applicable permit agency or agencies, if any, must be submitted. The order shall also set a briefing schedule, a discovery schedule if discovery is to be allowed, and the date for a hearing or hearings on the merits, unless these matters have been set in an order issued after a case conference pursuant to WAC 199-08-455. The order shall control the proceedings unless modified for good cause by the presiding officer.

#### NEW SECTION

**WAC 199-08-450 Case conferences.** The presiding officer may call case conferences to address procedures, legal issues, scheduling issues, the feasibility of settlement, and other relevant matters in the case. Orders in the case can be issued upon proceedings in a case conference, including scheduling, discovery, legal issues, witnesses, exhibits, stipulations and admissions. An order issued after a case conference shall control the proceedings with regards to the matters contained within the order unless modified for good cause by the presiding officer.

#### NEW SECTION

**WAC 199-08-455 Stays.** (1) Any party may request the board to stay or suspend an action by a participating permit agency or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) The board may grant a stay only if the board finds that:

(a) The party requesting the stay is likely to prevail on the merits;

(b) Without the stay the party requesting it will suffer irreparable harm;

(c) The grant of a stay will not substantially harm other parties to the proceedings; and

(d) The request for the stay is timely in light of the circumstances of the case.

(3) The board may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

#### NEW SECTION

**WAC 199-08-460 Discovery.** The parties may not conduct pretrial discovery except with the prior permission of the board, which may be sought by motion, subject to any applicable rules adopted by the board and RCW 34.05.446(3), at any time after service of the petition. The party requesting discovery must make a prima facie showing of need. The board shall strictly limit discovery to what is necessary for equitable and timely review of the issues.

#### NEW SECTION

**WAC 199-08-465 Motions.** (1) An application to the board for an order shall be by motion which, unless made during a hearing, shall be in writing, state with particularity the grounds therefor and set forth the relief sought. The motion and other relevant materials shall be filed with the board and served on all parties.

(2) For motions for continuance or for schedule changes, or other motions that are likely to be uncontested, the moving party shall affirmatively seek the stipulation of all parties and present a stipulated order wherever possible.

(3) If the motion is contested, any party may request that the board conduct a hearing for the purpose of receiving oral argument on the motion. The board may independently set a motion hearing date. The presiding officer will decide whether or not a motion hearing will be held, and will notify the parties accordingly. If the motion pertains to an issue that must be raised for resolution at the initial hearing pursuant to WAC 199-08-435, oral argument, if granted, will take place at the initial hearing. At a motion hearing, the board will consider the arguments of the parties but will not take evidence. The board will decide a motion exclusively on the parties' written submissions unless the presiding officer orders a motion hearing.

(4) The letter that sets the dates for the initial hearing pursuant to WAC 199-08-450 shall also establish the schedule for filing and briefing motions that have been raised for resolution at the initial hearing.

(5) For motions not subject to subsection (4) of this section, the following deadlines apply:

(a) All responses to any dispositive motion shall be filed and served fourteen days from the date the motion is received. The moving party shall then have ten days from receipt of the response to file and serve a reply. The presiding officer may establish a different schedule for responses and replies by order.

(b) In cases where the moving party requests a motion hearing, all dispositive motions shall be filed and served not later than two months before the hearing date, unless the presiding officer by order allows otherwise.

(c) All dispositive motions shall be filed and served in accordance with the conference order issued by the presiding officer.

(6) In exigent or exceptional circumstances, a party may at any time request the board to modify the above schedules established in subsections (4) and (5) of this section by requesting a case conference with the presiding officer.

#### NEW SECTION

**WAC 199-08-470 Settlement and mediation agreements.** (1) Where the parties settle an appeal before hearing, the parties shall prepare a written order of dismissal to which the settlement agreement is attached, and submit that order to the board. If the agreement is in accordance with the law, the board shall enter the order and dispose of the case.

(2) This section also pertains to settlement agreements reached after mediation.

NEW SECTION

**WAC 199-08-475 Use of telephone conferences, motion hearings and hearings.** Upon the motion of any party or independently, the presiding officer may decide to conduct any conference, motion hearing or hearing by telephone conference call to promote the fair, speedy and economical processing of a matter.

NEW SECTION

**WAC 199-08-480 Postponements and continuances of hearings.** (1) Postponement or continuance of a hearing is within the discretion of the presiding officer, whether contested or uncontested by the parties. The board may postpone or continue a hearing on its own motion.

(2) The postponement or continuance of a hearing shall be sought by written motion and according to the procedure set forth in WAC 199-08-475.

NEW SECTION

**WAC 199-08-485 Dismissal, default or withdrawal of appeal.** (1) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a default or other dispositive order which shall include a statement of the grounds for the order. Within seven days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

(2) A petitioner may request to withdraw a petition for review. Requests before the petitioner rests its case-in-chief during the hearing are mandatory and afterwards are permissive.

## PART F HEARINGS

NEW SECTION

**WAC 199-08-490 Hearing briefs.** Hearing briefs, if filed, should be submitted to the board at least seven days before the time of hearing or other such time as the board may prescribe. An original and six copies must be filed. In all cases where briefs are filed, a copy shall also be served on the other parties or their attorneys. The board may permit or require the filing of additional briefs.

NEW SECTION

**WAC 199-08-495 Procedures for hearings on the merits.** (1) **Presiding officer.** All hearings on the merits shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Testimony under oath.** Oaths shall be administered by the presiding officer or other officer with authority to administer oaths. All testimony to be considered by the board shall be sworn or affirmed.

(3) **Recording.**

(a) An official recording of all hearings shall be made by manual, electronic, or other type of recording device.

(b) Unofficial use of photographic and recording equipment is permitted at hearings; however, the presiding officer shall be consulted first and may impose conditions on their use as necessary to prevent disruption of the hearing.

(4) **Order of presentation of evidence and arguments.**

(a) The presiding officer shall determine the proper order of presentation of evidence. As a general rule, the petitioning party shall initially introduce its evidence.

(b) The opposing party shall introduce its evidence after the petitioner has rested. Rebuttal and surrebuttal evidence will be received only at the discretion of the presiding officer.

(c) Witnesses may be called out of turn in contravention of this rule by agreement of all parties.

(5) **Opening statements.** Unless the presiding officer rules otherwise, parties shall present an oral opening statement setting out briefly a statement of the basic facts, disputes and issues of the case.

(6) **Written statement of qualifications of expert witnesses.** Any party who plans to introduce the testimony of any expert witness at the hearing shall submit as an exhibit to the board and all parties at the hearing a written statement of the qualifications, experience, and expertise of each such expert witness.

(7) **Former employee as an expert witness.** No former employee of a participating permit agency, its legal staff or legal representative, or the board or the attorney general shall at any time after leaving the employment with a participating permit agency appear, except when permitted by applicable state conflict of interest law, as an expert witness on behalf of other parties in a formal proceeding in which an active part in the investigation as a representative of the department or board was taken.

(8) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon, and the transcript shall not include extended argument or debate.

(9) **Rulings.** The presiding officer, on objection or independently, shall exclude all irrelevant or unduly repetitious evidence and all rulings upon objections to the admissibility of evidence shall be made in accordance with WAC 199-08-515 through 199-08-535.

NEW SECTION

**WAC 199-08-500 Scope and standard of review.** (1) Hearings upon petitions for review shall be quasi-judicial in nature. The scope and standard of review shall be as follows:

(2) For all permit decisions being reviewed that were made by quasi-judicial bodies or permit agency officers who made factual determinations in support of the decisions, after the conduct of proceedings in which the parties had an opportunity consistent with due process to make records on the factual issues, board review of factual issues and the conclusions drawn from the factual issues shall be confined to the records created by the quasi-judicial bodies or permit agency officers, except that:

(3) For decisions described in subsection (2) of this section, the records may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the permit decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to a permit decision proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the permit decision.

(4) For permit decisions other than those described in subsection (2) of this section, the board review of the permit decision shall be de novo on issues presented as error in the petition.

(5) The board may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

#### NEW SECTION

**WAC 199-08-505 Provision of interpreters and of reasonable accommodations to individuals with special needs.** (1) Whenever any person involved in an adjudicative proceeding before the board is eligible for an interpreter, as that eligibility is defined in WAC 10-08-150, or qualifies for reasonable accommodations as an individual with disabilities, that person shall request an interpreter or other reasonable accommodations from the presiding officer not later than three weeks before the date of the hearing, conference or other situation for which the interpreter or assistance is needed. The board shall comply with WAC 10-08-150 and 10-08-160(2) regarding the provision of interpreters.

(2) Information about proceedings before the board is available in alternate format upon request.

#### NEW SECTION

**WAC 199-08-510 Rules of evidence—Admissibility criteria.** (1) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. All relevant evidence is admissible which, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior courts of the state of Washington.

(2) The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state.

#### NEW SECTION

**WAC 199-08-515 Rules of evidence—Official notice—Matters of law.** The board and its hearing officers,

upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of Washington state courts and administrative agencies; executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

(4) **Agency organization.** Participating permit agency, commission or board organization, administration, officers, personnel, official publications, and practitioners before its bar.

(5) Local government rules, ordinances and plans.

#### NEW SECTION

**WAC 199-08-520 Rules of evidence—Official notice—Material facts.** (1) In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing, or in a proposed decision, may officially notice:

(a) **Board proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board;

(b) **Business customs.** General customs and practices followed in the transaction of business;

(c) **Notorious facts.** Facts so generally and widely known to all well informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(d) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction.

(2) **Request or suggestion.** Any party may request, or the presiding officer may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision.

(3) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of



material facts, the hearing officer may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence.

(4) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact that the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

(5) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

#### NEW SECTION

**WAC 199-08-525 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.** When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

### **PART G**

#### **DECISIONS BY THE BOARD AFTER HEARING**

#### NEW SECTION

**WAC 199-08-540 Contents of the record.** The record before the board in any adjudicative proceeding shall consist of the decision or order appealed from, the petition for review therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, stipulations or requests duly filed by any party and written reports or orders of the presiding officer. Such record shall also include all depositions, if they are admitted at the hearing, the transcript of testimony as provided in WAC 199-08-545, and other proceedings at the hearing, together with all exhibits admitted.

#### NEW SECTION

**WAC 199-08-545 Preparation of transcripts.** (1) The board, in its discretion, may at any time cause a transcript to be printed, but will not normally do so.

(2) When the board does not cause a transcript to be printed, it shall be the obligation of the party wishing a tran-

script, or portions of it, to order the same from the board reporter and assume the printing costs.

#### NEW SECTION

**WAC 199-08-550 Preparation of findings, conclusions and orders.** Upon request of the board or presiding officer proposed findings, conclusions and orders shall be prepared by counsel and the same shall be based upon the board's oral or memorandum opinion. The board or presiding officer may adopt, in whole or in part, the proposed findings, conclusions and orders or the board may prepare its own findings, conclusions and orders.

#### NEW SECTION

**WAC 199-08-555 Final decisions and orders.** (1) Upon completion of the record and submission of the issues for decision and order, a written final decision and order concurred in by a majority of the board may be adopted which shall contain findings and conclusions as to each contested issue of fact and law: Provided, That in the event that the board considers the record and that four of the members cannot agree on a decision, the substantive decision under appeal will control. The board will formally adopt its final decision and order.

(2) Copies of the final decision and order shall be mailed by the board to each party to the petition for review and to the attorney or representative of record, if any.

#### NEW SECTION

**WAC 199-08-565 Petitions for reconsideration.** (1)(a) After issuance of a final decision, any party may file a petition for reconsideration with the board. Such petition must be filed within ten days of mailing of the final decision. The board may require an answer to the petition. Copies of the petition for reconsideration, and an answer, if required, shall be served on the other parties of record.

(b) The filing of a petition for reconsideration does not stay the effectiveness of the final decision of the board.

(c) In response to a petition for reconsideration, the board may deny it, or may reverse or modify its decision or may reopen the hearing. The board is deemed to have denied the petition if, within twenty days from the date the petition is filed, the board does not act on the petition or specify a date by which it will act on the petition.

(2) The time for filing a petition for judicial review does not commence until disposition of any timely petition for reconsideration. However, the filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

(3) Copies of the final decision and order and of the board's disposition of any petition for reconsideration shall be mailed by the board to each party to the appeal and to the attorney or representative of record.

**PART H  
APPEALS FROM BOARD DECISIONS**

NEW SECTION

**WAC 199-08-570 Time for filing petitions for review to superior court and court of appeals.** (1) Superior court review. In order to obtain judicial review of a final decision of the environmental and land use hearings board, a party to the board case as consolidated shall timely file a petition for judicial review in the superior court for Thurston County and timely serve the board and all parties to the proceedings before the board by personal service or by mail. Such petition is timely filed and served only if it is filed and served on all parties within thirty days after the filing of the final decision and order of the board. Service by mail shall be deemed effective on the date of deposit with the United States Postal Service.

(2) Direct review. Any party may apply for direct review by the court of appeals. An application for direct review must be filed with the superior court within ten days after the filing of the petition for judicial review. In considering an application for direct review under this chapter, it shall be presumed that:

(a) The qualifying project presents fundamental and urgent issues affecting the public interest which require a prompt determination; and

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to a party and the public interest.

NEW SECTION

**WAC 199-08-580 Certification of record.** Within thirty days of receipt of a copy of the petition for judicial review to the superior court or notice of acceptance of the certificate of appealability by the court of appeals, the board shall certify and transmit to the reviewing court the record made before the board. Additional time for certification and transmission of the record may be allowed by the reviewing court. Normally the record will not include a transcript of the testimony. Unless the board has caused a transcript to be printed, arrangements for and costs of the written transcript shall be the obligation of the party seeking judicial review.

**WSR 05-07-049**

**PERMANENT RULES  
CRIMINAL JUSTICE  
TRAINING COMMISSION**

[Filed March 11, 2005, 9:36 a.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 139-03 WAC, Procedures, to improve effectiveness, clarity, and intent in order to better serve clients, stakeholders, and citizens.

Citation of Existing Rules Affected by this Order: Repealing 3 [WAC 139-03-040, 139-03-050 and 139-03-060]; and amending 2 [WAC 139-03-010 and 139-03-020].

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 05-03-024 on January 7, 2005.

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 2, Amended 2, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 2, Repealed 3.

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.

Date Adopted: March 9, 2005.

Sonja Hirsch  
for Michael D. Parsons  
Executive Director

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

**WAC 139-03-010 Adoption of model rules of procedure.** ~~((In those contested cases, declaratory proceedings, and requests for rule making in which the commission has authority to conduct hearings,))~~ Practice and procedure before the commission shall be in accordance with the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended. The model rules hereby adopted are found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this title, the procedural rules adopted in this title shall govern.

Peace officer certification proceedings before the commission are governed by chapter 139-06 WAC.

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

**WAC 139-03-020 ((Review and appeal of action.))** Request for adjudicative proceedings. (1) ~~((Except as otherwise provided in this section or in WAC 139-03-030, a person aggrieved by a commission "action" as defined under the Administrative Procedure Act may appeal that action by filing a notice of appeal to the commission on an appeal form provided by the commission. Notice of appeal forms are available from the commission at the following address: 621 Woodland Square Loop, P.O. Box 40905, Olympia, WA 98504. This section shall not apply to a request for a variance or exemption pursuant to WAC 139-03-030.~~

(2) ~~Unless otherwise provided in this title, student dismissal for academic or disciplinary reasons may be reviewed at the request of such individual, or the head of such individ-~~

ual's employing agency, and shall be considered in accordance with the process hereinafter provided:

~~(3) An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable:)) All applications requesting that the commission conduct an adjudicative proceeding shall be made on a form provided by the commission for that purpose. The application must specify the issue to be brought before the commission, including:~~

- ~~(a) The action for which review is requested, identified by date and description of action;~~
- ~~(b) The direct and adverse effects of such action;~~
- ~~(c) The corrective or remedial action or other relief sought;~~
- ~~(d) The name and mailing address of the requesting party((, any witness to be called by the requesting party, and any person who will personally appear in support of the requesting party, including legal counsel)); and~~
- ~~(e) A statement that the person signing the request for review has read it and that to the best of ((his or her)) their knowledge or information and belief the contents thereof are true.~~

~~(2) Applications for adjudicative proceedings shall be made within thirty calendar days of:~~

- ~~(a) Service upon the applicant of the proposed commission action giving rise to the application; or~~
- ~~(b) Notice to the applicant from any source of action by the commission or commission staff which the applicant believes will adversely affect the applicant.~~

~~(3) Failure of an applicant to file an application for an adjudicative proceeding within the time limits set forth in subsection (2) of this section, constitutes a default and results in the loss of the applicant's right to an adjudicative proceeding. The commission may proceed to resolve the matter pursuant to RCW 34.05.440(1).~~

~~(4) ((A request)) An application for ((review)) adjudicative proceeding must be ((mailed to or)) served personally ((served)) or delivered by certified mail upon the director of the commission ((within thirty days of the date of written communication of commission staff action. "Mailing" for purposes of this regulation means posting in the United States mail, properly addressed, postage prepaid)).~~

~~(5) ((A requesting party may notify the director of the commission within seven days of filing the request for a hearing that the requesting party chooses to first meet with the executive director and ask him or her to informally review the staff action. The executive director will conduct such informal review within thirty days of such request for informal review or within such additional period as is agreed to between the requesting party and the executive director. If the executive director then affirms staff action, or if the requesting party elects to forgo this informal review step, the matter will proceed to a formal hearing by an administrative law judge from the state office of administrative hearings.)) The commission will process applications for adjudicative proceedings in accordance with RCW 34.05.416 and 34.05.419.~~

~~(6) If the commission decides to proceed with an adjudicative proceeding, the director will designate a presiding officer, which may be an administrative law judge from the~~

~~state office of administrative hearings. The ((administrative law judge)) presiding officer will:~~

- ~~((a)) Schedule and conduct an adjudicative proceeding under chapter 34.05 RCW; and~~
- ~~((b)) Issue an initial decision of the commission in the matter.~~

~~The commission staff or the requesting party may then pursue review by the commission subject to the time limits and any other jurisdictional requirements of chapter 34.05 RCW and of this section.~~

~~(6) A petition for review of the initial decision must be filed with the commission within thirty days of mailing of the initial decision to the parties. Extensions of the time for filing petitions for review may be granted for good cause shown in the discretion of the chairperson of the commission on timely written request of a party. The petition for review shall set forth in detail the grounds for review, and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. At the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted, the commission shall consider the whole record, or such portions of it as are cited by the parties. The commission shall afford the parties an opportunity to present written argument, and may, as a matter of discretion, allow oral argument. Thereafter, a final decision shall be entered within thirty days of the meeting, either finally disposing of the action or remanding the matter for further proceedings before the initial reviewer.)) (7) Upon receiving a request for adjudicative proceeding, the commission may at the request of the applicant, or on its own initiative, schedule an informal settlement conference that shall be without prejudice to the rights of the parties.~~

~~(8) This section shall not apply to a request for a variance or exemption pursuant to WAC 139-03-030.~~

#### NEW SECTION

**WAC 139-03-045 Prehearing conferences.** The presiding officer shall hold one or more prehearing conferences in each case, which may be held telephonically and shall be attended by the parties or their attorneys. The parties shall be prepared to discuss the timing and filing of any motions, and witness and exhibit lists, as well as the need for discovery, in addition to those matters identified in WAC 10-08-130(1). A prehearing order shall be issued at the conclusion of the conference.

#### NEW SECTION

**WAC 139-03-075 Review of initial orders.** The initial order will become final unless, within thirty days of mailing of the initial order to the parties, the commission determines that the initial order should be reviewed or a party to the proceedings files a petition for review of the initial order. A petition for review shall set forth in detail the grounds for review and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. The initial order will be considered by the commission at the next succeeding regularly scheduled meeting of the commission at which review can practicably

be conducted. The commission shall thereafter enter a final order.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 139-03-040	Method of recording.
WAC 139-03-050	Discovery.
WAC 139-03-060	Procedure for closing parts of hearings.

### WSR 05-07-059

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed March 11, 2005, 3:29 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: (1) The Division of Child Support (DCS) is adopting rules regarding the assessment and collection of interest on support arrearages on child support cases, in accordance with the requirements of the Uniform Interstate Family Support Act, while providing that DCS will continue its policy and practice of not assessing or collecting interest on support arrearages under Washington orders unless such interest is reduced to judgment; and

(2) DCS seeks to clarify the procedures for the notice of support debt and notice of support owed.

NUMERICAL LIST OF ALL SECTIONS: Amending WAC 388-14A-3304 The division of child support serves a notice of support debt when it is enforcing a ((foreign)) support order issued in Washington state, a foreign court order or a foreign administrative order for support, 388-14A-3310 The division of child support serves a notice of support owed to establish a fixed dollar amount under an existing child support order, 388-14A-3320 What happens at a hearing on a notice of support ((debt or notice of support)) owed? and 388-14A-7100 An order from another state may be registered in Washington for enforcement or modification; and new sections WAC 388-14A-3317 What is an annual review of a support order under RCW 26.23.110?, 388-14A-3321 What happens if the custodial parent requests a hearing on a notice of support debt and demand for payment?, 388-14A-7110 The division of child support may assess and collect interest on amounts owned under support orders entered or established in a jurisdiction other than Washington state, 388-14A-7115 Are there special rules for a hearing on a notice seeking to assess and collect interest on a support order?, 388-14A-7120 When does DCS update the interest assessed on a case?, and 388-14A-8600 Does the division of child support enforce interest on unpaid support arrears?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-3304, 388-14A-3310, 388-14A-3320, and 388-14A-7100.

Statutory Authority for Adoption: List of Sections RE: Project 1 - Assessment of Interest on Child Support Arrears: WAC 388-14A-3304, 388-14A-7100, 388-14A-7110, 388-14A-7115, 388-14A-7120, and 388-14A-8600.

Statutory Authority for Adoption for Rules in Project 1: RCW 26.21.016.

Other Authority: Not applicable.

List of Sections RE: Project 2 - Notice of Support Debt and Notice of Support Owed: WAC 388-14A-3304, 388-14A-3310, 388-14A-3317, 388-14A-3320, and 388-14A-3321.

Statutory Authority for Adoption for Rules in Project 2: RCW 74.08.090, 26.23.035, 34.05.220(1), and 74.20A.310.

Other Authority: RCW 26.23.110 and 74.20A.040.

Adopted under notice filed as WSR 05-03-095 on January 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: 1. In WAC 388-14A-3317(1) the following text was added:

(1) RCW 26.23.110 provides for an annual review of the support order which was previously the subject of a notice of support owed under that statute if the division of child support (DCS), the noncustodial parent (NCP), or the custodial parent (CP) requests a review.

2. In WAC 388-14A-7115 (3) and (4), the following text was added:

(3) A party challenging the certified calculation may challenge the calculation for one or more of the following reasons:

(a) The amount of principal is incorrect because credit was not given for payments made;

(b) The amount of principal is incorrect because credit was given for payments which were not actually made; or

(c) The interest calculation was not properly done according to the law of the state issuing the order.

(4) If the administrative law judge (ALJ) finds that the party challenging the interest calculation has shown that the amount of principal is incorrect, the ALJ:

(a) Enters an order stating the correct amount of principal;

(b) Orders the party which submitted (~~IV-D agency or CPA which certified~~) the original interest calculation to:

(i) Recalculate or have recalculated the interest based on the new principal amount; and

(ii) Submit the new certified calculation to the ALJ within a reasonable amount of time; and

(c) After receiving the new certified calculation, enters an order determining the amount of debt, including interest, for the period claimed in the notice.

The changes were made for added 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 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 6, 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 6, Amended 4, Repealed 0.

Date Adopted: March 9, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-08 issue of the Register.

### WSR 05-07-063

#### PERMANENT RULES

#### HORSE RACING COMMISSION

[Filed March 11, 2005, 4:05 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-60-300 Who may claim to allow authorized agents to claim more than one horse, if done on the behalf of different owners, to allow up to two claims to be filed on behalf of a training stable, and to more than two horses in the same interest or under the control of the same trainer to start in a claiming race.

Citation of Existing Rules Affected by this Order: Repealing WAC 260-60-320; and amending WAC 260-60-300.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-03-028 on January 10, 2005.

Changes Other than Editing from Proposed to Adopted Version: The following subsections were changed from the proposed version: Subsection (5) "prospective owner" was added; subsection (6) "an authorized agent shall not make a claim on the same horse for different owners" was added; and subsection (7) the term "training" was added to better describe a stable, and the language, "but trained by the same trainer" was removed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

AMENDATORY SECTION (Amending WSR 04-24-019, filed 11/22/04, effective 12/23/04)

**WAC 260-60-300 Who may claim.** (~~Who may claim: Owner, authorized agent or prospective owner possessing a claiming certificate.~~)

(1) In claiming races, any horse is subject to be claimed for its entered price by any owner (~~(at that meeting)~~) licensed by the commission, including a prospective owner who has been issued a claiming certificate, or by a licensed authorized agent for the account of such owner. (~~For the purpose of this rule an "owner" shall be deemed to be an owner as defined in WAC 260-12-010. Furthermore, such owner shall be registered in good faith for racing and has had a horse or horses occupying assigned stall space for the race meeting. The right to claim shall not be forfeited even though all horses occupying such stall space may have been eliminated.~~)

(2) (~~In addition to the above rule, any horse is subject to be claimed by a person or a licensed authorized agent for the account of such person, providing such person has applied to and has been approved by the commission as a prospective owner and has been issued a claiming certificate.~~) In order to claim a horse as a prospective owner, a person shall submit to the stewards a completed application for a prospective owner's license and the name of a licensed trainer who will assume the care and responsibility for any horse claimed. The stewards shall issue a claiming certificate to the applicant upon satisfactory evidence that the applicant is eligible for an owner's license. Once the prospective owner has successfully claimed a horse and made payment of labor and industry fees due, he/she shall be considered an owner. At that time the owner should contact a commission office for a new identification badge.

(3) ~~The names of ((persons obtaining)) licensed prospective owners who have been issued a claiming certificate shall be prominently displayed in the offices of the commission and the racing secretary. ((Once the prospective owner has successfully claimed a horse he/she must secure an owner's license on a timely basis. An applicant for a claim certificate shall submit to the Stewards:~~

(a) ~~A completed application for a claiming permit and the licensing fee;~~

(b) ~~The name of a licensed trainer who will assume the care and responsibility for any horse claimed;~~

(c) ~~The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license;~~

(d) ~~The claim~~) (4) A claiming certificate shall expire with the conclusion of the race ((meeting)) meet at which it was issued, ((or)) upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first((;

(e) ~~A claim certificate may be renewed by the stewards during the same year with no additional fee;~~

(f) ~~A claiming certificate may be issued to a person who had been licensed as an owner during a previous race meet).~~

PERMANENT

(5) No owner or prospective owner shall claim more than one horse in any one race.

(6) An authorized agent may claim up to two horses, if each horse is claimed on behalf of a different owner, as long as the owners do not have a common interest. An authorized agent shall not make a claim on the same horse for different owners.

(7) When a training stable consists of horses owned by more than one person, not more than two claims may be entered on behalf of such training stable in any one race.

(8) In claiming races not more than two horses in the same interest or under the control of the same trainer can start.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 260-60-320 Limit to number.

**WSR 05-07-064  
PERMANENT RULES  
HORSE RACING COMMISSION**

[Filed March 11, 2005, 4:07 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend chapter 260-84 WAC by changing the name of the chapter from "Fines and Suspensions" to "Penalties," to move the penalty matrix from WAC 260-24-510 to this chapter and to move penalties in chapter 260-70 WAC to this chapter.

Citation of Existing Rules Affected by this Order: Repealing WAC 260-84-010, 260-84-020 and 260-84-030; and amending WAC 260-84-050, 260-84-060, and 260-84-070.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-04-083 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 260-84-060, the time periods were removed from the penalty matrix, penalties added for issuing a bad check to the commission, for failing to follow the instructions of an outrider and for failing to complete a provisional own-

ers license; WAC 260-84-100, penalties for furosemide changed and within a 365 day period added; WAC 260-84-110, penalties changed, within a 365 day period and requirement that stewards consider mitigating circumstances added; and WAC 260-84-120, penalties changed and within a 365 day period added.

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 5, Amended 3, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 3, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 5, Amended 3, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

**Chapter 260-84 WAC**

**((FINES AND SUSPENSIONS)) PENALTIES**

**AMENDATORY SECTION** (Amending Rules of racing, filed 4/21/61)

**WAC 260-84-050 Suspensions—Computation of time.** All suspensions for a specified period of time ~~((to be considered))~~ shall be in calendar days. Rulings ~~((to))~~ shall show the first and last day of suspension.

**AMENDATORY SECTION** (Amending Rules of racing, filed 4/21/61)

**WAC 260-84-060 ((General)) Penalty matrices.** ~~((Violators of any rule shall be subject to ejection from the grounds and/or to fine, suspension or to be ruled off.))~~ (1) The imposition of reprimands, fines and suspensions shall be based on the following penalty matrices:

<b>Class A &amp; B Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Smoking in restricted areas WAC 260-20-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Disturbing the peace WAC 260-80-140</u>	<u>Warning to \$200 and/or suspension</u>	<u>Warning to \$500 and/or suspension</u>	<u>Suspension</u>
<u>Person performing duties for which they are not licensed WAC 260-36-010</u>	<u>\$50</u>	<u>\$100</u>	<u>\$150</u>

PERMANENT

PERMANENT

<b>Class A &amp; B Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230</u>	\$500		
<u>Licensing - failure to divulge a felony WAC 260-36-120</u>	\$100 or possible denial of license		
<u>Licensing - failure to divulge a gross misdemeanor or misdemeanor WAC 260-36-120</u>	Warning to \$50		
<u>Licensing - providing false information on application WAC 260-36-120</u>	\$50 to \$250 or possible denial of license		
<u>Licensing - nonparticipation WAC 260-36-080</u>	License canceled		
<u>Violation of any claiming rule in chapter 260-60 WAC</u>	\$200 to \$500 plus possible suspension		
<u>Use of improper, profane or indecent language to a racing official WAC 260-80-130</u>	\$50	\$100	\$250
<u>Unsafe vehicle operation WAC 260-20-020</u>	Warning to \$50	\$100 and recommend racing association revoke vehicle pass	
<u>Financial responsibility WAC 260-28-030</u>	Resolve 30 days or before the end of the meet (whichever is sooner) to resolve or suspension		
<u>Failure to appear - hearing WAC 260-24-510</u>	Suspension pending appearance		
<u>Failure to honor riding engagements (call) - agents WAC 260-32-400</u>	\$75	\$100	\$200
<u>Reporting incorrect weight - jockeys WAC 260-32-150</u>	\$50	\$100	\$200
<u>Failure to appear for films - jockeys WAC 260-24-510</u>	\$50	\$100	\$200
<u>Failure to fulfill riding engagement WAC 260-32-080</u>	\$100	\$150	\$200
<u>Easing mount without cause WAC 260-52-040</u>	\$250	\$250 and/or suspension	\$500 and/or suspension
<u>Jockey failing to maintain straight course or careless riding WAC 260-52-040</u>	Warning to \$750 and/or suspension (riding days)		
<u>Jockey's misuse of whip WAC 260-52-040</u>	Warning to \$2500		
<u>Use of stimulating device (may include batteries) WAC 260-52-040</u>	1 year suspension plus mandatory referral to commission for revocation		
<u>Possession of stimulating device (may include batteries) WAC 260-52-040 and 260-80-100</u>	1 year suspension plus mandatory referral to commission for revocation		
<u>Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020</u>	1 year suspension plus mandatory referral to commission for revocation		

PERMANENT

<b>Class A &amp; B Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Entering ineligible horse WAC 260-80-030</u>	<u>\$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Arriving late to the paddock WAC 260-28-200</u>	<u>Warning to \$50</u>	<u>Warning to \$50</u>	<u>\$50 to \$100</u>
<u>Failure to have registration papers on file - resulting in a scratch WAC 260-40-090</u>	<u>\$50 to \$100</u>	<u>\$100</u>	<u>\$100</u>
<u>Failure to handle business properly - late equipment change, etc. WAC 260-44-010</u>	<u>Warning to \$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Failure to report the correct name of a horse working WAC 260-40-100</u>	<u>Warning to \$50</u>	<u>\$100</u>	<u>\$150</u>
<u>Insufficient workouts - resulting in scratch WAC 260-40-100</u>	<u>\$50 to \$100</u>	<u>\$100</u>	<u>\$100</u>
<b>Class C Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Smoking in restricted areas WAC 260-20-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Disturbing the peace WAC 260-80-140</u>	<u>Warning to \$100 and/or suspension</u>	<u>\$250 and/or suspension</u>	<u>Suspension</u>
<u>Person performing duties for which they are not licensed WAC 260-36-010</u>	<u>\$50</u>	<u>\$100</u>	<u>\$150</u>
<u>Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230</u>	<u>\$100</u>		
<u>Licensing - failure to divulge a felony WAC 260-36-120</u>	<u>\$100 or possible denial of license</u>		
<u>Licensing failure to divulge a misdemeanor or gross misdemeanor WAC 260-36-120</u>	<u>Warning to \$25</u>		
<u>Licensing - providing false information on application WAC 260-36-120</u>	<u>\$50 to \$250 or possible denial of license</u>		
<u>Licensing - nonparticipation WAC 260-36-080</u>	<u>License canceled</u>		
<u>Violation of any claiming rule in chapter 260-60 WAC</u>	<u>\$100 to \$250 plus possible suspension</u>		
<u>Use of improper, profane or indecent language to a racing official WAC 260-80-130</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250</u>
<u>Unsafe vehicle operation WAC 260-20-020</u>	<u>Warning to \$50</u>		
<u>Financial responsibility WAC 260-28-030</u>	<u>Resolve 30 days or before the end of the fall meet (whichever is sooner) to resolve or suspension</u>		
<u>Failure to appear - hearing WAC 260-24-510</u>	<u>Suspension pending appearance</u>		



PERMANENT

<b>Class C Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Failure to honor riding engagements (call) - agents WAC 260-32-400</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Reporting incorrect weight - jockeys WAC 260-32-150</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Failure to appear for films - jockeys WAC 260-24-510</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Failure to fulfill riding engagement WAC 260-32-080</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Easing mount without cause WAC 260-52-040</u>	<u>\$100</u>	<u>\$200 and/or suspension</u>	<u>\$400 and/or suspension</u>
<u>Jockey failing to maintain straight course or careless riding WAC 260-52-040</u>	<u>Warning to \$750 and/or suspension (riding days)</u>		
<u>Jockey's misuse of whip WAC 260-52-040</u>	<u>Warning to \$2500</u>		
<u>Use of stimulating device (may include batteries) WAC 260-52-040</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Possession of stimulating device (may include batteries) WAC 260-52-040 and 260-80-100</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Entering ineligible horse WAC 260-80-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$50</u>
<u>Arriving late to the paddock WAC 260-28-200</u>	<u>Warning to \$25</u>	<u>\$50</u>	<u>\$50</u>
<u>Failure to have registration papers on file - resulting in a scratch WAC 260-40-090</u>	<u>\$50</u>	<u>\$100</u>	<u>\$100</u>
<u>Failure to handle business properly - late equipment change, etc. WAC 260-44-010</u>	<u>Warning to \$50</u>	<u>\$50</u>	<u>\$50</u>

<b>Class A, B &amp; C Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Engaging in the illegal sale or distribution of alcohol WAC 260-34-045</u>	<u>30 day suspension</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>	
<u>Using an illegal controlled substance other than marijuana WAC 260-34-045</u>	<u>30 day suspension</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>	
<u>Being under the influence of alcohol and/or drugs WAC 260-34-045</u>	<u>Warning to 1 day suspension</u>	<u>3 day suspension</u>	<u>30 day suspension (1 year suspension plus mandatory referral to the commission for revocation for 4th offense)</u>

PERMANENT

<b>Class A, B &amp; C Licensed Facilities</b>			
	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense or subsequent offense</u>
<u>Possession or use of marijuana WAC 260-34-045</u>	<u>3 day suspension</u>	<u>30 day suspension</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>
<u>Illegal possession of any felony drug or controlled substance WAC 260-34-045</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Refusal to submit to a drug or alcohol test WAC 260-34-045 and 260-34-060</u>	<u>1 year suspension plus mandatory referral to commission for revocation</u>		
<u>Possession of any equipment or material used for the manufacture or distribution of any drug or controlled substance, or engaging in the sale, manufacture or distribution of any drug or controlled substance on the grounds WAC 260-08-150</u>	<u>Immediate ejection from the grounds and mandatory referral to the commission for revocation</u>		
<u>Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030</u>	<u>\$50</u>	<u>\$100</u>	<u>\$250 plus possible suspension</u>
<u>Failure to post problem gambling signs WAC 260-12-250</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Issuing a check to the commission with not sufficient funds WAC 260-28-030</u>	<u>\$25</u>	<u>\$50</u>	<u>\$100</u>
<u>Failure to follow instructions of the outrider WAC 260-12-690</u>	<u>\$50</u>	<u>\$100</u>	<u>\$200</u>
<u>Failure to complete provisional license application within fourteen days WAC 260-36-200</u>	<u>Warning to \$100 and denial of license</u>	<u>\$250 and denial of license</u>	<u>\$500 and denial of license</u>
<u>Failure to pay or default on L&amp;I payment WAC 260-28-220</u>	<u>Suspension until paid plus \$25 for each quarter payment is late</u>		
<u>Failure to maintain employee L&amp;I records for grooms and assistant trainers (trainer's responsibility) WAC 260-28-230</u>	<u>Warning to \$50</u>		
<u>Unlicensed person on the backside WAC 260-20-040</u>	<u>Report violation to the racing association</u>		

(2) In determining whether an offense is a first, second, third or subsequent offense, the commission, or designee shall include violations, which occurred in Washington as well as any other recognized racing jurisdiction.

(3) For any other violation not specifically listed above, the stewards shall have discretion to impose the penalties as provided in WAC 260-24-510 (3)(b). For violations considered minor, the fine can be up to \$500 and/or suspension for up to sixty days. Fines for violations considered major can be up to \$2,500 and/or suspension up to one year.

(4) Circumstances which may be considered for the purpose of mitigation or aggravation of any penalty shall include, but are not limited to, the following:

- (a) The past record of the licensee or applicant;
  - (b) The impact of the offense on the integrity of the parimutuel industry;
  - (c) The danger to human and/or equine safety;
  - (d) The number of prior violations of the rules of racing or violations of racing rules in other jurisdictions; and/or
  - (e) The deterrent effect of the penalty imposed.
- (5) For violations covered by chapter 260-70 WAC, Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-84-090.
- (6) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission

action in any matter. A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

**AMENDATORY SECTION** (Amending Rules of racing, filed 4/21/61)

**WAC 260-84-070 Ejectment from grounds—Permission to reenter.** Any person ejected from the grounds of an association shall be denied admission to said grounds until permission ((for this reentering)) to reenter has been obtained ((and approved by)) from the commission, or its designee.

**NEW SECTION**

**WAC 260-84-090 Medication and prohibited substances—Penalties—Guidelines.** Upon a finding of a violation of the medication and prohibited substances rules in chapter 260-70 WAC, the stewards shall consider the classification level of the medication, drug or substance as established in WAC 260-70-680 prior to imposing a penalty. The stewards shall also consult with an official veterinarian to determine the nature and seriousness of the laboratory finding or the medication violation and whether the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's report received per WAC 260-70-540. A lesser penalty than that established in WAC 260-84-110 may be imposed if a majority of the stewards determine that mitigating circumstances warrant a lesser penalty. If a majority of the stewards determine a greater penalty is appropriate or that a penalty in excess of the authority granted them is appropriate, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action. In determining if there are mitigating circumstances surrounding a medication violation for substances referred to in chapter 260-70 WAC, at least the following shall be considered:

- (1) The past record of the trainer and/or veterinarian in medication/drug cases;
- (2) The potential of the medication/drug to influence a horse's racing performance;
- (3) The availability of the medication/drug;
- (4) Whether there is reason to believe the responsible party knew of the administration of the medication/drug used;
- (5) The steps taken by the trainer to safeguard the horse;
- (6) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (7) The purse of the race;
- (8) Whether the medication found was one for which the horse was receiving a treatment as determined by the veterinarian report(s);
- (9) Whether there was any suspicious betting pattern in the race; and
- (10) Whether the presence of the medication/drug in urine was confirmed in serum or plasma.

**NEW SECTION**

**WAC 260-84-100 Furosemide penalties.** (1) Penalties shall be assessed against any person found to be responsible or party to the improper administration of furosemide or fail-

ure to administer furosemide when required, in chapter 260-70 WAC as follows:

Fine not to exceed three hundred dollars. Multiple violations by an individual within a three hundred sixty-five day period may be referred to the commission for further action, which may include an additional fine or suspension.

(2) Equine medication violations from Washington and all recognized racing jurisdictions, shall be considered when assessing penalties.

**NEW SECTION**

**WAC 260-84-110 Penalties for uniform classifications.** (1) Penalties shall be assessed against any person found to be responsible or party to the improper administration of a drug or the intentional administration of a drug resulting in a positive test. In assessing penalties under this section, violations in the last three hundred sixty-five days from Washington and all recognized racing jurisdictions shall be considered.

(a) Class 1 - One to five year suspension and at least \$5,000 fine and loss of purse.

(b) Class 2 - Six months to one year suspension and \$1,500 to \$2,500 fine and loss of purse.

(c) Class 3 - Sixty days to six months suspension and up to \$1,500 fine and possible loss of purse.

(d) Class 4 - Zero to sixty days suspension and up to \$1,000 fine and possible loss of purse.

(e) Class 5 - Warning to fifteen days suspension with a possible loss of purse and/or fine.

(2) A lesser penalty may be imposed if a majority of the stewards determine that mitigating circumstances, as outlined in WAC 260-70-090 exist.

**NEW SECTION**

**WAC 260-84-120 Penalties relating to permitted medication.** (1) Should the laboratory analysis of serum or plasma taken from a horse show the presence of more than one approved nonsteroidal anti-inflammatory drug (NSAID) in violation of these rules the following penalties shall be assessed:

(a) For a first offense within a three hundred sixty-five day period - Fine not to exceed \$300;

(b) For a second offense within a three hundred sixty-five day period - Fine not to exceed \$750;

(c) For a third offense within a three hundred sixty-five day period - Fine not to exceed \$1,000.

(2) Should the laboratory analysis of serum or plasma taken from a horse show the presence of phenylbutazone in excess of the quantities authorized by this rule, the following penalties shall be assessed:

Concentration	1st offense within 365 days	2nd offense within 365 days	3rd and subsequent offenses within 365 days
> 5.0 but < 6.5 mcg/ml	Warning	Fine not to exceed \$300	Fine not to exceed \$500
≥ 6.5 but < 10.0 mcg/ml	Fine not to exceed \$300	Fine not to exceed \$500	Fine not to exceed \$1000
≥ 10.0 mcg/ml	Fine not to exceed \$500	Fine not to exceed \$1000	Fine not to exceed \$2500 and possible suspension

(3) Detection of any unreported permitted medication, drug, or substance by the primary testing laboratory may be grounds for disciplinary action.

(4) As reported by the primary testing laboratory, failure of any test sample to show the presence of permitted medication, drug or substance when such permitted medication, drug or substance was required to be administered may be grounds for disciplinary action.

(5) In assessing penalties for equine medication, violations from Washington and all recognized racing jurisdictions shall be considered.

**NEW SECTION**

**WAC 260-84-130 Penalties for prohibited practices.**

For a person found to be responsible for or party to violation of WAC 260-70-545, including the treating veterinarian, the following penalties shall be assessed:

(1) For violations of WAC 260-70-545, except WAC 260-70-545 (4)(b);

(a) For first offense - Thirty day suspension and \$1,000 fine;

(b) For second offense - Sixty day suspension and \$2,000 fine;

(c) For third offense - One year suspension, \$2,500 fine and a mandatory referral to the commission.

(2) For violations of WAC 260-70-545 (4)(b), the person found to be responsible for or party to the violation, including the treating veterinarian shall be suspended for one year, shall pay a \$2,500 fine and there shall be a mandatory referral to the commission.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 260-84-010 Who may impose.
- WAC 260-84-020 Report to commission.
- WAC 260-84-030 Fines—When due.

**WSR 05-07-065**

**PERMANENT RULES**

**HORSE RACING COMMISSION**

[Filed March 11, 2005, 4:09 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-24-510 Stewards, to clarify the authority and reporting requirements of the stewards, removing the penalty matrix (which is being moved to chap-

ter 260-84 WAC), clarify who may appoint a substitute steward and provide a process for owners and trainers to challenge the decision of the stewards to place or maintain a horse on the steward's list. In addition, WAC 260-24-500 Racing officials, is being amended to comply with the changes to WAC 260-24-510.

Citation of Existing Rules Affected by this Order: Amending WAC 260-24-500 and 260-24-510.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-04-084 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: The following language in WAC 260-24-510 (1)(g), removed in the proposed version, was put back in the adopted version: "The stewards have the authority to interpret the rules and to decide all questions of racing."

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.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 04-17-082, filed 8/16/04, effective 9/16/04)

**WAC 260-24-510 Stewards.** (1) General authority:

(a) The stewards for each ((meeting)) race meet shall be responsible to the executive secretary for the conduct of the race ((meeting)) meet and the initial agency determination of alleged rule violations in accordance with these rules;

(b) The stewards shall enforce the rules of racing in chapters 260-12 through 260-84 WAC, excluding chapters 260-49 and 260-75 WAC;

(c) The stewards' authority includes regulation of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with these rules;

PERMANENT

(d) All nominations, entries, declarations and scratches shall be ~~((conducted under the supervision of the stewards))~~ monitored by a steward;

(e) The stewards shall have authority to resolve conflicts or disputes related to violations of the rules of racing and to discipline violators in accordance with the provisions of these rules;

(f) The stewards shall take notice of any questionable conduct with or without complaint thereof;

(g) The stewards have the authority to interpret the rules and to decide all questions of racing ~~((not specifically covered by the rules))~~;

~~((h) Should any case occur which may not be covered by these rules of racing, it shall be determined by the stewards of the race meeting in conformity with justice and in the best interest of racing; and))~~. The stewards of the ~~((meeting))~~ race meet are hereby given authority to exercise their full power, recommending to the commission the imposition~~((s))~~ of more severe penalties~~((, if in their judgment the penalty should be more drastic))~~ if necessary.

(2) The stewards' period of authority shall commence ~~((40))~~ ten days prior to the beginning of each race meet, or at such other time as is necessary in the opinion of the executive secretary, and shall terminate ~~((with the completion of their business pertaining to the meeting))~~ at the direction of the

executive secretary. One ~~((of the three))~~ steward~~((s))~~ shall be designated as the presiding steward by the commission.

(3) Stewards ruling conference regarding violations of rules of racing:

(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into such matters.

(b) The stewards shall have authority to charge any licensee or other person with a violation of these rules, to make rulings and to impose penalties including the following:

(i) Issue a reprimand;

(ii) Assess a fine not to exceed \$2,500.00, except as provided in WAC 260-70-690;

(iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;

(iv) Place a licensee on probation;

(v) Suspend a license or racing privileges for not more than one year per violation;

(vi) Revoke a license; or

(vii) Exclude from grounds under the jurisdiction of the commission.

(c) ~~((Except as provided in (d) of this subsection,))~~ The stewards' imposition of reprimands, fines and suspensions shall be based on the ~~((following penalty matrixes:))~~ penalty matrix in WAC 260-84-060.

PERMANENT

((Class A & B Licensed Facilities			
Violations within calendar year	1st Offense	2nd Offense	3rd Offense
Smoking in restricted areas WAC 260-20-030	\$25	\$50	\$100
Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030	\$50	\$100	\$250 plus possible suspension
Disturbing the peace WAC 260-80-140	Warning—\$200 and/or suspension	Warning—\$500 and/or suspension	Suspension
Person performing duties for which they are not licensed WAC 260-36-010	\$50	\$100	\$150
Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230	\$500		
Licensing—failure to divulge a felony WAC 260-36-120	\$100 or possible denial of license		
Licensing—failure to divulge a gross misdemeanor or misdemeanor WAC 260-36-120	Warning—\$50		
Licensing—providing false information on application WAC 260-36-120	\$50—\$250 or possible denial of license		
Licensing—nonparticipation WAC 260-36-080	License canceled		
Violation of any claiming rule in chapter 260-60 WAC	\$200—\$500 plus possible suspension		
Use of improper, profane or indecent language to a racing official WAC 260-80-130	\$50	\$100	\$250

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((Class A & B Licensed Facilities			
Violations within calendar year	1st Offense	2nd Offense	3rd Offense
Unsafe vehicle operation WAC 260-20-020	Warning - \$50	\$100 and recommend racing association revoke vehicle pass	
Financial responsibility WAC 260-28-030	Resolve 30 days or before the end of the meet (whichever is sooner) to resolve or suspension		
Failure to appear - hearing WAC 260-24-510	Suspension pending appearance		
Failure to honor riding engagements (call) - agents WAC 260-32-400	\$75	\$100	\$200
Reporting incorrect weight - jockeys WAC 260-32-150	\$50	\$100	\$200
Failure to appear for films - jockeys WAC 260-24-510	\$50	\$100	\$200
Failure to fulfill riding engagement WAC 260-32-080	\$100	\$150	\$200
Easing mount without cause WAC 260-52-040	\$250	\$250 and/or suspension	\$500 and/or suspension
Jockey failing to maintain straight course or careless riding WAC 260-52-040	Warning - \$750 and/or suspension (riding days)		
Jockey's misuse of whip WAC 260-52-040	Warning - \$2500		
Use of stimulating device (may include batteries) WAC 260-52-040	1 year suspension plus mandatory referral to commission for revocation		
Possession of stimulating device (may include batteries) WAC 260-52-040, WAC 260-80-100	1 year suspension plus mandatory referral to commission for revocation		
Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020	1 year suspension plus mandatory referral to commission for revocation		
Entering ineligible horse WAC 260-80-030	\$50	\$100	\$100
Arriving late to the paddock WAC 260-28-200	Warning - \$50	Warning - \$50	\$50 - \$100
Failure to have registration papers on file - resulting in a scratch WAC 260-40-090	\$50 - \$100	\$100	\$100
Failure to handle business properly - late equipment change, etc. WAC 260-44-010	Warning - \$50	\$100	\$100
Insufficient workouts - resulting in scratch WAC 260-40-100	\$50 - \$100	\$100	\$100

Class C Licensed Facilities			
Violation within calendar year	1st Offense	2nd Offense	3rd Offense
Smoking in restricted areas WAC 260-20-030	\$25	\$50	\$100
Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030	\$50	\$100	\$250 plus possible suspension
Disturbing the peace WAC 260-80-140	Warning - \$100 and/or suspension	\$250 and/or suspension	Suspension
Person performing duties for which they are not licensed WAC 260-36-010	\$50	\$100	\$150

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Class C Licensed Facilities			
Violation within calendar year	1st Offense	2nd Offense	3rd Offense
Unlicensed or improperly licensed personnel (trainer's responsibility) WAC 260-28-230	\$100		
Licensing - failure to divulge a felony WAC 260-36-120	\$100 or possible denial of license		
Licensing - failure to divulge a misdemeanor or gross misdemeanor WAC 260-36-120	Warning - \$25		
Licensing - providing false information on application WAC 260-36-120	\$50 - \$250 or possible denial of license		
Licensing - nonparticipation WAC 260-36-080	License canceled		
Violation of any claiming rule in chapter 260-60 WAC	\$100 - \$250 plus possible suspension		
Use of improper, profane or indecent language to a racing official WAC 260-80-130	\$50	\$100	\$250
Unsafe vehicle operation WAC 260-20-020	Warning - \$50		
Financial responsibility WAC 260-28-030	Resolve 30 days or before the end of the fall meet (whichever is sooner) to resolve or suspension		
Failure to appear - hearing WAC 260-24-510	Suspension pending appearance		
Failure to honor riding engagements (call) - agents WAC 260-32-400	\$25	\$50	\$100
Reporting incorrect weight - jockeys WAC 260-32-150	\$25	\$50	\$100
Failure to appear for films - jockeys WAC 260-24-510	\$25	\$50	\$100
Failure to fulfill riding engagement WAC 260-32-080	\$50	\$100	\$200
Easing mount without cause WAC 260-52-040	\$100	\$200 and/or suspension	\$400 and/or suspension
Jockey failing to maintain straight course or careless riding WAC 260-52-040	Warning - \$750 and/or suspension (riding days)		
Jockey's misuse of whip WAC 260-52-040	Warning - \$2500		
Use of stimulating device (may include batteries) WAC 260-52-040	1 year suspension plus mandatory referral to commission for revocation		
Possession of stimulating device (may include batteries) WAC 260-52-040, WAC 260-80-100	1 year suspension plus mandatory referral to commission for revocation		
Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010 and 260-80-020	1 year suspension plus mandatory referral to commission for revocation		
Entering ineligible horse WAC 260-80-030	\$25	\$50	\$50
Arriving late to the paddock WAC 260-28-200	Warning - \$25	\$50	\$50

Class C Licensed Facilities			
Violation within calendar year	1st Offense	2nd Offense	3rd Offense
Failure to have registration papers on file—resulting in a scratch WAC 260-40-090	\$50	\$100	\$100
Failure to handle business properly—late equipment change, etc. WAC 260-44-010	Warning—\$50	\$50	\$50

Class A, B & C Licensed Facilities			
Violation within calendar year	1st Offense	2nd Offense	3rd Offense
Failure to pay or default on L&I payment WAC 260-28-220	Suspension until paid plus \$25 for each quarter payment is late		
Failure to maintain employee L&I records for grooms and assistant trainers (trainer's responsibility) WAC 260-28-230	Warning—\$50		
Unlicensed person on the backside WAC 260-20-040	Report violation to the racing association))		

PERMANENT

For any other violation not specifically listed ((above)) in WAC 260-84-060, the stewards shall have discretion to impose the penalties as provided in (b) of this subsection. ((For violations considered minor, the fine can be up to \$500 and/or suspension for up to sixty days. Fines for violations considered major can be up to \$2,500 and/or suspension up to one year.))

(d) ((Circumstances which may be considered for the purpose of mitigation or aggravation of any penalty shall include, but are not limited to, the following:

(i) The impact of the offense on the integrity of the parimutuel industry;

(ii) The danger to human and/or equine safety;

(iii) The number of prior violations of the rules of racing or violations of racing rules in other jurisdictions; and/or

(iv) The deterrent effect of the penalty imposed.

(e) For violations covered by chapter 260-70 WAC, Medication, the stewards shall follow the penalty guidelines as set forth in WAC 260-70-690.

(f)) The stewards may ((place)) direct a jockey ((on a film list)) to the film analyst whenever a jockey is involved in questionable, unsafe or potentially dangerous riding. Jockeys referred to the film analyst ((or stewards)) shall appear when directed. Failure to appear when directed shall be considered a violation of the rules of racing for which penalties may be imposed.

((g)) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter. A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(h)) (e) The stewards shall have the authority to conduct a ruling conference, and the authority to:

(i) Direct the attendance of witnesses and commission employees;

(ii) Direct the submission of documents, reports or other potential evidence;

(iii) Inspect license documents, registration papers and other documents related to racing or the rule violation;

(iv) Question witnesses; and

(v) Consider all relevant evidence.

((f)) (f) The stewards shall serve notice of a conference to person(s) alleged to have committed a violation, which shall contain the following information:

(i) A statement of the time and place the conference will be held;

(ii) A reference to the particular sections of the WAC involved;

(iii) A short and plain statement of the alleged violation; and

(iv) A statement that if the person does not appear, the ruling will be made in his/her absence, and that failure to appear will be considered a separate violation of the rules of racing.

((g)) (g) Failure to appear for a ruling conference shall be considered a violation of the rules of racing for which penalties may be imposed.

((h)) (h) It is the duty and obligation of every licensee to make full disclosure to the board of stewards of any knowledge he/she possesses of a violation of any rule of racing. No person may refuse to respond to questions before the stewards on any relevant matter within the authority of the stewards, except in the proper exercise of a legal privilege, nor shall any person respond falsely before the stewards.

((i)) (i) At the ruling conference, the stewards shall allow the ((licensee)) person alleged to have committed a violation to make a statement regarding the alleged violation.

((m)) (j) All ruling conferences shall be recorded.

((n)) (k) Every ruling by the stewards must be served in writing on the person(s) found in violation within five days and shall include:

(i) Time and place the ruling was made;

(ii) Statement of rules violated;

(iii) Details of the violation;

(iv) Penalties to be imposed;

(v) Procedure for requesting a hearing before the commission to challenge the ruling; and

(vi) Plain statement of ((licensees')) the options of the person found in violation, which shall include:

(A) Accepting the penalty imposed by the stewards; or



(B) Requesting a hearing before the commission challenging the stewards' (~~(determination)~~) ruling within seven days.

~~((e))~~ (l) The stewards' ruling shall be posted and a copy provided to the racing association.

~~((f))~~ (m) If a person does not file a request for hearing before the commission within seven days or in the format required by chapter ~~((260-88))~~ 260-08 WAC, then the person is deemed to have waived his or her right to a hearing before the commission. After seven days, if a request for hearing before the commission has not been filed, the stewards' penalty shall be imposed.

~~((g))~~ (n) "Service" of the notice of ruling conference or a stewards' ruling shall be by either personal service (~~on the licensee~~) to the person or by depositing the notice of ruling conference or stewards' ruling into the mail to the (~~licensee's~~) person's last known address in which case service is complete upon deposit in the U.S. mail.

~~((h))~~ (o) If the stewards determine that a (~~licensee's~~) person's actions constitute an immediate, substantial danger to human and/or equine health, safety, or welfare, the stewards may enter a ruling summarily suspending the license and/or eject from the grounds pending a ruling conference before the board of stewards. A summary suspension takes effect immediately on issuance of the ruling. If the stewards suspend a license under this subsection, the licensee is entitled to a ruling conference before the board of stewards, not later than five days after the license was summarily suspended. The licensee may waive his/her right to a ruling conference before the board of stewards on the summary suspension.

(4) Protests, objections and complaints. The stewards shall cause an investigation to be conducted and shall render a decision in every protest, objection and complaint made to them. ~~((They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling.))~~ The stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(5) Stewards' presence:

(a) On each racing day at least one steward shall be on duty at the track beginning three hours prior to first race post time. The full board of stewards shall sit in regular session to exercise their authority and perform the duties imposed on them by the rules of racing;

(b) Three stewards shall be present in the stewards' stand during the running of each race. In case of emergency, the (~~stewards~~) executive secretary may (~~during the meet,~~) appoint a substitute (~~(subject to the confirmation of the commission)~~) steward.

(6) Order of finish for parimutuel wagering:

(a) The stewards shall determine the official order of finish for each race in accordance with these rules of racing;

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race,

shall be final for purposes of distribution of the parimutuel wagering pool.

(7) The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a parimutuel pool for a race or races, if such action is necessary to protect the integrity of parimutuel wagering.

(8) Records and reports:

(a) The stewards shall prepare a (~~daily report, detailing their actions and observations made during each day's race program~~) weekly report of their regulatory activities. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, protests, objections (~~and hearings and any unusual circumstances or conditions~~), complaints and conferences. The report shall be (~~signed by each steward and be~~) filed with (~~the commission~~) and approved by the executive secretary;

(b) Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the (~~commission~~) executive secretary a written report regarding the race meeting. The report shall contain:

(i) The stewards' observations and comments regarding the conduct of the race meeting, the overall conditions of the association grounds during the race meeting; and

(ii) Any recommendations for improvement by the association or action by the commission.

(9) Stewards' list:

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that may endanger the health or safety of other participants in racing;

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse;

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing;

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

(e) An owner or trainer who disagrees with the stewards' decision of placing or maintaining a horse on the stewards' list may request and be granted a stewards' ruling conference to challenge the decision of the stewards.

AMENDATORY SECTION (Amending WSR 98-01-145, filed 12/19/97, effective 1/19/98)

**WAC 260-24-500 Racing officials.** (1) Officials at a race (~~meeting~~) meet include the following:

(a) Stewards;

(b) Racing secretary;

(c) Horsemen's bookkeeper;

(d) Mutuel manager;

- (e) Official veterinarian(s);
- (f) Horse identifier;
- (g) Paddock judge;
- (h) Starter;
- (i) Security director, association;
- (j) Commission security inspector(s);
- (k) Commission auditor;
- (l) Clerk of scales;
- (m) Jockey room supervisor;
- (n) Film analyst;
- (o) Clocker(s);
- (p) Race timer;
- (q) Paddock plater;
- (r) Mutuel inspector;
- (s) Outrider(s);
- (t) Any other person designated by the commission.

(2) The commission officials of a race ((~~meeting~~) meet) shall be designated prior to each race ((~~meeting~~) meet) and those commission officials shall be compensated by the commission.

The association officials of a race ((~~meeting~~) meet) shall include but are not limited to: Racing secretary, mutuel manager, starter, horsemen's bookkeeper, association security director, jockey room supervisor and outrider(s).

(3) Eligibility:

- (a) To qualify as a racing official, the appointee shall be:
  - (i) Of good character and reputation;
  - (ii) Familiar with the duties of the position and with the commission's rules of racing;
  - (iii) Mentally and physically able to perform the duties of the job; and
  - (iv) In good standing and not under suspension or ineligible in any racing jurisdiction.

(b) To qualify for appointment as a steward the appointee shall be an Association of Racing Commissioners International-accredited steward and be in good standing with all Association of Racing Commissioners International member jurisdictions, unless the appointee has been appointed as a substitute steward as provided in WAC 260-24-510. The commission may waive this accreditation requirement for Class C race meetings.

(4) The commission, in its sole discretion, may determine the eligibility of a racing official and, in its discretion, may approve or disapprove any such official for licensing.

(5) While serving in an official capacity, racing officials and their assistants shall not:

- (a) Participate in the sale or purchase, or ownership of any horse racing at the ((~~meeting~~) meet); unless disclosed in advance and approved by the board of stewards;
- (b) Sell or solicit horse insurance on any horse racing at the ((~~meeting~~) meet);
- (c) Be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards;
- (d) Wager on the outcome of any race for which parimutuel wagering is conducted under the jurisdiction of the commission; or
- (e) Consume or be under the influence of alcohol or any prohibited substances while performing official duties.

(6) Racing officials and their assistants shall immediately report to the stewards every observed violation of these rules.

(7) Complaints against officials:

(a) Complaints against any steward shall be made in writing to the commission and signed by the complainant;

(b) Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the commission by the stewards, together with a report of the action taken or the recommendation of the stewards;

(c) A racing official may be held responsible by the stewards or the commission for the actions of their assistants;

(8) Appointment:

(a) A person shall not be appointed to more than one racing official position at a ((~~meeting~~) meet) unless specifically approved by the commission;

(b) The commission shall appoint or approve its officials for each race ((~~meeting~~) meet), the officials shall perform the duties as outlined herein and such other duties as are necessary as determined by the commission or its executive secretary.

(9) Where an emergency vacancy exists among racing officials, the ((~~stewards~~) executive secretary) or the association, ((~~with the stewards' approval,~~) shall fill the vacancy immediately). Such appointment shall be reported to the commission and shall be effective until the vacancy is filled in accordance with these rules.

(10) Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards shall appoint a substitute for the absent steward. If a substitute steward is appointed, the commission and the association shall be notified by the stewards.

**WSR 05-07-066**

**PERMANENT RULES**

**HORSE RACING COMMISSION**

[Filed March 11, 2005, 4:10 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend chapter 260-34 WAC to eliminate all references to employees, addition provisions to allow security investigators to test licensees for alcohol/drugs, establish standard penalties for possession or use of illegal drugs or for being under the influence of intoxicating liquor/drugs, provide an opportunity for a licensee to stay a suspension to seek treatment, and to eliminate rules allowing the commission to monitor licensees found in violation of this chapter.

Citation of Existing Rules Affected by this Order: Repealing WAC 260-34-040, 260-34-050, 260-34-110, 260-34-120, 260-34-130, 260-34-140, 260-34-150, 260-34-160, 260-34-170 and 260-34-190; and amending WAC 260-34-010, 260-34-020, 260-34-030, 260-34-060, 260-34-070, 260-34-080, 260-34-090, 260-34-100, and 260-34-180.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-04-085 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: Language in WAC 260-34-030, deleted in the proposed version, was put back in this section. This language dealt with the commissions' ability to test, at random, those licensees who have a documented history of unexplained positive tests which indicate illegal drug usage or a documented history of violating chapter 260-34 WAC.

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 2, Amended 8, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 8, Repealed 10.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 8, Repealed 10; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

## Chapter 260-34 WAC

### DRUG AND ALCOHOL TESTING OF LICENSEES (~~AND EMPLOYEES~~)

AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-010 Primary purpose.** In order to protect the integrity of horse racing in the state of Washington, and to protect the ((health and welfare of licensees and employees engaged in horse racing within the state of Washington, to prevent the exploitation of the public, licensees and/or employees engaged in horse racing in the state of Washington, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Washington, the)) safety of the public and all participants, the Washington horse racing commission intends to regulate ((at all race meets licensed by it,)) the use of any illegal controlled substances ((as listed in chapter 69.50 RCW or any legend drug as defined in chapter 69.41 RCW unless such legend drug was obtained directly and pursuant to a valid prescription from a duly licensed physician or dentist acting in the course of his or her professional practice. The commission recognizes that the most effective preventive measures are also measures considered by many to be most invasive of civil liberties, and intends to limit the impact on civil liberties by implementing limited preventative measures. The commission also recognizes that there are limits to the known correlation between the use of drugs, drug levels in bodily fluids and impairment from the presence of those drugs in the body, but that the known possible impairment and detriment to the integrity of the horse racing industry from the use of drugs

warrants appropriate measures to prevent such use)) and the use of alcohol by licensees at all race meets. This chapter shall be applicable to ((any)) all licensees ((or employee who is responsible for the conduct of, or the officiating of, a race or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet)) on the grounds of any race track during its licensed race meet.

AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-020 Use of controlled substances and alcohol.** No licensee or ((employee of any racing association or any employee of the horse racing commission or applicant who is, or may be, responsible for the conduct of, or officiating of a race, or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet or on grounds licensed by the horse racing commission,)) applicant shall be under the influence of or affected by intoxicating liquor and/or drugs, have an alcohol concentration of 0.08 percent or higher, or have within their body any ((drug or)) illegal controlled substance ((unless obtained directly and used pursuant to a valid medical prescription from a duly licensed physician or dentist acting in the course of his or her professional practice while within the enclosure of or on the premises managed by any association)) while on the grounds of any licensed race meet. "Controlled substance" or "drug" as used in this chapter means any substance listed in chapter 69.50 RCW or legend drug as defined in chapter 69.41 RCW. The presence of a controlled substance or drug in any quantity measured by the testing instrument establishes the presence of that substance for the purpose of this section. The fact that a licensee or applicant is or has been entitled to use a drug under the laws of the state of Washington shall not constitute a defense against a violation for being under the influence of or affected by intoxicating liquor and/or any drug.

AMENDATORY SECTION (Amending WSR 00-07-038, filed 3/6/00, effective 4/6/00)

**WAC 260-34-030 Testing.** ((The board of)) (1) A steward((s)) of the horse racing commission, a commission security investigator or the commission, acting through the executive secretary, may require any licensee((, employee of any racing association, or employee of the horse racing commission, or applicant, who is, or may be, responsible for the conduct of, or officiating of, a race, or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet, or on grounds licensed by the horse racing commission,)) or applicant to provide breath blood and/or urine samples for the purpose of drug or alcohol analysis under any of the following circumstances:

((1)) (a) When ((the board of)) a steward((s)) or commission security investigator finds that there is reasonable suspicion to believe that the ((proposed testee)) applicant or licensee has used ((any controlled substance unless such controlled substance was obtained directly and used pursuant to a valid medical prescription from a duly licensed physician or

dentist acting in the course of his or her professional practice or, alcohol in excess of the limits prescribed in this chapter)) or is under the influence of alcohol and/or any drug.

~~((2) At the discretion of the stewards when the proposed testee))~~ (b) When an applicant or licensee has a documented history of an unexplained positive test which indicates illegal drug usage or ~~((when the proposed testee))~~ has a documented history of violating chapter 69.41, 69.45 or 69.50 RCW, WAC 260-34-020 or similar drug-related violation.

(c) When a commission security investigator decides to test any licensee as a condition of any conditional or probationary license.

(2) For licensees who are subject to a field screening urine test under the provisions in this chapter, and whose test shows the presence of a controlled substance or alcohol, the field screening test results shall be confirmed by a laboratory acceptable to the commission which shall include gas chromatography/mass spectrometry (GC/MS) procedures.

(a) When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the sample. The commission shall provide for a secure chain of custody for the sample to be made available to the licensee.

(b) All costs for the transportation and testing for the sample portion made available for the licensee shall be the financial responsibility of the requesting person. The licensee or applicant being tested shall reimburse the commission the cost of transportation and testing within thirty days of receipt of notice of the costs.

(3) The result of a test conducted with a preliminary breath test (PBT) instrument approved by the state toxicologist in chapter 448-15 WAC or other breath test equipment approved under chapter 448-16 WAC shall constitute evidence of a violation of these rules. The results of such a test may be considered for purposes of determining whether the licensee or applicant has consumed alcohol, the level of alcohol concentration, and whether the licensee or applicant has violated a prohibition on the use or consumption of alcohol established in a conditional license.

(4) Upon request of the licensee or applicant, testing may be by a blood alcohol test. The requesting licensee or applicant shall pay the cost of a blood test.

#### NEW SECTION

**WAC 260-34-035 Exercising the privileges of their license.** All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaging in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

#### NEW SECTION

**WAC 260-34-045 Violations of the privileges granted licensees.** While exercising the privileges of their license, a licensee shall not:

(1) Engage in the illegal sale or distribution of alcohol or a controlled substance;

(2) Possess an illegal controlled substance;

(3) Possess on the grounds any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing an illegal controlled substance, or any equipment, products or materials of any kind, which are used or intended for use in injecting, ingesting, inhaling or otherwise introducing into the human body an illegal controlled substance;

(4) Refuse to submit to blood, breath and/or urine testing, when notified that such testing is conducted pursuant to the conditions of WAC 260-34-030.

#### AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-060 Refusal to test.** (1) When any licensee~~((employee))~~ or applicant is requested to submit to a test in a manner prescribed by this chapter, the person shall do so in a prompt manner. Refusal to supply such sample shall result in~~((~~

~~(a) Immediate suspension of the licensee, employee, or applicant; and~~

~~(b) A hearing)) a conference before the board of stewards in accordance with WAC ((260-24-440 with written notice of the issue to be addressed prepared by the presiding steward, to be held within the next two racing days or seven calendar days, whichever is less, after service of the notice or sooner or later if the licensee, employee, or applicant and the board of stewards agree. Service shall be to the licensee, employee, or applicant personally, by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mailing the notice to the person's last known address. If by mail, service shall be deemed completed on the third day after mailing)) 260-24-510.~~

(2) If the board of stewards finds at the ~~((hearing that said))~~ conference that the refusal to test occurred without ~~((just))~~ cause, the licensee~~((employee))~~ or applicant shall be suspended from racing ~~((for and until such time as a test has been obtained in conformance with this chapter. In the event of a finding of just cause, the licensee, employee, or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated.~~

~~(3) Repeated refusal without just cause to submit to an ordered test may result in license revocation and banning from race meets in the state of Washington by the commission after a hearing pursuant to chapters 260-08 and 260-88 WAC)) and referred to the commission for revocation.~~

#### AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

**WAC 260-34-070 Responsibility to report valid prescriptions.** Whenever any licensee~~((employee))~~ or applicant has been directed to submit to a drug test and that licensee~~((employee))~~ or applicant is taking a controlled substance pursuant to a valid prescription on order of a duly licensed physician or dentist, it shall be the licensee's~~((employee's))~~ or applicant's responsibility to ~~((give immedi-~~

ately prior to testing written notice to the medical staff member designated pursuant to WAC 260-34-080 or designated representative of the Washington horse racing commission containing the following:

(1) Name of the licensee, employee, or applicant.

(2) The name, quantity, and dosage of the controlled substance prescribed.

(3) The name of the duly licensed physician or dentist prescribing same.

(4) The date the prescription was prescribed.

(5) The time and date next preceding the date of the test when the prescribed controlled substance was ingested by the licensee, employee, or applicant.

All such notices shall become part of the records of the drug test and preserved to maintain strict confidentiality of the contents) provide to the commission a copy of the prescription or label on the container and indicate the date and time when the substance was last used.

The fact that a substance was taken pursuant to a valid prescription shall not constitute a defense to a violation if the board of stewards finds that licensee or applicant was under the influence of the substance while exercising the privileges of his/her license.

**AMENDATORY SECTION** (Amending WSR 00-07-038, filed 3/6/00, effective 4/6/00)

**WAC 260-34-080 Testing procedure.** ((1)) When ((the)) a licensee or applicant has been directed to provide a urine sample for drug testing ((is required as described in WAC 260-34-030,)) the following procedure will be used:

((a)) (1) The licensee((-employee,)) or applicant will report ((as instructed by the board of stewards)) to a drug testing facility approved or certified by the ((commission. When on-site urinalysis is available the board of stewards may direct the licensee, employee or applicant to submit to drug testing done by a commission security inspector. This testing will be done in accordance with procedures which have been approved by the commission)) department of social and health services. A qualified member of the drug testing facility will supervise the sample being given.

(2) When on-site urinalysis is available, the licensee or applicant may be directed to submit to drug testing conducted by a commission security investigator. The commission security inspector or their designee will supervise the sample being given. The supervision need not include actual observation of the delivery of the sample but the sample shall be taken under such circumstances that the integrity of the sample is maintained ((without unnecessarily interfering with the individual rights of the person tested, including the right to be free from unnecessary embarrassment)).

(3) Intentional contamination of the sample by any person tested ((which is likely to prevent appropriate)) for the purpose of preventing accurate analysis of the sample, or other actions with intent to subvert the test, shall be grounds for the suspension or revocation of the person tested.

((b) The urine sample will be at least 75 ml in volume. The urine sample will be divided into two parts of at least 25 ml and 50 ml in the presence of the person tested. If the licensee, employee, or applicant is unable to provide 75 ml of

urine, the licensee, employee, or applicant may waive in writing the division of the sample and preservation of an untested portion of the sample as provided in (c) of this subsection and subsection (4) of this section. If the person tested is unable to provide a sufficiently large sample, either 75 ml or 50 ml with a waiver, the person shall not be suspended, but shall not participate in racing until such time as he or she is able to provide sufficient urine and completes the test. All portions of the sample shall be placed in containers and sealed with double identification tags in the presence of the person being tested.

(c) The 25 ml (or more) container will be preserved pursuant to subsection (3) of this section by the medical facility obtaining the sample. Both licensee, employee, or applicant and member of the medical staff, chief of security, or designated representative of the horse racing commission will sign the tag to attest to the sealing and labeling of the sample.

(d) The 50 ml (or more) container will be prepared for transportation as follows: One portion of the container's tag bearing a printed identification number shall remain with the sealed container. The other portion of such tag bearing the same printed identification number, shall be detached in the presence of the person tested and a member of the medical staff, the chief of security or designated representative of the horse racing commission. The licensee, employee, or applicant will initial or sign the designated portion of the tag to attest witnessing such action. The member of the medical staff, the chief of security or designated representative of the horse racing commission will also sign the detached portion of the tag to attest witnessing such action. The sample will then be handled in a manner consistent with an evidentiary chain of custody throughout the transportation and laboratory testing process. The sample and the tag identifying the sample which is to be provided to the laboratory for analysis shall not identify the person by name, but only by number assigned and recorded by the members of the medical staff, chief of security, or designated representative of the horse racing commission.

(2) When the testing is to be done as a result of reasonable suspicion or the result of mandatory testing being conducted after a positive test, the same procedure for handling the specimens shall be utilized as in subsection (1) of this section, but the sample may be taken at the track and witnessed by the chief of security or designated representative of the horse racing commission. The witness must be of the same sex as the person being tested. After the sample is taken, divided and sealed, the chief of security or designated representative of the horse racing commission will be responsible for the evidentiary chain of custody and transportation of one portion of the sample to the laboratory and storage of the other portion pursuant to subsection (3) of this section. The chief of security of the horse racing commission will maintain a checklist of procedures to implement these steps; the checklist will be marked as the steps are carried out and it will be maintained as part of security records.

(3) Each portion of the sample supplied by the person tested will be preserved by the approved laboratory, chief of security, representative of the horse racing commission, or laboratory for three days unless there is a positive test result. If there is a positive test result, the samples will be preserved

for a period of one year or until released by the executive secretary of the horse racing commission after all hearings and appeals have been terminated. The samples will be preserved in a secured location by refrigeration or freezing for the first three days and thereafter by freezing.

(4) Either or both portions of the sample may be retested at the request of the licensee, employee, or applicant at either the laboratory used by the horse racing commission or a qualified laboratory designated by the licensee, employee, or applicant and approved by the horse racing commission. If the untested sample is transported for testing, transportation will be performed, at the direction of the board of stewards, by the chief of security or designated representative of the horse racing commission using an evidentiary chain of custody. None of the originally untested 25 ml portion is required to be saved after testing for retesting. The licensee, employee, or applicant is responsible for all costs of transporting and testing or retesting a sample at his or her request.)

**AMENDATORY SECTION** (Amending WSR 03-05-071, filed 2/18/03, effective 3/21/03)

**WAC 260-34-090 A positive test.** ((A drug test shall be positive when the presence of a controlled substance is confirmed by two independent tests performed on the same sample supplied by a licensee, employee, or applicant. The tests used will be the E.M.I.T. screen test, followed by a gas chromatography/mass spectrometry confirmatory test, or other tests which the scientific community recognizes are equally or more accurate and reliable. If marijuana or its derivatives, salts, isomers, or salts of isomers are detected in a drug test, such a result will not be reported positive unless found at levels of at least fifty nanograms per milliliter.

A positive drug test shall be reported by the laboratory to the presiding steward at the track.) On receiving written notice ((from the laboratory that a specimen has been found positive for a controlled substance)) of a violation of WAC 260-34-045, the presiding steward shall initiate the following procedure:

(1) Written notice shall be given to the licensee((; employee)) or applicant, setting a ((hearing by)) conference before the board of stewards in accordance with WAC ((260-24-440 within the next two racing days or seven calendar days, whichever is less, after service of the notice. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the board of stewards agree. Service shall be to the licensee, employee, or applicant personally, by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service shall be deemed completed on the third day after mailing)) 260-24-510.

(2) ((The hearing shall be conducted before the board of stewards pursuant to WAC 260-24-440.)) At the ((hearing)) conference, the licensee((-employee,)) or applicant shall be provided an opportunity to ((explain the positive test)) respond to the evidence of the violation.

(3) ((The board of stewards' hearing shall be closed and the facts therein will be kept confidential unless for use with

respect to any stewards ruling, order by the horse racing commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. The board may issue a public ruling which complies with the confidentiality requirements of this section and WAC 260-34-100.

(4) Lacking a satisfactory explanation and documentation or upon the licensee, employee, or applicant agreeing with the test results)) If the licensee or applicant is found to be in violation of WAC 260-34-045, the board of stewards shall suspend the licensee((-employee,)) or applicant ((until)) as follows:

(a) ((A negative test can be submitted by that licensee, employee, or applicant and the results reviewed by the board of stewards; and

(b) The licensee, employee, or applicant is referred to an approved agency for a drug evaluation interview and completes the evaluation.

(i) If the evaluation concludes that the licensee, employee, or applicant is not addicted or habituated, and if the board of stewards determines that the licensee's, employee's, or applicant's condition is not detrimental to the best interests of racing, the licensee, employee, or applicant shall be allowed to participate in racing provided he or she agrees that further testing may be done as described in WAC 260-34-030.

(ii) If such drug evaluation concludes that the licensee, employee, or applicant is addicted or habituated, or the board of stewards determines that the licensee's, employee's, or applicant's condition is detrimental to the best interests of racing, the licensee, employee, or applicant shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show official documentation that he or she has successfully completed a certified drug rehabilitation program approved by the board of stewards, in consultation with the executive secretary of the horse racing commission. The licensee, employee, or applicant must agree to further testing as described in WAC 260-34-030.

(5) For a second positive drug test in the calendar year, the licensee, employee, or applicant shall be suspended for the balance of the calendar year or one hundred twenty days, whichever is greater, and the person is required to complete a certified drug rehabilitation program approved by the board of stewards in consultation with the executive secretary of the horse racing commission before applying for a reinstatement of license. The licensee, employee, or applicant must agree to further testing as described in WAC 260-34-030.

(6) When any licensee, employee, or applicant has a history of more than two violations of WAC 260-34-020 or positive drug tests, the horse racing commission may, pursuant to a hearing conducted under chapter 260-08 WAC, declare such person detrimental to the best interests of racing and revoke that person's license or application. Reapplication shall not be permitted for such period of months or years as the commission determines is necessary to ensure the person's freedom from use of controlled substances and not until meeting the requirements of subsection (5) of this section.) For testing positive for the illegal use of alcohol, for being

under the influence of alcohol and/or drugs, or for the possession of marijuana (nonfelony):

(i) Three days for the first violation within five years;

(ii) Thirty days for the second violation within five years;

(iii) One year for the third violation within five years;  
and

(iv) Revocation and referral to the commission for the fourth violation within five years.

(b) For the possession or use of any illegal drug or controlled substance, other than marijuana:

(i) One year suspension for the first violation within five years;

(ii) Revocation and referral to the commission.

(4) The board of stewards may stay one of the suspensions in subsection (3)(a) of this section if the licensee or applicant shows proof of participation in a drug rehabilitation or alcohol treatment program approved or certified by the department of social and health services. Individuals will only be allowed to participate in this program once in a five-year period. If during this time a licensee or applicant violates the provisions of this chapter, the violation for which the stay of suspension was entered will be considered as a prior violation for penalty purposes. The licensee or applicant must also agree to the following conditions:

(a) Random drug or alcohol testing at the discretion of the board of stewards or commission security investigators for a period of twelve calendar months.

(b) Have no further incidents of violating this chapter within the next twelve calendar months.

(5) Upon successful completion of a drug or alcohol rehabilitation or treatment program, a licensee or applicant can request the board of stewards lift the suspension.

AMENDATORY SECTION (Amending WSR 00-07-038, filed 3/6/00, effective 4/6/00)

WAC 260-34-100 Confidentiality of test results. The ~~((executive secretary of the horse racing))~~ commission shall maintain all test results and records, both negative and positive, confidential ~~((He or she shall document the process which will ensure the confidentiality of the handling of such results. Information contained in the test results shall remain confidential at all times))~~ except for use with respect to ~~((any))~~ a stewards' ~~((ruling, order by the horse racing))~~ conference, a hearing before the commission, or judicial ~~((hearing with regard to such an))~~ review of a commission order. ~~((Access to the reports of any test results shall be limited to the executive secretary, the board of stewards, the chief of security of the commission at the track, the physician or member of the medical staff obtaining and preserving samples, the laboratory and the person being tested, except in the instance of a contested commission hearing. The information obtained as a result of a test being required under the rules of the horse racing commission shall be considered privileged and shall be used for administrative purposes only and, further, shall be exempt from use as evidence in any criminal prosecution involving the violation of offenses listed in chapter 69.50 RCW.))~~ Test results will only be disclosed pursuant to chapter 42.17 RCW, however, test results may be released

to the person tested or their attorney, after receiving a signed written request.

AMENDATORY SECTION (Amending Order 89-02, filed 6/9/89)

WAC 260-34-180 Testing expense. Except for ~~((retesting))~~ a blood test requested by a licensee ~~((, employee, or applicant))~~ pursuant to WAC ~~((260-34-080(4)))~~ 260-34-150, all testing, whether blood, urine, or breath, ordered pursuant to this chapter shall be at the expense of the horse racing commission. All ~~((expense))~~ costs of drug and/or alcohol evaluation, treatment, reports, and fees shall be at the expense of the licensee ~~((, employee, or applicant))~~ undergoing such evaluation or treatment.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 260-34-040	Definitions.
WAC 260-34-050	Reasonable suspicion.
WAC 260-34-110	Consumption of alcohol.
WAC 260-34-120	Alcohol violations defined.
WAC 260-34-130	Consumption reasonable suspicion for testing.
WAC 260-34-140	Alcohol levels determined.
WAC 260-34-150	Alcohol testing.
WAC 260-34-160	Refusal to be tested.
WAC 260-34-170	Alcohol violation sanctions.
WAC 260-34-190	Severability.

#### **WSR 05-07-067**

#### **PERMANENT RULES**

#### **HORSE RACING COMMISSION**

[Filed March 11, 2005, 4:12 p.m., effective April 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend chapter 260-70 WAC, Controlled medication program, to comply with the Association of Racing Commissioners International (ARCI) Racing Medication and Testing Consortium model rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 260-70-670, 260-70-690 and 260-70-700; and amending WAC 260-70-520, 260-70-530, 260-70-540, 260-70-545, 260-70-550, 260-70-560, 260-70-570, 260-70-580, 260-70-600, 260-70-610, 260-70-620, 260-70-630, 260-70-640, 260-70-650, 260-70-660, 260-70-680, 260-70-720, and 260-70-730.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-04-086 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 260-70-540(1), the term "or procedure" was removed; WAC 260-70-545(2), the term "substance" was removed and (in this section and in others) the term "commission veterinarian" was replaced with "official veterinarian"; WAC 260-70-560, subsection (4) was removed; WAC 260-70-570(6), the term "confidential" was removed; WAC 260-70-630, "urine" was put back under caffeine, the threshold for salicylates was changed to 750,000 ng/ml and the term "except for their thresholds" was added to the section; and WAC 260-70-645 language from WAC 260-70-680 was moved to this section.

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 18, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 18, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 18, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

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

**WAC 260-70-520 Trainer responsibility.** The purpose of this subsection is to identify the minimum responsibilities of the trainer that pertain specifically to the health and well being of horses in his/her care.

(1) The trainer is solely responsible for the condition of horses in his/her care.

(2) The trainer is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable ~~((level))~~ concentration, in ~~((such))~~ horses in his/her care. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable ~~((level))~~ concentration, as reported by a commission approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(3) A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(4) A trainer whose horse has been claimed remains responsible for violation of any rules regarding that horse's participation in the race in which the horse is claimed.

(5) The trainer is responsible for:

(a) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;

(c) The proper identity, custody, care, health, condition and safety of horses in his/her care;

~~(d) ((Ensuring that at the time of arrival at locations under the jurisdiction of the commission a valid health certificate and a valid negative equine infectious anemia (EIA) test certificate accompany each horse in accordance with state law;~~

~~(e))~~ Immediately reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(e) Promptly reporting to the racing secretary and an official veterinarian when a posterior digital neurectomy (heel nerving) is performed on a horse in his/her care and ensuring that such fact is designated on its certificate of registration;

(f) Promptly report to the racing secretary, when mares who have been entered to race, have been bred;

(g) Promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge;

(h) Promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the commission to the stewards and the official veterinarian and compliance with the rules in this chapter governing postmortem examinations;

(i) Maintaining a knowledge of the medication record and medication status of horses in his/her care;

(j) Immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;

(k) Ensuring the fitness to perform creditably at the distance entered;

(l) Ensuring that every horse he/she has entered to race is present at its assigned stall for a prerace soundness inspection as prescribed in this chapter;

(m) Ensuring proper bandages, equipment and shoes;

(n) Presence in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;

(o) Personally attending in the paddock and supervising the saddling thereof, unless excused by the stewards; and

(p) Attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so.

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

**WAC 260-70-530 Veterinarians under authority of official veterinarian.** Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the official veterinarian and the stewards. An official veterinarian shall recommend to the stewards or the commission the discipline, which may be imposed upon a veterinarian who violates the rules.



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

**WAC 260-70-540 Veterinarians' reports.** (1) Every veterinarian who treats a ~~((race-horse))~~ racehorse at any location under the jurisdiction of the commission shall, in writing on a form approved by the commission, report to an official veterinarian the name of the horse treated, any medication, drug or substance administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian.

(2) The report shall be signed by the practicing veterinarian.

(3) The report shall be on file not later than the time prescribed on the next race day by the official veterinarian. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the commission, or to the trainer or owner of record at the time of treatment.

(4) A timely and accurate filing of a veterinarian report that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent of a violation of these rules.

**AMENDATORY SECTION** (Amending WSR 04-05-094, filed 2/18/04, effective 3/20/04)

**WAC 260-70-545 Prohibited practices.** The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication, specified below, on the premises of a facility under the jurisdiction of the ~~((regulatory-body))~~ commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider ~~((or-driver))~~; or the use of which may adversely affect the integrity of racing; or

(2) The possession or use of a drug or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in human or animal is forbidden.

(3) The possession and/or use of blood doping agents, including, but not limited to, those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

- (a) Erythropoietin
- (b) Darbepoietin
- (c) Oxyglobin
- (d) Hemopure

~~((2)) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the regulatory body that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.~~

~~((3))~~ (4) The practice, administration or application of a treatment, procedure, therapy or method identified below, which is performed on the premises of any facility under jurisdiction of the commission and which may endanger the health and welfare of the horse, endanger the safety of the

rider, or the use of which may adversely affect the integrity of horse racing:

- (a) Intermittent Hypoxic Treatment by External Device.
- (b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(i) Any treated horse shall not be permitted to race for a minimum of ten days following treatment;

(ii) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the commission;

(iii) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be reported to an official veterinarian before use;

(iv) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to an official veterinarian on the prescribed form not later than the time prescribed by an official veterinarian.

(c) The use of a naso gastric tube (a tube longer than six inches) for the administration of any substance within twenty-four hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of an official veterinarian.

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

**WAC 260-70-550 Medical ~~((labelling))~~ labeling.** (1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is ~~((labelled))~~ labeled in accordance with this subsection.

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with applicable state statutes. All such allowable medications must have a prescription label, which is securely attached and clearly ascribed to show the following:

- (a) The name of the product;
- (b) The name, address and telephone number of the veterinarian prescribing or dispensing the product;
- (c) The name of each patient (horse) for whom the product is intended/prescribed;
- (d) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and
- (e) The name of the person (trainer) to whom the product was dispensed.

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

**WAC 260-70-560 Treatment restrictions.** (1) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may admin-

ister a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission.

(2) Nonveterinarians may administer the following substances, provided that, in post race testing the substances do not exceed approved quantitative levels, if any, and the substances do not interfere with post race testing:

(a) A recognized noninjectable nutritional supplement or other substance approved by ~~((the))~~ an official veterinarian;

(b) A noninjectable substance on the direction or by prescription of a licensed veterinarian; or

(c) A noninjectable nonprescription medication or substance.

(3) No person shall possess a hypodermic needle, syringe or injectable of any kind on association premises, unless otherwise approved by the commission. At any location under the jurisdiction of the commission, veterinarians may use only onetime disposable needles, and shall dispose of them in a manner approved by the commission. If a person has a medical condition which makes it necessary to have a needle and syringe at any location under the jurisdiction of the commission, that person may request permission of the stewards and/or the commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe, and must comply with any conditions and restrictions set by the stewards and/or the commission.

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

**WAC 260-70-570 Physical inspection of horses.** All horses at locations under the jurisdiction of the commission shall be subject to inspections at the discretion of the stewards or ~~((the))~~ an official veterinarian.

(1) Every horse entered to participate in an official race shall be subject to a veterinary inspection.

(2) The inspection shall be conducted by an official veterinarian.

(3) The trainer of each horse or a representative of the trainer shall present the horse for inspection as required by ~~((the))~~ an official veterinarian.

(4) The veterinary inspection of a horse's racing condition ~~((may)),~~ at a minimum shall include:

(a) Proper identification of each horse inspected;

(b) Observation of each horse in motion;

(c) Manual palpation when indicated;

(d) Observation in the paddock and saddling area, during the parade to post and at the starting gate; and

(e) Any other inspection deemed necessary by an official veterinarian.

(5) Every horse shall be observed by an official veterinarian during and after the race.

(6) The official veterinarian shall maintain a ~~((confidential))~~ health and racing soundness record of each horse inspected.

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

**WAC 260-70-580 Veterinarian's list.** (1) ~~((The))~~ An official veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when, in the opinion of the official veterinarian, the horse is capable of competing in a race.

(3) An official veterinarian shall maintain a bleeder list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by an official veterinarian. Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

(a) First incident - fourteen days;

(b) Second incident within a three hundred sixty-five day period - thirty days;

(c) Third incident within a three hundred sixty-five day period - one hundred eighty days;

(d) Fourth incident within a three hundred sixty-five day period - barred from racing for life.

(4) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(5) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined in this section.

(6) A horse may be removed from the bleeder list only upon the direction of an official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(7) A horse, which has been placed on a bleeder list in another jurisdiction pursuant to this section, shall be placed on the bleeder list maintained by an official veterinarian.

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

**WAC 260-70-600 Sample collection.** (1) Sample collection shall be done in accordance with guidelines and instructions provided by ~~((the))~~ official veterinarians.

(2) An official veterinarian shall determine a minimum sample requirement for the primary testing laboratory.

(a) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

(b) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

(c) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(d) Blood samples must be collected at a consistent time, preferably not later than one hour post-race.

(e) At Class C race tracks the splitting of samples will be conducted by the primary testing laboratory.

**AMENDATORY SECTION** (Amending WSR 03-11-018, filed 5/12/03, effective 6/12/03)

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

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

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

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

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

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

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

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

(4) Prior to opening the split sample freezer, the commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following

information and such other information as the official veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample.

Split sample chain of custody form requirements:

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

(b) The sample number;

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

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

(e) Verification of retrieval of the split sample from the freezer;

(f) Verification of each specific step of the split sample packaging in accordance with the recommended procedure;

(g) Verification of the address of the split sample laboratory on the split sample package;

(h) Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

(i) The date and time custody of the sample is transferred to the carrier.

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

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

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

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

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

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

**WAC 260-70-620 Medication restrictions.** (1) No horse shall have in its body any prohibited or interfering substance, or permitted medication, except as provided in this chapter.

(2) A finding by the (~~(official chemist)~~) commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race

test, was present in the horse's body while it was participating in a race. Prohibited substances include:

(a) Drugs or medications for which no acceptable ~~((levels have))~~ threshold concentration has been established;

(b) Therapeutic medications in excess of ~~((acceptable levels established by the commission))~~ established threshold concentrations;

(c) Substances present in the horse in excess of ~~((levels))~~ concentrations at which such substances could occur naturally; and

(d) Substances foreign to a horse at ~~((levels))~~ concentrations that cause interference with testing procedures.

~~(3) ((No person shall administer, attempt to minister, or aid or abet in the administration of, any medication or drug to a horse entered to race within 24 hours of the race in which entered except in accordance with these rules.~~

~~(4) Drugs or medications in horses are permissible, provided:~~

~~(a) The drug or medication is included in the commission's list of quantitative medication levels;~~

~~(b) Approved nonsteroidal anti-inflammatory drugs (NSAIDs) may be administered to a horse, but not on a race day. No more than one of the NSAIDs may be used on or carried in a horse's body at any one time;~~

~~(c) The maximum permissible urine or blood concentration of the drug or medication does not exceed the published limit.~~

~~(5)) Except as otherwise provided by this chapter, a person may not administer or cause to be administered, or attempt to administer by any means including naso gastric tube or dose syringe, to a horse a prohibited drug, medication, chemical or other substance, including any ~~((restricted))~~ permitted medication, pursuant to this chapter during the 24-hour period before post time for the race in which the horse is entered.~~

AMENDATORY SECTION (Amending WSR 04-05-095, filed 2/18/04, effective 3/20/04)

**WAC 260-70-630 Threshold levels.** (1) The following quantitative medication levels are permissible in test samples up to the stated quantitative levels:

Procaine	25 ng/ml urine
Benzocaine	50 ng/ml urine
Mepivacaine	10 ng/ml urine
Lidocaine	50 ng/ml urine
Bupivacaine	5 ng/ml urine
<del>((Clenbuterol))</del> <u>Clenbuterol</u>	<del>((5 ng/ml urine))</del> <u>25 pg/ml serum or plasma</u>
Acepromazine	25 ng/ml urine
Promazine	25 ng/ml urine
Salicylates	<del>((750))</del> <u>750,000 ng/ml urine</u>
<u>Albuterol</u>	<u>1 ng/ml urine</u>
<u>Pyrilamine</u>	<u>50 ng/ml urine</u>
<u>Theobromine</u>	<u>2000 ng/ml urine</u>

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

(2) The following substances shall be considered environmental contaminants and are permissible in test samples up to the stated quantitative levels:

Caffeine	100 ng/ml <del>((urine))</del> <u>serum or plasma</u>
<u>Benzoylcegonine</u>	<u>50 ng/ml urine</u>
<u>Morphine Glucuronides</u>	<u>50 ng/ml urine</u>

~~((Official blood test samples must not contain any of the substances listed in this rule, including their metabolites or analogs.))~~

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

**WAC 260-70-640 Permitted medication.** Trainers using permitted medication in the care of their horses are subject to all rules governing such medications. Failure to administer permitted medication to a horse on a program of permitted medication shall be a violation of these rules. ~~((The use of phenylbutazone, naproxen or meclufenamic acid shall be permitted under the following conditions:~~

~~(1) Phenylbutazone shall be administered in such dosage amount that the test sample shall not contain not more than 5 micrograms of phenylbutazone or oxyphenbutazone per milliliter of blood plasma.~~

~~(2) Naproxen shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance, its metabolites or analogs per milliliter of blood plasma.~~

~~(3) Meclufenamic acid shall be administered in such dosage amount that the test sample shall contain not more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.))~~

~~(1) Non-steroidal anti-inflammatory drugs (NSAIDs).~~

~~(2) The use of one of three approved NSAIDs shall be permitted under the following conditions:~~

~~(a) Not to exceed the following permitted serum or plasma threshold concentrations, which are consistent with administration by a single intravenous injection at least twenty-four hours before the post time for the race in which the horse is entered:~~

- ~~(i) Phenylbutazone - 5 micrograms per milliliter;~~
- ~~(ii) Flunixin - 20 nanograms per milliliter;~~
- ~~(iii) Ketoprofen - 10 nanograms per milliliter.~~

~~(b) These or any other NSAID are prohibited to be administered within the twenty-four hours before post time for the race in which the horse is entered.~~

~~(c) The presence of more than one of the three approved NSAIDs or any unapproved NSAID in the post-race serum or plasma sample is not permitted, except the presence of two approved NSAIDs is allowed if one of them is phenylbutazone with a concentration of less than 1 mcg/ml. The use of~~

PERMANENT

all but one of the approved NSAIDs shall be discontinued at least forty-eight hours before the post time for the race in which the horse is entered.

(3) Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of an official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

#### NEW SECTION

**WAC 260-70-645 Anti-ulcer medications.** The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four hours prior to the race in which the horse is entered.

- (1) Cimetidine (Tagamet®) - 8-20 mg/kg PO BID - TID
- (2) Omeprazole (Gastrogard®) - 2.2 grams PO SID
- (3) Ranitidine (Zantac®) - 8 mg/kg PO BID

Noninterfering levels of sulfa drugs, antibiotics, anthelmintics and vitamins in a horse's post-race urine or serum or plasma test may not be considered a violation of these rules.

**AMENDATORY SECTION** (Amending WSR 03-06-004, filed 2/20/03, effective 3/23/03)

**WAC 260-70-650 Furosemide.** (1) Furosemide may be administered intravenously to a horse which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the furosemide list.

(2) The use of furosemide shall be permitted under the following circumstances:

(a) Furosemide shall be administered on the grounds of the association, by a ~~((singular))~~ single intravenous injection, prior to post time for the race for which the horse is entered.

(b) The furosemide dosage administered shall not exceed 500 mg nor be less than 150 mg.

(c) The trainer of the treated horse shall cause to be delivered to ~~((the))~~ an official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission:

(i) The name of the horse, the horse's tattoo number, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide.

(iv) The signature of the trainer or his/her representative.

(d) Failure to administer furosemide in accordance with these rules may result in the horse being scratched from the race by the stewards.

**AMENDATORY SECTION** (Amending WSR 03-06-004, filed 2/20/03, effective 3/23/03)

**WAC 260-70-660 Furosemide list.** (1)(a) The official veterinarians shall maintain a furosemide list of all horses eli-

gible to race with furosemide. The list is a statewide list that applies only at Class A or Class B licensed associations and not at any other track.

(b) A horse is eligible to race with furosemide if the licensed trainer and/or veterinarian determine that it would be in the horse's best interests to race with furosemide. Notification using prescribed commission forms must be given to the commission representative, providing sufficient time to ensure public notification.

(c) If the commission so orders, horses placed on the furosemide list shall be placed in a ~~((pre-race))~~ prerace detention stall, no later than four hours prior to the scheduled post time for any race in which it is entered to start, and with oral or written notification to the trainer may be watched by commission staff. The detention stall shall be the stall regularly assigned that horse for its customary stabling. Once placed in the detention stall, a horse must remain in ~~((its))~~ its barn or on its assigned hotwalker until it is taken to the receiving barn or to the paddock to be saddled ~~((or harnessed))~~ for the race, except that the stewards may permit horses to leave the detention stall to engage in exercise blowouts or warm-up heats.

(2) The confirmation of a horse eligible to race with furosemide must be certified in writing by an official veterinarian and entered on the furosemide list. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A notice of a horse's furosemide certification shall be affixed to the horse's certificate of registration.

(3) Every horse eligible to race with furosemide, regardless of age, shall be placed on the furosemide list.

(4) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and/or veterinarian submit(s) a written request to remove the horse from the list. The request must be on forms ~~((prescribed))~~ provided by the ~~((commission))~~ official veterinarian and must be submitted to the commission designee no later than time of entry. After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of ~~((30))~~ sixty calendar days unless determined to be detrimental to the welfare of the horse, in consultation with ~~((the commission designee))~~ an official veterinarian. If a horse is removed from the official furosemide list a second time in a three hundred sixty-five day period, the horse may not be placed back on the list for a period of ninety calendar days.

(5) A horse which has been placed on a furosemide or bleeder list in another jurisdiction may be placed on the furosemide list in this jurisdiction.

(6) The specific gravity of post-race urine samples shall not be below 1.010. If the specific gravity of the post-race urine sample is determined to be below 1.010, quantitation of furosemide in serum or plasma shall ~~((then))~~ be performed ~~((and concentrations))~~. Concentrations above 100 nanograms of furosemide per milliliter of serum or plasma shall constitute a violation of WAC ~~((260-70-700))~~ 260-84-100.

(7) A horse that has been administered furosemide that does not show a detectable concentration of the drug in the post-race serum, plasma or urine sample ~~((or it))~~ shall be ~~((considered))~~ in violation of these ~~((medication rules and subject to penalty as prescribed in this chapter))~~ rules.

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

**WAC 260-70-680 Uniform classification guidelines.** The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the official veterinarian and the racing secretary.

(1) Class 1

Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the ~~((race-horse))~~ racehorse and their pharmacological potential for altering the performance of a race is very high.

(2) Class 2

Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the ~~((race-horse))~~ racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a ~~((race-horse))~~ racehorse. The following groups of drugs are in this class:

- (a) Opiate partial agonists, or agonist-antagonists;
- (b) Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- (c) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- (d) Drugs with prominent CNS depressant action;
- (e) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- (f) Muscle blocking drugs, which have a direct neuromuscular blocking action;
- (g) Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and
- (h) Snake venoms and other biologic substances, which may be used as nerve blocking agents.

(3) Class 3

Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a ~~((race-horse))~~ racehorse. The following groups of drugs are in this class:

- (a) Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);
- (b) A local anesthetic, which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);
- (c) Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;
- (d) Primary vasodilating/hypotensive agents; and
- (e) Potent diuretics affecting renal function and body fluid composition.

(4) Class 4

This category is comprised primarily of therapeutic medications routinely used in ~~((race-horses))~~ racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

(a) Non-opiate drugs which have a mild central analgesic effect;

(b) Drugs affecting the autonomic nervous system, which do not have prominent CNS, cardiovascular or respiratory effects;

(i) Drugs used solely as topical vasoconstrictors or decongestants,

(ii) Drugs used as gastrointestinal antispasmodics,

(iii) Drugs used to void the urinary bladder,

(iv) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.

(c) Antihistamines, which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

(d) Mineralocorticoid drugs;

(e) Skeletal muscle relaxants;

(f) Anti-inflammatory drugs—those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

(i) Nonsteroidal anti-inflammatory drugs (NSAIDs)—aspirin-like drugs;

(ii) Corticosteroids (glucocorticoids); and

(iii) Miscellaneous anti-inflammatory agents.

(g) Anabolic and/or androgenic steroids and other drugs;

(h) Less potent diuretics;

(i) Cardiac glycosides and antiarrhythmics including:

(i) Cardiac glycosides;

(ii) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(iii) Miscellaneous cardiotoxic drugs.

(j) Topical anesthetics—agents not available in injectable formulations;

(k) Antidiarrheal agents;

(l) Miscellaneous drugs including:

(i) Expectorants with little or no other pharmacologic action;

(ii) Stomachics; and

(iii) Mucolytic agents.

(m) Substances foreign to a horse at levels that cause interference with testing procedures.

(5) Class 5

~~((a))~~ Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

~~((b)) Noninterfering levels of sulfa drugs, antibiotics, anthelmintics and vitamins in a horse's post-race urine or blood test may not be considered a violation of these rules.)~~

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

**WAC 260-70-720 Posterior digital neurectomy.** (1) No person shall bring onto the grounds of a racing association, or enter or cause to be entered in any race, or sell, offer for sale, or act as a bloodstock agent in the sale of, any horse ~~((which has been "nerved"))~~ that has had a posterior digital neurectomy performed, or has had any nerve removed from the leg of such horse, except as provided in this ~~((article))~~ chapter.

~~(2) ((The trainer shall promptly report to the racing secretary and the official veterinarian when a posterior digital neurectomy is performed and ensure that such fact is designated on the horse's certificate of registration.~~

~~(3) Notwithstanding the prohibition against "nerving,")~~ A horse upon which a posterior digital neurectomy has been performed ~~((, commonly known as "heel nerving"))~~ is eligible to race, ~~((subject to the prohibitions in this article pertaining to nerving,))~~ provided that ~~((the))~~ an official veterinarian is satisfied that the loss of sensation to such horse due to the posterior digital neurectomy will not endanger the safety of any horse or rider, that the prior approval of ~~((the))~~ an official veterinarian has been obtained if the horse is on the grounds of a racing association, that the racing secretary is notified of ~~((such nerving))~~ the posterior digital neurectomy at the time such horse is admitted to the grounds of a racing association and its registration or eligibility certificate marked to indicate ~~((such nerving))~~ that a posterior digital neurectomy was performed.

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

**WAC 260-70-730 Postmortem examination.** (1) The commission may require a postmortem examination of any horse that is injured in this jurisdiction while in training or in competition and that subsequently expires or is destroyed. In proceeding with a postmortem examination the commission or its designee shall coordinate with the trainer and/or owner to determine and address any insurance requirements.

(2) ~~The~~ ~~((commission))~~ official veterinarian may require a postmortem examination of any horse that expires while housed on association grounds ~~((or at recognized training facilities))~~ within this jurisdiction. Trainers and owners shall be required to comply with such action as a condition of licensure.

(3) ~~The~~ ~~((commission))~~ official veterinarian may take possession of the horse upon death for postmortem examination. ~~The~~ ~~((commission))~~ official veterinarian may submit blood, urine, other bodily fluid specimens or other tissue specimens collected during a postmortem examination for ~~((testing by the commission selected laboratory or its designee))~~ analysis. Upon completion of the postmortem examination, the remains may be returned to the owner or disposed of at the owner's option.

(4) The presence of a prohibited substance in a ~~((horse, found by the official laboratory or its designee in a bodily fluid))~~ specimen collected during the postmortem examination of a horse ~~((;))~~ may constitute a violation of these rules.

(5) The cost of commission-ordered postmortem examinations, testing and disposal shall be borne by the commission.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 260-70-670 Penalties—Guidelines.
- WAC 260-70-690 Penalty recommendations (in the absence of mitigating circumstances).
- WAC 260-70-700 Penalties relating to permitted medication.

**WSR 05-07-069**

**PERMANENT RULES**

**BELLEVUE COMMUNITY COLLEGE**

[Filed March 14, 2005, 9:27 a.m., effective April 14, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Create chapter 132H-142 WAC to recognize and support the rights of groups and individuals to engage in first amendment activities while simultaneously balancing the needs and interests of the college to fulfill its mission as a state educational institution of Washington. The college's existing facilities use policy was changed to delete references which conflict with the new first amendment policy and a section was added to direct people to the new policy.

Citation of Existing Rules Affected by this Order: Amending chapter 132H-140 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 05-04-061 on January 31, 2005.

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 10, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 10, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 9, 2005.

Debra P. Ross  
Rules Coordinator

PERMANENT

NEW SECTION

**WAC 132H-142-010 Title.** WAC 132H-142-010 through 132H-142-060 shall be known as use of Community College District VIII facilities by college groups and non-college groups for first amendment activities.

NEW SECTION

**WAC 132H-142-015 Definitions.** For the purposes of this policy non-college groups shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of Bellevue Community College or who are not officially affiliated or associated with a recognized student organization or a recognized employee group of the college.

For purposes of this policy, college groups shall mean individuals who are currently enrolled students or current employees of Bellevue Community College or who are affiliated with a recognized student organization or a recognized employee group of the college.

The College is a limited public forum for non-college groups. The limited public forum does not include college buildings or athletic fields. College buildings, rooms, and athletic fields may be rented in accordance with the college's facilities use policy.

NEW SECTION

**WAC 132H-142-020 Statement of purpose.** Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The public character of the college does not grant to individuals an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities for and to which the college's buildings, facilities and grounds are dedicated and said buildings, facilities and grounds are not available for unrestricted use by non-college groups. While said buildings, facilities and grounds are not available for unlimited use by college groups, it is recognized that Bellevue Community College students and employees should be accorded opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The purpose of these time, place and manner regulations is to establish procedures and reasonable controls for the use of college facilities for both non-college and college groups. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of non-college groups or college groups who are interested in using the campus for purposes of constitutionally protected speech, assembly or expression.

NEW SECTION

**WAC 132H-142-030 Request for use of facilities.** Subject to the regulations and requirements of this policy, college or non-college groups may use the campus limited forums for those activities protected by the first amendment. Examples of first amendment activities would include, but not necessarily be limited to, informational picketing, petition circulation, the distribution of information leaflets or

pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, mass protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

Non-college groups that intend to be on campus to engage in first amendment activities (hereinafter "the event") shall provide notice to the campus public safety department no later than forty-eight (48) hours prior to the event along with the following information:

- (1) The name, address and telephone number of the individual, group, entity or organization sponsoring the event (hereinafter "the sponsoring organization"); and
- (2) The name, address and telephone number of a contact person for the sponsoring organization; and
- (3) The date, time and requested location of the event; and
- (4) The nature and purpose of the event; and
- (5) The type of sound amplification devices to be used in connection with the event, if any; and
- (6) The estimated number of people expected to participate in the event.

Signs shall be no larger than three feet by five feet (3' x 5') and no individual may carry more than one sign.

If more than thirty (30) people are expected to participate in the event, the event must be held in the southern courtyard, just north of the Carlson Theater.

The use of sound amplification devices is limited to the limited public forum area as long as the sound amplification device is used at a volume which does not disrupt or disturb the normal use of classrooms, offices or laboratories or any previously scheduled college event or activity.

College groups are encouraged to notify the campus public safety department no later than 48 hours in advance of an event. However, unscheduled events are permitted so long as the event does not interfere with any other function occurring at the facility.

College group events shall not last longer than eight hours from beginning to end. Non-college events shall not last longer than five hours from beginning to end.

Information may be distributed as long as it is not obscene or libelous or does not advocate unlawful conduct. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information. To avoid excessive littering of the campus and/or greatly increased work requirements for college physical plant employees, groups are asked to cooperate with the college in limiting the distribution of information leaflets or pamphlets to the limited public forum site.

Speech that does no more than propose a commercial transaction shall not occur in connection with the event.

The limited public forum used by the group should be cleaned up and left in its original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary clean-up or for the repair of damaged property.

All fire, safety, sanitation or special regulations specified for the event are to be obeyed.



The college cannot and will not provide utility connections or hook-ups for purposes of first amendment activities conducted pursuant to this policy.

The event must not obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events.

The event must not create safety hazards or pose unreasonable safety risks to college students, employees or invitees to the college.

The event must not interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students.

The event must not materially infringe on the rights and privileges of college students, employees or invitees to the college.

The event must also be in accordance with any other applicable college policies and regulations, regulations and policies of Bellevue Community College, local ordinances and/or state or federal laws.

#### NEW SECTION

**WAC 132H-142-040 Additional requirements for non-college groups.** The limited public forum may not be used on the same date as any previously scheduled college event or activity at the site (aside from regularly scheduled classes) where it is reasonably anticipated that more than five hundred (500) people will attend the college event or activity.

#### NEW SECTION

**WAC 132H-142-050 The role of the president in first amendment decisions.** The president of the college may authorize first amendment activities which are reasonably determined not to cause disruption of college activities despite a literal violation of this policy statement. Such determinations shall be made without consideration of the content or message of the first amendment activities.

The president of the college or designee may at any time, terminate, cancel or prohibit the event if it is determined, after proper inquiry, that the event does constitute or will constitute a clear and present danger to the college's orderly operation.

#### NEW SECTION

**WAC 132H-142-060 Criminal trespass.** Any person determined to be violating these regulations is subject to an order from the college public safety department to leave the college campus. Persons failing to comply with such an order to leave the college campus are subject to arrest for criminal trespass.

#### NEW SECTION

**WAC 132H-142-070 Posting of a bond and hold harmless statement.** When using college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college

against cost or other liability in accordance with the college's facility use policy.

When the college grants permission to a college group or non-college group to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

#### NEW SECTION

**WAC 132H-142-080 First amendment activities and protection of the college mission.** The college recognizes and supports the rights of groups and individuals to engage in first amendment activities. This policy shall be interpreted and construed to support such activities while simultaneously balancing the needs and interests of the college to fulfill its mission as a state educational institution of Washington.

AMENDATORY SECTION (Amending Order 80, Resolution No. 149, filed 5/12/82)

**WAC 132H-140-010 Title.** WAC 132H-140-010 through 132H-140-110 will be known as facility usage for other than first amendment activities for Community College District VIII.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02, effective 7/21/02)

**WAC 132H-140-020 Statement of purpose.** Bellevue Community College District VIII is an educational institution provided and maintained by the people of the state of Washington. The college reserves its facilities, buildings and grounds for those activities ~~((that))~~ ~~((which))~~ that are related to its broad educational mission. At other times, the college facilities may be made available to other individuals and organizations.

The purpose of these regulations is to establish procedures and reasonable controls for the use of college facilities for ~~((noncollege))~~ non-college groups and for college groups where applicable.

In keeping with this general purpose, and consistent with RCW 28B.50.140(7) and 28B.50.140(9), facilities should be available for a variety of uses which are of benefit to the general public if such general uses substantially relate to and do no interfere with the mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, or public service programs.

Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Such arrangements by both organizations and individuals must be made through campus operations.

NEW SECTION

**WAC 132H-140-025 Facilities use for first amendment activities.** Use of the campus for first amendment activities, as defined by law, is governed by the rules set forth in chapter WAC 132H-142-010 through WAC 132H-142-060. This chapter does not apply to those individuals or groups using the college facilities for first amendment activities.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

**WAC 132H-140-030 Request for use of facilities.** Requests by ~~((nonecollege))~~ non-college groups for utilization of college facilities shall be made to the director of campus operations or a designee, who shall be the agent of the college in consummating rental and use agreements.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

**WAC 132H-140-050 Scheduling and reservation practices.** The primary purpose of college facilities is to serve the instructional program of the college. However, the facilities, when not required for scheduled college use, may be available for rental by the public in accordance with current fee schedules and other relevant terms and conditions for such use.

No college facilities may be used by individuals or groups from outside the college unless the facilities including buildings, equipment and facilities land have been reserved.

In determining whether to accept a request for the use of college facilities, the administration shall use the college mission statement and the following items, listed in priority order, as guidelines:

- (1) Bellevue Community College scheduled programs and activities.
- (2) Major college events.
- (3) Foundation related events.
- (4) ~~((Nonecollege))~~ Non-college (outside individual or organization) events.

Arrangements for use of college facilities must be made through the campus operations office.

AMENDATORY SECTION (Amending WSR 02-14-007, filed 6/20/02)

**WAC 132H-140-065 Limitations and denial of use.** Bellevue Community College is a state agency and exists to serve the public. However, the college may deny use of its facilities to any individual, group or organization if the requested use would

- (1) Interfere or conflict with the college's instructional, student services or support programs;
- (2) Interfere with the free flow of pedestrian or vehicular traffic on campus;
- (3) Involve illegal activity;
- (4) Create a hazard or result in damage to college facilities; or

(5) Create undue stress on college resources (e.g., a request for a major event may be denied if another major event is already scheduled for the same time period, because of demands for parking, security coverage, etc.).

Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities), groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff concerning use of the facilities.

No person or group may use or enter onto college grounds or facilities having in their possession firearms or other dangerous weapons, even if licensed to do so, except commissioned police officers as prescribed by law.

College facilities may be used for purposes of political campaigning by or for candidates who have filed for public office, directed to members of the public, only when the full rental cost of the facility is paid. Use of state funds to pay for facility rental costs for political campaigns is prohibited. ~~((No person may solicit contributions on college property for political uses, except where this limitation conflicts with federal law regarding interference with the mails.))~~

~~((Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises when such premises are open to public use. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits. While peaceful dissent is acceptable, violence or disruptive behavior is not a legitimate means of dissent. If any person, group, or organization attempts to resolve differences by means of violence, the college retains the right to take steps to protect the safety of individuals, the continuity of the educational process, and the property of the state.))~~

If at any time actual use of college facilities by an individual or group constitutes an unreasonable disruption of the normal operation of the college, such use shall immediately terminate, all persons engaged in such use shall immediately vacate the premises, and leave the college property upon command of the appropriate college official.

Advertising or promotional materials for any event being held in a college facility must follow the same procedure as applies to students outlined in WAC 132H-120-050.

Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs.

BCC facilities may not be used for private or commercial purposes unless such activities clearly serve the educational

mission of the college, are either sponsored by an appropriate college unit or conducted by contractual agreement with the college. Commercial uses may also be made as noted in WAC 132H-133-050.

Alcoholic beverages will not be served without the approval of the president or his/her designee. It shall be the responsibility of the event sponsor to obtain all necessary licenses from the Washington State Liquor Control Board and adhere to their regulations, and those of Bellevue Community College.

**WSR 05-07-080**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed March 15, 2005, 3:38 p.m., effective April 15, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: By this rule-making order, the department is adopting amendments to WAC 16-237-195 Fees for warehouse audit and related services, that:

- Establish a fee for services performed by the department when conducting special year-end inventories requested by licensed warehouse operators; and
- Increase, beyond the Office of Financial Management fiscal growth rate factor, the fees charged by the department for all services (except conducting special year-end inventories) performed by the Washington State Department of Agriculture warehouse audit program. These services include, but are not limited to special technical assisted audits of records and inventories, observation of sampling of commodities, collection of samples for Karnal Bunt, and remeasurement of commodities and storage bins.

Citation of Existing Rules Affected by this Order: Amending WAC 16-237-195.

Statutory Authority for Adoption: Chapter 25, Laws of 2003 1st sp.s. and chapter 22.09 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-01-231 on December 22, 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 15, 2005.

Valoria H. Loveland  
Director

AMENDATORY SECTION (Amending WSR 00-21-043, filed 10/13/00, effective 11/13/00)

**WAC 16-237-195 Fees for warehouse audit and related services.** ((These)) The following fees ((shall be applied)) apply to the following services:

(1) ~~((Measurement of new or additional storage including outside grain storage that requires a second and/or additional inspection or measurement, per hour . . . . . \$ 23.00~~

~~((2) Special year end audits that require remeasurement at the request of the warehouse operator, per hour . . . . . \$ 23.00~~

~~((3) Commodity Credit Corporation samples may be drawn by department personnel at the rate established by the grain inspection program.~~

~~((4) Appropriate overtime charges, mileage, and travel charges incurred by department personnel shall be assessed.))~~ For year-end inventories requested by a warehouse operator, the department charges the following:

<u>A fee of:</u>	<u>If requested:</u>
<u>(a) 10% of the warehouse license fee</u>	<u>By July 30th of each year</u>
<u>(b) 15% of the warehouse license fee</u>	<u>After July 30 of each year</u>

((2)(a) The hourly rate for all other services performed by the warehouse audit program at the request of warehouse operators, grain dealers and/or other government agencies is \$33.00 per hour.

((b) These services include, but are not limited to, technical assisted audits of records and inventory, observation of sampling of commodities, collection of samples for the Karnal Bunt Survey, and remeasurement of commodities and storage bins.

((3) In addition to the hourly rate established in subsection (2)(a) of this section, the department assesses appropriate charges for overtime, mileage, meals, and lodging expenses incurred by department personnel when providing the types of services identified in subsection (2)(b) of this section.

**WSR 05-07-087**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 16, 2005, 4:40 p.m., effective April 16, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Correction of a typographical error in WAC 388-14A-4304(1).

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-4304.

Statutory Authority for Adoption: RCW 26.19.080, 34.05.220, 74.08.090, 74.20A.310.

PERMANENT

Adopted under notice filed as WSR 05-02-019 on December 27, 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 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.

Date Adopted: March 15, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

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

**WAC 388-14A-4304 What happens if the judge determines that I have paid too much for day care and special expenses?** (1) If at a hearing under WAC 388-14A-4303, the administrative (~~lay~~) law judge (ALJ) decides that the custodial parent (CP) has not incurred costs in the amount paid by the noncustodial parent (NCP), any ordered overpayment reimbursement may be applied as an offset to any non-assistance child support arrears owed by the NCP on that case only. If there is no nonassistance debt owed on the case, the reimbursement must be in the form of a credit against the NCP's future child support obligation:

(a) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(b) When the future support obligation will end under the terms of the order in less than twelve months, spread equally over the life of the order; or

(c) With the consent of the CP, in the form of a direct reimbursement by the CP to the NCP.

(2) The NCP may not pay more than his or her proportionate share of day care or other special child rearing expenses in advance and then deduct the overpayment from future support transfer payments unless:

(a) Specifically agreed to by the CP; and

(b) Specifically agreed to in writing by DCS for periods when the CP or the dependent child receives public assistance.

WSR 05-07-091

PERMANENT RULES

OFFICE OF  
INSURANCE COMMISSIONER

[Insurance Matter No. R 2004-04—Filed March 17, 2005, 11:14 a.m., effective April 17, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These new regulations update the current continuing education regulations to accommodate changes in the delivery of continuing education, changes in insurance laws and practices and update curriculum requirements and procedures.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-17-235 and 284-17-275; and amending WAC 284-17-200, 284-17-210, 284-17-220, 284-17-230, 284-17-240, 284-17-250, 284-17-260, 284-17-270, 284-17-280, 284-17-290, 284-17-310, and 284-17-320.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150, 48.17.563, 48.85.040.

Adopted under notice filed as WSR 05-03-110 on January 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-17-220, "solicitors" was added to both sentences.

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 36, Amended 12, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 17, 2005.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-200 ((Purpose)) What is the purpose of the continuing education regulation?** The purpose of ~~((this regulation))~~ WAC 284-17-200 through 284-17-320 is to implement the provisions of RCW 48.17.150 ~~((, promoting licensee competence, by establishing))~~. This regulation establishes the minimum continuing education requirements that must be met prior to the renewal of an insurance agent, solicitor or broker license, and ~~((by specifying))~~ specifies minimum criteria ~~((which))~~ that must be met in order to qualify insurance courses for approval.

**AMENDATORY SECTION** (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-210 ((Definitions)) What definitions are important throughout this chapter?** As used in this continuing education regulation, unless the context requires otherwise:

((1) "Provider" means "insurance education provider" as defined in section 2, chapter 323, Laws of 1989.

(2) "Approved course" includes courses, programs of instructions, correspondence courses and seminars.

(3) "Licensee" means each natural person licensed as a resident insurance agent, solicitor or broker to sell life, disability, property, or casualty insurance. An individual holding a limited license to sell credit life and disability insurance, or travel insurance, or holding a license to sell only vehicle insurance or surety insurance, need not satisfy the continuing education requirement.

(4) "Credit hours" means the value assigned to a course by the commissioner, upon review and approval of course materials and content outline.

The number of credit hours assigned to a course will normally be based upon the number of classroom contact hours or their equivalent. However, based upon the evaluation of the course content, the number of credit hours assigned may be less than the total amount of time spent by the licensee in the course.

For college-level work entirely on approved subjects:

(a) Twelve credit hours will be assigned for each quarter "credit hour."

(b) Sixteen credit hours will be assigned for each semester "credit hour."

(5) "Certificate of completion" means a document signed by the course instructor or other responsible officer of the provider signifying satisfactory completion of the course and reflecting credit hours earned. Such certificate shall be in standard form, completed in its entirety, and containing such identifying information as is prescribed by the insurance commissioner.) (1) "Approved course" means an educational insurance related program including correspondence courses and seminars that have been approved by OIC.

(2) "Credit hours" means the value assigned to a course by the OIC.

(3) "Certificate of completion" means a document signed by the course instructor or other responsible officer of the provider signifying satisfactory completion of the course and reflecting credit hours earned. The certificate shall be in standard format, completed in its entirety, and containing such identifying information as is prescribed by the OIC.

(4) "Course number" means the identifying number assigned by OIC for an approved course.

(5) "Course outline" includes summary content and the time allotted by topic.

(6) "Days" means calendar days including Saturday and Sunday.

(7) "Designation course" includes professional studies taken to achieve nationally recognized professional distinctions.

(8) "Instructor" means an individual knowledgeable in topic(s) of discussion.

(9) "Licensee" means an individual licensed under Title 48 RCW, as a resident insurance agent, solicitor or broker to sell life, disability, property, casualty or vehicle insurance. An individual holding a limited license to sell credit life and disability insurance, or travel insurance, or holding a license to sell surety insurance, need not satisfy the continuing education requirement.

(10) "Long-term care (LTC) special education" means education required by individual resident and nonresident agents and brokers prior to transacting long-term care insurance.

(11) "Long-term care (LTC) special education refresher course" means a condensed version of the LTC special education course.

(12) "Monitor" is an individual responsible for verifying class attendance and course content completion.

(13) "Override commission" means compensation received for the sale of insurance by a licensee who is not directly involved with a consumer.

(14) "OIC" means the Washington state office of insurance commissioner.

(15) "Provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school or independent contractor to which the OIC has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of resident individual agents and brokers.

(16) "Provider number" is the identifying number assigned by OIC to an approved provider of insurance education.

(17) "Refresher LTC special education" means a condensed version of the LTC special education course.

(18) "Reinstatement" means the reissuance of a license that has expired more than sixty days but less than two years from the expiration date of the previous license.

(19) "Request for approval" is a submission of information required for approval of a provider and course.

(20) "Resident" means a licensee who resides in Washington state.

(21) "Roster" is a course attendance record or course purchase and completion record maintained by the provider.

(22) "Schedule" means written notification of when a course will be offered.

(23) "Self-study" means a method of study independent of a classroom setting.

(24) "Surety" insurance includes credit insurance, bail bonds, fidelity, insurance contract performance guarantees, bonds, guarantee undertakings, and contracts of suretyship, and indemnification of banks, bankers, brokers, financial or moneyed corporations or associations against certain losses enumerated in RCW 48.11.080(5).

(25) "Transacting" means solicitation, negotiations preliminary to execution, execution of an insurance contract, transaction of matters subsequent to execution of the contract and arising out of it and insuring.

(26) "Vehicle insurance" includes insurance against loss or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or

being loaded or unloaded therefrom, and against any liability resulting from or incident to ownership.

(27) "Waiver" means an OIC approved exemption from the continuing education requirement.

## LICENSEES

AMENDATORY SECTION (Amending Matter No. R 98-9, filed 5/20/98, effective 6/20/98)

~~WAC 284-17-220 ((Continuing education requirement.)) Who is required to meet continuing education (CE) requirements? ((1) Twenty four credit hours of approved continuing education must be presented as a prerequisite to each license renewal or reinstatement.~~

~~(2)(a) Effective July 1, 1996, the number of required continuing education credit hours will be increased from twenty four to thirty two hours for each two year licensing period.~~

~~(b)(i) Resident and nonresident licensees engaged in the transaction of long term care insurance, long term care partnership insurance, or both, are required to take an approved six hour course on long term care, long term care partnership, or both, every two years. The commissioner shall prescribe the content of the course. Each course shall be approved by the commissioner in advance.~~

~~(ii) Effective January 1, 1998, a resident or nonresident licensee shall not submit an application for a long term care or long term care partnership policy to an issuer unless he or she has completed the approved course.~~

~~(iii) The approved six hour course may count towards the thirty two required continuing education credit hours set forth in (a) of this subsection.~~

~~(iv) An issuer of long term care or long term care partnership policies shall annually certify to the commissioner that:~~

~~(A) Its affiliated resident and nonresident licensees involved in the transaction of long term care or long term care partnership policies have completed the approved six hour course requirement every two years; and~~

~~(B) The issuer has only accepted applications from resident and nonresident licensees in compliance with the provisions of (b)(i) of this subsection.~~

~~The certification shall be filed with the commissioner on or before March 31 of each year.~~

~~(c) Each course credit applied toward satisfaction of the continuing education requirement must have been completed within the twenty four month period immediately preceding the licensee's assigned license renewal date and the credit may not have been used previously to comply with the continuing education requirement.~~

~~(3) The course participated in and for which credit is received shall be reported to the commissioner as part of the application for license renewal and shall be subject to verification by audit.~~

~~(4) An approved course for which the licensee has previously claimed credit may be repeated for credit after a period of three years from the previous completion date.~~

~~(5) The licensee must retain the certificate of completion for three years from the date on the certificate and must~~

~~present the original of such certificate upon request of or audit by the commissioner.) All individual resident agents, brokers and solicitors licensed to sell life, disability, property and casualty lines of insurance must meet the continuing education requirement.~~

Individual agents and solicitors licensed to sell vehicle insurance must meet the continuing education requirement beginning with January 1, 2007, renewals.

## NEW SECTION

**WAC 284-17-222 Who is exempt from the continuing education requirements?** All individual resident agents licensed under chapter 48.17 RCW to sell credit life and disability, credit casualty, travel, and surety lines of insurance are exempt from the continuing education requirement. Resident adjusters are exempt from the continuing education requirement.

## NEW SECTION

**WAC 284-17-224 How many continuing education credits do I need?** Currently you are required to complete thirty-two hours of approved continuing education for each license renewal cycle. Effective January 1, 2006, you will be required to complete twenty-four hours of approved continuing education, including three hours of ethics education.

## NEW SECTION

**WAC 284-17-226 What is required as proof of completion of a course?** The course provider will issue you a certificate of completion within fifteen days of completion of the course. For designation courses the passing grade report will be accepted in lieu of a certificate of completion.

## NEW SECTION

**WAC 284-17-228 What is required for a self-study course?** The completion date for a self-study course must be reasonable in relation to the purchase date to allow for adequate time for course completion. For example, if a course is approved for twenty-four hours of continuing education credit, there must be at least three days difference between the course purchase and the completion dates. This information will be verified on the continuing education certificate issued for the course completion. It is assumed that no more than eight course hours can be completed in a single twenty-four hour period.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

~~WAC 284-17-230 ((Eligible courses—Advance approval required.)) May I take any approved continuing education course? ((1) Courses eligible for approval to satisfy the continuing education requirement are those courses demonstrating a direct and specific application to insurance.~~

~~(a) General education courses and sales motivation courses shall not be eligible for approval.~~

(b) Courses shall present accurately all statutory and regulatory requirements then applicable or published by the code reviser at the time the course is offered.

(2) All courses must be approved prior to the beginning of study in order to be applied toward the satisfaction of the continuing education requirement.

(3) Approval of the course is valid for the provider that originally submitted the course to the commissioner, and is not transferable to any other entity.

(4) The commissioner shall assign an identifying certification number to each approved course. The certification number shall be listed on each certificate of completion issued by the provider.

(5) The provider shall issue a certificate of completion to each licensee who has satisfactorily completed the course, within fifteen days after completion or within fifteen days of the date the course was approved by the commissioner, whichever event is later. Yes, the only required subject is three hours of ethics per renewal period.

**NEW SECTION**

**WAC 284-17-232** When must I meet the continuing education requirement? If you are a resident individual licensee with the lines of authority of life, disability, property, casualty or vehicle, you must complete the continuing education requirement as a prerequisite to renewing your license(s). Courses must be completed within the twenty-four months prior to the month of the renewal or reinstatement.

**NEW SECTION**

**WAC 284-17-234** What happens if I am late renewing my license? If your renewal is late, you cannot act under the license until your renewal is processed. Late fees are as follows:

Days late	Surcharge
1 - 30	50% of fee
31 - 60	100% of fee

After sixty days from your expiration date, your license and all associated appointments and affiliations are terminated.

If your request and fee for license renewal is not received by the expiration date, your authority conferred by the license ends on the expiration date.

**NEW SECTION**

**WAC 284-17-236** What happens if my renewal is received prior to expiration but is incomplete due to the submission of an invalid course(s), an incorrect fee or noncompletion of the renewal notice? If your request and fee for license renewal is not received by the expiration date, your authority conferred by the license ends on the expiration date. If your request and fee for license renewal is received by the expiration date, you may continue to act under your license until the issuance of the renewed license or until the

expiration of fifteen calendar days after you were notified that your request for renewal has been refused.

**NEW SECTION**

**WAC 284-17-238** What happens if I do not meet the continuing education requirement? If the continuing education requirement is not met, your license expires and is no longer valid. All appointments and affiliations will be canceled.

**AMENDATORY SECTION** (Amending Order R 80-3, filed 3/20/80)

**WAC 284-17-240** ~~((Courses specifically approved.))~~ Can I reinstate my license? ~~((1))~~ The following courses are approved as they exist on the date this regulation is adopted, for the credit hours stated:

(a) Any part of the life underwriter training council life course curriculum (50 hours credit) or health course curriculum (25 hours credit).

(b) Any part of the American College "CLU" diploma curriculum (30 hours credit), and its advanced study programs; Chartered Life Underwriter Institutes conducted by the American Society of CLU.

(c) Any part of the Insurance Institute of America's program of insurance (20 hours credit).

(d) Any part of the American Institute for Property and Liability Underwriter's Chartered Property-Casualty Underwriter (CPCU) professional designation program (30 hours credit).

(e) Any part of the certified insurance counselor program (25 hours credit).

(f) Insurance related courses taught by a college or university that is accredited by the Northwest Association of Schools and Colleges, for which credit is granted.

(2) Changes in the above identified courses shall be presumed to be approved by the commissioner unless the sponsoring organization is advised of disapproval.

(3) Programs for which credit hours are not shown shall receive such credit hours as are approved by the commissioner. (1) Yes, you may reinstate your license without retesting if no more than two years has passed since your license expired or was canceled. To reinstate you must submit the following:

(a) An application (INS-14) or your last renewal notice;

(b) Continuing education certificates for twenty-four hours of continuing education;

(c) Either an appointment or affiliation (INS-18); and

(d) The appropriate fee.

(2) After two years, you will have to take prelicensing education, and a license exam and submit a new application complete with a fingerprint card and the requisite fees.

**NEW SECTION**

**WAC 284-17-242** How long do I have to keep the course completion certificates? You must keep the original certificates for at least three years.

PERMANENT

NEW SECTION

**WAC 284-17-244 How do I request individual approval for my attendance of an insurance related course that is not already approved?** You may attend and request credit for completion of an insurance related course organized and conducted by an entity that is not already approved as a provider. The OIC will make an informed determination as to the educational value of the course. You must submit the following:

- (1) Proof of attendance by signature of the instructor(s) or person in charge verifying licensee's attendance;
- (2) Sufficient supporting materials regarding course content; and
- (3) Credit hours sought.

NEW SECTION

**WAC 284-17-246 Can I get continuing education credit for attending an insurance related college course?** Yes, continuing education credits are granted for college level courses on approved subjects by submitting a transcript showing completion of the course. Hours are determined as follows:

- (1) Twelve hours will be assigned for each college quarter credit hour.
- (2) Sixteen hours will be assigned for each college semester credit hour.

NEW SECTION

**WAC 284-17-248 How long are my certificates of completion valid?** Certificates of completion are valid for twenty-four months from the course completion date.

AMENDATORY SECTION (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

**WAC 284-17-250 ((Courses conducted by self certifying organizations.)) Can I repeat a continuing education course?** ((1) Insurance companies, insurance trade associations and statewide associations of agents or brokers that have an existing formal, and demonstrable, training program may become self-certifying organizations. Upon request to and approval by the commissioner, such self-certifying organizations are authorized to develop course content and conduct approved courses on the subjects that are the organization's focus, without the requirement for prior individual course review and approval by the commissioner.

(2) Local chapters of each self-certifying statewide association of agents or brokers may submit proposed courses to the statewide organization and, upon a determination by the statewide organization that the local chapter's course meets the standards of the organization and complies with this continuing education regulation, such local chapter's course shall be considered to be a course of the statewide association of agents or brokers and shall be presumed to be approved by the commissioner.

(3) Requests for training program review, and authority to develop course content and to conduct courses without

prior individual course approval, must include the following information:

- (a) The name of the organization.
- (b) A description of the existing training program of the organization including:
  - (i) The titles and descriptions of courses taught during the previous year.
  - (ii) The number of licensees taught, by course, during the previous year.
  - (iii) The name of the person in charge of the training program and a description of her or his experience, including years of full-time training experience and years with past and present organizations.
  - (iv) Budget of the training program for the current year.
  - (e) A description of the manner in which courses will be developed to comply with the continuing education regulation and reviewed prior to course conduct.
  - (d) A statement by the responsible employee or officer of the organization agreeing to comply with regulations in developing courses and attributing credit hours to those courses.
  - (e) An agreement to provide a certificate of completion, showing credit hours earned, to each successful student.
  - (f) An agreement to maintain records of licensees' course completions for three years.
  - (g) Any catalogue, brochure, or other similar publication applying to the continuing education requirement.
  - (4) The grant of authority to an organization to develop course content and conduct courses without prior individual course approval shall be for a period of time not to exceed two years. Approvals may be renewed by the commissioner, upon the request of any self-certifying organization that has complied with statutes and regulations governing insurance education. The actual conduct and performance of the training program shall be subject to review by the commissioner.
  - (5) Organizations that have been authorized to develop course content and conduct courses without prior individual course approval shall file, within ten calendar days of the date any course is first presented, a course outline for each course with the commissioner. The course outline shall include:
    - (a) A description of the subject matter to be taught.
    - (b) The method of teaching or presentation.
    - (c) The number of classroom contact hours.
    - (d) An explanation of the criteria to be applied in determining whether the course is satisfactorily completed.
    - (e) The number of continuing education credit hours assigned to each course.
    - (f) Other relevant information.
    - (6) The self-certifying organization shall apply to the commissioner for a certification number for the course; such number shall appear on each certificate of completion issued to each licensee who successfully completes the course.
    - (7) Assignment of continuing education credit hours to courses, by self-certifying organizations, shall be subject to review and revision by the commissioner as necessary to ensure consistency in the number of credit hours assigned to comparable courses.) Yes, you can repeat a course with the same course number after three years from the previous completion date.

PERMANENT



**NEW SECTION**

**WAC 284-17-252** If I have excess hours (hours that exceed the minimum required for license renewal), can I carry them over to my next license renewal? No, excess hours cannot be carried over to the next license renewal.

**NEW SECTION**

**WAC 284-17-254** How can I be granted a waiver of the continuing education requirements? If you believe good cause exists, you may request a waiver of the continuing education requirement. Requests must be in writing at time of renewal of your license and specify in detail the reason why you believe a waiver is merited.

(1) Retirement waiver. If your request for a waiver is based upon your retirement, your request must be accompanied by a statement attesting that:

- (a) You are least sixty-five years of age;
- (b) You are retired from selling insurance products; and
- (c) You no longer represent any insurer either directly or through an affiliation with a business entity.

(2) Medical waiver. If your request for a waiver is based upon a medical condition, your request must be accompanied by a physician's statement of your illness or injury.

(3) Military waiver. If your request for a waiver is based upon activation to military service, your request must be accompanied by a copy of the "Letter of Mobilization" and your representative's (the individual given power-of-attorney by the licensee) name and address so that your license renewal notice can be sent to your representative. Your representative must sign the renewal. The renewal and fees must be returned to the OIC. The OIC may waive the continuing education requirement for renewal of your license for the duration of active military service.

A waiver is only valid up to two years from the licensee's regular license renewal date.

**NEW SECTION**

**WAC 284-17-256** If I instruct a class, how many approved credits will I receive? You will receive twice the amount of approved credits if you instruct the entire course.

**LONG-TERM CARE (LTC) SPECIAL EDUCATION****NEW SECTION**

**WAC 284-17-258** What is the long-term care (LTC) special education requirement? Resident and nonresident agents engaged in the transaction of LTC insurance or long-term care partnership (LTCP) insurance are required to take an approved six-hour course on LTC or LTCP before soliciting, selling, or otherwise transacting these types of insurance business as to such products with consumers. The four-hour refresher LTC special education course must be taken every two-year renewal period subsequent to the initial six-hour course. The OIC prescribes the content of the course. Each course must be approved by the OIC in advance.

This requirement does not apply to licensees receiving override commissions on LTC transactions if the licensee has had no contact with the consumer.

**AMENDATORY SECTION** (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

**WAC 284-17-260** (~~Courses individually approved.~~) **Who is required to complete the LTC special education requirement?** (~~Organizations or individuals not included in WAC 284-17-240 or 284-17-250 wanting to offer approved continuing education courses may submit their request(s) for individual course approval to the commissioner.~~

~~(1) Such requests for course approval must be submitted on forms prescribed by the commissioner.~~

~~(2) The request for course approval shall include:~~

~~(a) A copy of the course material that is requested to be approved.~~

~~(b) An explanation of the method of teaching or presentation.~~

~~(c) The number of classroom contact hours.~~

~~(d) An explanation of the criteria to be applied in determining whether the course is satisfactorily completed.~~

~~(e) The number of continuing education credit hours for which approval is requested; and an estimate of the number of times the proposed course is to be offered.~~

~~(f) An agreement to provide a certificate of completion showing credits earned, to each successful licensee; and to retain, for a minimum period of three years, records of all certificates issued.~~

~~(g) An agreement by the responsible official to comply with regulations in conducting courses.~~

~~(3) A specific determination of course approval and assignment of credit hours will be made by the commissioner in accordance with the terms of WAC 284-17-230. No course for which individual course approval is required may be represented as being approved prior to actual approval. Approval of an individual course is valid for a maximum period of twenty-four months from the original approval date.) **Both resident and nonresident agents who transact LTC business must complete the six-hour LTC special education course and must complete the four-hour refresher course per renewal period.**~~

**NEW SECTION**

**WAC 284-17-262** Who must certify completion of the LTC special education and when is the certification due? Each insurer that has approved LTC policies must certify yearly that all agents have completed the LTC special education prior to selling the LTC product. This certification is to be delivered to the OIC yearly on or before March 31st.

**NEW SECTION**

**WAC 284-17-264** May I use the LTC special education course for continuing education? If you are a resident agent and you take an LTC special education course that has also been approved for continuing education, you may use the hours toward your required twenty-four hours.

PERMANENT

**PROVIDER**

**AMENDATORY SECTION** (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-270** (~~Credit for courses.~~) **How do I become a provider?** (~~(1) No course shall be established for less than one continuing education credit. Courses conducted in conjunction with other nonqualifying activities or subject matter must have a separate continuing education course component in order to qualify the courses for approval.~~

~~(2) The provider of a course must maintain a positive attendance record, consisting of a sign-in/sign-out register, in order to qualify the course for continuing education credit. The provider must retain such registers, or any other evidence of satisfactory completion, for a period of three years from the date of completion.~~

~~(3) The instructor of an approved course shall receive twice the number of credit hours for teaching a course as is earned by a licensee completing the course. Such instructor may not, however, claim continuing education credit for completing or teaching a course for which he or she has previously claimed credit.)~~ **To become a continuing education provider, you must meet the standard as required in RCW 48.17.563(1) and complete the provider application (form CEPROVIDER), available on the OIC website or upon request from the OIC.**

**NEW SECTION**

**WAC 284-17-272** **What are the responsibilities of an approved provider?** An approved provider is responsible for:

- (1) Providing the OIC with the name of a contact person who is the responsible person for the provider;
- (2) Hiring and supervising instructors who are trustworthy, competent, and knowledgeable;
- (3) Providing adequate supervision over instructors;
- (4) Notifying, in a format as required by OIC, the OIC with a course schedule at least ten calendar days prior to the course date;
- (5) Identifying a monitor, an individual who is responsible for verification of class attendance and course content completion;
- (6) Maintaining a roster, consisting of a sign-in/sign-out register for lecture courses;
- (7) Maintaining a purchase and completion roster for self-study courses;
- (8) Filing the roster in a format as required by OIC, within ten days;
- (9) Issuing course completion certificates within fifteen days of completion of course;
- (10) Maintaining records for a period of three years from completion date of the course.

**NEW SECTION**

**WAC 284-17-274** **Is there a fee to become an approved provider or for course approval?** No fee is required to become a provider or for the approval of a course.

**NEW SECTION**

**WAC 284-17-276** **Will I be issued a provider number?** Yes. You will be given a provider number that must be included on all certificates of completion.

**NEW SECTION**

**WAC 284-17-278** **How do I get a course approved?** You must submit a request for approval to the OIC prior to offering the course. This request must include the following:

- (1) Lecture (classroom);
  - (a) Completed course approval request form;
  - (b) Content outline which includes topics and time;
  - (c) Biography or resume of instructor;
  - (d) Date(s) that course is to be offered.
- (2) Self-study;
  - (a) Completed course approval request form;
  - (b) Study material;
  - (c) Sample exams.

**AMENDATORY SECTION** (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-280** (~~Approved courses or self-certifying organizations—Loss of approval.~~) **What courses are eligible for approval?** (1) (~~The approval of a course, or of a self-certifying organization, may be suspended or revoked if the commissioner determines that:~~

~~(a) The content of an individually approved course was significantly changed without notice to and approval from the commissioner.~~

~~(b) A certificate of completion was issued to any individual who did not complete the course.~~

~~(c) A certificate of completion was not issued to any individual who satisfactorily completed the course.~~

~~(d) The actual instruction of the course is determined by the commissioner to be inadequate.~~

~~(e) In the commissioner's discretion, the course or courses offered by a self-certifying organization fail to meet the objectives and requirements of the statutes and regulations requiring continuing education for insurance agents and brokers.~~

~~(f) The provider failed to comply with the commissioner's request for submissions of updated descriptions of any course offerings; or records, course materials, or audit information were not provided within fifteen days of the commissioner's request.~~

~~(g) The provider, or any of its employees or contractors involved in insurance education, has violated insurance laws including, but not limited to the regulations contained in this chapter.~~

~~(2) If the commissioner finds under this chapter, that disciplinary action against any provider is appropriate, the commissioner may exercise the discretion to suspend or revoke all approvals of that provider's concurrent offerings, and refuse to approve submissions of previously approved courses.~~

~~(3) Reinstatement of a suspended or revoked approval shall be at the discretion of the commissioner after receipt of satisfactory proof that the conditions responsible for the sus-~~

~~pension have been corrected.))~~ Courses eligible for approval to satisfy the continuing education requirement are:

(a) Courses demonstrating a direct and specific application to insurance; and

(b) Courses presenting information relevant to insurance related statutory and regulatory requirements.

(2) General education, sales, motivation, management, leadership, automation, and prelicense training courses are not eligible for approval, unless the provider can demonstrate that a substantial portion of the course relates to the business of insurance and is not solely focused on an individual insurer's product.

#### NEW SECTION

**WAC 284-17-282 Will I be issued a course number?** Yes, you will be issued a course number at the time of approval of the course. This number must be included on all certificates of completion for that course.

#### NEW SECTION

**WAC 284-17-284 What courses are specifically approved? (Designation courses.)** (1) The following courses are approved for the maximum number of hours required per renewal period:

(a) Any part of the American College Life Underwriting Training Council (LUTC) designation program.

(b) Any part of the American College Chartered Life Underwriter (CLU) designation program and advanced study programs.

(c) Any part of the Insurance Institute of America's program of insurance.

(d) Any part of the American Institute for Chartered Property Casualty Underwriter (CPCU) designation program.

(e) Any part of the Certified Insurance Counselor (CIC) program.

(f) Any part of the Health Insurance Association of America (HIAA) designation program.

(g) Any part of the Certified Employee Benefit Specialist (CEBS) designation program.

(h) Any part of the Life Office Management Association (FLMI) designation program.

Changes in the above identified courses are presumed to be approved by the OIC unless the sponsoring organization is advised of disapproval.

(2) The OIC may approve additional designation courses of similar substance.

#### NEW SECTION

**WAC 284-17-286 How are credit hours assigned to a course?** The number of credit hours assigned to a course will normally be based upon the number of classroom hours or their equivalent for self-study correspondence courses. However, the number of credit hours assigned may be less than the total amount of time spent by the licensee in the course, based upon an evaluation of the course content. No course will be approved for less than one hour of continuing education credit.

#### NEW SECTION

**WAC 284-17-288 What attendance records must the provider maintain?** The provider of a course must maintain an attendance record. This would consist of a sign-in/sign-out register for lecture courses and purchase and completion records for self-study courses.

**AMENDATORY SECTION** (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

**WAC 284-17-290** ~~((Waiver of continuing education requirement.))~~ How long must the provider maintain the attendance or purchase and completion records? ~~(((1) Any licensee who believes that good cause exists, may request a waiver of the continuing education requirement. Requests shall be in writing, received prior to the expiration of the licensee's existing license and specify in substantive detail the reason or reasons why the licensee believes a waiver of the continuing education requirement for the current license renewal is merited.~~

~~(2) Any request for a waiver which is based upon the licensee's retirement shall be accompanied by a statement attesting that the licensee:~~

~~(a) Is at least sixty five years of age;~~

~~(b) Is retired from active selling of insurance products; and~~

~~(c) No longer represents any insurer.~~

~~(3) If the conditions upon which a waiver was granted change, the licensee shall notify the commissioner in writing within fifteen days, and may be required to satisfy the continuing education credit hours which would have been prerequisite to license renewal had the waiver not been granted. Violation of the conditions of this waiver may result in assessment of a fine, revocation of license, or both.~~

~~(4) Any request for a waiver which is based upon medical considerations shall be accompanied by a physician's statement of the applicant's illness or injury.~~

~~(5) No waiver shall be valid for a period in excess of two years from the applicant's regular license renewal date.))~~ The provider must retain such registers, or any other evidence of satisfactory completion, for a period of three years from the date of course completion. The records may be retained in an electronic format.

#### NEW SECTION

**WAC 284-17-292 What must be included on a certificate of completion?** The certificate of completion must be in the form specified by OIC and include the following:

(1) Name of student;

(2) Course title and number;

(3) Date of purchase of course, if applicable;

(4) Date of completion;

(5) Number of credit hours;

(6) Provider name and number;

(7) Signature of instructor or monitor and date; and

(8) Certification of completion by student.

NEW SECTION

**WAC 284-17-294 Do I have to renew my approval as a provider?** No. Your approval as a provider does not need to be renewed as long as you have received approval for a course within the last four years.

NEW SECTION

**WAC 284-17-296 Do I have to renew an approval of a course?** Yes, a course must be renewed every two years. A renewal notice will be sent by the OIC and must be completed and returned with a copy of the current course material for a correspondence course or outline for a lecture course. If substantial changes have been made in the course curriculum, it should be submitted as a new course.

NEW SECTION

**WAC 284-17-298 Must I submit an electronic attendance roster?** Yes, the provider will be required to submit the attendance roster in a format as determined by OIC.

NEW SECTION

**WAC 284-17-301 Does the commissioner have the authority to levy a fine against a CE provider or revoke or suspend a CE provider's approval?** After hearing or upon stipulation by the CE provider, and in addition to or in lieu of the suspension, revocation, or refusal to renew any such CE provider approval, the commissioner may levy a fine upon the CE provider.

(1) For each offense the fine shall be an amount not more than one thousand dollars.

(2) The order levying such fine shall specify that the fine must be fully paid not less than fifteen nor more than thirty days from the date of the order.

(3) Upon failure to pay any such fine when due, the commissioner shall revoke the approval of the CE provider, if not already revoked.

The fine may be recovered in a civil action brought on behalf of the commissioner by the attorney general. Any fine so collected will be paid by the commissioner to the state treasurer for the account of the general fund.

NEW SECTION

**WAC 284-17-302 What actions by a provider could result in a fine?** The following actions may result in a fine:

(1) Advertising or offering a course without prior approval;

(2) Not following the approved course outline;

(3) Issuing fraudulent completion certificates; and

(4) Recruitment within an advertisement or during the hours of a course presentation.

(5) The provider has failed to comply with or has violated any statute or regulation pertaining to insurance continuing education providers.

NEW SECTION

**WAC 284-17-304 Can the approval of a provider be suspended or revoked?** (1) Yes, the approval may be suspended or revoked if:

(a) The provider or its employees involved in insurance education have violated any of the provisions of Title 48 RCW or Title 284 WAC; or

(b) The OIC finds under these titles that disciplinary action against any provider is appropriate; the OIC may exercise the discretion to suspend or revoke the provider approval and all of its courses.

(2) Reinstatement of a suspended or revoked approval shall be at the discretion of the OIC after receipt of satisfactory proof that the conditions responsible for the suspension have been corrected.

NEW SECTION

**WAC 284-17-306 Can an approval of a course be suspended or revoked?** (1) Yes, the approval of a course may be suspended or revoked if the OIC determines that:

(a) The content of an approved course was significantly changed without notice to and approval from, the OIC;

(b) A certificate of completion was issued to any individual who did not complete the course;

(c) A certificate of completion was not issued to any individual who satisfactorily completed the course;

(d) The actual instruction of the course is determined by the commissioner to be inadequate; or

(e) The provider failed to comply with the OIC's request for submissions of updated descriptions of any course offerings; or records, course materials, or audit information were not provided within fifteen days of the OIC's request.

(2) Reinstatement of a suspended or revoked approval is at the discretion of the OIC. The OIC must receive satisfactory proof that the conditions responsible for the suspension have been corrected.

NEW SECTION

**WAC 284-17-308 May I advertise a course prior to approval?** No, a course should not be advertised prior to approval.

AMENDATORY SECTION (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-310** ~~((When continuing education requirement must be met.))~~ What must a course advertisement include? ~~((1) Each licensee, as defined in WAC 284-17-210(3), shall present evidence of completing the continuing education requirement, prior to license renewal or reinstatement.~~

~~((2) Such evidence shall include specific information on the approved course or courses the licensee completed to satisfy the continuing education requirement.~~

~~((3) Each credit applied to satisfy the continuing education requirement must have been earned, by completing the relevant course, before the licensee applies for renewal or reinstatement.))~~ A course advertisement must include:

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PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)

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- (1) The provider name;
- (2) The course title;
- (3) A brief description of the course;
- (4) The number of credit hours applied for or approved;
- (5) The location;
- (6) The date and time; and
- (7) The cost of the course.

Effective Date of Rule: Thirty-one days after filing.  
Purpose: This WAC corrects cross-references and adds language that was previously deleted inadvertently.

Citation of Existing Rules Affected by this Order: Amending WAC 388-503-0510.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Adopted under notice filed as WSR 04-23-066 on November 15, 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 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.

Date Adopted: March 15, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**NEW SECTION**

**WAC 284-17-312 Does Washington participate in the NAIC Uniform Continuing Education Reciprocity Agreement?** (1) Yes, Washington has entered into an agreement with states participating in the NAIC Uniform Continuing Education Reciprocity Agreement. With just a few state specific exceptions, a course approved by a participating state will be accepted by other participating states by submitting NAIC Uniform Continuing Education Reciprocity Course Filing Form and any required attachments.

(2) Participating states have agreed they will not review another state's CE credit hours. Instructor qualifications will also not be reviewed. A standard course filing form will be used for reciprocity filings.

(3) The agreement does not change any of a provider's current duties under Washington law. A provider must still be independently qualified as an approved provider in a participating state.

**INSTRUCTOR**

**AMENDATORY SECTION** (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

~~WAC 284-17-320 ((License renewal requested—Continuing education requirement not satisfied.)) **What are the qualifications of an instructor?** ((In the event that a licensee requests license renewal and fails to present evidence of completion of the continuing education requirement, the licensee shall be notified in writing of the deficiency and provided with fifteen calendar days from the renewal date or the date of notification, whichever is later, to show compliance. If the information necessary to renew the license is not received within the fifteen day time period, the license shall lapse and become invalid. Application for renewal after that date, must be made according to the procedures of RCW 48.17.150 and 48.17.500.)) **An instructor must be trustworthy, competent and knowledgeable in the subject area being taught.**~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 284-17-235 Exception to the advanced approval requirement.
- WAC 284-17-275 Courses not approved.

**AMENDATORY SECTION** (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

**WAC 388-503-0510 How a client is determined "related to" a categorical program.** (1) A person is related to the Supplemental Security Income (SSI) program if they are:

- (a) Aged, blind, or disabled as defined in WAC 388-511-1105(1) or chapter 388-475 WAC; or
- (b) Considered as eligible for SSI under WAC 388-511-1105(5) or chapter 388-475 WAC; or
- (c) Children meeting the requirements of WAC 388-505-0210((6)) (5).

(2) A person or family is considered to be related to the temporary assistance for needy families (TANF) program if they ((meet)):

- (a) Meet the program requirements for the TANF cash assistance programs or the requirements of WAC ((388-505-0210 or)) 388-505-0220; or
- (b) Would meet such requirements except that the assistance unit's countable income ((or resources)) exceeds the TANF program standards in WAC 388-478-0065.

(3) Persons related to SSI or to TANF are eligible for categorically needy (CN) or medically needy (MN) medical coverage if they meet the other eligibility criteria for these

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medical programs. See chapters 388-475, 388-505 and 388-519 WAC for these eligibility criteria.

(4) Persons related to SSI or to TANF and who receive the related CN medical coverage have redetermination rights as described in WAC 388-503-0505(6).

**WSR 05-07-100**

**PERMANENT RULES**

**WASHINGTON STATE LOTTERY**

[Filed March 18, 2005, 9:40 a.m., effective April 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To correctly reflect the drawing schedule change for increased consumer awareness and increased revenue contributions to the state.

Citation of Existing Rules Affected by this Order: Amending chapter 315-33A WAC, Quinto rules.

Statutory Authority for Adoption: Chapter 67.70 RCW. Adopted under notice filed as WSR 05-04-080 on February 1, 2005.

A final cost-benefit analysis is available by contacting Ceil Buddeke, P.O. Box 43025, Olympia, WA 98504-3025, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

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 6, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 17, 2005.

Ceil Buddeke  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 92-11-033, filed 5/15/92, effective 6/15/92)

**WAC 315-33A-010 Definitions for Quinto.** (1) Card suit: Heart, diamond, club, or spade symbol.

(2) Number: Any integer from 2 through 10 inclusive and jack, queen, king, or ace.

(3) Set: One number and one card suit, for example, ten of clubs.

(4) Play: One selection of five sets.

(5) Play slip: A mark-sensitive game card used by players of Quinto to select plays.

(6) Quinto ticket: A computer-generated receipt evidencing payment for one or more plays in the Quinto game.

Tickets shall be issued by a licensed lottery retailer and shall list the five number play(s) that belong to the ticket holder.

**AMENDATORY SECTION** (Amending WSR 92-11-033, filed 5/15/92, effective 6/15/92)

**WAC 315-33A-020 Price of Quinto play.** The price of each Quinto play shall be \$1.00. Each Quinto ticket shall contain at least one(, but not more than five) Quinto play(s).

**AMENDATORY SECTION** (Amending WSR 93-19-052, filed 9/10/93, effective 10/11/93)

**WAC 315-33A-030 Play for Quinto.** (1) Type of play: Each play is a selection of five sets. A winning play is achieved only when 2, 3, 4, or 5 of the sets selected match, in any order, the five winning sets drawn by the lottery.

(2) Method of play: A player may use a play slip to make set selections. The ~~((on-line))~~ lottery terminal will read the play slip and issue ticket(s) with corresponding sets. A player may ~~((also))~~ choose to have the ~~((on-line computer system make all set selections with the use of))~~ set selections made by the lottery terminal, a random number generator operated by the computer, ~~((a method))~~ commonly referred to as "quick ~~((play))~~ pick."

**AMENDATORY SECTION** (Amending WSR 91-20-062, filed 9/25/91, effective 10/26/91)

**WAC 315-33A-040 Prizes for Quinto.** (1) The prize amount to be paid to each Quinto player who holds a winning combination of sets in the first prize category shall vary due to the parimutuel calculation of prizes. The prize amount to be paid to each Quinto player who holds a winning combination of sets in the second prize category shall be \$1,000.00. The prize amount to be paid to each Quinto player who holds a winning combination of sets in the third prize category shall be \$20.00. The prize amount to be paid to each Quinto player who holds a winning combination of sets in the fourth prize category shall be \$1.00.

WINNING COMBINATIONS	PRIZE CATEGORIES	ODDS OF WINNING (ONE PLAY)
All five winning sets in one play	First Prize	1:2,598,960
Any four but not five winning sets in one play	Second Prize: \$1,000	1:11,059
Any three but not four or five winning sets in one play	Third Prize: \$20	1:240
Any two, but not three, four or five winning sets in one play	Fourth Prize: \$1	1:16

(2) Prize amounts.

(a) First prize cashpot. All first prizes will be the amount announced by the director as the Quinto cashpot. The cashpot will be divided equally among all players who selected all five winning sets in one play (in any sequence).

~~((i) A \$100,000.00 prize is to be divided equally among all players who hold all five winning sets in one play in any sequence, provided, that the first prize shall be increased pursuant to subsection (3) of this section.~~

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~~(ii) The director may utilize revenue accumulated in the Quinto prize reserve, under WAC 315-33-040 (2)(d) to increase the first prize jackpot to an amount greater than \$100,000.~~

~~(iii) The first prize may be set at an amount greater than \$100,000 at the discretion of the director.)~~

(b) Second prize. A \$1,000.00 prize is to be paid to each player who holds four of the five winning sets in one play in any sequence.

(c) Third prize. A \$20.00 prize is to be paid to each player who holds three of the five winning sets in one play in any sequence.

(d) Fourth prize. A \$1.00 prize is to be paid to each player who holds two of the five winning sets in one play in any sequence.

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

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

~~(3) ((Roll-over feature. If no player holds all five winning sets for any given drawing, the jackpot allocated for first prize for that drawing will be added to the first prize for the next drawing. This process is repeated until the first prize is won.~~

(4)) Prize payments will be made in accordance with WAC 315-30-030(6). Each prize shall be paid in a single payment. Federal income tax shall be withheld from prize payments as required by law.

**AMENDATORY SECTION** (Amending WSR 93-19-052, filed 9/10/93, effective 10/11/93)

**WAC 315-33A-050 Ticket purchases.** (1) Quinto tickets may be purchased ~~((or redeemed no less than seventeen hours each day))~~ daily in accordance with a schedule to be determined by the director ~~((, provided that on-line))~~. Licensed lottery retailers shall sell and redeem tickets only during their normal business hours. Quinto tickets may be purchased only from a licensed lottery retailer.

~~(2) ((Quinto tickets may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.~~

(3)) Quinto tickets shall, on the front of the ticket, contain the selection of sets, amount, drawing date, ~~((and validation))~~ ticket serial number and reference numbers. The back of the ticket shall contain overall odds of winning, player instructions, player information, ~~((and))~~ signature area, governing statutes and rules, and the ticket ~~((serial))~~ stock number. ~~((The overall odds of winning shall appear on the ticket.))~~

**AMENDATORY SECTION** (Amending WSR 99-16-008, filed 7/22/99, effective 8/22/99)

**WAC 315-33A-060 Drawings.** (1) The Quinto drawing ~~((pursuant to this chapter))~~ shall be held up to once every twenty-four hours, at the discretion of the director.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall ~~((determine, at random,))~~ randomly select five winning sets ~~((with the aid of mechanical drawing equipment which))~~. The drawing method shall be tested before and after ~~((that))~~ each drawing. Any drawn sets are not declared winners until the drawing is certified by the lottery. The winning sets shall be used in determining all Quinto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 315-33A-070

Suspension/termination of Quinto.

### **WSR 05-07-104**

#### **PERMANENT RULES**

#### **DEPARTMENT OF ECOLOGY**

[Order 04-06—Filed March 18, 2005, 3:50 p.m., effective April 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department amended chapter 173-322 WAC, Remedial action grants and loans, for the following reasons:

(1) To implement new grant programs: The department is amending the rule to implement the grant programs that were recently authorized under the Model Toxics Control Act (MTCA), chapter 70.105D RCW. Those grant programs include:

- The methamphetamine lab site assessment and clean-up grant program; and
- The derelict vessel remedial action grant program.

Pursuant to RCW 70.105D.070(7), the department must adopt rules to implement these new grant programs.

(2) To implement an existing loan program: Although MTCA previously authorized the establishment of a loan program, guidelines for such a program had never been established in the rule. The department is amending the rule to establish those guidelines.

(3) To improve the operation of existing grant programs: the department is making several specific amendments to improve the operation and utility of existing grant programs.

(4) To improve the clarity and usability of the rule: Ecology is reorganizing the rule to improve its clarity and usability.

Citation of Existing Rules Affected by this Order: Amending chapter 173-322 WAC, Remedial action grants.

Statutory Authority for Adoption: RCW 70.105D.070.

Adopted under notice filed as WSR 04-20-076 on October 4, 2004.

Changes Other than Editing from Proposed to Adopted Version: In response to comments on the proposed amend-

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ments to chapter 173-322 WAC, Remedial action grants and loans, the department made the following changes to the rule (other than editing):

- The final rule allows local governments to use insurance proceeds to meet the match requirement. See WAC 173-322-050(6).
- The final rule does not require local governments to enter into a reimbursement agreement with private parties before obtaining a grant for conducting area-wide ground water remedial action on property owned by private parties. See WAC 173-322-090(2).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 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 11, 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.

Date Adopted: March 17, 2005.

Jay J. Manning  
Director

**AMENDATORY SECTION** (Amending WSR 93-24-047, filed 11/23/93, effective 12/24/93)

**WAC 173-322-010 Purpose and authority.** This chapter recognizes that the state contains hundreds of hazardous waste sites which threaten the state's water resources, including those used for public drinking water; that many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and the environment; and that the costs of eliminating these threats in many cases are beyond the financial means of local governments and ratepayers.

This chapter establishes requirements for a program of grants and loans to local governments for remedial action pursuant to RCW 70.105D.070 (3)(a) and (7). ~~((The department may provide grants to local governments for remedial actions including site hazard assessments, site studies and remediations, and safe drinking water actions.))~~ The intent of the remedial action grants and loans is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup on ratepayers and taxpayers. The remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out remedial actions.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-020 Definitions.** Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

~~((“Act” means the “Model Toxics Control Act,” chapter 70.105D RCW.~~

~~“Agreed order” means an order issued under WAC 173-340-530-.)~~ “Abandoned or derelict vessels” means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.

“Area-wide ground water contamination” means multiple adjacent properties with different ownership affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.

“Cleanup action” means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with ~~((cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action.~~

~~“Consent order” means an order issued under chapter 90.48 or 70.105B RCW))~~ WAC 173-340-350 through 173-340-390.

“Coordinated water system plan” means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter 246-293 WAC.

“Decree” or “consent decree” means a consent decree issued under WAC 173-340-520 or the federal cleanup law. ~~((“Consent decree” is synonymous with decree.))~~

“Department” means the department of ecology. ~~((“Disposal” means a remedial action which removes hazardous substances from the site and places the hazardous substances in an engineered, regulatory complaint facility as a final destination.~~

~~“Enforcement order” means an order issued under WAC 173-340-540-.)~~ “Economically disadvantaged county” means a county that meets the following criteria:

- The per capita income of the county, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

- The county is economically distressed, as defined by chapter 43.165 RCW.

The department will include a list of counties which are economically disadvantaged in the following publication: Washington state department of ecology, “Remedial Action Program Guidelines,” Publication No. 99-505.

“Federal cleanup law” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

“Grant agreement” means a binding agreement between the local government and the department that authorizes the ~~((transfer))~~ disbursement of funds to the local government to



reimburse it for a portion of expenditures in support of a specified scope of services.

"Hazard ranking" means the ranking for hazardous waste sites used by the department pursuant to ~~((chapter 70.105D))~~ RCW 70.105D.030 (2)(b) and WAC 173-340-330.

"Hazardous substances" means any hazardous substance(s) as defined in WAC 173-340-200.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or consent decree.

"Initial containment of methamphetamine lab sites" means the first location where hazardous substances are confined by a container, vessel, barrier, or structure, whether natural or constructed, with a defined boundary, and that prevents or minimizes its release into the environment.

"Innovative technology" means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under different site conditions. Innovative technology also means the innovative use of existing technologies that have been established for use under certain site conditions, but not the conditions that exist at the hazardous waste site for which a remedial action grant is sought. Innovative technology has limited performance and cost data available.

"Interim action" means a remedial action conducted under WAC 173-340-430 ~~((that partially addresses the cleanup of a site)).~~

"Loan agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest rates and repayment schedule, scope of work, performance schedule, and project budget.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

~~(("Minimum functional standards" means the requirements of chapters 173-304 and 173-351 WAC, the minimum functional standards for solid waste handling.))~~ "Methamphetamine lab site assessment" means the actions taken by a local health department or district under WAC 246-205-520 through 246-205-560, including posting the property, inspecting the property, determining whether the property is contaminated, posting contaminated property, and notifying occupants, property owners, and other persons with an interest in the contaminated property.

"Model Toxics Control Act" or "act" means chapter 70.105D RCW, first passed by the voters in the November 1988 general election as Initiative 97 and as since amended by the legislature.

"National Priorities List ~~((NPL))~~" or "NPL" means a list of hazardous waste sites at which the ~~((United States))~~ U.S. Environmental Protection Agency intends to proceed with enforcement or cleanup action.

"No further action (NFA) determination" means ~~((an))~~ a written opinion issued by the department under WAC 173-340-515 (5)(b) that the independent remedial actions performed at a hazardous waste site meet the substantive requirements of chapter 173-340 WAC and that no further remedial action is required at the hazardous waste site. The opinion is advisory only and not binding on the department.

"Order" means an order issued under chapter 70.105D RCW, including enforcement orders issued under WAC 173-340-540 and agreed orders issued under WAC 173-340-530, or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

"Oversight costs" are remedial action costs of the department or the ~~((United States))~~ U.S. Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

"Oversight remedial actions" means remedial actions conducted under an order or decree.

"Partial funding" means funding less than the maximum percentage of eligible costs allowed under this chapter.

"Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

"Potentially liable person ~~((PLP))~~" or "PLP" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Potentially responsible party" or "PRP" means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

"Public water system" means any system, 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 collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system and collection or pre-treatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Recycling" means a remedial action which permanently removes hazardous substances from the site and successfully directs the material into a new product suitable for further industrial or consumer use.

"Remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat ~~((or potential threat))~~ posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Remedial design (RD)" means an engineering study during which technical plans and specifications are devel-

oped to guide subsequent cleanup action at a hazardous waste site.

"Remedial investigation/feasibility study (~~((RI/FS))~~)" or "RI/FS" means a ~~((study))~~ remedial action that consists of activities conducted under WAC 173-340-350 intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action under WAC 173-340-360 through 173-340-390.

"Retroactive costs" means costs incurred before the date of the grant agreement.

"Safe drinking water" means water meeting drinking water quality standards set by chapter 246-290 WAC.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide safe drinking water through public water systems to areas contaminated by or threatened by contamination from hazardous waste sites.

"Site" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

~~("Site study and remediation" means remedial investigation, feasibility study, pilot study, remedial design, interim action or cleanup action at hazardous waste sites.)~~

"Treatment" means a remedial action which permanently destroys, detoxifies, or recycles hazardous substances.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-030 Relation to other legislation and administrative rules.** (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste investigation and cleanup.

(2) Nothing in this chapter shall modify the ~~((legal settlements and))~~ order~~((s))~~ or decree the department has secured with potentially liable persons for remedial action. The execution of remedies pursuant to ~~((court))~~ the order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants and loans shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grants ~~((funds))~~ and loans.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-040 ~~((Applicant eligibility))~~ Administration.** ~~((1))~~ All applicants must be local governments as defined in this chapter.

~~(2) Site study and remediation grants. Eligibility for site study and remediation grants is limited to applicants that meet the following standards:~~

~~(a) The applicant must be a local government that is a potentially liable person (PLP) at a hazardous waste site; or owns a site but is not a PLP; or applies for a remediation grant for area wide ground water contamination. The local government may be the sole PLP, or there may be other PLPs at the site.~~

~~(b) The local government must meet one of the following standards:~~

~~(i) The department must have required the local government to perform some phase of remedial action, or have approved or reviewed a completed remedial action. That requirement, approval or review shall take one of the following forms:~~

~~(A) A consent decree under chapter 70.105D or 70.105B RCW requiring remedial action at the site; or~~

~~(B) An enforcement order or an agreed order under chapter 70.105D or 70.105B RCW prior to March 1, 1989, requiring remedial action at the site; or~~

~~(C) An enforcement order, consent order or consent decree under chapter 90.48 RCW requiring remedial action at the site or an amendment to such an order subsequent to March 1, 1989; or~~

~~(D) An underground storage tank (UST) compliance order; or~~

~~(E) A no further action (NFA) determination issued after completion of an independent remedial action.~~

~~(ii) The local government which is also a potentially responsible party under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) must have entered into a decree requiring remedial action at a hazardous waste site with the United States Environmental Protection Agency, provided that such agreement has been signed or acknowledged by the department in writing as a sufficient basis for remedial action grant funding.~~

~~(iii) The local government must have signed an agreement with the department requiring another PLP to perform remedial action at a landfill site and that agreement must take one of the forms specified in (b)(i) of this subsection. The local government must also have entered into an agreement with that PLP to reimburse the PLP for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.~~

~~(3) Safe drinking water action grants. Eligibility for safe drinking water action grants is limited to applicants who meet the following standards:~~

~~(a) The applicant must be a local government purveyor as defined in WAC 173-322-020 or be a local government applying on behalf of a purveyor.~~

~~(b) The subject water system must be in an area determined by the department of ecology to be a hazardous waste site or threatened by contamination from a hazardous waste site.~~

~~(c) The subject water system must exhibit levels of contamination which exceed the primary maximum contaminant~~

levels (MCLs) set by WAC 246-290-310 or EPA standards as determined by the department of health, or exhibit levels of contamination which exceed the standards set by WAC 173-340-700 through 173-340-760 as determined by the department of ecology, or be certified by the state department of health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or a trihalomethane, it must be determined to have originated from a hazardous waste site.

(d) An order or decree must be issued to the identified potentially liable persons requiring that safe drinking water be provided to the contaminated area as part of a remedial action. The department may waive this requirement if it has determined that no viable potentially liable persons exist, or if public health would be threatened from unreasonable delays associated with the search for potentially liable persons, or the order or decree process.

(e) If water line extensions are included in the proposed projects, such extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

(f) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules of the Washington state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits).

(4) Site hazard assessment grants. The purpose of site hazard assessment grants is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site. Eligibility for site hazard assessment grants is limited to applications that meet the following standards:

(a) The applicant must be a local health district or department.

(b) The scope of work for a site hazard assessment must conform to WAC 173-340-320 and prescribed guidelines issued by the department.

(c) The assessment must be for sites agreed to by the department. (1) Notice of availability. Local governments will be periodically informed of the availability of remedial action grant and loan funding.

(2) Application package. An application package will be sent to all parties expressing interest in remedial action grants or loans and to all local governments that have been required by decree or order to perform remedial actions. Application packages will include guidelines and application forms.

(3) Application guidance. The department will prepare a guidance manual on a biennial basis to assist grant and loan applicants and to facilitate compliance with this regulation.

(4) Application period. The application for a remedial action grant or loan must be submitted to the department within the period specified in this chapter for the particular type of grant or loan.

(5) Application form. The application for a remedial action grant or loan must be completed on forms provided by the department.

(6) Appropriation of funds. Grants and loans will be awarded within the limits of available funds. The obligation of the department to make grant payments or provide loans is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant or loan crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(7) Allocation of funds. In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants and loans. Within that administrative allocation, the department will allocate subamounts for each type of remedial action grant or loan. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.

(8) Funding. Remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(9) Department discretion. The department may fund all or portions of eligible grant or loan applications.

(10) Indemnification. To the extent that the Constitution and laws of the state of Washington permit, the grantee or loan recipient shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee or loan recipient arising out of a grant or loan contract.

(11) Administrative requirements. All grants and loans administered by the department under this chapter shall comply with the requirements set forth in the following publication: Washington state department of ecology, "Administrative Requirements for Ecology Grants and Loans," Publication No. 91-18.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-050 ((Project and cost eligibility)) Fiscal controls. ((1) Costs for site study and remediation:

(a) Eligible costs include reasonable costs, including sales tax, incurred in performing:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Landfill closures as required by chapters 173-304 and 173-351 WAC if included in the order or decree for remedial action;

(vii) Other remedial action included in the order or decree for remedial action, or included as part of the independent remedial action for which a no further action (NFA) determination is issued;

(viii) Capital costs of long-term monitoring systems; and

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs:

(i) Retroactive costs except as limited by WAC 173-322-100;

(ii) Legal fees and penalties;

(iii) Oversight costs;

(iv) Operating and maintenance costs after the first year of accomplishing the remedial action;

(v) Operating and maintenance costs of long-term monitoring; and

(vi) At sites other than landfills, additional ineligible costs will include costs incurred to meet departmental requirements for source control and prevention.

(2) Costs for safe drinking water actions:

(a) Eligible costs include reasonable costs, including sales tax, incurred for:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Fire hydrants;

(vi) Service meters;

(vii) Project inspection, engineering, and administration;

(viii) Other costs identified by the state department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards;

(ix) Other costs identified by the department of ecology as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination;

(x) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;

(xi) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard according to WAC 173-160-415; and

(xii) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds.

(b) Ineligible costs include:

(i) Legal fees and penalties;

(ii) Ecology oversight costs;

(iii) Operating and maintenance costs;

(iv) Retroactive costs except as limited by WAC 173-322-100;

(v) Natural resource damage assessment; and

(vi) Costs for source control or pollution prevention activities at sites other than landfills.

(3) ~~Costs for site hazard assessments. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority setting process.~~

~~(4) Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement.)~~ (1) **General.** The department will establish reasonable costs for all grants and loans, require local governments to manage projects in a cost-effective manner, and ensure that all potentially liable persons assume responsibility for remedial action.

(2) **Partial funding.** The department retains the authority to issue grants or loans which reimburse the local government for less than the maximum percentage allowable under WAC 173-322-060 through 173-322-130.

(3) **Limit on funding for a hazardous waste site.**

(a) For hazardous waste sites where oversight remedial actions are being conducted, the department and the local government will establish a final cleanup budget and negotiate grant and loan agreements after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by the local government. The funding provided under these agreements will be the final department remedial action fund commitment for cleanup at that hazardous waste site. Grant and loan agreements may be amended, but requests to increase the remedial action budget at that site will receive a lower priority than other applications.

(b) For hazardous waste sites where independent remedial actions have been conducted, the remedial action costs eligible for grant funding at a hazardous waste site shall not exceed four hundred thousand dollars.

(4) **Retroactive funding.** Retroactive costs are not eligible for funding, except as provided under this chapter for each type of grant or loan.

(5) **Consideration of contribution claims.** The local government may not use proceeds from contribution claims to meet the match requirement for the grant. If the local government receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the local government pursuing the contribution claim. If the local government receives proceeds from a contribution claim after the effective date of the grant agreement, then the local government shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the local government pursuing the contribution claim.

(6) **Consideration of insurance claims.** The local government may use proceeds from insurance claims to meet the match requirement for the grant. If those proceeds exceed the match requirement for the grant, then the department may reduce grant funding or require a reimbursement of grant funding by up to the amount that those proceeds exceed the match requirement, after subtracting from that amount the legal costs incurred by the local government pursuing the insurance claims.

**(7) Repayment of area-wide ground water remedial action grant funds.** If the department provides the local government with an area-wide ground water remedial action grant for conducting remedial action on property owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the local government and the department.

**(8) Financial reporting.**

**(a) Grant application.** The local government shall specify in the grant application any proceeds it has received from contribution claims. The local government shall also specify in the grant application any current or potential sources of local funding to meet the match requirement for the grant including, but not limited to, other grants or loans and proceeds from insurance claims.

**(b) Grant agreement.** If the department provides the local government with a remedial action grant or loan, then the local government shall:

**(i)** Submit a copy of the local government's "Comprehensive Annual Financial Report" following its publication, for the year in which the grant is issued and for each year the grant is in effect; and

**(ii)** Notify the department of any proceeds the local government receives from a contribution or insurance claim within ninety days of receipt of those proceeds.

**(9) Financial responsibility.** As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons (PLPs) bear financial responsibility for remedial action costs. The remedial action grant and loan programs may not be used to circumvent the responsibility of a PLP.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-060 ((Application process.)) Site hazard assessment grants.** ~~((1) Application period. The department shall determine appropriate application periods.~~

~~(2) Grant applications must:~~

~~(a) Include a commitment by the applicant for local funds to match grant funds according to the requirements of WAC 173-322-090.~~

~~(b) For site study and remediation projects include a scope of work which accomplishes the requirements of an order or decree.~~

~~(c) For safe drinking water action projects, include a scope of work necessary to provide safe drinking water to the area threatened or contaminated.~~

~~(d) For site hazard assessment projects, include a scope of work which conforms to the requirements of WAC 173-340-320(4).~~

~~(e) For independent remedial actions, include a description of the remedial action for which a no further action (NFA) determination was issued and include a copy of the NFA determination document.)~~

**(1) Purpose.** The purpose of the site hazard assessment grant program is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health dis-

tricts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site.

**(2) Applicant eligibility.** To be eligible for a site hazard assessment grant, the applicant must meet the following requirements:

**(a)** The applicant must be a local health district or department;

**(b)** The site must be located within the jurisdiction of the applicant;

**(c)** The department has agreed that the applicant may conduct the site hazard assessment; and

**(d)** The scope of work for the site hazard assessment must conform to WAC 173-340-320 and applicable department guidelines.

**(3) Application process.**

**(a) Submittal.** The application for a site hazard assessment grant may be submitted to the department at any time.

**(b) Content.** The grant application must be completed on forms provided by the department and include the following:

**(i)** Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

**(ii)** A description of the environmental benefits of the project;

**(iii)** A copy of the scope of work which conforms to the requirements of WAC 173-340-320 and applicable department guidelines;

**(iv)** A budget for the scope of work; and

**(v)** A description of all current or potential sources of funding, including other grants or loans.

**(4) Application evaluation and prioritization.**

**(a)** The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

**(b)** When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

**(i)** Potential public health or environmental threat from the sites;

**(ii)** Ownership of the sites. Publicly owned sites will receive priority over privately owned sites; and

**(iii)** Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

**(5) Cost eligibility.** Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority-setting process.

**(6) Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) **Funding.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible costs.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-070** (~~(Application evaluation and prioritization.)~~ **Oversight remedial action grants.** ~~((1) When pending grant applications or anticipated demand for site study and remediation grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

(a) ~~Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the United States Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority.~~

(b) ~~Evidence that the grant will expedite cleanup.~~

(c) ~~Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

(2) ~~When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

(a) ~~Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority.~~

(b) ~~Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

(c) ~~Ownership of the water system to be extended or improved. Local government owned systems will receive higher funding priority than other systems.~~

(d) ~~Number of people served by the water system and per capita cost of remediation.~~

(3) ~~When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

(a) ~~Potential public health or environmental threat from the sites.~~

(b) ~~Ownership of the sites. Publicly owned sites will receive priority over privately owned sites.~~

(c) ~~Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~) **(1) Purpose.** The purpose of the oversight remedial action grant program is to provide funding to local governments that conduct remedial actions under an order or decree. The grants are intended to encourage and expedite remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

**(2) Applicant eligibility.** Except as provided under subsection (3) of this section, to be eligible for an oversight remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site; and

(c) The applicant must meet one of the following criteria:  
(i) The applicant is required by the department to conduct remedial action under an order or decree issued under chapter 70.105D RCW;

(ii) The applicant is required by the U.S. Environmental Protection Agency to conduct remedial action under an order or decree issued under the federal cleanup law and the order or decree has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; or

(iii) The applicant has signed an order or decree issued under chapter 70.105D RCW requiring a potentially liable person (PLP) other than the applicant to conduct remedial action at a landfill site and the applicant has entered into an agreement with the PLP to reimburse the PLP for a portion of the remedial action costs incurred under the order or decree for the sole purpose of providing relief to ratepayers and/or taxpayers from remedial action costs.

**(3) Retroactive applicant eligibility.** To be eligible to receive an oversight remedial action grant for an order issued under the federal cleanup law before the effective date of the 2005 amendments to this chapter, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant was required by the U.S. Environmental Protection Agency to conduct remedial action under an order issued under the federal cleanup law;

(c) The order has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(d) The applicant must submit to the department a grant application within six months after the effective date of the 2005 amendments to this chapter.

**(4) Application process.**

(a) **Submittal.** Except as provided under subsection (3) of this section, the application for an oversight remedial action grant must be submitted to the department within sixty days of the effective date of the order or decree.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, and the remedial actions to be performed at the site under the order or decree;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree;

(v) A copy of the scope of work which accomplishes the requirements of the order or decree;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims;

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds; and

(ix) If the applicant claims the use of innovative technology under subsection (7)(c)(i) of this section, a justification for the claim.

**(5) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for oversight remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup;

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(6) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for oversight remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Landfill closures required under chapters 173-304, 173-350 and 173-351 WAC, if also required as a remedial action under the order or decree;

(viii) Capital costs of long-term monitoring systems; and  
(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs. Ineligible costs for oversight remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (7) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or

criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(7) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available;

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree; or

(d) The applicant is eligible under subsection (3) of this section.

**(8) Funding and reimbursement.**

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) Additional funding. The applicant shall be eligible to receive funding in excess of the limit set forth in (b) of this subsection under the following circumstances:

(i) The applicant used innovative technology. If the applicant utilizes innovative technology, as defined in WAC 173-322-020, as part of the cleanup action and the eligible costs exceed four hundred thousand dollars, then the applicant shall be eligible to receive additional funding up to fifteen percent of eligible costs. The applicant must include justification for the innovative technology claim in the grant application.

(ii) The county is economically disadvantaged. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive additional funding up to twenty-five percent of eligible costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**AMENDATORY SECTION** (Amending WSR 93-24-047, filed 11/23/93, effective 12/24/93)

**WAC 173-322-080 ((Allocation of grant funding.))**  
**Independent remedial action grants.** ~~((In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants. Within that administrative allocation, the department will allocate subamounts for site study and remediation grants, safe drinking water action grants, and site hazard assessment grants. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.))~~ **(1) Purpose.** The purpose of the independent remedial action grant program is to provide funding to local governments that have successfully cleaned up hazardous waste sites through independent remedial action. Independent remedial actions are remedial actions that are voluntarily initiated and conducted without department oversight or approval. The grants are intended to encourage and expedite independent remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

**(2) Applicant eligibility.** To be eligible for an independent remedial action grant, the applicant must meet the following requirements:

**(a)** The applicant must be a local government, as defined in WAC 173-322-020;

**(b)** The applicant must be a potentially liable person or potentially responsible party at the hazardous waste site or have an ownership interest in the hazardous waste site; and

**(c)** The applicant must have completed independent remedial actions at the hazardous waste site and received from the department a no further action (NFA) determination.

**(3) Application process.**

**(a) Submittal.** The application for an independent remedial action grant must be submitted to the department within sixty days of receipt of the no further action (NFA) determination.

**(b) Content.** The grant application must be completed on forms provided by the department and include the following:

**(i)** Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

**(ii)** A description of the independent remedial action for which the department issued a no further action (NFA) determination;

**(iii)** A description of the environmental benefits of the project;

**(iv)** A copy of the independent remedial action report required under WAC 173-340-515(4);

**(v)** A copy of the document containing the no further action (NFA) determination;

**(vi)** A description of the costs incurred in performing the independent remedial actions;

**(vii)** A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

**(viii)** A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

**(a)** The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the budget for the grant.

**(b)** When pending grant applications or anticipated demand for independent remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the date the department receives completed applications.

**(5) Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

**(a) Eligible costs.** Eligible costs for independent remedial action grants include, but are not limited to, the reasonable costs for the following:

**(i)** Remedial investigations;

**(ii)** Feasibility studies;

**(iii)** Remedial designs;

**(iv)** Pilot studies;

**(v)** Interim actions;

**(vi)** Cleanup actions;

**(vii)** Capital costs of long-term monitoring systems;

**(viii)** Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed; and

**(ix)** Development of the independent remedial action report required under WAC 173-340-515(4).

**(b) Ineligible costs.** Ineligible costs for independent remedial action grants include, but are not limited to, the following:

**(i)** Retroactive costs, except as provided under subsection (6) of this section;

**(ii)** Cost of technical consultations provided by the department under WAC 173-340-515(5), including any deposit for such consultations;

**(iii)** Operating and maintenance costs of long-term monitoring systems;

**(iv)** Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

**(v)** Natural resource damage assessment costs and natural resource damages;

**(vi)** Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

**(vii)** In-kind services.

**(6) Retroactive cost eligibility.** Retroactive costs are eligible for reimbursement if the costs were incurred within five years of the date of the grant application. Retroactive costs incurred more than five years before the date of the grant application are not eligible for reimbursement unless:



(a) The department unreasonably delayed the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

**(7) Funding and reimbursement.**

(a) Adjustment of eligible costs. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim. If the eligible costs exceed four hundred thousand dollars after the department has deducted any contribution claim proceeds, then the department shall limit the eligible costs to four hundred thousand dollars.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

~~WAC 173-322-090 ((State assistance share, local cash match, economic disadvantage, and role of potentially liable persons.)) **Area-wide ground water remedial action grants.** ((1) Except as otherwise provided in this section, costs eligible for site study and remediation and safe drinking water action grants will be considered for grant funding at up to fifty percent, except in the case of site study and remediation grants with eligible costs of over two hundred thousand dollars, local governments who utilize treatment, recycling and/or disposal as part or all of the cleanup action shall be eligible to receive an additional fifteen percent. Independent remedial action grant funds are available only for projects with eligible costs of less than two hundred thousand. The additional fifteen percent funds do not apply to independent remedial actions.~~

~~(2) Costs for site hazard assessments which are eligible under WAC 173-322-050(3) will be considered for grant funding of up to one hundred percent.~~

~~(3) Costs for area wide ground water contamination remediation grants will be considered for grant funding of more than fifty percent. Local governments shall be required to obtain partial reimbursement from PLPs. Reasonable mea-~~

~~asures shall be taken by local governments to maximize reimbursement. The amount of grant funds and how much to pay back will be determined by the department on a case-by-case basis.~~

~~(4) Grant funding for economically disadvantaged local governments.~~

~~(a) In addition to grant funding under subsection (1) of this section, economically disadvantaged local governments may apply for up to twenty-five percent supplemental funding. This additional funding will be contingent on satisfactory demonstration of extraordinary financial need.~~

~~(b) A local government is considered economically disadvantaged if it is a county, or a local government within a county, which meets both of the following criteria:~~

~~(i) Per capita income, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and~~

~~(ii) It is economically distressed as defined by chapter 43.165 RCW.~~

~~(c) The department will include a list of counties which are economically disadvantaged as defined herein in the guidelines for remedial action grants to be published on a biennial basis.~~

~~(5) For applicants eligible for site study and remediation grants, if a decree or order requires a potentially liable person (PLP) other than a local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding to the local government.~~

~~(6) For applicants eligible for safe drinking water action grants, funding from either the local government or the PLP may be used to match remedial action grant funds.~~

~~(7) As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant program may not be used to circumvent the PLP responsibility.)) (1) **Purpose.** The purpose of the area-wide ground water remedial action grant program is to provide funding to local governments that facilitate the cleanup and redevelopment of property within their jurisdictions where the ground water has been contaminated by hazardous substances from multiple sources. The grants are intended to encourage and expedite the investigation and cleanup of area-wide ground water contamination.~~

~~(2) **Applicant eligibility.** To be eligible for an area-wide ground water remedial action grant, the applicant must meet the following requirements:~~

~~(a) The applicant must be a local government, as defined in WAC 173-322-020;~~

~~(b) The hazardous waste site must involve area-wide ground water contamination, as defined in WAC 173-322-020;~~

~~(c) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site, have an ownership interest in the hazardous waste site, or apply on behalf of property owners affected by the hazardous waste site to facilitate area-wide ground water action;~~

~~(d) The area-wide ground water action must be required under an order or decree or be approved by the department. If~~

the action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(e) The applicant must agree to conduct or manage the area-wide ground water action specified in the grant agreement.

**(3) Application process.**

(a) Submittal. If the area-wide ground water remedial actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the area-wide ground water remedial actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the sources of the area-wide ground water contamination, the current status of the site, and the remedial actions to be performed at the site to address the area-wide ground water contamination;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree, if applicable;

(v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the area-wide ground water contamination;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims;

(viii) A copy of any reimbursement agreement with affected property owners;

(ix) A commitment by the applicant to partially reimburse the department from any current or future funds obtained from affected property owners; and

(x) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for area-wide ground water remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup; and  
(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for area-wide ground water remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Capital costs of long-term monitoring systems; and

(viii) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs. Ineligible costs for area-wide ground water remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available; or

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

**(7) Funding and reimbursement.**

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**(b) Funding of eligible costs.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible costs.

**(c) Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

**(d) Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**(e) Repayment of grant funds.** If the property impacted by the area-wide ground water contamination is owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the applicant and the department. The applicant shall obtain partial reimbursement from potentially liable persons and potentially responsible parties. Reasonable measures shall be taken by the applicant to maximize reimbursement.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-100 ((Fiscal controls.)) Safe drinking water action grants.** ((1) The department will establish reasonable costs for all grants, require applicants to manage projects in a cost-effective manner, and ensure that all potentially liable persons (PLPs) assume responsibility for remedial action.

(2) The department retains the authority to issue grants which reimburse the recipient for less than the maximum percentage allowable under WAC 173-322-090.

(3) Cap on site funding. Except for independent remedial actions where a no further action (NFA) determination is issued after cleanup has been completed, after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate a grant agreement. The grant amount in this agreement will be the final department remedial action grant fund commitment for cleanup at that hazardous waste site. Grant agreements may be amended, but requests to increase the remedial action grant budget at that site will receive a lower priority than other applications.

(4) Retroactive funding. Grant funding of costs already incurred prior to the date of the grant agreement may be allowed to local governments where the order or decree with the department, if any, postdates March 1, 1989, and under one or more of the following circumstances:

(a) If the grant application period is closed when the order or decree becomes effective;

(b) If the department unreasonably delays the processing of a remedial action grant application;

(c) If there are inadequate funds in the local toxics control account to cover the entire scope of work required by decree or order; and/or

(d) If remedial actions not required by decree or order have proceeded, grants for this work may be made if the department later formally includes such work items in a decree or order, or for independent remedial actions conducted no earlier than five years before the date of application if a no further action (NFA) determination is given for that independent remedial action.

(5) Reimbursement of grant funds. If the department awards remedial action funds to a local government that successfully pursues a private right of action against a PLP who has not settled with the department or successfully pursues a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

(6) Repayment of grant funds. Where the department provides a remediation grant for area-wide ground water contamination to a local government, the grant amount shall be partially repaid to the department where ownership of property affected by the grant is held by private parties. The terms and amount of repayment will be included in the grant agreement between the local government and the department.)) (1) **Purpose.** The purpose of the safe drinking water action grant program is to assist local governments, or a local government applying on behalf of a purveyor, in providing safe drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites.

(2) **Applicant eligibility.** To be eligible for a safe drinking water action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a purveyor, as defined in WAC 173-322-020, or the applicant must be applying on behalf of a purveyor;

(c) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits);

(d) The public water system must be located in an area determined by the department to be a hazardous waste site or threatened by contamination from a hazardous waste site;

(e) The public water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) established by the state board of health and set forth in WAC 246-290-310, exhibit levels of contamination which exceed the cleanup standards established by the department of ecology under WAC 173-340-700 through 173-340-760, or be certified by the state department of health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or trihalomethane, it must be determined to have originated from a hazardous waste site;

(f) An order or decree must require safe drinking water action. The department may waive this requirement if it has determined that no viable potentially liable person (PLP) exists or that public health would be threatened from unreasonable delays associated with the search for PLPs or the development of an order or decree. If the safe drinking water action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(g) If the safe drinking water action includes water line extensions, then the extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

### (3) Application process.

(a) Submittal. If the safe drinking water actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the safe drinking water actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, the threat posed by the site to the public water system, and the remedial actions to be performed at the site to address that threat;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree, if applicable;

(v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the threat to the public water system;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

### (4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with

WAC 246-290-310. Sites with greater risk will receive higher funding priority;

(ii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work;

(iii) Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems; and

(iv) Number of people served by the water system and per capita cost of remediation.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for safe drinking water action grants include, but are not limited to, the reasonable costs for the following:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Bottled water, as an interim action;

(vi) Fire hydrants;

(vii) Service meters;

(viii) Project inspection, engineering, and administration;

(ix) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;

(x) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard and decommissioned in accordance with WAC 173-160-381;

(xi) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds;

(xii) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards; and

(xiii) Other costs identified by the department as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination.

(b) Ineligible costs. Ineligible costs for safe drinking water action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs;

(iv) Natural resource damage assessment costs and natural resource damages;

(v) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vi) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available; or

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

(7) Funding and reimbursement.

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-110 ((Grant administration)) Methamphetamine lab site assessment and cleanup grants.** ((1) Local governments will be periodically informed of the availability of remedial action grant funding:

(2) A grant application package will be sent to all parties expressing interest in remedial action grants and to all local governments that have been required by decree or order to perform remedial actions. Grant application packages will include grant guidelines and application forms.

(3) Application must be made within sixty days after the date that a decree or order becomes effective or for independent remedial actions, within sixty days of receipt of a no further action (NFA) determination.

(4) The department will prepare a guidance manual on a biennial basis to assist grant applicants and to facilitate compliance with this regulation.

(5) Appropriation and allocation of funds. Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(6) Remedial action grants shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(7) The department may fund all or portions of eligible grant applications.

(8) To the extent that the Constitution and laws of the state of Washington permit, the grantee shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract.

(9) All grants under this chapter shall be consistent with "Administrative Requirements for Ecology Grants and Loans" WDOE publication No. 91-18, revised October 2000.) (1) Purpose. The purpose of the methamphetamine lab site assessment and cleanup grant program is to provide funding to local health districts and departments that assess and cleanup sites of methamphetamine production. The program is not intended to assist local health districts and departments in the initial containment of methamphetamine lab sites.

(2) Applicant eligibility. To be eligible for a methamphetamine lab site assessment and cleanup grant, the applicant must meet the following requirements:

(a) The applicant must be a local health district or department;

(b) The methamphetamine lab site must be located within the jurisdiction of the applicant; and

(c) The scope of work for the assessment or cleanup of a methamphetamine lab site must conform to chapter 246-205 WAC and applicable board of health and department of health guidelines. The scope of work for the methamphetamine lab site assessment must also conform to WAC 173-340-320 and applicable department of ecology guidelines.

(3) Application process.

(a) Submittal. The application for a methamphetamine lab site assessment and cleanup grant may be submitted to the department at any time.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the work completed under the prior grant agreement, if applicable;

(iii) A description of the anticipated work to be completed under the grant;

(iv) A budget for the anticipated work;

(v) A description of the environmental benefits of the project;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for methamphetamine lab site assessment and cleanup grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the methamphetamine lab sites;

(ii) Ownership of the methamphetamine lab sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the reasonable costs for the following:

(i) Posting the property, as defined in WAC 246-205-010 and required under WAC 246-205-520;

(ii) Inspecting the property and determining whether the property is contaminated, as required under WAC 246-205-530;

(iii) Posting contaminated property, as defined in WAC 246-205-010 and required under WAC 246-205-560;

(iv) Notifying occupants, property owners, and other persons with an interest in the contaminated property, as required under WAC 246-205-560;

(v) Cleaning up contaminated publicly owned property, as required under WAC 246-205-570, including performing a precleanup site assessment, developing and implementing the cleanup work plan, performing a post-cleanup site assessment, and developing a cleanup report. Eligible costs include the costs incurred by an authorized contractor and the cost of overseeing the work performed by the contractor;

(vi) Overseeing the cleanup of contaminated privately owned property, as required under WAC 246-205-570 and 246-205-580, including reviewing cleanup work plans and reports and inspecting the property during and subsequent to the cleanup;

(vii) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is publicly owned;

(viii) Releasing the property for use, as required under WAC 246-205-580;

(ix) County fees related to deed notification; and

(x) Equipment and training, if approved by the department in advance.

(b) Ineligible costs. Ineligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Initial containment of methamphetamine lab sites, as defined in WAC 173-322-020;

(iii) Restricting access to privately owned property, except as required under chapter 246-205 WAC;

(iv) Cleaning up privately owned contaminated property;

(v) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is privately owned;

(vi) Disposal of property that is not contaminated, as defined in WAC 246-205-010;

(vii) Natural resource damage assessment costs and natural resource damages;

(viii) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees;

(ix) Education and outreach activities; and

(x) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

**(7) Funding and reimbursement.**

(a) Adjustment of eligible costs. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) Funding of eligible costs. The applicant shall be eligible to receive funding for up to one hundred percent of eligible methamphetamine lab site assessment costs. Except as provided under (c) of this subsection, the applicant shall also be eligible to receive funding for up to fifty percent of eligible methamphetamine lab site cleanup costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible methamphetamine lab site cleanup costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall

reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-120 (~~Loans~~) Derelict vessel remedial action grants.** ~~((The department may award a loan or combination loan and grant to a grant applicant. Loan terms and the repayment provisions of a loan shall be established on a case by case basis under an agreement between the local government and the department.))~~ **(1) Purpose.** The purpose of the derelict vessel remedial action grant program is to provide funding to local governments that clean up and dispose of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment.

**(2) Applicant eligibility.** To be eligible for a derelict vessel remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The vessel must be an abandoned or derelict vessel, as defined in WAC 173-322-020; and

(c) The applicant must be the owner of the abandoned or derelict vessel.

**(3) Application process.**

(a) Submittal. The application for a derelict vessel remedial action grant may be submitted to the department at any time.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the vessel, the types and quantities of hazardous substances located within the vessel, the threat posed by the vessel to human health and the environment, the remedial actions to be performed to address that threat, and the authority under which the remedial action will be performed;

(iii) A copy of the scope of work that specifies the remedial actions to be performed to address the threat;

(iv) A description of the environmental benefits of the project;

(v) A budget for the scope of work;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans and proceeds from contribution or insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of

funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for derelict vessel remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative risk to human health and the environment;

(ii) Evidence that the grant will expedite cleanup; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

**(5) Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

**(a) Eligible costs.** Eligible costs for a derelict vessel remedial action grant include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigation of the vessel, including sampling and analysis; and

(ii) Removal and disposal of hazardous substances and materials designated as dangerous wastes under chapter 173-303 WAC.

**(b) Ineligible costs.** Ineligible costs for a derelict vessel remedial action grant include, but are not limited to, the following:

(i) Retroactive costs, except as provided in subsection (6) of this section;

(ii) Administrative cost of taking ownership of the vessel;

(iii) Removal and disposal of materials that are not hazardous substances or designated as dangerous wastes under chapter 173-303 WAC;

(iv) Disposal of the vessel at a landfill, including transport of the vessel;

(v) Disposal of the vessel at sea;

(vi) Natural resource damage assessment costs and natural resource damages;

(vii) Legal costs including, but not limited to, the cost of pursuing contribution or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(viii) In-kind services.

**(6) Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

**(7) Funding and reimbursement.**

(a) Adjustment of eligible costs. If the applicant receives proceeds from a contribution claim before the effective date of the grant agreement, then the department shall deduct those proceeds from the amount eligible for grant funding, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible costs, not to exceed twenty-five thousand dollars.

**(c) Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible costs, not to exceed twenty-five thousand dollars.

**(d) Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

**(e) Reimbursement of grant funds.** If the applicant receives proceeds from a contribution claim after the effective date of the grant agreement, then the applicant shall reimburse the department for a proportional share of those proceeds, after subtracting from those proceeds the legal costs incurred by the applicant pursuing the contribution claim.

#### NEW SECTION

**WAC 173-322-130 Loans.** (1) **Purpose.** This section establishes requirements for a program of remedial action loans to local governments under RCW 70.105D.070 (3)(a) and (7). The loan program shall be limited to providing loans to supplement local government funding and funding from other sources to meet the match requirements for oversight remedial action grants. The intent of the loan program is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Applicant eligibility.** To be eligible for a loan, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must meet the eligibility requirements for an oversight remedial action grant set forth in WAC 173-322-070(2);

(c) The applicant must agree to undergo an independent third-party financial review to determine its financial need for the loan, ability to repay the loan, and inability to obtain funds from any other source. The financial review shall be conducted at the direction and cost of the department; and

(d) The hazardous waste site must present an immediate danger to human health and the environment.

#### **(3) Application process.**

(a) **Submittal.** The loan application must be submitted to the department at the same time as the associated oversight remedial action grant application.

(b) **Content.** The loan application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate the applicant's financial need for the loan, ability to repay the loan, and inability to obtain matching funds from any other source;

(ii) Sufficient evidence that the hazardous waste site presents an immediate danger to human health and the environment; and

(iii) A copy of the applicant's most recent Comprehensive Annual Financial Report.

#### **(4) Application evaluation and prioritization.**

(a) The department will evaluate the loan application together with the associated oversight remedial action grant application. The grant and loan applications will be evaluated by the department for completeness and adequacy. After the grant and loan applications have been completed, the department and the applicant will negotiate a scope of work and budget for the grant and loan. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant and loan.

(b) The department will fund the loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds allocated for oversight remedial action grants and loans exceeds the amount of funds available, the department will prioritize the associated grant and loan applications together using the criteria set forth in WAC 173-322-070(5).

(5) **Cost eligibility.** The eligible costs for the loan program shall be the same as the eligible costs for the oversight remedial action grant program set forth in WAC 173-322-070(6).

(6) **Retroactive cost eligibility.** The eligibility of retroactive costs for the loan program shall be the same as the eligibility of retroactive costs for the oversight remedial action grant program set forth in WAC 173-322-070(7).

#### **(7) Funding and repayment.**

(a) **General.** If the department provides the applicant an oversight remedial action grant and the grant is funded to the maximum extent allowed under WAC 173-322-070(8), then the department may also provide the applicant a loan to enable the applicant to meet the match requirement for the grant. The loan shall be used to supplement local government funding and funding from other sources to meet the match requirement.

(b) **Department funding of match requirement.** The department may provide a loan to the applicant for up to one hundred percent of the match requirement for the oversight remedial action grant.

(c) **Local government funding of match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant or loan. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(d) **Repayment of loan.** The terms and conditions for repayment of the loan shall be based on the applicant's ability to repay the loan, as determined by an independent third-party financial review. The independent third-party financial review shall be conducted at the direction and cost of the department.

WSR 05-07-106

PERMANENT RULES

GAMBLING COMMISSION

[Order 442—Filed March 18, 2005, 4:01 p.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: During the 2004 legislative session, EHB 3036 was adopted. This new law, codified as chapter 19.240 RCW, prohibits expiration dates on gift certificates. This



rule change removes requirements related to gift certificates codified as WAC 230-30-115. However, the amendment does not explicitly prohibit expiration dates because the Gambling Commission does not enforce the provisions of chapter 19.240 RCW, and there may be exceptions to the prohibition that may apply to licensees. For example, licensees may use expiration dates on gift certificates awarded as part of an awards or loyalty program or in other instances where no money or other thing of value is given in exchange for the gift certificate. Licensees will need to check with the text of the new law to determine whether they meet the criteria for exceptions.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-115.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 05-03-115 on January 19, 2005, with a published date of February 2, 2005.

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 1, Repealed 0.

Date Adopted: March 11, 2005.

Susan Arland  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 371, filed 5/18/99, effective 7/1/99)

**WAC 230-20-115 Gift certificates**~~((—Requirements)). ((Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:~~

~~(1) If sold, gift certificates shall be paid for in full at the time they are issued;~~

~~(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;~~

~~(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;~~

~~(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be prenumbered, consecutively issued, and have a predetermined value with the following information imprinted:~~

~~(a) The name of the organization issuing the certificate;~~

~~(b) The date issued and an expiration date no later than three months from the date issued for awarded certificates; and one year for sold certificates;~~

~~(c) The dollar value of the certificate; and~~

~~(d) Any conditions or contingencies related to redemption of the certificate;~~

~~(5) Gift certificates may only be awarded as prizes under the following conditions:~~

~~(a) No prize shall include more than fifty dollars U.S. currency in gift certificates; and~~

~~(b) Redemption of gift certificates shall not be limited to a specific gambling activity: Provided, That certificates may be specific for bingo;~~

~~(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punch boards or pull tabs upon the licensed premises from which it was issued;~~

~~(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed;~~

~~(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:~~

~~(a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;~~

~~(b) Redeemed certificates will be maintained with the corresponding daily sales records;~~

~~(c) Sold certificates not redeemed the expiration date shall be properly accounted for as a donation;~~

~~(d) Certificates issued as prizes and not redeemed by the expiration date shall be accounted for by decreasing prizes paid expense by the value of the expired certificate and eliminating the corresponding liability. This adjusting entry shall be clearly documented in the licensee's monthly records; and~~

~~(e) A certificate log will be maintained and will include the following:~~

~~(i) Certificate number;~~

~~(ii) Certificate value;~~

~~(iii) Date of issue;~~

~~(iv) Expiration date;~~

~~(v) Date of redemption; and~~

~~(vi) If awarded as a prize, the session and date the prize is awarded.) Bingo operators may award gift certificates as bingo prizes or sell certificates to their customers under the following conditions:~~

~~(1) Standards for gift certificates. Gift certificates must be purchased from a commercial printer or licensed distributor and have the following information printed on them:~~

~~(a) A predetermined certificate number;~~

~~(b) A predetermined dollar value;~~

~~(c) The name of the organization issuing the certificate; and~~

~~(d) Any conditions or contingencies related to the redemption of the certificate.~~

~~(2) Awarding gift certificates as bingo prizes. When gift certificates are awarded as bingo prizes:~~

~~(a) The certificates must be issued consecutively;~~

~~(b) The value of the certificates cannot exceed fifty dollars per bingo prize;~~

(c) The certificates cannot be issued exclusively for punch boards or pull-tabs;

(d) The value of each gift certificate must be recorded as a bingo prize in the daily bingo records, under the session awarded; and

(e) The bingo prize receipt for the certificate must be kept with the daily bingo records.

(3) Selling gift certificates to customers. When gift certificates are purchased by customers:

(a) The certificates must be issued consecutively;

(b) The certificates must be paid for in full at the time of purchase; and

(c) All funds collected by the bingo operator must be deposited separately into the gambling account within five banking days. Each gift certificate number must be included with the deposit record.

(4) Redeemed gift certificates:

(a) Redeemed certificates must be kept with the corresponding bingo daily sales records;

(b) Gift certificates redeemed for bingo cards will not be considered sales of bingo cards; and

(c) The dollar value and number of certificates redeemed must be recorded in the cash reconciliation section of the daily bingo records.

(5) A monthly reconciliation of gift certificate inventory to certificates issued is required and must include the following controls:

(a) A gift certificate inventory log, which includes the following:

(i) Certificate number;

(ii) Dollar value of each certificate;

(iii) Date the certificate was sold or awarded as a bingo prize; and

(iv) Date the certificate was redeemed;

(b) Purchase invoices, which must include the:

(i) Name of the organization;

(ii) Date the gift certificates were purchased; and

(iii) Beginning and ending numbers on the gift certificates.

### WSR 05-07-107

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Order 442—Filed March 18, 2005, 4:03 p.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This amendment increases the price of a single members-only raffle ticket from \$2 to \$10, when any tickets are sold at a discount. For example, one ticket for \$10 or three tickets for \$25.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-335.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0277.

Adopted under notice filed as WSR 05-03-114 on January 19, 2005, with a published date of February 2, 2005.

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.

Date Adopted: March 11, 2005.

Susan Arland  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-23-054, filed 11/20/01, effective 1/1/02)

**WAC 230-20-335 Members-only raffles—Procedures—Restrictions.** Organizations may conduct members-only raffles utilizing simplified procedures. For purposes of this section, "members-only raffle" means a raffle conducted by selling chances only to members of the organization and a limited number of guests, and determining the winners from among those members and guests that have purchased chances. The following procedures and restrictions supplement or modify WAC 230-08-070 and 230-20-325 and apply only to members-only raffles:

#### Licensed versus unlicensed.

(1) An organization may conduct an unlimited number of unlicensed members-only raffles if the combined gross revenue from the raffles does not exceed five thousand dollars during a calendar year. If the organization plans to exceed the five thousand dollar gross receipts limit, it must obtain a raffle license.

#### Raffle to begin and end during membership meeting.

(2) In order to conduct raffles utilizing these simplified procedures, all phases of the raffle must be completed during a meeting of the members, and the meeting must be completed on the same day and at the same location without interruption;

#### Limit on number of guests.

(3) If guests are allowed to participate, the total number of guests, as a percentage of the total attendance of the meeting, shall not exceed twenty-five percent. Records shall be maintained that will allow commission staff to determine compliance with this requirement;

#### Rules of play.

(4) All disclosures required to be imprinted on a raffle ticket or chance may be provided to participants by posting a sign at each ticket sales point;

**Tickets.**

(5) Chances to enter a raffle may be included as a part of a package that includes dues, entertainment, or other fund-raising activities if the value of each component of the package is disclosed to the purchaser and the value of each individual raffle chance does not exceed twenty-five dollars: Provided, That initial applications for membership and any fees paid for such shall not include chances to enter raffles or to participate in any gambling activities;

**Modified pricing schemes for tickets.**

(6) The director may authorize an organization to deviate from the "same price" requirements of WAC 230-20-325(1) when the following requirements are met:

*License required.*

(a) The organization must have a current raffle license.

*Request for approval.*

(b) A request for approval of a modified pricing scheme must be received at the Lacey headquarters office at least thirty days prior to beginning the first raffle for which such approval is requested.

*Subsequent pricing schemes.*

(c) After an organization has received approval for a modified pricing scheme, the organization may utilize the identical approved pricing scheme in subsequent raffles, unless approval is rescinded or commission rules change. The following modified pricing schemes may be approved by the director:

**Different prices for tickets - one cent to ten dollars.**

(d) Chances to enter a raffle may be sold for different values, ranging from one cent to a maximum of ten dollars, if the following conditions are met:

(i) The scheme for assigning the cost of the ticket must be disclosed to the player before selling them a chance to participate. This disclosure shall include the total number of tickets in the population and the number of tickets at each price level;

(ii) Participants must be allowed to randomly select their ticket from the population of remaining tickets. Participants pay the amount imprinted upon the ticket they select;

(iii) The scheme provides an adequate audit trail that will allow commission staff and taxing authorities to determine gross gambling receipts;

(iv) The total gross gambling receipts available from raffles utilizing such schemes are limited to five thousand five dollars for each drawing;

(v) No more than two such drawings are conducted during a meeting of the members.

**Discount based on number of tickets purchased.**

(e) Chances may be sold for a discounted price that is based on the number of tickets a player purchases if:

(i) Participants are allowed to purchase a single ticket;

(ii) Only one discount scheme is allowed for each raffle. The amount of the discount must be set prior to beginning sales for the raffle;

(iii) The cost of a single ticket, without a discount, does not exceed ~~((two))~~ ten dollars;

(iv) The total cost of a discount package does not exceed twenty-five dollars;

(v) The cost of a single ticket shall be imprinted on each ticket (i.e., one dollar a piece or twelve for ten dollars; or two dollars a piece or fifteen for twenty dollars); and

(vi) The licensee shall establish an audit system that includes controls and procedures that will allow commission agents and taxing authorities the ability to determine gross gambling receipts from the sale of tickets utilizing discounts. Such system shall be submitted to the director or the director's designee as a part of the approval request;

*Other pricing schemes.*

(f) Multiple tickets to enter one or more drawings may be sold as a package as long as the total price of the package does not exceed twenty-five dollars; and

(g) Alternative pricing schemes may be used if specifically authorized by the director. Approval will be issued on an individual basis and will require a detailed written request;

**Alternative drawing formats.**

(7) The director may authorize an organization to determine the winners utilizing an alternative drawing format when the following requirements are met:

*License required.*

(a) The organization must have a current raffle license.

*Request for approval.*

(b) A request for approval of an alternative drawing format for a members-only raffle must be received at the Lacey headquarters office at least thirty days prior to beginning the first raffle for which such approval is requested. Requests for approval of alternative drawing formats shall be signed by the organization's raffle manager.

*Subsequent alternative drawing formats.*

(c) After an organization has received approval for an alternative drawing format, the organization may utilize the identical alternative drawing format in subsequent raffles, unless approval is rescinded or commission rules change.

**Incentives for selling tickets.**

(8) The limitations on noncash incentive awards for an individual raffle, set forth in WAC 230-20-325(11), are modified to allow awards that do not exceed five percent of the combined gross gambling receipts for all raffles conducted during a membership meeting if a record of the name, address, and telephone number is maintained for all persons receiving awards valued in excess of fifty dollars;

**Prizes.**

(9) Prizes must be owned by the organization conducting the raffle prior to drawing the winning tickets. Raffle prizes must meet the following requirements:

(a) Firearms shall not be awarded as prizes: Provided, That a raffle licensee may award firearms as prizes under the provisions set forth in WAC 230-12-040;

(b) Unopened containers of liquor may be awarded as a prize when the proper permit is obtained from the liquor control board;

(c) Prize limits must meet the requirements set forth in WAC 230-20-015; and

(d) Prizes shall be controlled as set forth in WAC 230-20-300.

#### Records.

(10) Raffle records, as required by WAC 230-08-070, are modified as follows:

(a) The threshold value for maintaining a record of the name, address, and telephone number of each winner of a prize is increased to include only prizes valued in excess of fifty dollars;

(b) Ticket disbursement records are not required; and

(c) Minimum record retention period is reduced to a period that is not less than one year following the date of each individual raffle drawing.

#### WSR 05-07-108

##### PERMANENT RULES

#### DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed March 18, 2005, 4:37 p.m., effective April 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule repeals WAC 246-869-095 Facsimile transmission of prescription orders. This rule was incorporated into the electronic transmission of prescription information rule (WAC 246-869-095). Combining all rules related to the electronic transfer of prescription information into one chapter will make it easier for licensees and interested persons to locate all rules pertaining to the same subject matter.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-869-095.

Statutory Authority for Adoption: RCW 18.64.005.

Adopted under notice filed as WSR 04-22-120 on November 3, 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 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 1.

Date Adopted: February 15, 2005.

George Roe  
Chair

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-869-095

Facsimile transmission of prescription orders.

#### WSR 05-07-137

##### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

[Filed March 22, 2005, 4:45 p.m., effective April 22, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to update the outdated building code references in the existing adult family home licensing rule to be consistent with the codes adopted by the state Building Code Council under chapter 19.27 RCW relating to adult family homes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-76-76505.

Statutory Authority for Adoption: RCW 70.128.040.

Other Authority: Chapter 70.128 RCW.

Adopted under notice filed as WSR 05-04-058 on January 28, 2005.

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.

Date Adopted: March 17, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-20-004, filed 9/18/02, effective 10/19/02)

**WAC 388-76-76505 What physical structure requirements must the provider ensure that the home meets?** (1) Each adult family home must meet applicable local licensing, zoning, building, and housing codes, and state and local fire safety regulations as they pertain to a single-family dwelling.

(2) It is the responsibility of the provider to check with local authorities to ensure all local codes are met.

(3) Effective July 1, (~~2001~~) 2004, the following (~~must~~) adult family homes must meet requirements in WAC ((51-40-0310-14 Requirements for group R occupancies)) 51-51-0324 Section R324, Adult family homes as established by the Washington state building code council:

(a) Any single-family dwelling that has been newly constructed meeting all current applicable building codes, that has never been occupied, and that has a pending adult family home license application with the department;

(b) Any single-family dwelling being converted for use as an adult family home.

(4) WAC ((51-40-0310)) 51-51-0324 Section R324 - Adult family homes does not apply to adult family homes licensed before July 1, (~~2001~~) 2004, that are being sold or transferred for the purpose continuing the operation of a licensed adult family home under new ownership.

(5) Windows in every room used by residents must be free of obstructions.

(6) When resident bedroom windows are fitted with storm windows, the provider must equip the storm windows with release mechanisms that are easily opened from the inside without the use of a key or special knowledge or effort.

(7) The provider must ensure that every occupied area used by residents receiving care and services has access to one or more exit and must not pass through a room, garage, or other space subject to being locked or blocked from the opposite side.

(8) Every occupied area used by residents must not be accessible only by ladder, folding stairs, or trap door.

(9) The provider must ensure that every bathroom door lock opens from the outside in an emergency.

(10) The provider must ensure that every closet door opens from the inside and outside.

(11) The provider must ensure that exit doors leading to the outside will open from the inside without the use of a key or any special knowledge or effort.

#### WSR 05-07-141

#### PERMANENT RULES

#### WASHINGTON STATE PATROL

[Filed March 23, 2005, 8:12 a.m., effective April 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to increase the background check fees charged to school district employees, certifications, and contractual employees to coincide with an amendment proposal for WAC 446-20-600 Fees. This amendment will also increase the amount reimbursed to the Office of the Superintendent of Public Instruction from \$10.00 to \$11.00.

Citation of Existing Rules Affected by this Order: Amending WAC 446-20-610.

Statutory Authority for Adoption: RCW 43.43.830 - 43.43.845.

Adopted under notice filed as WSR 05-03-036 on January 10, 2005.

A final cost-benefit analysis is available by contacting Ms. Joan Smith, P.O. Box 42633, phone (360) 570-5230, fax (360) 570-5274, e-mail Joan.Smith@wsp.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 23, 2005.

John R. Batiste  
Chief

AMENDATORY SECTION (Amending WSR 98-19-039, filed 9/11/98, effective 10/12/98)

**WAC 446-20-610 Superintendent of public instruction—Prospective educational employees—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW. (~~Two~~) One fingerprint card(~~s are~~) is required to be submitted to the Washington state patrol identification and criminal history section.

(2) Appropriate nonrefundable fees are to be charged and made payable to the Washington state patrol for searches conducted under chapter 28A.410 RCW as follows:

(a) The fee for the state search is (~~fifteen~~) twenty dollars for school district employees.

(b) The fee for the state search is (~~twenty-five~~) thirty dollars for persons applying for their certification or for contractual employees.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, (~~a ten-dollar~~) an eleven-dollar processing fee will be charged for each fingerprint background check processed under chapter 28A.410 RCW. The Washington state patrol will reimburse the superintendent of public instruction (~~ten~~) eleven dollars for each fingerprint background check processed under this chapter for applicants who are certificated, contractual or classified.

(3) Prospective employees hired by the superintendent of public instruction, educational service districts, school districts and/or their contractors shall pay the appropriate fees for state and federal fingerprint checks conducted under chapter 28A.410 RCW.

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

**WSR 05-07-150**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed March 23, 2005, 10:42 a.m., effective April 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-218 WAC, Hops—Certification analyses—fees, by:

(1) Increasing the fee for submitted sample inspections and certification; (2) providing for negotiated fees when the lab receives a request for service for which a fee has not been established; (3) clarifying that fees for chemical analysis apply to all types of hop samples; (4) adding language regarding how the department will handle delinquent accounts and billings; and (5) rewriting the entire chapter to make it easier to read and understand.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-218-010, 16-218-02001, and 16-218-030.

Statutory Authority for Adoption: Chapters 22.09 and 34.05 RCW; section 309(2), chapter 25, Laws of 2003 1st sp.s.

Adopted under notice filed as WSR 05-04-111 on February 2, 2005.

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 4, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 0, Repealed 3.

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 4, Amended 0, Repealed 3.

Date Adopted: March 23, 2005.

Valoria H. Loveland  
Director

**NEW SECTION**

**WAC 16-218-015 What fees does the department charge for the certification of hops?** (1) Based upon standards established by the Federal Grain Inspection Service of the United States Department of Agriculture, the Washington state department of agriculture's (department) fees for the certification of hops are:

Type of Inspection and Other Service	Fee Charged for Inspection and Other Service
(a) Official lot inspections and certification for baled hops.	One dollar and twenty-five cents per bale with a minimum charge of thirty dollars per lot for official inspection and grading with certification.
(b) Official lot inspection and/or certification for alternative methods of packaging hops, or other services for which no fee has been established.	A contract fee may be negotiated, based on the agency's costs to furnish the services.
(c) Submitted sample inspections and certification.	One hundred fifty dollars for an unofficial sample submitted for grading with certification of a quantity not to exceed 100,000 lbs. of dried hops.
(d) Appeal inspections.	The Federal Grain Inspection Service in Portland, Oregon establishes the charges for appeal inspections, and payments for such inspections must be made to them. Department time for sampling, handling and administration regarding appeal inspections will be assessed at the sampler hourly rate.

(2)(a) Before official sampling of baled hops takes place, each and every bale in a lot of hops must be readily accessible so that:

- (i) Each bale can be properly stenciled; and
- (ii) Samples can be drawn from the bales selected by the inspector.

(b) Official samples drawn from baled hops must be brought back to the laboratory by the inspector for grading analysis.

(3) The department may perform official lot inspection and/or certification of hops packaged by alternative methods (e.g., hops not baled prior to processing) subject to conditions specified in a written agreement between the department and the person(s) requesting the service.

(4)(a) Submitted samples provided by a grower or dealer for grading analysis must be representative of the lot(s) and the hop material.

(b) Submitted samples are delivered to the laboratory.

**NEW SECTION**

**WAC 16-218-025 What does the department charge for chemical analysis regarding brewing values and addi-**

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**tional constituents in raw hops, hop extract, hop pellets and hop powder?** (1) Before official sampling of baled hops takes place, each and every bale in a lot of hops must be readily accessible so that:

(a) Each bale can be properly stenciled (not done for brewing value only sampling); and

(b) Samples can be drawn from the bales selected by the inspector.

(2) Official samples drawn from baled hops must be brought back to the laboratory by the inspector for chemical analysis, simultaneous with grading analysis.

(3) Brewing value samples are obtained from a representative composite of the official samples drawn for grade analysis.

(4) Brewing value samples not sampled simultaneously for grade analysis will be charged at the same fee per bale.

(5) When department personnel officially sample hops, a brewing value certificate will be issued when the chemical analysis is done.

(6)(a) Submitted brewing value samples provided by a grower or dealer for chemical analysis must be representative of the lot(s).

(b) Submitted samples are delivered to the laboratory.

(7) Submitted brewing value certificates will be issued for submitted samples when the chemical analysis is done.

(8) Department fees for the chemical analyses of officially sampled raw hops are:

Type of Analyses	Fee	Minimum Fee
(a) ASBC spectrophotometric with moisture	\$0.35 per bale	\$30.00 per sample
(b) ASBC spectrophotometric/conductometric or EBC conductometric without moisture	\$0.30 per bale	\$30.00 per sample
(c) Mebak, Zurich, Verzele, Ganzlin, or conductometric	\$0.60 per bale	\$60.00 per sample

(9) Department fees for chemical analyses of submitted raw hops, hop extract, hop pellets or hop powders are:

Type of Analyses	Fee
(a) ASBC spectrophotometric	\$30.00
(b) ASBC conductometric	\$30.00
(c) EBC conductometric	\$30.00
(d) EBC conductometric (Wollmer, Zurich, Mebak, Verzele, Ganzlin, or Resins (hard or soft))	\$60.00
(e) Spectrophotometric of tannins, Wollmer, etc.	\$55.00
(f) Methylene chloride	\$80.00
(g) Tannin	\$55.00
(h) Ash	\$20.00
(i) SO <sub>2</sub>	\$25.00
(j) H <sub>2</sub> O	\$10.00

Type of Analyses	Fee
(k) HPLC	\$100.00
(l) Total oil	\$25.00
(m) Oil constituents analysis	\$145.00
(n) Wort test, particle size	\$10.00

(10)(a) The department will assess hourly charges for analytical chemistry work if no other fee has been established.

(b) Hourly charges are set by written agreement and shall be based on the costs incurred to conduct the analysis, such as:

- Labor
- Laboratory equipment
- Chemicals and materials
- Administration and overhead.

**NEW SECTION**

**WAC 16-218-035** What does the department charge for issuing export certificates for hops and hop products? The department charges the following fees for issuing certificates related to hops and hop products:

Type of Certificate	Fee for Each Certificate
(1) State phytosanitary certificates	\$25.00
(2) Other certificates attesting to origin, compliance with standards of other states or nations or specifications of contracts, or conditions of production or processing	\$20.00

**NEW SECTION**

**WAC 16-218-040** When are the fees and charges required by this chapter due to the department? (1) The department will bill you for the services it renders.

(2) The fees and charges billed to you are due to the department within thirty days of the statement date.

(3) If the department does not receive your payment within thirty days of the statement date, the department may:

- (a) Withhold its services from you until your delinquent account is paid; and
- (b) Accept only cash payments from you for future services rendered.

(4) The department assesses a penalty of twelve percent per annum on all delinquent account balances.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-218-010 Schedule of fees for physical grading.
- WAC 16-218-02001 Schedule of charges for chemical analyses of hops,

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hop extract, hop pellets or hop powder.

WAC 16-218-030 Schedule of fees for certificates.

**WSR 05-07-151**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed March 23, 2005, 11:09 a.m., effective April 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule sets the terms and conditions for the use of an individual with disabilities emblem for certain vehicle license plates and clarifies that the emblem is considered a special year tab.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-311 and 308-96A-314.

Statutory Authority for Adoption: RCW 46.16.381.

Adopted under notice filed as WSR 05-03-105 on January 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: Clarification of a definition.

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 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.

Date Adopted: March 22, 2005.

Fred Stephens  
 Director

**AMENDATORY SECTION** (Amending WSR 04-14-077, filed 7/6/04, effective 8/6/04)

**WAC 308-96A-311 General provisions. (1) How do I qualify for an individual with disabilities parking privilege?**

In order to qualify for a temporary or permanent individual with disabilities parking privilege, a licensed physician or advanced registered nurse practitioner (ARNP) must certify, on a department approved application form, that you have a disability that limits or impairs your ability to walk and that you meet the requirements listed in RCW 46.16.381(1). For the purpose of implementing this rule, a physician is defined as a health care provider to include: Chiropractor (DC), naturopath (ND), physician or surgeon (MD or DO), podiatrist (DPM). Licensed physician does not include persons

licensed in the professions of dentistry and optometry. The physician or ARNP as defined above must ~~((certify))~~ sign a declaration under penalty of perjury that you have a disability that limits or impairs the ability to walk and that you meet one of the following criteria allowed by RCW 46.16.381:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Are severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Are so severely disabled, that you cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Use portable oxygen;

(e) Are restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Are impaired by cardiovascular disease or cardiac condition to the extent that your functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Have a disability resulting from an acute sensitivity to automobile emissions which limits or impairs your ability to walk. Your personal physician or advanced registered nurse practitioner must document that your disability is comparable in severity to the others listed in this subsection.

The medical ~~((certification))~~ declaration is required for all original applications for permanent and temporary disability privileges and for permanent disability privileges that have been expired more than thirty days. ~~((Certification))~~ Declaration is not required for renewal of existing Washington privileges for an individual with disabilities.

**(2) How do I apply for an individual with disabilities parking privilege?**

Once the licensed physician or ARNP portion of the application is completed, you must complete and sign your portion of the application and submit it to the department or file the form in person at most Washington vehicle licensing offices, as noted on the application.

**(3) Who may sign the application for an individual with disabilities who is unable to sign or is a minor?**

When an individual with disabilities is unable to sign or is a minor, the application may be signed by an authorized representative of the individual with disabilities. The application must then be accompanied by a copy of one of the following:

(a) A power of attorney;

(b) A Washington state court order or certification from the clerk of court confirming the court's action; or

(c) ~~((An affidavit))~~ A declaration under penalty of perjury explaining why the applicant is unable to sign and explaining the signing person's association with the applicant. Example: Signature, Jane Doe, daughter.

**(4) When is the individual with disabilities parking privilege no longer valid?**

The individual with disabilities parking privilege is no longer valid:

(a) Upon expiration of the privilege;

(b) Upon death of the individual with disabilities;

(c) If the disability no longer exists; or



(d) If the privilege was issued in error.

**(5) What happens if I do not renew my permanent parking privilege prior to the expiration date?**

When an individual with disabilities parking privilege is expired for more than thirty calendar days, a new original application with physician or ARNP's certification will be required.

**(6) What will I receive once my application is approved?**

You will receive an individual with disabilities identification card and:

(a) If you have a temporary disability you will receive one red temporary placard;

(b) If you have a permanent disability you may choose to receive:

(i) Up to two blue permanent placards; or

(ii) One blue permanent placard and one set of individual with disabilities license plates. The individual with disabilities must be a registered owner to receive these special license plates.

(iii) In lieu of the individual with disabled parking license plates, a qualifying individual may request the issuance of an individual with disabilities year tab, which may be displayed on the following types of special license plates:

(A) Stadium plates authorized under RCW 46.16.301;

(B) Congressional Medal of Honor Plates authorized under RCW 46.16.305;

(C) Pearl Harbor survivor plates authorized under RCW 46.16.305;

(D) Collegiate plates authorized under RCW 46.16.324;

(E) Any plates created after January 1, 2003, per RCW 46.16.745;

(F) Disabled veteran plates authorized under RCW 73.04.110;

(G) Former prisoner of war plates authorized under RCW 73.04.110;

(H) Former prisoner of war plates for surviving spouses authorized under RCW 73.04.115;

(I) Square dancer plates authorized under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997;

(J) Purple heart plates authorized under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997.

**(7) When can the individual with disabilities parking privileges be used?**

The parking privileges may only be used when the person to whom the plate or placard is issued is being transported.

**(8) Why is the individual with disabilities identification card issued?**

The individual with disabilities identification card must be available for law enforcement or parking enforcement officials to verify the identity of the individual with disabilities and to ensure the parking privilege is only used by those who qualify for that privilege.

If you have just applied for and not yet received an individual with disabilities identification card, show the receipt you received at the time of application.

**(9) How do I display the individual with disabilities parking placard?**

(a) The placard is (~~made to be~~) hung from the rearview mirror post; or

(b) In the absence of the rearview mirror post, the placard may be placed on the dashboard.

However displayed, the entire placard must be visible through the vehicle windshield.

**AMENDATORY SECTION** (Amending WSR 04-14-077, filed 7/6/04, effective 8/6/04)

**WAC 308-96A-314 Individual with disabilities special license plates(~~Individual~~).** (1) **Where can I obtain an individual with disabilities special license plate and identification card?**

You may apply for an individual with disabilities special license plate at most Washington vehicle licensing offices. You will receive the identification card and individual with disabilities special license plates in the mail.

In lieu of the individual with disabled parking license plates, a qualifying individual may request the issuance of an individual with disabilities year tab, which may be displayed on the following types of special license plates:

(a) Stadium plates authorized under RCW 46.16.301;

(b) Congressional Medal of Honor Plates authorized under RCW 46.16.305;

(c) Pearl Harbor survivor plates authorized under RCW 46.16.305;

(d) Collegiate plates authorized under RCW 46.16.324;

(e) Any plates created after January 1, 2003, per RCW 46.16.745;

(f) Disabled veteran plates authorized under RCW 73.04.110;

(g) Former prisoner of war plates authorized under RCW 73.04.110;

(h) Former prisoner of war plates for surviving spouses authorized under RCW 73.04.115;

(i) Square dancer plates authorized under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997; and

(j) Purple heart plates authorized under RCW 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997.

**(2) How do I qualify for individual with disabilities special license plates?**

To receive special license plates:

(a) Your name must be shown on the department's record as being a registered owner of the vehicle; and

(b) (~~You must be certified by a licensed physician or ARNP as having a permanent disability or have already been granted a permanent individual with disabilities parking privilege established with the department.~~) A licensed physician or ARNP must declare that you have a permanent disability that qualifies you for the privileges identified under RCW 46.16.381 or that you have already been granted the privileges under that chapter.

**(3) When do the individual with disabilities special license plates and identification card expire?**

These special license plates carry the expiration date of your vehicle registration and must be renewed annually. The privilege to use the individual with disabilities special license plate must be renewed every fifth year from the month of issuance of the privilege.

**(4) When are the individual with disabilities special license plates no longer valid?**

These special license plates are no longer valid when:

- (a) The plates expire;
- (b) The privilege expires;
- (c) Upon death of the individual with disabilities;
- (d) If the disability no longer exists;
- (e) The special license plates have been canceled by department administrative action;
- (f) If the privilege was issued in error; or
- (g) If the individual with the disability is no longer shown on the department's record as being a registered owner of the vehicle.

**(5) How do I replace the individual with disabilities special license plates if they become lost, mutilated, destroyed, or stolen?**

You shall complete and sign a statement explaining what happened to the individual with disabilities special license plate(s) and pay replacement plate fees. Replacement special individual with disabilities license plates will be issued indicating the current expiration date. See note following subsection (6) of this section.

**(6) When I am required to replace my individual with disabilities special license plate(s), will I receive the same number/letter combination? Yes.** Upon request and with payment of the plate retention fee in RCW 46.16.233, you will receive replacement individual with disabilities parking special license plate(s) with the same number/letter combination as shown on the vehicle computer record.

**Note:** If the license plate(s) has been reported stolen or if the department record indicates the vehicle has been stolen, the same number/letter combination will not be used. This is a law enforcement issue and is for the protection of the public.

**WSR 05-07-152**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed March 23, 2005, 11:10 a.m., effective May 15, 2005]

Effective Date of Rule: May 15, 2005.

**Purpose:** This rule allows the inclusion of brands from other jurisdictions than Washington to be added to the vehicle certificate of ownership and registration documents. This change accommodates Washington's participation in the motor vehicle title information system national database.

**Citation of Existing Rules Affected by this Order:** Amending WAC 308-56A-500 Definitions and 308-56A-530 Vehicle brands and comments.

**Statutory Authority for Adoption:** RCW 46.01.110.

Adopted under notice filed as WSR 05-03-106 on January 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: Changes in wording for clarification and understandability.

Language was added back in that had been redacted because of concerns of stakeholders.

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.

Date Adopted: March 22, 2005.

Fred Stephens  
Director

**AMENDATORY SECTION** (Amending WSR 04-08-081, filed 4/6/04, effective 5/7/04)

**WAC 308-56A-500 Definitions.** The following definitions apply to terms used in chapters 46.12 and 46.16 RCW and chapter 308-56A WAC:

(1) "Affidavit in lieu of title" is a written declaration confirming the certificate of ownership, registration certificate, validation tab are unavailable, lost, stolen, destroyed or mutilated. The affidavit in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the affidavit in lieu of title must be notarized or certified as described in WAC 308-56A-270.

(2) "Affidavit of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed or mutilated. The affidavit of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the affidavit of loss release of interest must be notarized or certified as described in WAC 308-56A-270.

(3) "Affixed" means attached.

(4) "Brands" means a permanent notation on the certificate of ownership and vehicle registration certificate that records a circumstance or condition involving a vehicle.

(5) "Brands incident date" is the date that a brand was first applied to a vehicle. For states/jurisdictions participating in the National Motor Vehicle Title Information System (NMVTIS), it's the date the brand was first reported. For all other states/jurisdictions, it is established by using the date the current title was issued. Brands on Washington records prior to the effective date of this rule will reflect a brand incident date equal to the date the last Washington certificate of ownership was issued.

~~(6)~~ (6) "Certificate of ownership" (or "title") is a legal document indicating proof of ownership and will establish a fact or sustain a judgment unless contradictory evidence is produced.

~~((6))~~ (7) "Comment" means an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type or a previous condition of the vehicle.

~~((7))~~ (8) "Commercial parking company" means any business directly engaged in providing vehicle parking upon property owned or controlled by the business and approved for public parking of vehicles.

~~((8))~~ (9) "Current license plate registration" means the current registration or one that has been expired less than one year.

~~((9))~~ (10) "Declaration in lieu of title" is a written statement confirming the certificate of ownership, registration certificate, validation tab is unavailable, lost, stolen, destroyed, or mutilated. The declaration in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the declaration in lieu of title must be signed under penalty of perjury, as described in WAC 308-56A-270.

(11) "Declaration of loss" is a written statement confirming the certificate of ownership, registration certificate, validation tab or decal has been lost, stolen, destroyed, or mutilated. The declaration of loss release of interest form may be used to release interest in the vehicle and transfer gross weight license for that vehicle to a new owner. The signature of the owner completing the declaration of loss release of interest must be signed under penalty of perjury, as described in WAC 308-56A-270.

(12) "Department" means the same as described in RCW 46.04.162.

~~((10))~~ (13) "Department temporary permit" is a permit issued temporarily in lieu of permanent registration and license plates when required documentation is unavailable.

~~((11))~~ (14) "Electronic filing" is the use of an electronic method to transmit information to the department that may include, but is not limited to, the use of the internet and facsimile.

~~((12))~~ (15) "Involuntary divestiture" means a change in vehicle ownership without the registered owner's involvement.

~~((13))~~ (16) "Joint tenancy with rights of survivorship" (JTWROS) means two or more people who own a vehicle in joint tenancy with the right to own individually if one of them dies.

~~((14))~~ (17) "Jurisdiction code" means an abbreviation assigned by the department generally based on the U.S. Postal Service designation that indicates state, province, district, or country.

~~((15))~~ (18) "Legal owner" means the same as described in RCW 46.04.270.

~~((16))~~ (19) "Lien holder" means a person or entity that has a legal right or interest in another's property until a debt or duty that it secures is satisfied.

~~((17))~~ (20) "Not eligible for road use" (NEFRU) means a vehicle that does not meet Federal Motor Vehicle Safety

standards, other federal and/or state standards for public road use as adopted, applied, and enforced by the Washington state patrol described in RCW 46.37.005.

~~((18))~~ (21) "A declaration under penalty of perjury" means a statement signed by the applicant to the effect - "I declare under penalty of perjury under the laws of the state of Washington that the information I have provided on this form is true and correct. Anyone who knowingly makes a false statement may be guilty of a felony under state law and upon conviction shall be punished by a fine.

(22) "Person" means the same as described in RCW 46.04.405.

~~((19))~~ (23) "Personal representative" means:

- (a) An individual appointed by the court; or
- (b) An individual named in the last will and testament and confirmed by the court to manage the estate of a deceased person.

Personal representative may also include executor, administrator, special administrator, and guardian or limited guardian and special representative as defined in RCW 11.02.005(1).

~~((20))~~ (24) "Registered owner" means the same as described in RCW 46.04.460.

~~((21))~~ (25) "Security interest" means a property interest created by agreement or by operation of law to secure performance of an obligation (repayment of a debt).

~~((22))~~ (26) "Security interest holders" means in this instance, the same as "lien holder" as defined in subsection (16) of this section.

~~((23))~~ (27) "Secured party" means in this instance the same as "lien holder" as defined in subsection (16) of this section.

~~((24))~~ (28) "Standard brand" is a brand found on the brands list maintained by the National Motor Vehicle Title Information System (NMVTIS) program.

(29) "Transferee" means a person to whom a vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee, when applicable.

~~((25))~~ (30) "Transferor" means a person who transfers ownership in a vehicle by sale, gift, or any means other than by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor, when applicable.

~~((26))~~ (31) "Unique brand" means a brand issued by a state that is not participating in the National Motor Vehicle Title Information System (NMVTIS) program and does not appear on the brands list maintained by NMVTIS.

(32) "Washington vehicle licensing office" means an office that is operated by the department or an agent or sub-agent appointed under RCW 46.01.140 for the purpose of carrying out the vehicle titling and registration provisions in Title 46 RCW.

AMENDATORY SECTION (Amending WSR 02-19-016, filed 9/9/02, effective 10/10/02)

**WAC 308-56A-530 Vehicles brands and comments.**  
**(1) What is a brand?** For the purposes of this section a

brand is a notation on the certificate of ownership or vehicle registration certificate that records a special circumstance or condition involving a vehicle.

(2) **What brands are assigned to vehicles by the department?** Brands used by the department include, but are not limited to:

- (a) Former exempt, as defined in RCW 46.16.020;
- (b) Former for hire, as defined in RCW 46.72.010;
- (c) Former taxicab, as described in RCW 46.72.010;
- (d) Rebuilt as required in RCW 46.12.075, when a vehicle reported destroyed under RCW 46.12.070 or 46.80.090 and WAC 308-56A-460 meets the definition of salvage vehicle in RCW 46.12.005;

- (e) Street rod as defined in RCW 46.04.571;
- (f) Nonconformity uncorrected or safety defect uncorrected as defined in RCW 19.118.021 (13) and (18);

(g) ~~(Former rental, designation used on a certificate of ownership when a vehicle is removed from a rental fleet and sold as nonrental;~~

~~(h)) Nonconformity corrected or safety defect corrected as defined in RCW 19.118.021 (13) and (18);~~

~~((i) Not eligible for road use as described in RCW 46.09.020.)) (h) Returned to manufacturer;~~

~~(i) Odometer - Not actual;~~

~~(j) Odometer - Exceeds mechanical limits;~~

~~(k) Repaired - Wrecker/insurance bill of sale.~~

**(3) What brands are carried forward from the other states/jurisdictions by the department?**

**(a) Brands for states/jurisdictions participating in the National Motor Vehicle Title Information System (NMV-TIS) program (known as "Standard Brands.") are maintained in the brands list by NMVTIS and include, but are not limited to:**

- (i) Rebuilt;
- (ii) Junk;
- (iii) Destroyed;
- (iv) Salvage - Damaged;
- (v) Salvage - Retention;
- (vi) Salvage - Stolen;
- (vii) Salvage - Other;
- (viii) Flood damage;
- (ix) Hail damage;
- (x) Saltwater damage;
- (xi) Totaled.

**(b) Brands from states/jurisdictions not participating in NMVTIS that do not appear on the brands list maintained by NMVTIS (known as "unique brands") will be carried forward on Washington certificates of ownership and registration certificates exactly (or abbreviated if too long) as they appear on the foreign title.**

More than one brand may appear on the vehicle registration or certificate of ownership.

~~((The department will carry forward all brands and jurisdiction codes shown on foreign certificates of ownership/titles. Brands that do not match Washington terminology or that are not listed below will be shown as "nonstandard." Brands carried forward from foreign certificates of ownership/titles may use the same terminology as a Washington brand, but may not have the same definition as the Washing-~~

~~ton brand. Other brands not used in Washington but carried forward from other jurisdictions are:~~

~~(A) Junk;~~

~~(B) Destroyed;~~

~~(C) Salvage.)) (4) **Will a brand be applied to destroyed**~~

**vehicles that have been sold on an out-of-state wrecker or insurance bill of sale, then repaired, and inspected? Yes.** Vehicles not reported to DOL as destroyed and then sold using an insurance or wrecker bill of sale in lieu of a certificate of ownership/title, then brought into Washington from another jurisdiction that is not subject to reporting under RCW 46.12.070 repaired, and inspected will be branded ~~((in accordance with RCW 46.12.075 whether or not the vehicle had been reported as destroyed in any other jurisdiction)).~~ The brand will appear as "repaired-wrecker/insurance bill of sale."

The jurisdiction code will be identified as "~~((XX))~~ WA."

~~((3) What brands are carried forward from other jurisdictions? In addition to the brands listed in subsection (2) of this section, the department will apply the following brands assigned by other jurisdictions together with the applicable jurisdiction code: Destroyed, salvage, junk. Any other brands assigned by another jurisdiction will be identified by the words "nonstandard."~~

~~(4)) (5) Why is a brand used? A brand is used in the circumstances above for consumer protection. The brand is used to inform any subsequent owners of the current or former condition or use of the vehicle.~~

~~((5)) (6) Will the department remove a brand? Brands stay on vehicle records indefinitely.~~ The department will only remove a brand if((+

~~(e)) the brand was applied to a Washington certificate of ownership in error; or~~

~~((b) A vehicle branded not eligible for road use has been modified according to the manufacturer specifications and federal and state standards in such a way to qualify the vehicle for highway use;~~

~~(e) The lemon law administrator certifies that a vehicle branded nonconformity uncorrected should be branded nonconformity corrected;~~

~~(d) The lemon law administrator certifies that a vehicle branded safety defect uncorrected should be branded safety defect corrected.)) (a) If a former rental brand was applied prior to the effective date of this rule, it will remain on the certificate of ownership and/or vehicle registration unless applied in error.~~

~~((6)) (b) If a nonstandard brand was applied prior to the effective date of this rule, it will remain on the certificate of ownership and/or vehicle registration unless applied in error.~~

**(7) Where are brands located on the documents?** ~~((The brand is))~~ Brands are located in the ~~((comments/))~~ Brands section of the certificate of ownership and vehicle registration. ~~((The))~~ Brands will display beginning with Washington issued brands, followed by unique brands, then standard brands. If applicable, "WA REBUILT" will show as a banner across the certificate of ownership.

~~((7)) (8) What is a comment? For the purposes of this section a comment is an indication on the certificate of ownership, vehicle title/registration application or vehicle registration certificate that relates to tax liability, type of owner-~~

ship, title transaction type ((~~or a previous condition of the vehicle~~)).

((~~8~~)) (9) What comments could the department print on certificates of ownership?

(a) Comments relating to the ownership that include: Bonded, leased, JTWROS.

(b) Comments relating to tax liability that include: Use tax waived - gift, value code, value year.

(c) Comments relating to the type of title transaction, which include duplicate, and reprint.

(d) Miscellaneous comments that include: ((~~Safety defect uncorrected, safety defect corrected, nonconformity uncorrected, nonconformity corrected, return to manufacturer.~~)) Not eligible for road use.

((~~9~~)) (10) What ((~~brands and/or~~)) comments could the department print on vehicle registration certificates? ((~~Brands and/or~~)) Comments printed on vehicle registration certificates may include, but are not limited to:

(a) ((~~"Vehicle Driver And Owner Subject To Federal Drug Program" Title 49 CFR Part 382;~~

(b) "~~Rebuilt~~" or "~~wa rebuilt~~";

(c) "~~CVSEF PAID~~" or "commercial vehicle safety enforcement fee paid";

((~~d~~)) (b) "Because scale weight exceeds gross weight, D.O.T. permit also required";

((~~e~~)) (c) "Commercial vehicle safety enforcement fee not paid";

((~~f~~)) (d) "Display tab on back license plate" only - front plate is still required;

((~~g~~)) (e) "\*Check vehicle data base record for actual expiration date";

((~~h~~)) (f) "Replica";

((~~i~~)) (g) "Proof of FHVUT verified";

((~~j~~)) "~~Safety defect~~";

(k) "~~Safety defect corrected~~";

(l) "~~Nonconformity uncorrected~~";

(m) "~~Nonconformity corrected~~";

((~~n~~)) (h) "No title issued" or "no title issued - ownership in doubt";

((~~o~~)) (i) "Excise exempt NRM";

((~~p~~)) (j) "Excise exempt native American";

((~~q~~)) (k) "Excise exempt van pool";

((~~r~~)) (l) "Excise exempt rideshare";

((~~s~~)) (m) "Registration only";

((~~t~~)) (n) "Prorated gross weight to be more than 16,000";

((~~u~~)) (o) "Additional owners on record";

((~~v~~)) (p) "Not eligible for road use";

((~~w~~)) (q) "Perm plt";

((~~x~~)) (r) "Use tax waived: Gift";

((~~y~~)) "~~Return to mfg.~~";

(z) (s) "Permanent fleet vehicle";

((~~aa~~)) (t) "\*Perm";

((~~bb~~)) (u) "Color";

((~~cc~~)) (v) Comments relating to the ownership; bonded, leased, JTWROS, registration only;

((~~dd~~)) (w) Tax liability DAV, native American, NRM, value code/year, use tax option, rideshare, POW, tax code 95, double transfer;

((~~ee~~)) (x) Title transaction type duplicate, reprint, NTI, dual registration, corrected title data, corrected registration;

((~~ff~~)) (y) Miscellaneous gift, ride, previous plate VIN flag, farm vehicle restrictions, Federal Drug Program (Title 49 CFR Part 382) vehicle color, odometer code, RETURN TO MFG, not eligible for road use (NEFRU).

((~~10~~)) (11) What comments would the department carry forward from other jurisdictions? The department does not carry forward comments assigned by other jurisdictions.

((~~11~~)) (12) Why are comments used? Comments are used for consumer protection, to inform any subsequent owners and vehicle licensing personnel of the current tax liability, type of ownership, or title transaction type or other pertinent information.

((~~12~~)) (13) Will the department remove a comment? The department will remove a comment if:

(a) The comment was applied in error; or

(b) The comment no longer applies.

## WSR 05-07-157

### PERMANENT RULES

#### WASHINGTON STATE PATROL

[Filed March 23, 2005, 11:21 a.m., effective April 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This amendment will change the fees for background checks to coincide with the amendment to WAC 446-20-600 Fees. The amendment to WAC 446-20-630 will also reduce the number of fingerprint cards being submitted to the Washington State Patrol from two to one. Currently, only one fingerprint card is required for processing; WSP sends the fingerprints electronically to the FBI.

Citation of Existing Rules Affected by this Order: Amending WAC 446-20-630.

Statutory Authority for Adoption: RCW 43.43.830 - 43.43.845.

Adopted under notice filed as WSR 05-03-035 on January 10, 2005.

A final cost-benefit analysis is available by contacting Ms. Joan Smith, P.O. Box 42633, phone (360) 570-5230, fax (360) 570-5274, e-mail Joan.Smith@wsp.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 23, 2005.

John R. Batiste  
Chief

**AMENDATORY SECTION** (Amending WSR 96-18-017, filed 8/26/96, effective 9/26/96)

**WAC 446-20-630 Department of social and health services—Child care licensing—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 74.15 RCW. ~~((Two))~~ One fingerprint card~~((s are))~~ is required to be submitted to the Washington state patrol identification and criminal history section.

(2) Department of social and health services (DSHS) shall process fingerprint background checks under chapter 74.15 RCW. Under "reason fingerprinted," cards will be marked "DSHS Child Care Licensing RCW 74.15.030" or "DSHS Child Care Licensing RCW 74.15.030 DDD."

(3) Department of social and health services, division of children and family services (DCFS) shall pay the expense and submit a waiver of fee form on licensees if the background check expense would work a hardship on the licensee. The six-dollar processing fee will not be applicable when a waiver of fee form is submitted to the Washington state patrol or the fingerprint card is marked "volunteer."

(4) A monthly billing account will be established for the DSHS division of developmental disabilities (DDD). The six-dollar processing fee will not be applicable on any fingerprint cards indicated as "DDD."

(5) Each month the Washington state patrol shall prepare a billing statement and detail report for waiver of fee forms from DCFS and for all DDD fingerprint cards submitted.

(6) All fees collected under chapter 74.15 RCW, will be deposited into the Washington state patrol fingerprint identification account.

(7) Nonrefundable fees are to be charged to:

(a) "DSHS child care licensing RCW 74.15.030" (division of children and family services (DCFS)) as follows:

(i) The fee for the state search is ~~((twenty-five))~~ thirty dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(iii) A six-dollar processing fee.

(b) "DSHS division of children and family services (DCFS) for fee waivers" as follows:

(i) The fee for the state search is ~~((twenty-five))~~ thirty dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(c) "DSHS child care licensing RCW 74.15.030 division of developmental disabilities (DDD)" as follows:

(i) The fee for the state search is ~~((twenty-five))~~ thirty dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(d) "DSHS child care licensing RCW 74.15.030" division of developmental disabilities "volunteers" as follows:

(i) The fee for the state search is ~~((twenty-five))~~ thirty dollars.

(ii) The FBI fee shall be eighteen dollars on those fingerprint cards clearly designated as "volunteer" pursuant to provisions under Section 3e of the National Child Care Protec-

tion Act of 1993 as amended by the Crime Control Act of 1994.

(iii) "Chapter 74.15 RCW" and "volunteer" must be entered in the "reason fingerprinted" box on both the state and FBI fingerprint cards submitted. Failure to indicate "volunteer" and the RCW citation on fingerprint cards will result in full fees being charged.

PERMANENT

**WSR 05-07-005**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-35—Filed March 3, 2005, 4:19 p.m., effective March 3, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-33-01000U; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets the second period for winter salmon directed fisheries. Harvestable salmon and sturgeon are available. Season is consistent with the 2003-2005 sturgeon fishery management plan. 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 compact actions of January 28 and March 2, 2005, 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.

Date Adopted: March 3, 2005.

J. P. Koenings  
 Director

**NEW SECTION**

**WAC 220-33-01000V Columbia River 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) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 6:00 p.m. March 3 through 6:00 a.m. March 4, 2005.

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.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) 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.

2) 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.

3) 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.

4) 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 a 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.

5) 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.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) 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. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 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 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. 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.

#### 2) 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-inch minimum mesh through March 10 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. Use of additional weights or anchors attached directly to the leadline is allowed.

#### b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005.

#### Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, 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.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

#### 3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

#### b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. 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:

WAC 220-33-01000U Columbia River gillnet seasons below Bonneville. (05-33)

#### WSR 05-07-008 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-38—Filed March 4, 2005, 2:52 p.m., effective March 4, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Crab in Marine Area 13 still meet the hardshell criteria to support an extension of the recreational fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or



Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

Date Adopted: March 4, 2005.

J. P. Koenings  
Director

#### NEW SECTION

##### **WAC 220-56-33000R Crab—Areas and seasons.**

Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is lawful to fish for crab for personal use Marine Area 13.

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

**WSR 05-07-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-36—Filed March 4, 2005, 2:53 p.m., effective March 7, 2005]

Effective Date of Rule: March 7, 2005.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300S; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.240.

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 green sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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.

Date Adopted: March 4, 2005.

J. P. Koenings  
Director

#### NEW SECTION

**WAC 220-52-07300T Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective March 7, 2005 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 3, 4, 6 and 7 are open only on Monday through Friday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Saturday and Sunday of each week, except by written permission from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective March 7, 2005:

WAC 220-52-07300S Sea urchins. (05-18)

**WSR 05-07-010**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-37—Filed March 4, 2005, 2:54 p.m., effective March 7, 2005, 6:00 a.m.]

Effective Date of Rule: March 7, 2005, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100M; 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 dis-

tricts 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.

Date Adopted: March 4, 2005.

J. P. Koenings  
Director

#### NEW SECTION

**WAC 220-52-07100N Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective 6:00 a.m. March 7, 2005 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 7 only. The maximum daily landing of sea cucumbers allowed in Sea Cucumber District 1 is 400 pounds per commercial sea cucumber license on a valid designated harvest vessel. Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Monday, Tuesday and Wednesday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber or sea urchin fishing vessel on Saturday and Sunday of each week, except by permission from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. March 7, 2005:

WAC 220-52-07100M Sea cucumbers. (05-28)

### WSR 05-07-026 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-39—Filed March 8, 2005, 2:40 p.m., effective March 8, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000V; 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: Sets the third period for winter salmon directed fisheries. Harvestable salmon and sturgeon are available. Season is consistent with the 2003-2005 sturgeon fishery management plan. 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 compact actions of January 28 and March 7, 2005, 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.

Date Adopted: March 8, 2005.

J. P. Koenings  
Director

#### NEW SECTION

**WAC 220-33-01000W Columbia River 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) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 6:00 p.m. March 8 through 6:00 a.m. March 9, 2005.

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.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) 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.

2) 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.

3) 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.

4) 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 a 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.

5) 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.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) 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. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 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 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. 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.

2) 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-inch minimum mesh through March 10 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. Use of additional weights or anchors attached directly to the headline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, 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.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

## 3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

## b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. 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:

WAC 220-33-01000V Columbia River gillnet seasons below Bonneville. (05-35)

**WSR 05-07-034****EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 9, 2005, 4:15 p.m., effective March 9, 2005]

**Effective Date of Rule:** Immediately.

**Purpose:** The Division of Child Support (DCS) is amending WAC 388-14A-8100, to remove subsection (2), dealing with the enforcement of support obligations for children with developmental disabilities who are in foster care. Changes to this rule are necessary because of amendments to RCW 13.34.160, 13.34.270, 74.13.031, 74.13.350, and 74.20A.030 in the 2004 legislative session (chapter 183, Laws of 2004). Under prior statutes, DCS was prohibited from enforcing child support obligations for children with developmental disabilities when the children were in foster care. Statutory changes now allow for enforcement of support obligations for those children under certain circumstances. DCS must remove the blanket statement in its rules to allow us to comply with these changes. DCS continues the regular rule-making process and anticipates filing the CR-102 proposed rule notice soon. A notice of intent to adopt the

permanent rule was filed as WSR 04-23-037, and the department is actively taking steps to complete permanent rule-making process.

**Citation of Existing Rules Affected by this Order:** Amending WAC 388-14A-8100.

**Statutory Authority for Adoption:** RCW 13.34.160(3), 13.34.270(7), 74.08.090, 74.13.031(11), 74.13.350, 74.20A-030(4), and 74.20A.310.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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:** Under prior statutes, DCS was prohibited from enforcing child support obligations for children with developmental disabilities when the children were in foster care. In an effort to provide clear statements of policy for the public, WAC 388-14A-8100(2), therefore stated that "DCS does not enforce or establish support obligations for children in foster care who have been certified as eligible for DDD services." Since statutory changes now allow for enforcement of support obligations for those children under certain circumstances, DCS must remove the blanket statement in its rules or else we cannot establish or enforce these support obligations. Enforcement of support obligations for these children serves the public interest and legislative intent of having all parents be responsible for the care and support of their children; failure of DCS to establish or enforce support as required by statute may result in a violation of the state plan under Title IV-D of the federal Social Security Act, which could jeopardize the funding of the state's child support enforcement program.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 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 1, Repealed 0.

**Date Adopted:** March 7, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

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

**WAC 388-14A-8100** Are there special rules for setting child support for children in foster care? ((+)) Child support obligations for children in foster care are set under chapter 26.19 RCW, just like any other support obligation.

(((2) The division of child support does not establish or enforce support obligations for children in foster care who have been certified as eligible for DDD services.))

**WSR 05-07-043**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-40—Filed March 10, 2005, 3:33 p.m., effective March 10, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000W; 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: Sets the fourth period for winter salmon directed fisheries. Harvestable salmon and sturgeon are available. Season is consistent with the 2003-2005 sturgeon fishery management plan. 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. Harvestable salmon and sturgeon still remain. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with compact actions of January 28 and March 9, 2005, 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 9, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-33-01000X** Columbia River 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) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 6:00 p.m. March 10 through 2:00 p.m. March 11, 2005.

b) Gear: Drift gill nets only - 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.

d) Sanctuaries: Grays River, Gnat Creek, Elokom-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) 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.

2) 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.

3) 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.

4) 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.

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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.

5) 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.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) 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. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 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 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. 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.

#### 2) 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-inch minimum mesh through March 10 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. Use of additional weights or anchors attached directly to the leadline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005 and 7:00 p.m. Saturday March 12 to 7:00 a.m. Sunday March 13, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, 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.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

#### 3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. 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:

WAC 220-33-01000W

Columbia River gillnet seasons below Bonneville. (05-39)

**WSR 05-07-050**

**EMERGENCY RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed March 11, 2005, 2:56 p.m., effective March 15, 2005]

Effective Date of Rule: March 15, 2005.

Purpose: To prevent the introduction and dissemination of bovine tuberculosis among the cattle of Washington.

Citation of Existing Rules Affected by this Order:  
Amending WAC 16-54-082.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: RCW 34.05.350.

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: Bovine tuberculosis is a contagious bacterial disease affecting cattle, caused by *Mycobacterium bovis*. Bovine tuberculosis may be transmitted to people through contact with infected animals. Bovine tuberculosis has been diagnosed in dairy cattle in the states of Arizona, California, New Mexico, and Michigan.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 11, 2005.

Valoria H. Loveland  
Director

**AMENDATORY SECTION** (Amending WSR 99-09-023, filed 4/15/99, effective 5/16/99)

**WAC 16-54-082 Domestic bovine animals.** All domestic bovine animals (including bison) entering Washington shall be moved on a permit issued by the office of the state veterinarian. All domestic bovine animals (including bison) shall meet the following requirements:

(1) Tuberculosis. All beef and dairy cattle must originate from herds not under quarantine in a not less than modified accredited area. The state veterinarian may require a negative tuberculosis test within thirty days of import for cattle (including bison) from the states classified as modified accredited or accredited free if *Mycobacterium bovis* (*M. bovis*) has been cultured from a herd in that state within the previous twelve months. All Mexican cattle imported from Mexico within three years of date of importation to Washington must show proof of a tuberculosis retest at least one hundred twenty days after import to the United States. Such cattle without proof of retest must be held on the premises of destination in Washington and kept separate from all other cattle for not less than one hundred twenty nor more than one hundred eighty days from the date of entry and retested for

tuberculosis during the one hundred twenty to one hundred eighty-day period.

All dairy cows and bulls over six months of age or older must have a negative test for bovine tuberculosis within sixty days prior to entering Washington. Dairy heifers and bull calves under six months of age entering Washington must be officially identified with a USDA silver identification ear tag or a RFID (Radio Frequency Identification) tag and must be held on the premises of destination in Washington and kept separate from all other cattle until they are tested negative for bovine tuberculosis at six months of age. Dairy cattle that originate from USDA accredited tuberculosis free herds, dairy steers and spayed heifers being imported to restricted feedlots to be fed for slaughter and dairy cattle consigned to federally inspected slaughter plants for immediate slaughter are exempt from bovine tuberculosis testing under this section.

(2) Brucellosis health certificate requirements. All domestic bovine animals (including bison), except those consigned to restricted feedlots, to federally inspected slaughter plants for immediate slaughter, or beef breed cattle, slaughter only dairy breed cattle, or dairy breed cattle from Oregon, Montana, and Idaho consigned to a state-federal approved livestock market, shall be accompanied by an official interstate health certificate and shall meet the following requirements:

(a) Brucellosis test.

(i) Cattle from class free and A states.

(A) Sexually intact heifers from brucellosis quarantined herds in class free and A states shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter plant.

(B) Cattle other than those referred to in (a)(i)(A) of this subsection from class free or A states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry. Cattle not considered test eligible include:

(I) Calves under six months of age.

(II) Steers and spayed heifers.

(III) Officially vaccinated dairy cattle under twenty months of age and officially vaccinated beef cattle under twenty-four months of age.

(IV) Cattle from a certified brucellosis free herd.

(V) Cattle from selected brucellosis free states designated by the Washington state veterinarian.

(ii) Cattle from Class B or C states.

(A) Sexually intact females from other than certified brucellosis free herds in states classified B or C by the USDA shall not be imported into the state of Washington except for immediate slaughter at a federally inspected slaughter establishment.

(B) Sexually intact males from Class B states which are test eligible, unless destined for a restricted feedlot or for immediate slaughter at a federally inspected slaughter establishment, must be negative to an official brucellosis test conducted within thirty days prior to date of entry and held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred

twenty days from the date of the preentry test. Cattle not considered test eligible include:

- (I) Calves under six months of age.
- (II) Steers and spayed heifers.
- (III) Cattle from a certified brucellosis free herd.

(C) Sexually intact males from Class C states which are test eligible must be negative to two official brucellosis tests conducted prior to entry at least sixty days apart, the second test to be conducted within thirty days of entry. Those cattle shall be held on the premises of destination and kept separate from all other cattle for retest not less than forty-five nor more than one hundred twenty days from the date of the second negative preentry test. Cattle not considered test eligible include:

- (I) Calves under six months of age.
- (II) Steers and spayed heifers.
- (III) Cattle from a certified brucellosis free herd.

(iii) Beef cattle eligible for brucellosis testing coming from class free or A states or dairy cattle coming from Idaho, Montana, or Oregon may be moved to state-federal approved livestock markets in Washington to meet entry health requirements.

(iv) Should brucellosis infection occur in the state of Washington as a result of importation of infected animals, all future importations from the state of origin shall be required to meet import regulations of the next lower classification. State regulatory officials of that state shall be notified and the lower classification entry requirement will be in effect for twelve months following notification to the state of origin.

(b) Brucellosis vaccinates—female dairy cattle. All female dairy cattle must be identified as official brucellosis vaccinates before entry into a dairy cow breeding herd. Except the following classes of cattle are exempt from this requirement:

- (i) Calves under four months of age.
- (ii) Those cattle consigned directly to a restricted feedlot.
- (iii) Spayed heifers.

(c) Brucellosis vaccinates—female beef cattle. All female beef breed cattle must be identified as official brucellosis vaccinates before entry into a beef cow breeding herd, except the following classes of cattle are exempt from this requirement:

- (i) Calves under four months of age.
- (ii) Cattle sold or consigned to a restricted feedlot.
- (iii) Spayed heifers.

(d) Cattle from a certified brucellosis free country may be imported if the state veterinarian, upon being assured that to allow such cattle to enter would not create any jeopardy to the livestock industry of the state of Washington, issues a special permit for such entry.

(3) Scabies. The office of the state veterinarian may require that any cattle from a known infected area be dipped at an official dipping facility within ten days of entry and, except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days, be accompanied by an official interstate health certificate. Ivermectin may be used as an alternative to the dipping procedure for beef and nonlactating dairy animals.

(4) Vesicular stomatitis. The office of the state veterinarian may require that:

(a) Any cattle be accompanied by an official interstate health certificate except those consigned to a federally inspected slaughter plant for immediate slaughter within fourteen days;

(b) Dairy breed cattle be held separate and apart from all other cattle for a period of seven days at the point of destination and rechecked by an accredited veterinarian at the end of that period; except that dairy breed cattle from known infected areas shall not be allowed entry into the state; and

(c) Beef breed cattle from known infected areas be held separate and apart from all other cattle for a period of thirty days either prior to entry or at the point of destination or both.

(5) Temporary grazing permits. Herd owners desiring to move cattle into Washington for temporary grazing purposes must obtain a prior permit from the office of the state veterinarian. The state veterinarian may, if deemed necessary, require a brucellosis herd test and/or an official health certificate for any cattle entering the state for grazing purposes. Applicants must also file an approved herd plan with the office of the state veterinarian to phase out all brucellosis nonvaccinates in the herd prior to January 1, 1988. Grazing permits shall be for one specified season only and shall be valid for movement to only that destination declared on the permit. A copy of the permit shall accompany any vehicle transporting cattle into the state for such temporary grazing purposes.

#### WSR 05-07-057

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 11, 2005, 3:25 p.m., effective March 12, 2005]

Effective Date of Rule: March 12, 2005.

Purpose: To continue the emergency rule filed as WSR 04-23-069 on November 15, 2004, which adds that unpaid medical expenses as well as paid medical expenses can be used to reduce spenddown due to excess income during the based period. This emergency rule will keep Washington state in compliance with federal regulations while the permanent rule-making process is completed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-519-0110 Spenddown of excess income for the medically needy program.

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

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The state must comply with the federal program rule 42 C.F.R. 435.831 in order to continue receiving federal funds. The department is actively proceeding toward the permanent rule. Proposed rules were filed as WSR 05-05-083, and a public hearing is scheduled for March 22, 2005.



Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 7, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-519-0110 Spenddown of excess income for the medically needy program.** (1) The person applying for MN medical coverage chooses a three month or a six month base period for spenddown calculation. The months must be consecutive calendar months unless one of the conditions in subsection (4) of this section apply.

(2) A person's base period begins on the first day of the month of application, subject to the exceptions in subsection (4) of this section.

(3) A separate base period may be made for a retroactive period. The retroactive base period is made up of the three calendar months immediately prior to the month of application.

(4) A base period may vary from the terms in subsections (1), (2), or (3) of this section if:

(a) A three month base period would overlap a previous eligibility period; or

(b) A client is not or will not be resource eligible for the required base period; or

(c) The client is not or will not be able to meet the TANF-related or SSI-related requirement for the required base period; or

(d) The client is or will be eligible for categorically needy (CN) coverage for part of the required base period; or

(e) The client was not otherwise eligible for MN coverage for each of the months of the retroactive base period.

(5) The amount of a person's "spenddown" is calculated by the department. The MN countable income from each month of the base period is compared to the MNIL. The excess income from each of the months in the base period is added together to determine the "spenddown" for the base period.

(6) If income varies and a person's MN countable income falls below the MNIL for one or more months, the difference is used to offset the excess income in other months of the base period. If this results in a spenddown amount of zero dollars and cents, see WAC 388-519-0100(5).

(7) Once a person's spenddown amount is known, their qualifying medical expenses are subtracted from that spenddown amount to determine the date of eligibility. The following medical expenses are used to meet spenddown:

(a) First, Medicare and other health insurance deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Second, medical expenses which would not be covered by the MN program;

(c) Third, hospital expenses paid by the person during the base period;

(d) Fourth, hospital expenses, regardless of age, owed by the applying person;

(e) Fifth, other medical expenses, potentially payable by the MN program, which have been paid by the applying person during the base period; and

(f) Sixth, other medical expenses, potentially payable by the MN program which are owed by the applying person.

(8) If a person meets the spenddown obligation at the time of application, they are eligible for MN medical coverage for the remainder of the base period. The beginning date of eligibility would be determined as described in WAC 388-416-0020.

(9) If a person's spenddown amount is not met at the time of application, they are not eligible until they present evidence of additional expenses which meets the spenddown amount.

(10) To be counted toward spenddown, medical expenses must:

(a) Not have been used to meet a previous spenddown; and

(b) Not be the confirmed responsibility of a third party. The entire expense will be counted unless the third party confirms its coverage within:

(i) Forty-five days of the date of the service; or

(ii) Thirty days after the base period ends; and

(c) Meet one of the following conditions:

(i) Be an unpaid liability at the beginning of the base period and be for services for:

(A) The applying person; or

(B) A family member legally or blood-related and living in the same household as the applying person.

(ii) Be for medical services (~~received and~~) either paid (~~for~~) or unpaid and incurred during the base period; or

(iii) Be for medical services (~~received and~~) paid (~~for~~) and incurred during a previous base period if that client payment was made necessary due to delays in the certification for that base period.

(11) An exception to the provisions in subsection (10) of this section exists. Medical expenses the person owes are applied to spenddown even if they were paid by or are subject to payment by a publicly administered program during the base period. To qualify, the program cannot be federally funded or make the payments of a person's medical expenses from federally matched funds. The expenses do not qualify if they were paid by the program before the first day of the base period.

(12) The following medical expenses which the person owes are applied to spenddown. Each dollar of an expense or obligation may count once against a spenddown cycle that leads to eligibility for MN coverage:

(a) Charges for services which would have been covered by the department's medical programs as described in chapter 388-529 WAC, less any confirmed third party payments which apply to the charges; and

(b) Charges for some items or services not typically covered by the department's medical programs, less any third party payments which apply to the charges. The allowable items or services must have been provided or prescribed by a licensed health care provider; and

(c) Medical insurance and Medicare copayments or coinsurance (premiums are income deductions under WAC 388-519-0100(4)); and

(d) Medical insurance deductibles including those Medicare deductibles for a first hospitalization in sixty days.

(13) Medical expenses may be used more than once if:

(a) The person did not meet their total spenddown amount and did not become eligible in that previous base period; and

(b) The medical expense was applied to that unsuccessful spenddown and remains an unpaid bill.

(14) To be considered toward spenddown, written proof of medical expenses must be presented to the department. The deadline for presenting medical expense information is thirty days after the base period ends unless good cause for delay can be documented.

(15) Once a person meets their spenddown and they are issued a medical identification card for MN coverage, newly identified expenses cannot be considered toward that spenddown. Once the application is approved and coverage begins the beginning date of the certification period cannot be changed due to a clients failure to identify or list medical expenses.

### WSR 05-07-058

#### EMERGENCY RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed March 11, 2005, 3:27 p.m., effective March 11, 2005]

Effective Date of Rule: March 11, 2005.

Purpose: To adopt rules for the reimbursement of bariatric surgery.

Citation of Existing Rules Affected by this Order: Amending WAC 388-531-0150, 388-531-0200, 388-531-0250, 388-531-0650, 388-531-1600, 388-550-2800, and 388-550-4400.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

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: Recent studies of gastric bypass surgeries in Washington show an increased likelihood of complications. Specifically for Medical Assistance

Administration (MAA) clients following gastric bypass surgery, recent statistics shows a 2.1% in-hospital mortality rate (compared to 0.9% for all other patients in Washington state) and a 3.6% thirty-day mortality rate following the surgery (compared to 1.7% for all other Washington state patients). The mortality rates for MAA clients in both instances are more than double that of other patients. The national mortality rate from peer-reviewed literature for gastric bypass surgery is between 0% and 1%.

Because evidence shows that surgeon experience and competence is one of the most important factors in predicting the likelihood of complications, rules are needed immediately to establish standards for selection of surgeons and hospitals performing gastric bypass surgery for MAA clients. Rules are also needed immediately to establish medical necessity criteria and pre- and postoperative requirements for clients that would further prevent the likelihood of complications.

This continues the emergency rule that is currently in effect under WSR 04-23-054 while MAA completes the permanent rule-making process begun under WSR 04-12-093. MAA anticipates filing the permanent rule proposal (CR-102 notice) in June 2005.

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 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 0.

Date Adopted: March 7, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-08 issue of the Register.

### WSR 05-07-060

#### EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-42—Filed March 11, 2005, 3:31 p.m., effective March 15, 2005, 6:00 p.m.]

Effective Date of Rule: March 15, 2005, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000J and 220-52-04600A; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.240.

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: Pot limits for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation objectives. Catch area closures are to protect soft shelled crab. There is insufficient time to promulgate permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 220-52-04000K Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.** Notwithstanding the provisions of WAC 220-52-040, effective immediately 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 Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 22A, and 22B. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection in the pot limited areas.

**NEW SECTION**

**WAC 220-52-04600B Crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice it will be unlawful to fish for Dungeness Crab for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 21B, 23A, 23B, 23C, 23D, 24A, 24B, 24C, 24D, 25B, 25D, 25E, 25A, 26A (East and West), 29 and that portion of Lopez Sound (22A) south of a line extending from the tip of Spencer Spit, through Frost Island to the red flashing buoy at the southern tip of Blakely Island, and west of a line drawn from the red flashing buoy at the southern tip of Blakely Island across Thatcher Pass to the white flashing marker at Fautleroy Point on the northwest corner of Decatur Island and west of a line drawn due south through Lopez

Pass from the red flashing marker on the southern tip of Decatur Island to the point of land across Lopez Pass on Lopez Island.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. March 15, 2005:

- WAC 220-52-04000J Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. (05-30)
- WAC 220-52-04600A Crab fishery—Seasons and areas. (05-30)

**WSR 05-07-061  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-43—Filed March 11, 2005, 3:32 p.m., effective March 13, 2005]

Effective Date of Rule: March 13, 2005.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900B; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The cumulative wild steelhead impacts, allowed under the NOAA ESA Permit for the mainstem Columbia River and Methow River, are anticipated to be reached March 13, 2005. 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.

Date Adopted: March 11, 2005.

J. P. Koenings  
Director

**EMERGENCY**

**NEW SECTION**

**WAC 232-28-61900G Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.** Notwithstanding the provisions of WAC 232-28-619, effective one (1) hour after sunset on March 13, 2005 it is unlawful to violate the following provisions in the following waters:

(1) For purposes of this section, "adipose fin clipped steelhead" means steelhead with an adipose fin clip and a healed scar at the site of the fin clip, whether or not any other fins are clipped or a healed scar is present at any other fin position.

(2) Columbia River from Highway 395 Bridge at Pasco to the Old Hanford townsite wooden power line towers upstream of Ringold Springs Rearing Facility - Open through March 31, 2005. Daily limit may contain up to two adipose fin clipped steelhead per day.

(3) Columbia River - from Rocky Reach Dam to Chief Joseph Dam. Gamefish and sturgeon rules apply.

(4) Methow River - Mouth upstream to the confluence with the Chewuch River. Closed to fishing for all gamefish through May 31, 2005.

(5) Okanogan River - Open through March 31, 2005, except closed from Lake Osoyoos Control Dam (Zosel Dam) downstream to one-quarter mile below railroad trestle. Selective gear rules except lawful to fish from motorized vessels. Night closure. Gamefish: Open to all gamefish downstream from Highway 97 Bridge at Malott. Daily limit may contain up to two adipose fin-clipped steelhead.

– Except: Effective immediately through May 31, 2005, the area from the Highway 97 Bridge at Omak to a line across the river 500 feet above the mouth of Omak Creek, closed to fishing.

(6) Similkameen River - Open through March 31, 2005, from mouth to 400 feet below Enloe Dam. Selective gear rules. Night closure. Open only to adipose fin clipped steelhead and whitefish. Daily limit may contain up to two adipose fin-clipped steelhead.

– Except: Whitefish gear rules do not apply.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective March 13, 2005, one hour after sunset:

**WAC 232-28-61900B** Exceptions to stateside rules—Columbia, Methow, Okanogan and Similkameen rivers. (05-06)

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

**WSR 05-07-062  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-44—Filed March 11, 2005, 3:33 p.m., effective March 11, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100N; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.240.

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 sea cucumber district 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.

Date Adopted: March 11, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 220-52-07100P 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 5 on Monday, March 14, 2005 only.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber or sea urchin fishing vessel on Saturday March 12 and Sunday March 13, 2005, except by permission from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

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**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100N Sea cucumbers. (05-37)

**WSR 05-07-068**  
**EMERGENCY RULES**

**HORSE RACING COMMISSION**

[Filed March 11, 2005, 4:14 p.m., effective March 11, 2005]

Effective Date of Rule: Immediately.

**Purpose:** To amend chapter 260-70 WAC, Controlled medication program, to comply with the Association of Racing Commissioners International (ARCI) Racing Medication and Testing Consortium model rules.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 260-70-670, 260-70-690 and 260-70-700; and amending WAC 260-70-520, 260-70-530, 260-70-540, 260-70-545, 260-70-550, 260-70-560, 260-70-570, 260-70-580, 260-70-600, 260-70-610, 260-70-620, 260-70-630, 260-70-640, 260-70-650, 260-70-660, 260-70-680, 260-70-720, and 260-70-730.

**Statutory Authority for Adoption:** RCW 67.16.020 and 67.16.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

**Reasons for this Finding:** This emergency rule deals with racehorse medications, and is needed to be adopted on an emergency basis to preserve the health and safety of the horse and rider and to protect the general welfare of the betting public, until the permanent rule can be adopted.

**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 18, Repealed 3.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 1, Amended 18, Repealed 3.

**Number of Sections Adopted Using Negotiated Rule Making:** New 1, Amended 18, Repealed 3; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; **or Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

R. M. Leichner  
Executive Secretary

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

**WAC 260-70-520 Trainer responsibility.** The purpose of this subsection is to identify the minimum responsibilities of the trainer that pertain specifically to the health and well being of horses in his/her care.

(1) The trainer is solely responsible for the condition of horses in his/her care.

(2) The trainer is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable (~~(level)~~) concentration, in (~~(such)~~) horses in his/her care. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable (~~(level)~~) concentration, as reported by a commission approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(3) A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(4) A trainer whose horse has been claimed remains responsible for violation of any rules regarding that horse's participation in the race in which the horse is claimed.

(5) The trainer is responsible for:

(a) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;

(c) The proper identity, custody, care, health, condition and safety of horses in his/her care;

(d) (~~Ensuring that at the time of arrival at locations under the jurisdiction of the commission a valid health certificate and a valid negative equine infectious anemia (EIA) test certificate accompany each horse in accordance with state law;~~

(~~e~~)) Immediately reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(~~e~~) Promptly reporting to the racing secretary and an official veterinarian when a posterior digital neurectomy (heel nerving) is performed on a horse in his/her care and ensuring that such fact is designated on its certificate of registration;

(f) Promptly report to the racing secretary, when mares who have been entered to race, have been bred;

(g) Promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge;

(h) Promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the commission to the stewards and the official veterinarian and compliance with the rules in this chapter governing postmortem examinations;

(i) Maintaining a knowledge of the medication record and medication status of horses in his/her care;

(j) Immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;

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(k) Ensuring the fitness to perform creditably at the distance entered;

(l) Ensuring that every horse he/she has entered to race is present at its assigned stall for a prerace soundness inspection as prescribed in this chapter;

(m) Ensuring proper bandages, equipment and shoes;

(n) Presence in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;

(o) Personally attending in the paddock and supervising the saddling thereof, unless excused by the stewards; and

(p) Attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so.

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

**WAC 260-70-530 Veterinarians under authority of official veterinarian.** Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the official veterinarian and the stewards. An official veterinarian shall recommend to the stewards or the commission the discipline, which may be imposed upon a veterinarian who violates the rules.

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

**WAC 260-70-540 Veterinarians' reports.** (1) Every veterinarian who treats a ~~((race horse))~~ racehorse at any location under the jurisdiction of the commission shall, in writing on a form approved by the commission, report to an official veterinarian the name of the horse treated, any medication, drug or substance administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian.

(2) The report shall be signed by the practicing veterinarian.

(3) The report shall be on file not later than the time prescribed on the next race day by the official veterinarian. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the commission, or to the trainer or owner of record at the time of treatment.

(4) A timely and accurate filing of a veterinarian report that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent of a violation of these rules.

**AMENDATORY SECTION** (Amending WSR 04-05-094, filed 2/18/04, effective 3/20/04)

**WAC 260-70-545 Prohibited practices.** The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication, specified below, on the premises of a facility under the jurisdiction of the ~~((regulatory body))~~ commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the

horse or endanger the safety of the rider ~~((or driver))~~; or the use of which may adversely affect the integrity of racing; or

(2) The possession or use of a drug or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in human or animal is forbidden.

(3) The possession and/or use of blood doping agents, including, but not limited to, those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

(a) Erythropoietin

(b) Darbepoietin

(c) Oxyglobin

(d) Hemopure

~~((2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the regulatory body that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States:~~

~~((3))~~ (4) The practice, administration or application of a treatment, procedure, therapy or method identified below, which is performed on the premises of any facility under jurisdiction of the commission and which may endanger the health and welfare of the horse, endanger the safety of the rider, or the use of which may adversely affect the integrity of horse racing:

(a) Intermittent Hypoxic Treatment by External Device.

(b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(i) Any treated horse shall not be permitted to race for a minimum of ten days following treatment;

(ii) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the commission;

(iii) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be reported to an official veterinarian before use;

(iv) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to an official veterinarian on the prescribed form not later than the time prescribed by an official veterinarian.

(c) The use of a naso gastric tube (a tube longer than six inches) for the administration of any substance within twenty-four hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of an official veterinarian.

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

**WAC 260-70-550 Medical ~~((labelling))~~ labeling.** (1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the

product is (~~labelled~~) labeled in accordance with this subsection.

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with applicable state statutes. All such allowable medications must have a prescription label, which is securely attached and clearly ascribed to show the following:

- (a) The name of the product;
- (b) The name, address and telephone number of the veterinarian prescribing or dispensing the product;
- (c) The name of each patient (horse) for whom the product is intended/prescribed;
- (d) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and
- (e) The name of the person (trainer) to whom the product was dispensed.

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

**WAC 260-70-560 Treatment restrictions.** (1) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission.

(2) Nonveterinarians may administer the following substances, provided that, in post race testing the substances do not exceed approved quantitative levels, if any, and the substances do not interfere with post race testing:

- (a) A recognized noninjectable nutritional supplement or other substance approved by (~~the~~) an official veterinarian;
- (b) A noninjectable substance on the direction or by prescription of a licensed veterinarian; or
- (c) A noninjectable nonprescription medication or substance.

(3) No person shall possess a hypodermic needle, syringe or injectable of any kind on association premises, unless otherwise approved by the commission. At any location under the jurisdiction of the commission, veterinarians may use only onetime disposable needles, and shall dispose of them in a manner approved by the commission. If a person has a medical condition which makes it necessary to have a needle and syringe at any location under the jurisdiction of the commission, that person may request permission of the stewards and/or the commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe, and must comply with any conditions and restrictions set by the stewards and/or the commission.

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

**WAC 260-70-570 Physical inspection of horses.** All horses at locations under the jurisdiction of the commission

shall be subject to inspections at the discretion of the stewards or (~~the~~) an official veterinarian.

(1) Every horse entered to participate in an official race shall be subject to a veterinary inspection.

(2) The inspection shall be conducted by an official veterinarian.

(3) The trainer of each horse or a representative of the trainer shall present the horse for inspection as required by (~~the~~) an official veterinarian.

(4) The veterinary inspection of a horse's racing condition (~~may~~), at a minimum shall include:

- (a) Proper identification of each horse inspected;
- (b) Observation of each horse in motion;
- (c) Manual palpation when indicated;
- (d) Observation in the paddock and saddling area, during the parade to post and at the starting gate; and
- (e) Any other inspection deemed necessary by an official veterinarian.

(5) Every horse shall be observed by an official veterinarian during and after the race.

(6) The official veterinarian shall maintain a (~~confidential~~) health and racing soundness record of each horse inspected.

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

**WAC 260-70-580 Veterinarian's list.** (1) (~~The~~) An official veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or other medical condition.

(2) A horse may be removed from the veterinarian's list when, in the opinion of the official veterinarian, the horse is capable of competing in a race.

(3) An official veterinarian shall maintain a bleeder list of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by an official veterinarian. Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

- (a) First incident - fourteen days;
- (b) Second incident within a three hundred sixty-five day period - thirty days;
- (c) Third incident within a three hundred sixty-five day period - one hundred eighty days;
- (d) Fourth incident within a three hundred sixty-five day period - barred from racing for life.

(4) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(5) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined in this section.

(6) A horse may be removed from the bleeder list only upon the direction of an official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(7) A horse, which has been placed on a bleeder list in another jurisdiction pursuant to this section, shall be placed on the bleeder list maintained by an official veterinarian.

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

**WAC 260-70-600 Sample collection.** (1) Sample collection shall be done in accordance with guidelines and instructions provided by ~~((the))~~ official veterinarians.

(2) An official veterinarian shall determine a minimum sample requirement for the primary testing laboratory.

(a) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

(b) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

(c) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(d) Blood samples must be collected at a consistent time, preferably not later than one hour post-race.

(e) At Class C race tracks the splitting of samples will be conducted by the primary testing laboratory.

**AMENDATORY SECTION** (Amending WSR 03-11-018, filed 5/12/03, effective 6/12/03)

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

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

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

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

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

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

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

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

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

Split sample chain of custody form requirements:

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

(b) The sample number;

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

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

(e) Verification of retrieval of the split sample from the freezer;

(f) Verification of each specific step of the split sample packaging in accordance with the recommended procedure;

(g) Verification of the address of the split sample laboratory on the split sample package;

(h) Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

(i) The date and time custody of the sample is transferred to the carrier.

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

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

(7) The package containing the split sample shall be transported to the location where custody is transferred to the delivery carrier charged with delivery of the package to the



commission approved laboratory selected by the owner or trainer.

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

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

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

**WAC 260-70-620 Medication restrictions.** (1) No horse shall have in its body any prohibited or interfering substance, or permitted medication, except as provided in this chapter.

(2) A finding by the ~~((official chemist))~~ commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

- (a) Drugs or medications for which no acceptable ~~((levels have))~~ threshold concentration has been established;
- (b) Therapeutic medications in excess of ~~((acceptable levels established by the commission))~~ established threshold concentrations;
- (c) Substances present in the horse in excess of ~~((levels))~~ concentrations at which such substances could occur naturally; and
- (d) Substances foreign to a horse at ~~((levels))~~ concentrations that cause interference with testing procedures.

(3) ~~((No person shall administer, attempt to administer, or aid or abet in the administration of, any medication or drug to a horse entered to race within 24 hours of the race in which entered except in accordance with these rules.))~~

(4) ~~Drugs or medications in horses are permissible, provided:~~

- ~~(a) The drug or medication is included in the commission's list of quantitative medication levels;~~
- ~~(b) Approved nonsteroidal anti-inflammatory drugs (NSAIDS) may be administered to a horse, but not on a race day. No more than one of the NSAIDS may be used on or carried in a horse's body at any one time;~~
- ~~(c) The maximum permissible urine or blood concentration of the drug or medication does not exceed the published limit.~~

(5) Except as otherwise provided by this chapter, a person may not administer or cause to be administered, or attempt to administer by any means including naso gastric tube or dose syringe, to a horse a prohibited drug, medication, chemical or other substance, including any ~~((restricted))~~ permitted medication, pursuant to this chapter during the 24-hour period before post time for the race in which the horse is entered.

AMENDATORY SECTION (Amending WSR 04-05-095, filed 2/18/04, effective 3/20/04)

**WAC 260-70-630 Threshold levels.** (1) The following quantitative medication levels are permissible in test samples up to the stated quantitative levels:

Procaine	25 ng/ml urine
Benzocaine	50 ng/ml urine
Mepivacaine	10 ng/ml urine
Lidocaine	50 ng/ml urine
Bupivacaine	5 ng/ml urine
<del>((Clenbuterol))</del>	<del>((5 ng/ml urine))</del>
<u>Clenbuterol</u>	<u>25 pg/ml serum or plasma</u>
Acepromazine	25 ng/ml urine
Promazine	25 ng/ml urine
Salicylates	<del>((750))</del> <u>750,000</u> ng/ml urine
<u>Albuterol</u>	<u>1 ng/ml urine</u>
<u>Pyrilamine</u>	<u>50 ng/ml urine</u>
<u>Theobromine</u>	<u>2000 ng/ml urine</u>

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

(2) The following substances shall be considered environmental contaminants and are permissible in test samples up to the stated quantitative levels:

Caffeine	100 ng/ml <del>((urine))</del> <u>serum or plasma</u>
<u>Benzoylcegonine</u>	<u>50 ng/ml urine</u>
<u>Morphine Glucuronides</u>	<u>50 ng/ml urine</u>

~~((Official blood test samples must not contain any of the substances listed in this rule, including their metabolites or analogs.))~~

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

**WAC 260-70-640 Permitted medication.** Trainers using permitted medication in the care of their horses are subject to all rules governing such medications. Failure to administer permitted medication to a horse on a program of permitted medication shall be a violation of these rules. ~~((The use of phenylbutazone, naproxen or meclofenamic acid shall be permitted under the following conditions:~~

- ~~(1) Phenylbutazone shall be administered in such dosage amount that the test sample shall not contain not more than 5 micrograms of phenylbutazone or oxyphenbutazone per milliliter of blood plasma.~~
- ~~(2) Naproxen shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance, its metabolites or analogs per milliliter of blood plasma.~~

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(3) Meclofenamic acid shall be administered in such dosage amount that the test sample shall contain not more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.

(1) Non-steroidal anti-inflammatory drugs (NSAIDs).

(2) The use of one of three approved NSAIDs shall be permitted under the following conditions:

(a) Not to exceed the following permitted serum or plasma threshold concentrations, which are consistent with administration by a single intravenous injection at least twenty-four hours before the post time for the race in which the horse is entered:

(i) Phenylbutazone - 5 micrograms per milliliter;

(ii) Flunixin - 20 nanograms per milliliter;

(iii) Ketoprofen - 10 nanograms per milliliter.

(b) These or any other NSAID are prohibited to be administered within the twenty-four hours before post time for the race in which the horse is entered.

(c) The presence of more than one of the three approved NSAIDs or any unapproved NSAID in the post-race serum or plasma sample is not permitted, except the presence of two approved NSAIDs is allowed if one of them is phenylbutazone with a concentration of less than 1 mcg/ml. The use of all but one of the approved NSAIDs shall be discontinued at least forty-eight hours before the post time for the race in which the horse is entered.

(3) Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of an official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

#### NEW SECTION

**WAC 260-70-645 Anti-ulcer medications.** The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four hours prior to the race in which the horse is entered.

(1) Cimetidine (Tagamet®) - 8-20 mg/kg PO BID - TID

(2) Omeprazole (Gastrogard®) - 2.2 grams PO SID

(3) Ranitidine (Zantac®) - 8 mg/kg PO BID

Noninterfering levels of sulfa drugs, antibiotics, anthelmintics and vitamins in a horse's post-race urine or serum or plasma test may not be considered a violation of these rules.

**AMENDATORY SECTION** (Amending WSR 03-06-004, filed 2/20/03, effective 3/23/03)

**WAC 260-70-650 Furosemide.** (1) Furosemide may be administered intravenously to a horse which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the furosemide list.

(2) The use of furosemide shall be permitted under the following circumstances:

(a) Furosemide shall be administered on the grounds of the association, by a ((singular)) single intravenous injection, prior to post time for the race for which the horse is entered.

(b) The furosemide dosage administered shall not exceed 500 mg nor be less than 150 mg.

(c) The trainer of the treated horse shall cause to be delivered to ((the)) an official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission:

(i) The name of the horse, the horse's tattoo number, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide.

(iv) The signature of the trainer or his/her representative.

(d) Failure to administer furosemide in accordance with these rules may result in the horse being scratched from the race by the stewards.

**AMENDATORY SECTION** (Amending WSR 03-06-004, filed 2/20/03, effective 3/23/03)

**WAC 260-70-660 Furosemide list.** (1)(a) The official veterinarians shall maintain a furosemide list of all horses eligible to race with furosemide. The list is a statewide list that applies only at Class A or Class B licensed associations and not at any other track.

(b) A horse is eligible to race with furosemide if the licensed trainer and/or veterinarian determine that it would be in the horse's best interests to race with furosemide. Notification using prescribed commission forms must be given to the commission representative, providing sufficient time to ensure public notification.

(c) If the commission so orders, horses placed on the furosemide list shall be placed in a ((pre-race)) prerace detention stall, no later than four hours prior to the scheduled post time for any race in which it is entered to start, and with oral or written notification to the trainer may be watched by commission staff. The detention stall shall be the stall regularly assigned that horse for its customary stabling. Once placed in the detention stall, a horse must remain in ((it's)) its barn or on its assigned hotwalker until it is taken to the receiving barn or to the paddock to be saddled ((or harnessed)) for the race, except that the stewards may permit horses to leave the detention stall to engage in exercise blowouts or warm-up heats.

(2) The confirmation of a horse eligible to race with furosemide must be certified in writing by an official veterinarian and entered on the furosemide list. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A notice of a horse's furosemide certification shall be affixed to the horse's certificate of registration.

(3) Every horse eligible to race with furosemide, regardless of age, shall be placed on the furosemide list.

(4) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and/or veterinarian submit(s) a written request to remove the horse from the list. The request must be on forms ((prescribed)) provided by the ((commission)) official veterinarian and must be submitted to the commission designee no later than time of entry.

After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of ~~((30))~~ sixty calendar days unless determined to be detrimental to the welfare of the horse, in consultation with ~~((the commission designee))~~ an official veterinarian. If a horse is removed from the official furosemide list a second time in a three hundred sixty-five day period, the horse may not be placed back on the list for a period of ninety calendar days.

(5) A horse which has been placed on a furosemide or bleeder list in another jurisdiction may be placed on the furosemide list in this jurisdiction.

(6) The specific gravity of post-race urine samples shall not be below 1.010. If the specific gravity of the post-race urine sample is determined to be below 1.010, quantitation of furosemide in serum or plasma shall ~~((then))~~ be performed ~~((; and concentrations))~~. Concentrations above 100 nanograms of furosemide per milliliter of serum or plasma shall constitute a violation of WAC ~~((260-70-700))~~ 260-84-100.

(7) A horse that has been administered furosemide that does not show a detectable concentration of the drug in the post-race serum, plasma or urine sample ~~((or it))~~ shall be ~~((considered))~~ in violation of these ~~((medication rules and subject to penalty as prescribed in this chapter))~~ rules.

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

**WAC 260-70-680 Uniform classification guidelines.** The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the official veterinarian and the racing secretary.

(1) Class 1

Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the ~~((race horse))~~ racehorse and their pharmacological potential for altering the performance of a race is very high.

(2) Class 2

Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the ~~((race horse))~~ racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a ~~((race horse))~~ racehorse. The following groups of drugs are in this class:

- (a) Opiate partial agonists, or agonist-antagonists;
- (b) Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- (c) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- (d) Drugs with prominent CNS depressant action;
- (e) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

(f) Muscle blocking drugs, which have a direct neuromuscular blocking action;

(g) Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and

(h) Snake venoms and other biologic substances, which may be used as nerve blocking agents.

(3) Class 3

Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a ~~((race horse))~~ racehorse. The following groups of drugs are in this class:

(a) Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);

(b) A local anesthetic, which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

(c) Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;

(d) Primary vasodilating/hypotensive agents; and

(e) Potent diuretics affecting renal function and body fluid composition.

(4) Class 4

This category is comprised primarily of therapeutic medications routinely used in ~~((race horses))~~ racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

(a) Non-opiate drugs which have a mild central analgesic effect;

(b) Drugs affecting the autonomic nervous system, which do not have prominent CNS, cardiovascular or respiratory effects;

(i) Drugs used solely as topical vasoconstrictors or decongestants,

(ii) Drugs used as gastrointestinal antispasmodics,

(iii) Drugs used to void the urinary bladder,

(iv) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.

(c) Antihistamines, which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

(d) Mineralocorticoid drugs;

(e) Skeletal muscle relaxants;

(f) Anti-inflammatory drugs—those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

(i) Nonsteroidal anti-inflammatory drugs (NSAIDs)—aspirin-like drugs;

(ii) Corticosteroids (glucocorticoids); and

(iii) Miscellaneous anti-inflammatory agents.

(g) Anabolic and/or androgenic steroids and other drugs;

(h) Less potent diuretics;

(i) Cardiac glycosides and antiarrhythmics including:

(i) Cardiac glycosides;

- (ii) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and
- (iii) Miscellaneous cardiotoxic drugs.
- (j) Topical anesthetics—agents not available in injectable formulations;
- (k) Antidiarrheal agents;
- (l) Miscellaneous drugs including:
- (i) Expectorants with little or no other pharmacologic action;
  - (ii) Stomachics; and
  - (iii) Mucolytic agents.
- (m) Substances foreign to a horse at levels that cause interference with testing procedures.

## (5) Class 5

~~((a))~~ Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

~~((b) Noninterfering levels of sulfa drugs, antibiotics, anthelmintics and vitamins in a horse's post race urine or blood test may not be considered a violation of these rules.))~~

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

**WAC 260-70-720 Posterior digital neurectomy.** (1)

No person shall bring onto the grounds of a racing association, or enter or cause to be entered in any race, or sell, offer for sale, or act as a bloodstock agent in the sale of, any horse ~~((which has been "nerved"))~~ that has had a posterior digital neurectomy performed, or has had any nerve removed from the leg of such horse, except as provided in this ~~((article))~~ chapter.

~~((The trainer shall promptly report to the racing secretary and the official veterinarian when a posterior digital neurectomy is performed and ensure that such fact is designated on the horse's certificate of registration.~~

~~((3) Notwithstanding the prohibition against "nerving,")~~ A horse upon which a posterior digital neurectomy has been performed ((, commonly known as "heel nerving")) is eligible to race, ((subject to the prohibitions in this article pertaining to nerving,)) provided that ((the)) an official veterinarian is satisfied that the loss of sensation to such horse due to the posterior digital neurectomy will not endanger the safety of any horse or rider, that the prior approval of ((the)) an official veterinarian has been obtained if the horse is on the grounds of a racing association, that the racing secretary is notified of ((such nerving)) the posterior digital neurectomy at the time such horse is admitted to the grounds of a racing association and its registration or eligibility certificate marked to indicate ((such nerving)) that a posterior digital neurectomy was performed.

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

**WAC 260-70-730 Postmortem examination.** (1) The commission may require a postmortem examination of any horse that is injured in this jurisdiction while in training or in

competition and that subsequently expires or is destroyed. In proceeding with a postmortem examination the commission or its designee shall coordinate with the trainer and/or owner to determine and address any insurance requirements.

(2) The ~~((commission))~~ official veterinarian may require a postmortem examination of any horse that expires while housed on association grounds ~~((or at recognized training facilities))~~ within this jurisdiction. Trainers and owners shall be required to comply with such action as a condition of licensure.

(3) The ~~((commission))~~ official veterinarian may take possession of the horse upon death for postmortem examination. The ~~((commission))~~ official veterinarian may submit blood, urine, other bodily fluid specimens or other tissue specimens collected during a postmortem examination for ~~((testing by the commission selected laboratory or its designee))~~ analysis. Upon completion of the postmortem examination, the remains may be returned to the owner or disposed of at the owner's option.

(4) The presence of a prohibited substance in a ~~((horse, found by the official laboratory or its designee in a bodily fluid))~~ specimen collected during the postmortem examination of a horse ~~((;))~~ may constitute a violation of these rules.

(5) The cost of commission-ordered postmortem examinations, testing and disposal shall be borne by the commission.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 260-70-670	Penalties—Guidelines.
WAC 260-70-690	Penalty recommendations (in the absence of mitigating circumstances).
WAC 260-70-700	Penalties relating to permitted medication.

**WSR 05-07-075****EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed March 14, 2005, 12:28 p.m., effective March 15, 2005]

Effective Date of Rule: March 15, 2005.

Purpose: The Division of Developmental Disabilities has received approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replace the current community alternatives program (CAP) waiver.

These rules will clarify eligibility, provider qualifications and client appeal rights. This filing includes new WAC 388-825-125 through 388-825-165 and 388-825-300 through 388-825-400. These rules replace the emergency rules related to WAC 388-825-120 and new WAC 388-825-125

through 388-825-165 and 388-825-300 through 388-825-400 filed as WSR 04-23-084.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-170, 388-825-180, 388-825-190, 388-825-260, 388-825-262, 388-825-264, 388-825-266, 388-825-268, 388-825-270, 388-825-272, 388-825-276, 388-825-278, 388-825-280, 388-825-282 and 388-825-294; and amending WAC 388-825-120.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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 approval of the HCBS waivers by CMS required the department to implement new rules by April 1, 2004, to protect the health and welfare of eligible clients by ensuring no interruption in services to current participants in the CAP waiver occurs, and to ensure a continuation of federal matching funds under 42 C.F.R. 441, Subpart G - Home and Community Based Services - Waiver Requirements.

These rules were filed on an emergency basis as WSR 04-08-020, 04-16-019, and 04-23-084 [04-23-084]. The department has filed a notice of intent to adopt permanent rules as WSR 03-20-103. Ongoing negotiations with CMS and the need to obtain extensive feedback from stakeholders have delayed the filing of proposed rules for adoption on a permanent basis until the negotiations are completed and the feedback is obtained.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 32, Amended 1, Repealed 15; 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 32, Amended 1, Repealed 15.

Date Adopted: March 8, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-08 issue of the Register.

**WSR 05-07-077**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-41—Filed March 14, 2005, 3:10 p.m., effective March 16, 2005]

Effective Date of Rule: March 16, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900F; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A management agreement for spring chinook was signed in 2001 that will allow for selective fishing for marked spring chinook in the Columbia River, while minimizing impacts to protected wild fish. The Fish and Wildlife Commission provided guidance on allocation of upriver spring chinook impacts between the sport and commercial fisheries. Fisheries will be managed to remain within the sport allocation. The seasons shown above represent the spring chinook fishery that was discussed with the Columbia River Recreational Fishery Advisory Group and adopted during a joint state hearing on January 28, 2005. Fisheries are consistent with the biological opinion concerning impacts to ESA-listed stocks. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

Date Adopted: March 11, 2005.

Sara G. LaBorde  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 232-28-61900F Exceptions to statewide rules—Columbia River** Notwithstanding the provisions of WAC 232-28-619:

1) Effective March 16, 2005 through May 15, 2005, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those waters

of the Columbia River from the Buoy 10 line upstream to Rooster Rock.

a) Daily limit:

i. Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped. Minimum size 12 inches in length.

ii. Two trout minimum size 12 inches in length. Release wild steelhead and wild cutthroat.

2) Effective March 16, 2005 through May 15, 2005, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in those waters of the Columbia River from Rooster Rock upstream to 600 feet below the fish ladder at Bonneville Dam.

b) Open days are Sundays, Mondays, and Tuesdays. Salmon and steelhead fishing is closed on Wednesdays, Thursdays, Fridays and Saturdays.

c) Daily limit:

i. One adult hatchery salmon or hatchery steelhead. Minimum size 12 inches in length.

ii. A total of six chinook may be kept of which no more than one may be an adult. Release wild chinook. A total of two trout may be kept of which only one may be a steelhead. Release wild steelhead. Minimum size 12 inches in length for both salmon and steelhead. Release wild steelhead.

3) Effective March 16, 2005 through May 15, 2005, it is lawful to fish for and possess adipose fin-clipped spring chinook, adipose fin-clipped steelhead, and shad in the following waters of the Columbia River:

iii. The Bonneville Reservoir upstream from the Tower Island power lines. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

iv. The Dalles Reservoir.

v. John Day Reservoir.

a) Daily limit:

vi. Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped. Minimum size 12 inches in length.

vii. Two trout minimum size 12 inches in length. Release wild steelhead.

4) Effective March 16 through May 15, 2005, in those waters of the Columbia River from the Rocky Point/Tongue Point line upstream, that are open under the above seasons, it is unlawful when fishing from vessels which are less than 30 feet in length to totally remove salmon or steelhead from the water if it is unlawful to retain those salmon and steelhead.

## REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2005:

[WAC 232-28-61900F Exceptions to statewide rules—Columbia River.]

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

**WSR 05-07-078  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-45—Filed March 14, 2005, 3:11 p.m., effective April 1, 2005]

Effective Date of Rule: April 1, 2005.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900H; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An increased run size expected in 2005 allows for expanded fishing opportunity. Allows fishery to target surplus hatchery spring Chinook returning to Klickitat Hatchery. 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.

Date Adopted: March 11, 2005.

Sara G. LaBorde  
for Jeff Koenings  
Director

## NEW SECTION

**WAC 232-28-61900H Exceptions to statewide rules—Klickitat River.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective April 1 through May 31, 2005 it is lawful to fish in those waters of the Klickitat River from the mouth to Fisher Hill Bridge Mondays, Wednesdays, Saturdays and Sundays. Daily limit of two chinook salmon 12 inches or longer in length or two hatchery steelhead 20 inches or longer in length or a combination of one such salmon and one such steelhead. Night closure and non-buoyant lure restrictions are in effect May 1 through May 31, 2005.

(2) Effective May 1 through May 31, 2005, it is lawful to fish in those waters of the Klickitat River from 400 feet upstream from #5 fishway to boundary markers below Klickitat Salmon Hatchery, open seven days a week. Daily limit of

two chinook salmon 12 inches or longer in length or two hatchery steelhead 20 inches or longer in length or a combination of one such salmon and one such steelhead. Night closure and non-buoyant lure restrictions are in effect.

### REPEALER

The following section of the Washington Administrative Code is repealed effective June 1, 2005:

WAC 232-28-61900H Exceptions to statewide rules—Klickitat River.

### **WSR 05-07-081 EMERGENCY RULES DEPARTMENT OF**

### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed March 15, 2005, 4:30 p.m., effective March 15, 2005]

Effective Date of Rule: March 15, 2005.

Purpose: Extending the existing emergency rule, filed as WSR 04-23-086. Proposed rule making, CR-102 notice, was filed as WSR 05-04-057 and the hearing is scheduled on April 5, 2005. These emergency rules are necessary until final becomes permanent on July 1, 2005. These rules limit the required inventory of client and agency planning (ICAP) eligibility review of persons eligible for and receiving services from the Division of Developmental Disabilities; expand eligibility criteria to retain eligibility for persons not meeting current ICAP scores and clarify language to prevent incorrect decisions of denial or termination.

Citation of Existing Rules Affected by this Order: Amending WAC 388-825-030.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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: When the ICAP is readministered, many clients lose eligibility and services necessary for their or the community's health and safety. These rules eliminate the required ICAP reviews every twenty-four months for persons currently eligible under ICAP rules and who are receiving paid services from DDD, thus preventing their termination from DDD paid services until permanent rules can be adopted. Other amended ICAP review times will better ensure transition of services. These emergency rules are necessary until the rules become permanent on July 1, 2005.

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.

Date Adopted: March 7, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-030 Eligibility for services.** (1) A developmental disability is a condition which meets all of the following:

(a) A condition defined as mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition as described under WAC 388-825-030;

(b) Originates before the individual reaches eighteen years of age;

(c) Is expected to continue indefinitely; and

(d) Results in a substantial handicap.

(2) Mental retardation is a condition resulting in significantly subaverage general intellectual functioning as evidenced by:

(a) A diagnosis of mental retardation documented by a licensed psychologist or certified school psychologist; and

(b) A substantial handicap when the individual has an intelligence quotient score of more than two standard deviations below the mean using the Stanford-Binet, Wechsler, or Leiter International Performance Scale; and

(c) An intelligence quotient score which is not:

(i) Expected to improve with treatment, instruction, or skill acquisition above the established level; or

(ii) Attributable to mental illness or other psychiatric condition; and

(d) Meeting the requirements of developmental disability under subsection (1)(b) and (c) of this section.

(3) Cerebral palsy is a condition evidenced by:

(a) A diagnosis of cerebral palsy by a licensed physician; and

(b) A substantial handicap when, after forty-eight months of age:

(i) An individual needs direct physical assistance in two or more of the following activities:

(A) Eating;

(B) Dressing;

(C) Bathing;

(D) Toileting; or

(E) Mobility; or

(ii) An individual meets the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(4) Epilepsy is a condition evidenced by:

- (a) A diagnosis of epilepsy by a board-eligible neurologist, including documentation the condition is chronic; and
- (b) The presence of partially controlled or uncontrolled seizures; and

(c) A substantial handicap when the individual:

- (i)(A) Requires the presence of another individual to monitor the individual's medication, and is certified by a physician to be at risk of serious brain damage/trauma without direct physical assistance from another individual; or

(B) In the case of individuals eighteen years of age or older only, requires the presence of another individual to monitor the individual's medication, and is unable to monitor the individual's own medication resulting in risk of medication toxicity or serious dosage side effects threatening the individual's life; or

(ii) Meets the requirements under subsection (6)(b) of this section; and

(d) Meeting the requirements under subsection (1)(b) and (c) of this section.

(5) Autism is a condition evidenced by:

(a) A specific diagnosis, by a board-eligible psychiatrist or licensed clinical psychologist, of autistic disorder, a particular diagnostic subgroup of the general diagnostic category pervasive developmental disorders; and

(b) A substantial handicap shown by:

(i) The presence of significant deficits of social and communication skills and marked restriction of activities of daily living, as determined by one or more of the following persons with at least one year's experience working with autistic individuals:

- (A) Licensed psychologists;
- (B) Psychiatrists;
- (C) Social workers;
- (D) Certified communication disorder specialists;
- (E) Registered occupational therapists;
- (F) Case managers;
- (G) Certificated educators; and
- (H) Others; or

(ii) Meeting the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(6) Another neurological or other condition closely related to mental retardation, or requiring treatment similar to that required for individuals with mental retardation is a condition evidenced by:

(a)(i) Impairment of the central nervous system as diagnosed by a licensed physician; and

(ii) A substantial handicap when, after forty-eight months of age, an individual needs direct physical assistance with two or more of the following activities:

- (A) Eating;
- (B) Dressing;
- (C) Bathing;
- (D) Toileting; or
- (E) Mobility; and

(iii) An intelligence quotient score of at least one and one-half standard deviations below the mean, using the

Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; and

(iv) Meeting the requirements under subsection (1)(b) and (c) of this section; or

(b) A condition evidenced by:

(i) An intelligence quotient score at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; or

(ii) If the individual's intelligence score is higher than one and one-half standard deviations below the mean, then current or previous eligibility for participation in special education, under WAC 392-172-114 through 392-172-150, shall be demonstrated. Such participation shall not currently or at eighteen years of age be solely due to one or more of the following:

- (A) Psychiatric impairment;
- (B) Serious emotional/behavioral disturbance; or
- (C) Orthopedic impairment; and

(iii) A substantial handicap when a standard score of more than two standard deviations below the mean in each of four domains of the adaptive behavior section of the Inventory for Client and Agency Planning (ICAP) is obtained, the domains identified as:

- (A) Motor skills;
- (B) Social and communication skills;
- (C) Personal living skills;
- (D) Community living skills; and

(iv) There is no evidence of other conditions or impairments unrelated to the eligible condition currently affecting adaptive functioning;

(v) Meets the requirements under subsection (1)(b) and (c) of this section;

(vi) A child who does not meet the ICAP scoring criteria in (iii) above, can retain eligibility if the child meets the criteria in (viii) below, if the child is currently eligible under WAC 388-825-030 (6)(c);

(vii) The ICAP is ((administered at least every twenty-four months; and

(v) Is not attributable to mental illness, personality and behavioral disorders, or other psychiatric conditions; and

(vi) Meets the requirements under subsection (1)(b) and (e) of this section; or) readministered to eligible persons in the following circumstances:

(A) Prior to age eighteen if the child is receiving paid services from the division of developmental disabilities (DDD); or

(B) Prior to transition from foster care into adult services at age eighteen or older; or

(C) Prior to the initial authorization of DDD paid services for persons not currently receiving paid services from DDD; or

(D) If the department discovers the evidence used to make the most recent eligibility determination is insufficient, in error, fraudulent, or new information becomes available that does not support your current eligibility.

(viii) Persons previously eligible under subsection (6)(b) of this section who are found ineligible under subsection (6)(b)(vii) of this section will retain eligibility for DDD if



they meet all of the following criteria in (A), (B), and (C) below:

(A) There is evidence of a diagnosis of a condition or disorder resulting in significant limitations in both cognitive and adaptive functioning:

(I) The diagnosis of the condition or disorder must be made by a licensed physician, licensed psychologist or neurologist and is due to a neurological condition, central nervous system disorder involving the brain or spinal column, or chromosomal disorder.

(II) The diagnosis is excluded if it is a psychiatric disorder that has not been scientifically established as due to a neurological condition, central nervous system disorder involving the brain or spinal column, or chromosomal disorder.

(B) There is evidence that the eligible condition or disorder results in significant limitations in cognitive functioning as evidenced by a full scale intelligence quotient (FSIQ) of 1.5 or more standard deviations below the mean. If the person does not meet this FSIQ evidence, then there must be evidence of:

(I) A delay of at least twenty-five percent of the chronological age in two academic areas at the time of the most current testing; or

(II) In the absence of school records to substantiate (B)(I) of this subsection, the department may review and accept other information.

(C) If criteria is met under (A) and (B) above, and there is no evidence of other conditions or impairments unrelated to the eligible condition currently affecting adaptive functioning, the following evidence will determine if the eligible condition or disorder results in a substantial limitation in adaptive functioning:

(I) A Vineland administered by a qualified person within the past two years resulting in an adaptive behavior composite score of sixty-nine; or

(II) An ICAP administered by the department resulting in a broad independence score at or below the score specific to the age of the applicant at the time of the administration of the ICAP. The score specific to age is as follows:

<u>Age</u>	<u>Score at or below</u>
<u>6</u>	<u>449</u>
<u>7</u>	<u>456</u>
<u>8</u>	<u>463</u>
<u>9</u>	<u>469</u>
<u>10</u>	<u>476</u>
<u>11</u>	<u>482</u>
<u>12</u>	<u>487</u>
<u>13</u>	<u>492</u>
<u>14</u>	<u>497</u>
<u>15</u>	<u>501</u>
<u>16</u>	<u>505</u>
<u>17 and older</u>	<u>509</u>

(c) A child under six years of age at risk of developmental disability, as measured by developmental assessment tools

and administered by qualified professionals, showing a substantial handicap as evidenced by one of the following:

(i) A delay of at least twenty-five percent of the chronological age in one or more developmental areas between birth and twenty-four months of age; or

(ii) A delay of at least twenty-five percent of the chronological age in two or more developmental areas between twenty-five and forty-eight months of age; or

(iii) A delay of at least twenty-five percent of the chronological age in three or more developmental areas between forty-nine and seventy-two months of age; and

(iv) Such eligibility shall be subject to review at any time, but at least at thirty-six months of age and at least seventy-two months of age;

(v) Developmental areas as described in subsection (6)(c) of this section are:

(A) Fine or gross motor skills;

(B) Self-help skills;

(C) Expressive and receptive communication skills, including American sign language skills;

(D) Social skills; and

(E) Cognitive, academic, or problem-solving skills.

(vi) Qualified professionals, as described in subsection (6)(c) of this section, include, but are not limited to, the following professionals with at least one year's experience and training in the field of child development and preferably in the area of developmental disabilities:

(A) Licensed physicians;

(B) Licensed psychologists;

(C) Certified communication disorder specialists;

(D) Registered occupational therapists;

(E) Licensed physical therapists;

(F) Case managers;

(G) Registered public health nurses; and

(H) Educators.

(vii) Any standardized developmental assessment tool may be used if the tool:

(I) Is reasonably reliable and valid by professional standards; and

(II) Demonstrates the information required to make a determination of the developmental delay; or

(d) A child under six years of age having a diagnosis of Down Syndrome.

**WSR 05-07-082  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-46—Filed March 15, 2005, 4:39 p.m., effective March 15, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000X; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

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necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets the fifth period for winter salmon directed fisheries. Harvestable salmon and sturgeon are available. 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 January 28, 2005, and March 14, 2005, and conforms Washington and Oregon state rules. Sets an additional fishing period in the select areas. Harvestable salmon and sturgeon are still available for the winter season. 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 compact actions of January 28 and March 14, 2005, 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 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.

Date Adopted: March 15, 2005.

J. P. Koenings  
Director  
by Larry Peck

## NEW SECTION

**WAC 220-33-01000Y Columbia River 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) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 6:00 p.m. March 15 through 6:00 a.m. March 16, 2005

b) Gear: Drift gill nets only - 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.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) 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.

2) 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.

3) 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.

4) 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 a 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.

5) 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.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) 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. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 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 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. 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.

#### 2) 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-inch minimum mesh through March 31 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. Use of additional weights or anchors attached directly to the leadline is allowed.

b) **Dates:** Winter Season

7:00 p.m. Wednesday to 7:00 a.m. Thursday

March 16 through March 17, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

After March 10, 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.

d) **Other:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

#### 3) Deep River Select Area

a) **Area:** From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) **Dates:**

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) **Gear:** 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) **Allowable sale:** salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) **Miscellaneous:** Transportation or possession of fish outside the fishing area is unlawful. 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:

WAC 220-33-01000X

Columbia River gillnet seasons below Bonneville. (05-40)

### WSR 05-07-083 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-48—Filed March 15, 2005, 4:40 p.m., effective March 15, 2005]

**Effective Date of Rule:** Immediately.

**Purpose:** Amend commercial fishing rules.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 220-52-07100P and 220-52-07100Q; and amending WAC 220-52-071.

**Statutory Authority for Adoption:** RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

**Reasons for this Finding:** Harvestable amounts of sea cucumbers are available in Sea Cucumber District 5. All other sea cucumber harvest districts have been closed for the 2004-2005 harvest season. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 15, 2005.

Evan Jacoby  
or Jeff Koenings  
Director

#### NEW SECTION

**WAC 220-52-07100Q 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 5 on Wednesday, March 16, 2005 only. The maximum daily landing of sea cucumbers allowed in Sea Cucumber District 5 is 750 pounds per commercial sea cucumber license on a valid designated harvest vessel.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100P Sea cucumbers. (05-44)

The following section of the Washington Administrative Code is repealed effective March 17, 2005:

WAC 220-52-07100Q Sea cucumbers.

**WSR 05-07-084  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-47—Filed March 15, 2005, 4:41 p.m., effective March 15, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100I; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Columbia River treaty tribes have chosen to close their winter gillnet season earlier than originally planned. The harvest of sturgeon in the Zone 6 area is at or near the preseason guidelines. Rule is consistent with action of the Columbia River compact on March 14, 2005. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 15, 2005.

J. P. Koenings  
Director  
by Larry Peck

#### NEW SECTION

**WAC 220-32-05100J Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions:

1) Open Periods: Immediately through 6:00 p.m. March 16, 2005.

Open Areas: SMCRA 1F, 1H

Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

Allowable sale: salmon, steelhead, walleye, shad, carp, and sturgeon. Sturgeon between 4 feet and 5 feet in length in The Dalles and John Day pools and between 45-60 inches in the Bonneville pool may be sold.

Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) Open Periods: Immediately through 6:00 p.m. March 19, 2005.

Open Areas: SMCRA 1G

Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

Allowable sale: salmon, steelhead, walleye, shad, carp, and sturgeon. Sturgeon between 4 feet and 5 feet in length in The Dalles and John Day pools and between 45-60 inches in the Bonneville pool may be sold.

Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

8) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-32-05100I Columbia River salmon seasons above Bonneville Dam.

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

**WSR 05-07-098**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed March 17, 2005, 4:36 p.m., effective April 1, 2005]

Effective Date of Rule: April 1, 2005.

Purpose: The department is amending WAC 388-478-0075 and 388-478-0085 to update the federal poverty standards used for medical standards and the Medicare savings programs. Each year the federal government issues the updates effective for April 1, 2005.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075 and 388-478-0085.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: 42 U.S.C. 9902(2).

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: April 1, 2005, implementation of the increase in federal poverty line standards under 42 U.S.C. 9902(2) is required for the state to continue receiving federal funds.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 11, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-15-092, filed 7/16/04, effective 8/16/04)

**WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL).** (1) The department bases the income standard upon

FAMILY SIZE	100% FPL Benchmark	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$((776)) <u>798</u>	\$((1032)) <u>1061</u>	\$((1164)) <u>1197</u>	\$((1436)) <u>1476</u>	\$((1552)) <u>1595</u>	\$((1707)) <u>1755</u>	\$((1940)) <u>1994</u>
2	\$((1041)) <u>1070</u>	\$((1385)) <u>1422</u>	\$((1562)) <u>1604</u>	\$((1926)) <u>1978</u>	\$((2082)) <u>2139</u>	\$((2290)) <u>2353</u>	\$((2603)) <u>2673</u>
3	\$((1306)) <u>1341</u>	\$((1737)) <u>1784</u>	\$((1953)) <u>2012</u>	\$((2416)) <u>2481</u>	\$((2612)) <u>2682</u>	\$((2873)) <u>2950</u>	\$((3265)) <u>3353</u>
4	\$((1571)) <u>1613</u>	\$((2090)) <u>2145</u>	\$((2357)) <u>2419</u>	\$((2907)) <u>2984</u>	\$((3142)) <u>3225</u>	\$((3456)) <u>3548</u>	\$((3928)) <u>4032</u>
5	\$((1836)) <u>1885</u>	\$((2442)) <u>2506</u>	\$((2754)) <u>2827</u>	\$((3397)) <u>3486</u>	\$((3672)) <u>3769</u>	\$((4039)) <u>4146</u>	\$((4590)) <u>4711</u>
6	\$((2101)) <u>2156</u>	\$((2795)) <u>2868</u>	\$((3152)) <u>3234</u>	\$((3887)) <u>3989</u>	\$((4202)) <u>4312</u>	\$((4622)) <u>4743</u>	\$((5253)) <u>5390</u>
7	\$((2366)) <u>2428</u>	\$((3147)) <u>3229</u>	\$((3549)) <u>3642</u>	\$((4377)) <u>4491</u>	\$((4732)) <u>4855</u>	\$((5205)) <u>5341</u>	\$((5915)) <u>6069</u>
8	\$((2631)) <u>2700</u>	\$((3499)) <u>3590</u>	\$((3947)) <u>4049</u>	\$((4868)) <u>4994</u>	\$((5262)) <u>5399</u>	\$((5788)) <u>5939</u>	\$((6578)) <u>6748</u>
9	\$((2896)) <u>2971</u>	\$((3852)) <u>3952</u>	\$((4344)) <u>4457</u>	\$((5358)) <u>5497</u>	\$((5792)) <u>5942</u>	\$((6371)) <u>6536</u>	\$((7240)) <u>7428</u>
10	\$((3161)) <u>3243</u>	\$((4204)) <u>4313</u>	\$((4742)) <u>4864</u>	\$((5848)) <u>5999</u>	\$((6322)) <u>6485</u>	\$((6954)) <u>7134</u>	\$((7903)) <u>8107</u>
Add to the ten person standard for each person over ten:							
	\$((265)) <u>272</u>	\$((353)) <u>362</u>	\$((398)) <u>408</u>	\$((491)) <u>503</u>	\$((530)) <u>544</u>	\$((583)) <u>598</u>	\$((663)) <u>680</u>

the Federal Poverty Level (FPL) for the following medical programs:

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

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

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

(d) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but not over two hundred fifty percent of FPL.

(2) The department uses the FPL income standards to determine:

(a) The mandatory or optional Medicaid status of an individual; and

(b) Premium amount, if any, for a Medicaid child.

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

(4) Beginning April 1, ((2004)) 2005, the monthly FPL standards are:

Level (FPL). Beginning April 1, ((2004)) 2005, the QMB program's income standards are:

- (a) One person \$((776))  
798
- (b) Two persons \$((1041))  
1070

**AMENDATORY SECTION** (Amending WSR 04-17-076, filed 8/13/04, effective 9/13/04)

**WAC 388-478-0085 Medicare savings programs—Monthly income and countable resources standards.** (1) The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the Federal Poverty

EMERGENCY

(2) The special low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but not more than one hundred twenty percent of FPL. Beginning April 1, ((2004)) 2005, the SLMB program's income standards are:

	Minimum	Maximum
(a) One person	\$((776.01)) <u>798.01</u>	\$((931)) <u>957</u>
(b) Two persons	\$((1041.01)) <u>1070.01</u>	\$((1249)) <u>1283</u>

(3) The qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but not more than one hundred thirty-five percent of FPL. Beginning April 1, ((2004)) 2005, the QI-1 program's income standards are:

	Minimum	Maximum
(a) One person	\$((931.01)) <u>957.01</u>	\$((1048)) <u>1077</u>
(b) Two persons	\$((1249.01)) <u>1283.01</u>	\$((1406)) <u>1444</u>

(4) The qualified disabled working individual (QDWI) program income standard is two hundred percent of FPL. Beginning April 1, ((2004)) 2005, the QDWI program's income standards are:

(a) One person	\$((1552)) <u>1595</u>
(b) Two persons	\$((2082)) <u>2139</u>

(5) The resource standard for the Medicare savings programs in this section is:

(a) One person	\$4000
(b) Two persons	\$6000

**WSR 05-07-103  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-50—Filed March 18, 2005, 3:42 p.m., effective March 18, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-07300T.

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 the 2004-2005 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.

Date Adopted: March 18, 2005.

J. P. Koenings  
Director  
by Larry Peck

**REPEALER**

The following section of the Washington Administrative Code is repealed effective March 18, 2005, one-half hour after official sunset.

WAC 220-52-07300T Sea urchins. (05-36)

**WSR 05-07-148  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-49—Filed March 23, 2005, 10:25 a.m., effective April 14, 2005]

Effective Date of Rule: April 14, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 232-28-61900I; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to assure a safe and successful Fishing Kids event. The fish will be planted two days prior to the event to better acclimate them before the event. Several thousand fish will be placed into netted areas along the shoreline of this pond. On the day of the event preregistered kids will be allowed to fish in these netted areas. 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.

Date Adopted: March 22, 1005 [2005].

J. P. Koenings  
Director  
by Larry Peck

Reasons for this Finding: Crab in Marine Area 13 are entering the molting period. 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 22, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 232-28-61900I Exceptions to statewide rules—Klineline Pond (Clark Co.)** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 14, 2005 through 6:00 p.m. April 16, 2005, it is unlawful to fish in those waters of Klineline Pond, except open to fishing 8:00 a.m. to 3:00 p.m. April 16, 2005 in the netted area to juvenile anglers participating in the Fishing Kids event.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. April 16, 2005:

WAC 232-28-61900I Exceptions to statewide rules—Klineline Pond (Clark Co.)

**NEW SECTION**

**WAC 220-56-33000S Crab—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is unlawful to fish for or possess crab taken for personal use in those waters of Marine Area 7.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000Q Crab—Areas and seasons. (04-321)

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. March 31, 2005:

WAC 220-56-30000R Crab—Areas and seasons. (05-38)

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

**WSR 05-07-149  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-51—Filed March 23, 2005, 10:26 a.m., effective March 23, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000Q and 220-56-33000R; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

EMERGENCY



OFFICE OF THE CODE REVISER  
 Quarterly Rule-Making Report  
 Covering Registers 05-01 through 05-06

Type of Activity	New	Amended	Repealed
<b>ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	0	1
<b>ACCOUNTANCY, BOARD OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	37	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	36	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	37	0
Number of Sections Adopted on the Agency's own Initiative	0	37	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	37	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>ADMINISTRATIVE HEARINGS, OFFICE OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>AGRICULTURE, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	7	6
Number of Rules Adopted as Emergency Rules	12	0	0
Number of Rules Proposed for Permanent Adoption	16	26	39
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	10	0	0
Number of Sections Adopted on the Agency's own Initiative	0	4	6
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	10	7	6
Number of Sections Adopted using Pilot Rule Making	0	0	0

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<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
<b>BELLEVUE COMMUNITY COLLEGE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Proposed for Permanent Adoption	10	5	0
<b>BELLINGHAM TECHNICAL COLLEGE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	0	11	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	11	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	11	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	11	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>BLIND, DEPARTMENT OF SERVICES FOR THE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Proposed for Permanent Adoption	1	49	14
<b>BUILDING CODE COUNCIL</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	13	20	0
Number of Rules Adopted as Emergency Rules	2	1	0
Number of Rules Withdrawn	1	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	34	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	4	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	33	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>CASCADIA COMMUNITY COLLEGE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	9	27	0
Number of Rules Proposed for Permanent Adoption	9	27	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	9	27	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
<b>CENTRAL WASHINGTON UNIVERSITY</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	5	24
Number of Rules Proposed for Permanent Adoption	0	5	24
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	5	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>CORRECTIONS, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Withdrawn	8	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>COUNTY ROAD ADMINISTRATION BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	3	0
Number of Rules Proposed for Permanent Adoption	4	9	5
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>DEAF, WASHINGTON STATE SCHOOL FOR THE</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0
<b>ECOLOGY, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	17	24	1
Number of Rules Proposed for Permanent Adoption	92	9	1
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	15	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	9	0	0
Number of Sections Adopted on the Agency's own Initiative	0	15	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>EDUCATION, STATE BOARD OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	1
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	2	8	8
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	1	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	4	0
Number of Sections Adopted using Negotiated Rule Making	0	4	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>EDUCATOR STANDARDS BOARD, PROFESSIONAL</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
<b>EMPLOYMENT SECURITY DEPARTMENT</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	53	18	26
Number of Rules Adopted as Emergency Rules	6	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	47	21	17
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	47	21	17
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>ENERGY FACILITY SITE EVALUATION COUNCIL</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	1	0	0
<b>ENVIRONMENTAL HEARINGS OFFICE</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	19	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	19	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	19	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	16	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>FINANCIAL MANAGEMENT, OFFICE OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	15	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	15	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	3	0
Number of Sections Adopted on the Agency's own Initiative	0	12	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	15	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FISH AND WILDLIFE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	30	8
Number of Rules Adopted as Emergency Rules	51	0	47
Number of Rules Proposed for Permanent Adoption	13	22	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	51	30	56
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FOREST PRACTICES BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	35	0

**GAMBLING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HEALTH CARE AUTHORITY**

Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	0	3	0

**HEALTH CARE FACILITIES AUTHORITY**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

**HEALTH, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	24	0
Number of Rules Proposed for Permanent Adoption	52	23	30
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	3	2	0
Number of Sections Adopted on the Agency's own Initiative	1	10	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	23	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HIGHER EDUCATION COORDINATING BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	7	0	0

**HOME CARE QUALITY AUTHORITY**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	15	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	15	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	15	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HORSE RACING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	4	19
Number of Rules Proposed for Permanent Adoption	14	38	37
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	4	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	6	4	2
Number of Sections Adopted using Negotiated Rule Making	2	3	0
Number of Sections Adopted using Other Alternative Rule Making	4	1	2
Number of Sections Adopted using Pilot Rule Making	0	0	0

**INSURANCE COMMISSIONER, OFFICE OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	21	8	18
Number of Rules Proposed for Permanent Adoption	36	13	2
Number of Rules Withdrawn	1	6	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted on the Agency's own Initiative	21	8	8
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	21	8	8
Number of Sections Adopted using Pilot Rule Making	0	0	0

**INTERAGENCY COMMITTEE, OFFICE OF THE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	11	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	4	8	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	13	8	0
Number of Sections Adopted on the Agency's own Initiative	4	8	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**JUDICIAL CONDUCT, COMMISSION ON**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LABOR AND INDUSTRIES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	259	112	294
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	3	71	2
Number of Rules Withdrawn	46	2	7
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	261	46	32
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	12	20	3
Number of Sections Adopted on the Agency's own Initiative	249	95	29
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	250	115	31
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LICENSING, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	10	23	2
Number of Rules Proposed for Permanent Adoption	11	46	0

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Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	20	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	3	0	0
Number of Sections Adopted on the Agency's own Initiative	7	23	2
Number of Sections Adopted using Negotiated Rule Making	5	3	0
Number of Sections Adopted using Other Alternative Rule Making	3	5	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LOTTERY, WASHINGTON STATE**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	13	5
Number of Rules Proposed for Permanent Adoption	0	24	32
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	18	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	18	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**NATURAL RESOURCES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	9
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	9
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**OLYMPIC COLLEGE**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	20	1

**PARKS AND RECREATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	17	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	10	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	17	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	3	17	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PERSONNEL, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	451	2	0
Number of Rules Proposed for Permanent Adoption	266	2	0
Number of Rules Withdrawn	4	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	460	2	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	460	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PILOTAGE COMMISSIONERS, BOARD OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PUBLIC DISCLOSURE COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	12	1
Number of Rules Proposed for Permanent Adoption	0	17	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	12	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	12	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	12	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PUBLIC INSTRUCTION, SUPERINTENDENT OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	9	5

MISC.

Type of Activity	New	Amended	Repealed
<b>RETIREMENT SYSTEMS, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>REVENUE, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	17	7
Number of Rules Adopted as Emergency Rules	3	0	0
Number of Rules Proposed for Permanent Adoption	1	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	4	5	1
Number of Sections Adopted on the Agency's own Initiative	4	15	7
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	16	7
Number of Sections Adopted using Pilot Rule Making	0	1	0
<b>SECRETARY OF STATE</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	6	0
Number of Rules Adopted as Emergency Rules	60	33	0
Number of Rules Proposed for Permanent Adoption	0	64	35
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	17	22	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	15	7	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	2	3	0
Number of Sections Adopted on the Agency's own Initiative	5	2	0
Number of Sections Adopted using Negotiated Rule Making	39	33	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	90	48	2
Number of Rules Adopted as Emergency Rules	144	26	13
Number of Rules Proposed for Permanent Adoption	187	49	137
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	82	45	1

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	127	5	0
Number of Sections Adopted in Order to Comply with Federal Statute	6	18	1
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	11	4	2
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	223	71	3
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>TRANSPORTATION IMPROVEMENT BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>TRANSPORTATION, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	14	25
Number of Rules Proposed for Permanent Adoption	5	17	25
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	14	25
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	14	25
Number of Sections Adopted using Negotiated Rule Making	0	5	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>UNIVERSITY OF WASHINGTON</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	4	19	1
<b>UTILITIES AND TRANSPORTATION COMMISSION</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	71	52	36
Number of Rules Proposed for Permanent Adoption	85	59	46
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	4	22	17
Number of Sections Adopted using Negotiated Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**WASHINGTON STATE PATROL**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	14	31	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	15	30	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	15	32	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	15	32	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**WASHINGTON STATE UNIVERSITY**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	35	8

**TOTALS FOR THE QUARTER:**

Number of Permanent Rules Adopted	1070	605	480
Number of Rules Adopted as Emergency Rules	278	83	65
Number of Rules Proposed for Permanent Adoption	826	712	454
Number of Rules Withdrawn	62	16	7
Number of Sections Adopted at Request of a Nongovernmental Entity	1	42	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	421	365	64
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	127	13	0
Number of Sections Adopted in Order to Comply with Federal Statute	21	26	1
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	590	108	23
Number of Sections Adopted on the Agency's own Initiative	381	430	166
Number of Sections Adopted using Negotiated Rule Making	61	48	0
Number of Sections Adopted using Other Alternative Rule Making	1043	445	76
Number of Sections Adopted using Pilot Rule Making	0	1	0

**WSR 05-07-001**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE**  
**INTERAGENCY COMMITTEE**  
 (Biodiversity Council)  
 [Memorandum—February 28, 2005]

At a regular meeting on February 16, 2005, the Washington State Biodiversity Council adopted the following revised meeting scheduled:

- April 27, 2005 Regular Meeting Olympia
- June 14, 2005 Regular Meeting Nisqually Wildlife Refuge Center
- September 22, 2005 Regular Meeting TBD
- December 7, 2005 Regular Meeting TBD

**WSR 05-07-003**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Fryer Commission)  
 [Memorandum—March 1, 2005]

**Change in Board Meeting Schedule  
 for Washington Fryer Commission**

The board meeting schedule for the Washington Fryer Commission has recently been adjusted.

Remaining Washington Fryer Commission board meetings for 2005 will be held at the Renton Community Center, 1715 Maple Valley Highway, Renton, WA, instead of the Silver Cloud Inn as previously stated.

MISC.

Meeting dates remain, May 10, August 9, and October 11, 2005. Time remains at 10:00 a.m. to 1:00 p.m.

Date	Location	Address
December 20, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA

**WSR 05-07-016**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY COLLEGES**  
**OF SPOKANE**

[Memorandum—March 7, 2005]

REVISED

**BOARD OF TRUSTEES**  
**WASHINGTON COMMUNITY COLLEGE DISTRICT 17**  
**SCHEDULE OF MEETINGS**

Notice is hereby given, pursuant to RCW 42.30.075, that the regular meetings of the board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) during calendar year 2005 shall be held at 8:30 a.m. on the following dates (*generally held on third Tuesdays*) and in the following locations:

Date	Location	Address
January 18, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
February 8, 2005 (2nd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA
March 15, 2005 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
April 19, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
May 17, 2005 (3rd Tuesday)	IEL	Fairchild AFB Education Center 4 West Castle Street Fairchild AFB, WA
June 21, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
July 19, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
August 16, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
September 20, 2005 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
October 18, 2005 (3rd Tuesday)	IEL	Hillyard Center 4410 North Market Street Spokane, WA
November 15, 2005 (3rd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA

**WSR 05-07-017**  
**RULES COORDINATOR**  
**HEALTH CARE AUTHORITY**

[Filed March 7, 2005, 10:49 a.m.]

As of March 7, 2005, and until further notice, please show Cyndi Presnell as rules coordinator and public disclosure officer of the Health Care Authority. Cyndi's phone number is (360) 923-2802; her fax number is (360) 923-2614; her e-mail address is cpre107@hca.wa.gov; and her mailing address is P.O. Box 42700, Olympia, WA 98504-2700.

Pete Cutler  
 Acting Administrator

**WSR 05-07-018**  
**RULES OF COURT**  
**STATE SUPREME COURT**

[March 3, 2005]

IN THE MATTER OF THE ADOPTION ) ORDER  
 OF THE AMENDMENT TO ELC 13.4 ) NO. 25700-A-809

The Washington State Bar Association having recommended the adoption of the proposed amendment to ELC 13.4, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(1), the amendment will be published expeditiously and become effective September 1, 2005.

DATED at Olympia, Washington this 3rd day of March 2005.

Alexander, C. J.

C. Johnson, J.

Chambers, J.

Madsen, J.

Owens, J.

Sanders, J.

Fairhurst, J.

Bridge, J.

James M. Johnson

MISC.

SUGGESTED AMENDMENT
RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)
ELC 13.4 REPRIMAND

Alexander, C. J.

(a) Administration. The Association Board of Governors personally administers a reprimand to a respondent lawyer by written statement signed by its President. The respondent must appear at a time and place directed by the Board of Governors to receive the reprimand. A reprimand is given privately, and the respondent may not make any statement. A reprimand is deemed administered at the time it is scheduled whether or not the respondent appears as required. Failure to appear after proper notice may be grounds for discipline.

Table with 2 columns: Names of judges. Rows include C. Johnson, J., Madsen, J., Sanders, J., Bridge, J., Chambers, J., Owens, J., Fairhurst, J., J. Johnson, J.

(b) Notice and Review of Contents. Not less than 20 days before the reprimand is to be administered, the Association must serve the respondent with notice of the time and place for the reprimand and a copy of the proposed reprimand. Within five days of service of the notice proposed reprimand, the respondent may file a request for review of the content of the proposed reprimand. This request stays the administration of the reprimand. When timely requested, the Disciplinary Board reviews the proposed reprimand in light of the decision or stipulation imposing the reprimand and may take any appropriate action. The Board's action is final and not subject to further review. If no request is received, the content of the reprimand is final, and the reprimand is administered at the time and place set.

DISCIPLINARY REGULATIONS APPLICABLE TO APR 12.1
PROPOSED AMENDMENT TO REGULATION 106

Regulation 106: Contents of LPO Declaration

In connection with the annual license fee collection, Annually, the Board shall mail to each active LPO, a written questionnaire. The completed questionnaire shall be delivered by the LPO to the Board on or before July 31 January 31 of that year. The questionnaire shall be comprised of two parts. Parts One and Two shall be completed and signed by each active LPO, provided that Part Two, in lieu of completion and signing by each individual active LPO in a closing firm, may be completed and signed by an authorized member of the firm on behalf of all LPOs employed in the firm. Parts One and Two each shall be separately signed and verified by the signer under penalty of perjury and shall require disclosure of the following information:

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Part I - LPO Verification

- 1. Name, current address and telephone number of the LPO.
2. Whether the LPO is actively closing real and/or personal property transactions.
3. If the answer to "2" is no, whether the LPO is nonetheless engaged in any LPO activities which involves or might involve the handling of client's funds or property.
4. Whether the LPO or closing firm maintain identifiable bank account(s) within the state for the deposit of funds of clients and a record-keeping system to record funds, securities and other properties of clients coming into the LPO's or closing firm's possession (to be answered by all LPOs unless the answers to both "2" and "3" are "no").

WSR 05-07-019
RULES OF COURT
STATE SUPREME COURT
[March 3, 2005]

MISC.

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENTS TO REGULA- ) NO. 25700-A-810
TION 106 OF APR 12 )

Part II - Account Information Verification

- 1. The name of the bank(s) and branch(es) where the separate identifiable bank accounts are maintained as the depository (or depositories) for client funds.
2. Whether the accounts identified in "1" above are maintained in the manner specified in APR 12.1, and whether all clients' funds to the extent required by APR 12.1 are kept therein.
3. Whether all funds, securities, and other properties of clients coming into the LPO's or closing firm's possession are held in the manner specified in APR 12.1 and whether records in respect thereto are maintained in the manner specified in APR 12.1.

The Washington State Bar Association having recommended the adoption of the proposed amendments to Regulation 106 to ARP 12, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby ORDERED:
(a) That the amendments as attached hereto are adopted.
(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published in the Washington Register, Washington State Bar Association and Administrative Office of the Court's websites, and, in addition to the above, the amendments will also be published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 3rd day of March 2005.

Part Two may also require disclosure of the account numbers for each separate identifiable bank account maintained as a depository for client funds.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 05-07-020
RULES OF COURT
STATE SUPREME COURT

[March 3, 2005]

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENTS TO REGULA- ) NO. 25700-A-811
TIONS 104 AND 106 TO APR 11 )

The Washington State Bar Association having recommended the adoption of the proposed amendments to Regulations 104 and 106 to APR 11, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's websites expeditiously.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than 60 days from the published date in the Washington Reports. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Lisa.Bausch@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of March 2005.

For the Court
Gerry L. Alexander

CHIEF JUSTICE

Amendments to APR 11 Regulations 104 (c)(4), 104(e), and 106

Purpose: The WSBA MCLE Board revised three regulations of APR 11 to improve the quality of the MCLE program requirements and to increase the efficiency of administration.

- The revision to APR 11 Regulation 104 (c)(4) is to correct a typographical error.
The revision to APR 11 Regulation 104(e) is to address concerns about this regulation raised by the major law firms of the greater Seattle area.
The revision to APR 11 Regulation 106 is to require accredited sponsors to post course offerings on the WSBA MCLE web site prior to the start of the course.
APR 11 Regulation 104 (c)(4)

This regulation addresses the number of credits to be given to members who teach law school courses. As it is currently worded, it gives 10 hours of credit for each hour of preparation time. The intention was to give 10 hours of preparation credit for each hour of presentation time. The revision of the regulation reflects this intention.

- APR 11 Regulation 104(e)
Law firm representatives had a particular concern with the current Regulation 104 (e)(4), which states: "Private law firm courses shall be open to non-members of the sponsoring firm provided that there is space available." Since the adoption of this regulation there has been ongoing confusion and frustration on the part of law firms about how to comply with this and on the part of the MCLE Board for enforcing the intent of the regulation. The revisions to the regulation bring clarity to this and related private law firm MCLE issues. The revisions also explicitly include corporate in-house law offices (which were only implicitly included in the original regulations). In addition, Regulation 104(f) was deleted and the regulations pertaining to private CLEs offered by government law offices was incorporated into the revised Regulation 104(e).

- APR 11 Regulation 106
Accredited sponsors pay an annual \$150 fee to the WSBA for the privilege of submitting as many pre-approved Form 1s (course accreditation application forms) to the WSBA MCLE web site as they want to. (There are currently 15 accredited sponsors.) Because the Form 1s are pre-approved, no WSBA staff time is required for processing. Currently there is nothing in APR 11 that can be used to hold accredited sponsors accountable for submitting Form 1s prior to a course, though that is the WSBA expectation of an accredited sponsor. From 1/1/04 to 9/1/04, 186 Form 1s from accredited sponsors were submitted late, some as much as 6-9 months late. The result was that members, not finding a taken course from an accredited sponsor listed, sent in their own Form 1s. The MCLE staff thus had to process many Form 1s for each of these 186 courses (with no remuneration from sponsor Form 1 fees) because the accredited sponsor failed to submit the Form 1 prior to the course. The amendment to Regulation 106 gives the Board the power to hold accredited sponsors accountable for submitting Form 1s prior to each course given.

AMENDMENTS
REGULATIONS OF THE WASHINGTON STATE BOARD OF CONTINUING LEGAL EDUCATION
REGULATION 104. STANDARDS FOR APPROVAL

- (a) Basis for Approval of Courses. [No change]
(b) Basis for Approval of Activities. [No change]
(c) Examples of Courses or Activities that May Qualify for Credit.
(1) [No change]
(2) [No change]

MISC.



(3) [No change]

(4) CLE credit will be given for attending law school courses, including courses offered at the J.D. or advanced education levels based upon the actual hours of attendance. Applicants need not take exams to qualify for credit, but must otherwise comply with the applicable regulations of the law school or university involved. Credit for teaching law school courses by full-time teachers will not qualify for credit. However, for the first preparation leading to the teaching of a specific law school course by an adjunct (not a full-time) professor, credit will be given on the basis of ten hours of preparation credit for each hour of preparation presentation time, and one credit will be given for each hour of class presentation time to a maximum of 15 credit hours of presentation time each year.

(5) [No change]

(6) [No change]

**(d) The Following Activities will not Qualify for Credit.** [No change]

**(e) Private Law Firm, Legal Department, and Government Agency Education.** In addition to compliance with the requirements of Regulation 104(a) and the limitations described below, courses presented by Private Law Firms ("Law Firms"), in-house Legal Departments ("Legal Departments"), and federal, state, local, and military agencies and organizations ("Government Agencies") courses may be approved for credit under the provisions of APR 11 on the following bases:

(1) Approval of such courses may be granted only on a case by case basis. Accredited Sponsor status (as set forth in Regulation 106) will not be available for private Law Firm, Legal Department, or Government Agency sponsors (herein collectively "Private Legal Sponsors"). The CLE Board may, however, consider the sponsoring organization's experience in presenting similar programs.

(i) If a Private Legal Sponsor contracts with an outside CLE provider to present a CLE, then the Private Legal Sponsor must register as the sponsor of the CLE program. The outside CLE provider is not the sponsor in this situation.

(ii) Nothing herein, however, shall be construed to prohibit or discourage Private Legal Sponsors from contracting with CLE providers to provide training, nor shall a CLE sponsor lose its accredited status because it provides courses or training to Private Legal Sponsors.

(2) All information called for by Form 1, including a complete course schedule with time allocations, must be submitted at least thirty (30) days prior to the date scheduled for the class in advance. High quality written materials are required and should be distributed to all attendees at or before the time the course is presented. A critique form or evaluation sheet and an attendance sheet, which attendees will complete, must be submitted to the CLE Board within 30 days after the program.

(3) The course must be attended by five (5) or more lawyers admitted to any Bar Association, excluding the instructors.

(4) Private law firm e Courses sponsored by Private Legal Sponsors may shall be open or closed to non-members of the Private Legal Sponsor law firm provided that notice of

such courses shall be published on the WSBA's MCLE web page there is space available.

(5) Marketing of the Private Legal Sponsor law firm in any manner is not permitted including but not limited to the display of brochures, pamphlets, or other Private Legal Sponsor firm advertising. ~~Approval for credit may be denied or withdrawn if the program material is presented in such a way that it is necessary for a particular firm to be retained or associated in order to adequately handle the type of matter being discussed.~~ Persons or organizations may not state or imply that the WSBA or the CLE Board approves or endorses any person or organization.

(6) No course provided by a Private Legal Sponsor shall focus directly or indirectly to a pending case, action or matter being handled by the Private Legal Sponsor.

(7) Additional regulations pertaining to Law Firms:

(i) No course provided by a Law Firm shall be paid for or in any way underwritten in whole or part, directly or indirectly by a client or prospective or former client of the Law Firm.

(ii) Members shall be entitled to a maximum of fifteen (15) credit hours in any reporting period for courses provided by a Law Firm.

(8) Additional regulation pertaining to Legal Departments — Members shall be entitled to a maximum of fifteen (15) credit hours in any reporting period for courses provided by a Legal Department.

(9) Additional regulation pertaining to Government Agencies — If a course is closed, any written materials need to be made available to any inquirer.

(f) Governmental Agencies. In addition to compliance with the requirements of Regulation 104(a) and the limitations described below, the courses of federal, state, local, and military agencies or organizations may be approved for credit under the provisions of APR 11 on the following bases:

(1) Approval of such courses may be granted only on a case by case basis. Accredited sponsor status (as set forth in Regulation 106) will not be available for governmental agencies. The Board may, however, consider the sponsoring organization's experience in presenting similar programs.

(2) A complete course schedule with time allocations must be submitted in advance. High quality written materials are required and should be distributed to all attendees at or before the time the course is presented. A critique form or evaluation sheet and an attendance sheet which attendees will complete must be submitted to the CLE Board within 30 days after the program.

(3) The course must be attended by five (5) or more lawyers admitted to any Bar Association, excluding the instructors.

(4) Governmental agency courses may be open or closed to nonmembers of the governmental agency or organization, provided that notice of them will be published on the WSBA web page, and that any written materials are available to any inquirer.

AMENDMENTS  
REGULATIONS OF THE WASHINGTON STATE BOARD OF  
CONTINUING LEGAL EDUCATION  
REGULATION 106. ACCREDITATION OF SPONSORING ORGA-  
NIZATIONS

(a) The CLE Board may extend approval to a sponsoring organization for all of the continuing legal education activities sponsored by such organization which conform to Regulation 104. A sponsoring agency to which such general approval has been extended shall be known as an "accredited sponsor".

(b) A sponsoring organization desiring to apply for status as an accredited sponsor shall submit to the CLE Board all information called for in the form required by the Board. Accreditation shall be granted or denied in accordance with the provisions of Regulation 108. A primary consideration in the evaluation of such a request for status as an accredited sponsor shall be the previous experience of the organization in sponsoring and presenting continuing legal education activities. A reasonable fee may be assessed by the CLE Board, with approval of the Board of Governors, with regard to the application. A private law firm shall not qualify for accredited sponsor status.

(c) Once a sponsoring organization has been granted the status of an accredited sponsor, it is not required to seek approval for individual educational activities sponsored while an accredited sponsor. Accredited sponsors ‡

(i) ~~s~~ Shall be responsible for calculating the number of credit hours to be awarded.

(i) ~~and~~ Shall be responsible for reporting those determinations to the CLE Board prior to the event in such manner as the CLE Board determines.

(iii) ~~Accredited sponsors~~ Are entitled to include in any materials which promote such activity, language that indicates the activity has been approved for Washington State MCLE credit in the amount of \_\_\_ hours (of which \_\_\_ hours will apply to ethics credit requirements).

(d) The CLE Board may set fines and penalties for failure to comply with accredited sponsor reporting requirements, including revocation of the accredited sponsor status.

(e) A sponsoring organization which has been granted the status of an accredited sponsor shall, except as otherwise provided in this Regulation 106, continue to be subject to and governed by all provisions of APR 11 and these Regulations.

(f) A sponsoring organization which has been granted the status of accredited sponsor shall provide the CLE Board at least yearly with a list of all its course offerings, identifying the number attorneys and non-attorneys attending each program, and such additional information as the CLE Board may require. The sponsoring organization shall also solicit critiques or evaluations from participants at each program, retain copies, and provide them to the CLE Board upon request. The CLE Board may, upon review of such information, advise the organization that its manner of compliance is improper, and may terminate the organization's status as an accredited sponsor for future offerings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 05-07-021  
RULES OF COURT  
STATE SUPREME COURT

[March 3, 2005]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO GR 11 ) NO. 25700-A-812

The Court Interpreter Certification Advisory Committee having recommended the adoption of the proposed amendments to GR 11, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's websites in expeditiously.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 29, 2005. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Lisa.Bausch@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 3rd day of March 2005.

For the Court  
Gerry L. Alexander

CHIEF JUSTICE

GR 9 Cover Sheet

Suggested Amendment to General Rule (GR) 11  
concerning the Washington State Interpreter Commission

Purpose:

Supreme Court Order #25700-B-366 established the Interpreter Advisory Commission on June 3, 1999. The order directed the functions and membership of the Commission, and set a period of operation for five (5) years. The order was set to expire on June 3, 2004. Subsequent Supreme Court Order #25700-B-437 was signed on May 11, 2004, and granted an extension of one (1) year to reorganize the Commission and define its future mission.

The purpose of the new court rule is to formalize the responsibilities and membership of the Commission in a format that is indefinite and would only require amendment if circumstances change. The Interpreter Program (administered by AOC) has continued needs from an oversight and

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policy making body. Those needs are specific and will not change drastically throughout the evolution of the Interpreter Program.

The proposal identifies members of the Commission and outlines functions of three (3) committees that would operate under the Commission's direction.

- *The Issues Committee is assigned issues, complaints, and/or requests from interpreters for review and response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by written referral to the Disciplinary Committee.*
- *The Disciplinary Committee has the authority to decertify and deny certification of interpreters based on the disciplinary procedures for: (a) violations of continuing education/court hour requirements, (b) failure to comply with Interpreter Code of Conduct (GR 11.2) or professional standards, and (3) violations of law that may interfere with their duties as a certified court interpreter. The Disciplinary Committee will decide on appeal any issues submitted by the Issues Committee.*
- *The Judicial and Court Administration Education Committee shall provide ongoing opportunities for training and resources to judicial officers and court administrators related to court interpretation improvement.*

While the current Court Interpreter Advisory Commission has developed a comprehensive Interpreter Certification Program and a Policy Manual directing the operation of the Interpreter Program, further partnership between the Commission and AOC is necessary for various reasons. First, an oversight body is needed to resolve potential disputes related to daily decisions by AOC staff to the Interpreter Program in the areas of continuing education, discipline, and appeals. Secondly, the Commission approves policies that direct daily operation of the Interpreter Program. Additionally, the Commission includes pivotal representatives of the court community who can educate their peers on the use of language interpreters in court through judicial and court administrator education. Finally, the Commission serves as an advisory body related to testing and training interpreter candidates.

The Commission will not be responsible for managing the Interpreter Program budget. Budgetary responsibility will continue to lie with the Administrative Office of the Courts.

The recommendation is to add the court rule on Purpose and Scope of Interpreter Commission as GR 11.1, and shift the existing Code of Conduct for Court Interpreters to GR 11.2 and Telephonic Interpretation to GR 11.3.

#### RULE 11 COURT INTERPRETERS

The use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English speaking individuals.

#### RULE 11.1 PURPOSE AND SCOPE OF INTERPRETER COMMISSION

(a) Purpose and Scope. This rule establishes the Interpreter Commission ("Commission") and prescribes the con-

ditions of its activities. This rule does not modify or duplicate the statutory process directing the Court Certified Interpreter Program as it is administered by the Administrative Office of the Courts (AOC) (RCW 2.43). The Interpreter Commission will develop policies for the Interpreter Program and the Program Policy Manual, published on the Washington Court's website at [www.courts.wa.gov](http://www.courts.wa.gov), which shall constitute the official version of policies governing the Court Certified Interpreter Program.

(b) Jurisdiction and Powers. All certified court interpreters who are certified in the state of Washington by AOC are subject to rules and regulations specified in the Interpreter Program Manual. The Commission shall establish three committees to fulfill ongoing functions related to issues, discipline, and judicial/court administration education. Each committee shall consist of three Commission members and one member shall be identified as the chair.

(1) The Issues Committee is assigned issues, complaints, and/or requests from interpreters for review and response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by written referral to the Disciplinary Committee.

(2) The Disciplinary Committee has the authority to decertify and deny certification of interpreters based on the disciplinary procedures for: (a) violations of continuing education/court hour requirements, (b) failure to comply with Interpreter Code of Conduct (GR 11.2) or professional standards, or (3) violations of law that may interfere with their duties as a certified court interpreter. The Disciplinary Committee will decide on appeal any issues submitted by the Issues Committee.

(3) The Judicial and Court Administration Education Committee shall provide ongoing opportunities for training and resources to judicial officers and court administrators related to court interpretation improvement.

(c) Establishment. The Supreme Court shall appoint members to the Interpreter Commission. The Supreme Court shall designate the chair of the Commission. The Commission shall include representatives from the following areas of expertise: judicial officers from the appellate and each trial court level (3), interpreter (2), court administrator (1), attorney (1), public member (2), representative from ethnic organization (1), and AOC representative (1). The term for a member of the Commission shall be three years. Members are eligible to serve a subsequent 3 year term. The Commission shall consist of eleven members. Members shall only serve on one committee and committees may be supplemented by ad hoc professionals as designated by the chair. Ad hoc members may not serve as the chair of a committee.

(d) Regulations. Policies outlining rules and regulations directing the interpreter program are specified in the Interpreter Program Manual. The Commission, through the Issues Committee and Disciplinary Committee, shall enforce the policies of the interpreter program. Interpreter program policies may be modified at any time by the Commission and AOC.

(e) Existing Law Unchanged. This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to RCW chapter 2.43.

(f) Meetings. The Commission shall hold meetings as determined necessary by the chair. Meetings of the Commission are open to the public except for executive sessions and disciplinary meetings related to action against a certified interpreter.

(g) Immunity from Liability. No cause of action against the Commission, its standing members or ad hoc members appointed by the Commission, shall accrue in favor of a certified court interpreter or any other person arising from any act taken pursuant to this rule, provided that the Commission members or ad hoc members acted in good faith. The burden of proving that the acts were not taken in good faith shall be on the party asserting it.

**RULE 4-2 11.2  
CODE OF CONDUCT FOR COURT INTERPRETERS**

**PREAMBLE.** All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreters personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreters official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

**GR 4-2 11.3  
TELEPHONIC INTERPRETATION**

(a) Interpreters may be appointed to serve by telephone for brief, nonevidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.

(b) RCW 2.43 and GR 11.4 2 must be followed regarding the interpreter's qualifications and other matters.

(c) Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence.

(d) Attorney-client consultations must be interpreted confidentially.

(e) Written documents which would normally be orally translated by the interpreter must be read aloud to allow full oral translation of the material by the interpreter.

(f) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 05-07-023  
NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH  
(Medical Quality Assurance Commission)  
[Memorandum—March 7, 2005]**

**NOTICE OF CHANGE  
2005 MEETING DATES**

DATES		COMMENTS
April 7 Changing from 4/8	Holiday Inn Select One South Grady Way Renton, WA 98055 (425) 226-7700	Regular Meeting Business Meeting Start Time 8:00 a.m.
May 19 Changing from 5/20	Holiday Inn Select One South Grady Way Renton, WA 98055 (425) 226-7700	Regular Meeting Business Meeting Start Time 8:00 a.m.

MISC.

**WSR 05-07-025****INTERPRETIVE AND POLICY STATEMENT  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 8, 2005, 11:45 a.m.]

In accordance with RCW 34.05.230(12), following are the policy and interpretive statements issued by the department for January and February 2005.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

**POLICY AND INTERPRETIVE STATEMENTS****WISHA****WISHA Regional Directive (WRD) 5.40, "PVC Pipe in Compressed Air Systems"**

This directive applied to all WISHA enforcement and consultation activities involving the requirements of WAC 296-800-11005 (which requires employers to provide a workplace free from recognized hazards) as they relate to the use of PVC pipe in compressed air systems, has been rescinded. This issue is now addressed in the portable power tools standard, chapter 296-807 WAC, which became effective August 1, 2003. This policy was repealed August 1, 2003.

Contact Marcia Benn, Mailstop 44648, phone (360) 902-5503.

**WISHA Regional Directive (WRD) 21.95, "Enforcement Activity Related to Piers and Docks"**

WISHA Regional Directive (WRD) 21.95, "Enforcement Activity Related to Piers and Docks," applies to all WISHA enforcement and consultation activities involving the application of WAC 296-56-60117 Maintenance and load limits (re: structural integrity of waterfront structures). It replaces and rescinds WISHA Interim Operations Memorandum 99-1-I. This new policy was issued February 25, 2005.

Contact Marcia Benn, Mailstop 44648, phone (360) 902-5503.

**Insurance Services**

**Insurance Services Program:** Employer Services, State Fund Claims Administration.

**POLICY 64.07 Prorating Assumed Hours for Salaried/Commissioned Employees.**

This policy applies to state fund and self-insured workers' compensation claims. This policy does not apply to crime victims claims. This policy provides guidelines for staff when employers who have salaried or commissioned personnel in their employ and have chosen to use the assumed hours method of calculating premium. This policy was amended January 1, 2005.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

**Insurance Services Program:** Services, State Fund Claims Administration and Self-Insurance.

**POLICY 72.09 Pursuing General or "Prime" Contractor's Liability.**

This policy applies to state fund and self-insured workers' compensation claims. It does not apply to crime victims. This policy provides guidelines for revenue officers in pursuing prime contractor liability (PLC), which will be universally applied to all "prime contractors" and not just those in construction. This policy was amended January 1, 2005.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

**Insurance Services Program:** Employer Services, State Fund Claims Administration.

**POLICY 64.60 Minimum in Tolerance Amount.**

This policy applies to state fund workers' compensation claims. This policy does not apply to crime victims and self-insured claims. This policy provides guidelines for policy managers, revenue officers and field audit staff when there is a premium balance of \$9.99 or less, either credit or debit, remaining on an employer's industrial insurance account. This policy was amended January 1, 2005.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

**Insurance Services Program:** Employer Services, State Fund Claims Administration.

**POLICY 91.24 Audit Time Period for State Fund.**

This policy applies to state fund workers' compensation claims. It does not apply to crime victims and self-insured claims. This policy provides the length of time for an audit period. It applies to all audits of state fund employer accounts, including out-of-state audits. This policy was amended January 1, 2005.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

**Insurance Services Program:** Services, State Fund Claims Administration and Self-Insurance.

**POLICY 91.54 Establishing General or "Prime" Contractor's Liability.**

This policy applies to state fund and self-insured workers' compensation claims. This policy does not apply to crime victims. This policy provides guidelines for staff in establishing prime contractor liability (PCL) in the course of an audit. This policy was amended January 1, 2005.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

**WSR 05-07-027****NOTICE OF PUBLIC MEETINGS  
SHORELINE COMMUNITY COLLEGE**

[Memorandum—February 28, 2005]

In compliance with the Open Public Meetings Act, this serves as notice that the board of trustees of Shoreline Community College will hold a special meeting on Wednesday, March 9, 2005, from 1:30 p.m. to 5:30 p.m. in the small conference room of the Administration Building 1000.

We will also notify local area media of this special meeting.

The purpose of this special meeting is for the board members to meet with chairs of the appointment review committees for the third-year tenure-track faculty candidates prior to taking any action to award tenure at the monthly board meeting on March 16, 2005. The board will convene into executive session and reconvene into the special meeting to adjourn. This special meeting is not open to the public.

Please call Diana Penley at (206) 546-4552 or e-mail at mfoley@ctc.edu if you need further information.

**WSR 05-07-028**  
**NOTICE OF PUBLIC MEETINGS**  
**ECONOMIC DEVELOPMENT**  
**FINANCE AUTHORITY**  
 [Memorandum—March 7, 2005]

The Washington Economic Development Finance Authority (WEDFA) is an independent agency (#106) within the executive branch of the state government. The authority has four regular board meetings each year, one per quarter. The authority's meetings are open to the public, and access for persons with disabilities is provided at all meetings of the authority.

The meeting schedule for 2005 is:

April 27	10:00 a.m.	Semiahmoo Resort 9565 Semiahmoo Parkway Blaine, WA
June 22	10:00 a.m.	Hilton Garden Inn Tri-Cities 701 North Young Street Kennewick, WA
October 5	10:00 a.m.	12th Floor Conference Room 428 West Riverside Spokane, WA
December 7	10:00 a.m.	Seattle SeaTac Marriott Hotel 3201 South 176th Street Seattle, WA

Please call Jonathan A. Hayes at (206) 587-5634 if you have any questions.

**WSR 05-07-029**  
**NOTICE OF PUBLIC MEETINGS**  
**SHORELINE COMMUNITY COLLEGE**  
 [Memorandum—March 7, 2005]

In compliance with the Open Public Meetings Act, this serves as notice that the board of trustees of Shoreline Community College will extend the special meeting, schedule from 1:30 p.m. to 5:30 p.m. on Wednesday, March 9, 2005, to 7:00 p.m. in the small conference room of the Administration Building 1000.

We will also notify local area media of the extension of this special meeting.

The purpose of the extension of the meeting is for board members to review the performance of public employees. The board will reconvene at 7 p.m. into the special meeting to adjourn. This special meeting is not open to the public.

Please call Diana Penley at (206) 546-4552 or e-mail at mfoley@ctc.edu if you need further information.

**WSR 05-07-037**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**  
 [Memorandum—March 8, 2005]

**Change of Public Meeting Location**

The board of trustees of Bates Technical College has moved its regularly scheduled meeting of March 16, 2005, to the Clyde Hupp Board Room at Bates Technical College, 1001 South Yakima Avenue, Tacoma, WA 98405. The regular meeting will begin at 3:00 p.m.

**WSR 05-07-038**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**  
 [Memorandum—March 8, 2005]

**Special Board Meeting**

The board of trustees of Bates Technical College will have a special meeting on March 16, 2005, from 2:00 p.m. to approximately 3:00 p.m. in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma. The board will go into executive session for the purpose of discussing personnel matters. No action will be taken during executive session.

**WSR 05-07-039**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—March 10, 2005]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, March 17, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

**WSR 05-07-041**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
 (State Capitol Committee)  
 [Memorandum—March 8, 2005]

**MEETING LOCATION CHANGE**

The State Capitol Committee meeting, scheduled for March 17, 2005, has been moved from the General Administration Building to the Governor's Conference Room.

The Governor's Conference Room is located in the Legislative Building, Suite 200, 416 14th Avenue S.W., Olympia, WA.

If you have any questions, please contact Pam Robel at 902-0982.

**WSR 05-07-052**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**

[Memorandum—March 9, 2005]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on Tuesday, March 15, 2005, at 2:00 p.m. in Room 303 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 05-07-053**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2005, 3:20 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: DCS Administrative Policy 1.22.

Subject: Limiting over-the-counter payments.

Effective Date: March 4, 2005.

Document Description: This new administrative policy explains to DCS employees new changes in acceptance of cash payments in the field to comply with federal law.

To receive a copy of the interpretive or policy statement, contact Susan Reams, Division of Child Support, Mailstop 45860, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail [sreams@dshs.wa.gov](mailto:sreams@dshs.wa.gov).

March 4, 2005  
 Susan Reams

**WSR 05-07-054**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2005, 3:21 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Revised DCS Administrative Policy 1.08.

Subject: Self-addressed stamped (business reply) envelope use.

Effective Date: March 2, 2005.

Document Description: Existing administrative policy 1.08 is revised to allow the use of up to three self-addressed

business reply (preaddressed and postage paid) envelopes to be given to noncustodial parents for use in paying child support.

To receive a copy of the interpretive or policy statement, contact Susan Reams, Division of Child Support, Mailstop 45860, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail [sreams@dshs.wa.gov](mailto:sreams@dshs.wa.gov).

March 2, 2005  
 Susan Reams

**WSR 05-07-055**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2005, 3:22 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-09 MAA.

Subject: Prescription drug program: Washington preferred drug list and prior authorization changes.

Effective Date: April 1, 2005.

Document Description: **Effective for claims with dates of service on and after April 1, 2005, except as otherwise noted**, the Medical Assistance Administration (MAA) will implement the following changes:

- Therapeutic drug class changes to be implemented as part of the Washington preferred drug list;
- Expedited prior authorization (EPA) changes; and
- Prior authorization changes.

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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

March 7, 2005  
 Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-07-056**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 11, 2005, 3:24 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-08 MAA.

Subject: Numbered Memo 05-08 MAA Nondurable medical supplies and equipment (MSE): Feed schedule corrections.

Effective Date: April 1, 2005.

Document Description: **Effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) will no longer cover the small-size disposable underpads, HCPCS code T4542. In addition, **effective retroactive to dates of service on and after January 1, 2005**, MAA is placing a minimum size requirement of 810 square inches on the large-size underpads, HCPCS code T4541.

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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

March 7, 2005  
Ann Myers, Manager  
Rules and Publications Section

**WSR 05-07-072**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE**  
**INTERAGENCY COMMITTEE**  
(Governor's Forum on Monitoring)  
[Memorandum—March 9, 2005]

**Meeting Date Change**

The next public meeting of the Governor's Forum on Monitoring (Executive Order 04-03) will be **Thursday, April 14, 2005, from 9:00 a.m. to 12:00 p.m.** at LaQuinta Inn and Suites Conference Center, 1425 East 27th Street, Tacoma.

For further information, please contact Patty Dickason, Interagency Committee for Outdoor Recreation (IAC), (360) 902-3012 or check the web page at <http://www.iac.wa.gov/monitoring/schedule.htm>.

The IAC schedules all public meetings at barrier free sites. Persons who need special assistance, such as large type materials, may contact Patty Dickason at the number listed above or by e-mail at [pattyd@iac.wa.gov](mailto:pattyd@iac.wa.gov).

**WSR 05-07-073**  
**NOTICE OF PUBLIC MEETINGS**  
**SHORELINE COMMUNITY COLLEGE**  
[Memorandum—March 10, 2005]

The board of trustees of Shoreline Community College will hold a special meeting on Wednesday, March 16, 2005, beginning at 2:30 p.m., in the Building 1000 Board Room. This special meeting immediately precedes the regular meeting of the board which begins at 4:00 p.m.

Please call (206) 546-4552 or e-mail Michele Foley at [mfoley@ctc.edu](mailto:mfoley@ctc.edu) if you have further information.

**WSR 05-07-076**  
**NOTICE OF PUBLIC MEETINGS**  
**DEVELOPMENTAL DISABILITIES**  
**ENDOWMENT TRUST FUND**  
[Memorandum—March 14, 2005]

**2005 Board Meeting Dates**

DATE	TIME	LOCATION
March 10, 2005	10 a.m.-2 p.m.	SeaTac Red Lion 18220 International Boulevard
June 16, 2005	10 a.m.-2 p.m.	SeaTac Red Lion 18220 International Boulevard
September 29, 2005	10 a.m.-2 p.m.	SeaTac Red Lion 18220 International Boulevard
December 15, 2005	10 a.m.-2 p.m.	SeaTac Red Lion 18220 International Boulevard

**WSR 05-07-086**  
**DEPARTMENT OF ECOLOGY**  
[Filed March 16, 2005, 1:16 p.m.]

**ORDER AND DETERMINATION BY THE DIRECTOR**

Washington is in the midst of one of the warmest and driest winters in its history. Snowpack levels in the mountains are at record lows, with many sites already completely free of snow, and what remains of the snowpack will likely melt several weeks ahead of normal. As a result, water supplies for virtually the entire state of Washington, as forecast by the Natural Resources Conservation Service and the National Weather Service, are projected to be well below normal for the period of April through September 2005. The shortage in spring and summer water supplies creates the strong possibility of undue hardships for water users across the state.

In the Yakima River basin, proratable irrigation districts are facing the prospect of receiving less than one-third of their usual supplies of water. While forecast flows on the main stem of the Columbia River are sufficient to preclude the need to curtail water uses from the river, the same cannot be said for many other rivers on both sides of the state. Stream flows in Western Washington have been at record lows for most of the past several months, with only brief improvements from the occasional storm systems that have passed over the region. Without a doubt, Washington is facing one of the most serious water shortages in recent memory, and perhaps the worst ever.

Even with significant precipitation during the spring and summer months, water-supply conditions across the state are unlikely to fully recover, and they could well worsen. The supply shortfall poses a very serious threat to irrigated crops, public water supplies, and the state's fisheries resource.

Therefore, in accordance with the provisions of RCW 43.83B.405, IT IS ORDERED that the state of Washington is hereby under a drought emergency. This order is effective immediately and shall remain in effect through December 31, 2005, unless terminated prior to that date.

MISC.



In accordance with the provisions of WAC 173-166-060, ecology may, under the terms of this order, take the following emergency actions:

1. Issue emergency permits for water.
2. Approve temporary transfers of water rights.
3. Provide funding assistance to public agencies to alleviate drought conditions.
4. Take other actions depending on future developments.

Other state and local agencies with authority to issue permits or authorizations related to the drought emergency actions must provide a decision to an applicant within fifteen calendar days of the date of application.

In accordance with the proclamation of the governor, dated January 3, 1989 (Centennial Accord), nothing herein shall impair or infringe upon the treaty reserved rights or governmental authority of any federally recognized Indian tribe nor shall this order be deemed an assertion of state authority over Indian reservation lands. The Department of Ecology intends to work cooperatively, on a government-to-government basis, with all affected tribes.

Further details about this order or the actions available under it may be obtained by contacting Doug McChesney of the Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, or (360) 407-6306. Applications for emergency water permits or temporary transfers of water rights may be obtained by contacting one of ecology's regional offices in Bellevue, Lacey, Spokane, or Yakima.

DATED this 10th day of March, 2005.

Jay J. Manning  
Director

**WSR 05-07-088**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed March 17, 2005, 11:10 a.m.]

TECHNICAL ASSISTANCE ADVISORY  
T 05-02

TO: Life Insurers and Fraternal Benefit Societies.

SUBJECT: Use of the 2001 Commissioner's Standard Ordinary Mortality Table (2001 CSO).

DATE: March 17, 2005.

The purpose of this Technical Assistance Advisory is to outline the filing requirements for carriers seeking to use the new 2001 CSO mortality tables in contracts that have been previously approved by this office.

The guiding statute, RCW 48.76.050 (4)(j) provides, "...any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions (emphasis added) of that policy form."

A new filing is required if the company wishes to use the 2001 CSO mortality table. The new filing should consist of the following:

1. An actuarial memorandum that includes a demonstration of compliance with the standard nonforfeiture law. The

policy form should be identified in the actuarial memorandum and, if there are any changes in policy provisions other than for interest rate/mortality table, the entire form must be refiled.

2. A statement whether there are any changes in the premium rates for the plan.

3. A statement whether there are any changes in the issue ages or amounts at which the plan is offered.

4. Adequate identification of the mortality table to be used as indicated in WAC 284-74-410 (ultimate/select and ultimate, ANB/ALB, composite/smoker-nonsmoker).

Additional notes: The 2001 CSO mortality table may be used for one or more specified plans of insurance, for valuation and nonforfeiture purposes, according to WAC 284-74-420(2).

The use of gender-blended tables is restricted according to the conditions in WAC 284-74-450.

Insurers must provide this office with a complete filing for any previously approved policy form that contains modifications to contract provisions in addition to using the 2001 CSO mortality table.

Questions concerning this TAA should be directed to Alan A. Hudina, Manager Life and Annuities at (360) 725-7126 or AlanH@oic.wa.gov.

**WSR 05-07-089**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed March 17, 2005, 11:11 a.m.]

TECHNICAL ASSISTANCE ADVISORY  
T 05-03

TO: Credit Life Insurers, Credit Accident and Health Insurers.

SUBJECT: Minimum Credit Insurance Reserves.

DATE: March 17, 2005.

With the adoption of our new rule WAC 284-34-100 through 284-34-260 and the withdrawal of Bulletin 74-7, the purpose of this Technical Assistance Advisory is to state minimum valuation standards for credit life and disability insurance.

(1) Credit Life Insurance: For credit life policies and certificates issued on or after January 1, 2005, the minimum valuation standard of mortality under RCW 48.74.030 (1)(g) for both male and female insureds is the 2001 CSO male composite ultimate mortality table. For policies and certificates issued after 1988 and prior to 2005, the minimum valuation standard of mortality under RCW 48.74.030 (1)(g) for future reporting dates is the 1980 CSO male composite mortality table without select mortality factors.

The rates of interest for the minimum valuation standard are defined in RCW 48.74.030(3), according to the calendar year in which the individual policy or group certificate is issued.

(2) Credit Disability Insurance: RCW 48.12.060 requires a reserve no less in the aggregate than the pro rata gross unearned premiums. In this context, contract reserves calculated according to the rule of anticipation or the average

of the rule of 78 and pro rata methods, if consistent with the refund method actually used or required, are included in the term "pro rata."

For credit disability policies and certificates issued on or after January 1, 2002, the minimum valuation standard of morbidity for contract reserves based on assumed risks using morbidity factors is the 1985 Commissioners Individual Disability Table A (85CIDA) with claim incidence rates increased by 12%. The elimination period is defined by the contracts, but not to exceed fourteen days. For policies and certificates issued prior to 2002 the insurer may elect the above standard for all future valuations, or the minimum valuation standard of morbidity for contract reserves on then-currently issued contracts, as of the date the contract was issued.

(3) If a credit insurance policy or certificate provides both life insurance and disability benefits, separate reserves must be established for the life and disability benefits. For all credit contracts in the aggregate, the insurer must establish an additional liability for any excess in the premium refund liability over the aggregate recorded reserve. This liability may recognize recoverable expenses, including commissions and premium tax. This liability should be reported as miscellaneous reserves in the aggregate reserve for life contracts, as an active life write-in in the aggregate reserves for accident and health contracts, or as otherwise provided in the NAIC's annual statement instructions.

Questions concerning this TAA should be directed to Roy Olson, Actuary, at (360) 725-7136 or RoyO@oic.wa.gov.

**WSR 05-07-090**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Filed March 17, 2005, 11:11 a.m.]

**WITHDRAWAL OF BULLETIN**

With the adoption of amendments to chapter 284-34 WAC, and the issuance of TAA 05-03, Bulletin 74-7 is no longer necessary. Therefore, Bulletin No. 74-7 Minimum Credit Insurance Reserves is withdrawn.

If you have questions contact Kacy Scott, (360) 725-7041, kacys@oic.wa.gov.

**WSR 05-07-092**  
**NOTICE OF PUBLIC MEETINGS**  
**CENTRAL WASHINGTON UNIVERSITY**

[Memorandum—March 15, 2005]

**CWU Board of Trustees Retreat - revised date**

Central Washington University's board of trustees will meet in retreat session July 25-26, 2005, President's Reception Center, 211 East 10th, Ellensburg, WA.

**WSR 05-07-099**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
**(Beef Commission)**

[Memorandum—March 16, 2005]

**Board Meeting Date Change**

This is to confirm that the April 5, 2005, meeting date for the Washington State Beef Commission has been changed to April 12.

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

**WSR 05-07-105**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC WORKS BOARD**

[Memorandum—March 17, 2005]

**NOTICE OF SPECIAL MEETING**

The Public Works Board will conduct a special meeting by conference call at 9:00 a.m. on Tuesday, March 22, 2005. The conference call will be conducted from the Conference Room of Suite 102 of the Evergreen Plaza Building, 711 Capitol Way, Olympia, WA. Interested persons may participate by appearing at the above location.

The only proposed agenda item will be a legislative update.

**WSR 05-07-129**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
**(Electrical Board)**

[Memorandum—March 22, 2005]

Per chapter 42.30 RCW, the Open Public Meetings Act, the time and place of the April meeting for the Electrical Board is:

DATE	TIME	LOCATION
April 28, 2005	9:00 a.m.	Comfort Inn 1620 74th Avenue S.W. Tumwater, WA

Please call (360) 902-6411, if you have questions.

MISC.

**WSR 05-07-138**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 22, 2005, 4:45 p.m.]

Recodification of Existing Sections of Chapters 388-820 and 388-101 WAC into New Sections of Chapter 388-101 WAC

The DSHS Aging and Disability Services Administration is requesting that all remaining sections of chapter 388-820 WAC, and two sections of chapter 388-101 WAC be recodified in chapter 388-101 WAC. A complete list of the old and new WAC numbers, and a corresponding subchapter caption, are shown below.

The following sections of the Washington Administrative Code are recodified as follows:

<u>Old WAC Number</u>	<u>New WAC Number</u>
388-820-056	388-101-1205
Nurse Delegation	Nurse Delegation
388-820-730	388-101-2400
388-101-2310	388-101-2410
388-101-2320	388-101-2420
388-820-760	388-101-2430
388-820-770	388-101-2440
388-820-780	388-101-2450
388-820-790	388-101-2460
388-820-800	388-101-2470
388-820-810	388-101-2480
388-820-820	388-101-2490
388-820-830	388-101-2500
388-820-840	388-101-2510
388-820-850	388-101-2520
388-820-860	388-101-2530
388-820-870	388-101-2540

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**WSR 05-07-139**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 22, 2005, 4:46 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-10 MAA.  
 Subject: Prosthetic and orthotic devices (P&O): April fee schedule changes.

Effective Date: April 1, 2005.

Document Description: **Effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) has revised the prosthetic and orthotic

devices (P&O) fee schedule. The new fee schedule is attached to 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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

March 21, 2005

Ann Myers, Manager

Rules and Publications Section

**WSR 05-07-140**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed March 22, 2005, 4:47 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-11 MAA.

Subject: Wheelchairs, durable medical equipment (DME), and supplies: April fee schedule changes and new hospital bed form.

Effective Date: April 1, 2005.

Document Description: **Effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) has updated the wheelchair fee schedule and the "other DME" fee schedule in MAA's current wheelchairs, durable medical equipment (DME), and supplies billing instructions. **Effective for dates of service on and after June 1, 2005**, MAA is requiring providers to use a hospital bed evaluation form, DSHS 13-747, when requesting the rental or purchase of a hospital bed.

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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

March 21, 2005

Ann Myers, Manager

Rules and Publications Section

MISC.

**WSR 05-07-145**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Wine Commission)  
 [Memorandum—March 18, 2005]

Below is a change in date, location, and time for our April and May Washington Wine Commission meetings.

The April 8th meeting was originally scheduled from 10:00 a.m. - 1:00 p.m. The meeting time is now **1:00 p.m. - 3:00 p.m.** Location has not changed.

The May 6th meeting date, location, and time have changed to **May 13th, 9:00 a.m. - 11:00 a.m., Courtyard by Marriott, 480 Columbia Point Drive, Richland, WA 99352.**

If you need any additional information, please feel free to call Kim Abello at (206) 667-9463 ext. 200 or via e-mail [kabellow@washingtontwine.org](mailto:kabellow@washingtontwine.org).

**WSR 05-07-146**  
**NOTICE OF PUBLIC MEETINGS**  
**PIERCE COLLEGE**  
 [Memorandum—March 21, 2005]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a **change of place of their regular May board meeting.** The time remains the same. This meeting is open to the public.

<u>Original Meeting Place</u>	<u>Time</u>
Pierce College Fort Steilacoom 9401 Farwest Drive S.W. Lakewood, WA 98498	12:30 p.m.

<u>New Meeting Place</u>
Pierce College Puyallup Brouillet Lecture Hall 1601 39th Avenue S.E. Puyallup, WA 98374

**WSR 05-07-147**  
**NOTICE OF PUBLIC MEETINGS**  
**PIERCE COLLEGE**  
 [Memorandum—March 21, 2005]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a special board meeting. This meeting is to discuss the policy governance model of trusteeship.

<u>Meeting Date/Location</u>	<u>Time</u>
Thursday, April 21, 2005 Cascade Board Room Pierce College Fort Steilacoom 9401 Farwest Drive S.W. Lakewood, WA 98498	9:30 a.m.

**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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**TABLE**

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16-350-035	AMD	05-03-042	16-414-107	NEW-X	05-07-154	16-623-001	AMD-P	05-06-112
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16-404-050	REP-X	05-06-100	16-445-045	NEW-X	05-06-101	16-662-115	AMD-X	05-06-111
16-404-060	REP-X	05-06-100	16-445-050	REP-X	05-06-101	16-662-120	NEW-X	05-06-111
16-404-070	REP-X	05-06-100	16-445-060	AMD-X	05-06-101	16-662-125	NEW-X	05-06-111
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16-406-005	NEW-X	05-07-153	16-445-080	REP-X	05-06-101	16-730-010	NEW-E	05-03-032
16-406-010	NEW-X	05-07-153	16-445-090	REP-X	05-06-101	16-730-015	NEW-E	05-03-032
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16-406-015	NEW-X	05-07-153	16-448-135	REP-X	05-06-099	16-730-025	NEW-E	05-03-032
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16-406-050	REP-X	05-07-153	16-448-160	REP-X	05-06-099	16-730-050	NEW-E	05-03-032
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67-25-380	AMD-P	05-03-116	106-72-410	REP	05-05-057	132H-142-010	NEW	05-07-069
67-25-384	AMD-P	05-03-116	106-72-420	REP	05-05-057	132H-142-015	NEW-P	05-04-061
67-25-388	AMD-P	05-03-116	106-72-430	REP	05-05-057	132H-142-015	NEW	05-07-069
67-25-390	AMD-P	05-03-116	106-72-440	REP	05-05-057	132H-142-020	NEW-P	05-04-061
67-25-394	AMD-P	05-03-116	106-72-450	REP	05-05-057	132H-142-020	NEW	05-07-069
67-25-395	REP-P	05-03-116	106-72-460	REP	05-05-057	132H-142-030	NEW-P	05-04-061
67-25-396	AMD-P	05-03-116	106-72-470	REP	05-05-057	132H-142-030	NEW	05-07-069
67-25-398	AMD-P	05-03-116	106-72-480	REP	05-05-057	132H-142-040	NEW-P	05-04-061
67-25-399	AMD-P	05-03-116	106-72-490	REP	05-05-057	132H-142-040	NEW	05-07-069
67-25-400	AMD-P	05-03-116	106-72-500	REP	05-05-057	132H-142-050	NEW-P	05-04-061
67-25-404	AMD-P	05-03-116	106-72-510	REP	05-05-057	132H-142-050	NEW	05-07-069
67-25-408	AMD-P	05-03-116	106-72-520	REP	05-05-057	132H-142-060	NEW-P	05-04-061
67-25-412	AMD-P	05-03-116	106-72-530	REP	05-05-057	132H-142-060	NEW	05-07-069
67-25-416	AMD-P	05-03-116	106-72-540	REP	05-05-057	132H-142-070	NEW-P	05-04-061
67-25-418	AMD-P	05-03-116	106-72-550	REP	05-05-057	132H-142-070	NEW	05-07-069
67-25-432	AMD-P	05-03-116	106-72-560	REP	05-05-057	132H-142-080	NEW-P	05-04-061
67-25-436	AMD-P	05-03-116	106-72-570	REP	05-05-057	132H-142-080	NEW	05-07-069
67-25-440	AMD-P	05-03-116	106-72-580	REP	05-05-057	132P-33-100	PREP	05-07-110
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67-25-446	AMD-P	05-03-116	106-72-600	REP	05-05-057	132Z-108-040	AMD	05-06-003
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67-25-550	AMD-P	05-03-116	132C-120-040	AMD-P	05-06-029	132Z-112-080	NEW	05-06-003
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82-60-030	RECOD	05-04-072	132C-120-110	AMD-P	05-06-029	132Z-115-020	AMD	05-06-003
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82-60-032	RECOD	05-04-072	132C-120-120	AMD-P	05-06-029	132Z-115-060	AMD	05-06-003
82-60-033	RECOD	05-04-072	132C-120-125	AMD-P	05-06-029	132Z-115-080	AMD	05-06-003
82-60-034	RECOD	05-04-072	132C-120-130	AMD-P	05-06-029	132Z-115-090	AMD	05-06-003
82-60-035	RECOD	05-04-072	132C-120-135	AMD-P	05-06-029	132Z-115-110	AMD	05-06-003
82-60-036	RECOD	05-04-072	132C-120-140	AMD-P	05-06-029	132Z-115-120	AMD	05-06-003
82-60-037	RECOD	05-04-072	132C-120-145	AMD-P	05-06-029	132Z-115-130	AMD	05-06-003
82-60-038	RECOD	05-04-072	132C-120-150	AMD-P	05-06-029	132Z-115-140	AMD	05-06-003
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82-60-050	RECOD	05-04-072	132C-120-220	AMD-P	05-06-029	132Z-115-180	AMD	05-06-003
82-60-060	RECOD	05-04-072	132C-120-225	AMD-P	05-06-029	132Z-115-190	AMD	05-06-003
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137-59-060	NEW-W	05-05-071	173-400-100	AMD	05-03-033	173-505-180	NEW-P	05-05-094
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139-03-060	REP	05-07-049	173-400-750	NEW	05-03-033	180-46-015	REP-P	05-04-017
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173-322-050	AMD	05-07-104	173-505-010	NEW-P	05-05-094	182-16-040	AMD-W	05-02-060
173-322-060	AMD	05-07-104	173-505-020	NEW-P	05-05-094	182-16-040	PREP	05-07-158
173-322-070	AMD	05-07-104	173-505-030	NEW-P	05-05-094	182-16-050	AMD-W	05-02-060
173-322-080	AMD	05-07-104	173-505-040	NEW-P	05-05-094	182-16-050	PREP	05-07-158
173-322-090	AMD	05-07-104	173-505-050	NEW-P	05-05-094	192-32-010	REP-X	05-07-143
173-322-100	AMD	05-07-104	173-505-060	NEW-P	05-05-094	192-32-035	REP-X	05-07-143
173-322-110	AMD	05-07-104	173-505-070	NEW-P	05-05-094	192-32-050	REP-X	05-07-143
173-322-120	AMD	05-07-104	173-505-080	NEW-P	05-05-094	192-32-085	REP-X	05-07-143
173-322-130	NEW	05-07-104	173-505-090	NEW-P	05-05-094	192-32-095	REP-X	05-07-143
173-350-100	AMD-S	05-03-018	173-505-100	NEW-P	05-05-094	192-32-100	REP-X	05-07-143
173-400-030	AMD	05-03-033	173-505-110	NEW-P	05-05-094	192-32-115	REP-X	05-07-143
173-400-040	AMD	05-03-033	173-505-120	NEW-P	05-05-094	192-32-130	REP-X	05-07-143
173-400-050	AMD	05-03-033	173-505-130	NEW-P	05-05-094	192-32-135	REP-X	05-07-143

TABLE



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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
92-35-010	NEW	05-02-094	199-08-455	NEW	05-07-045	212-17-290	AMD-P	05-07-102
92-35-020	NEW	05-02-094	199-08-460	NEW	05-07-045	212-17-295	AMD-P	05-07-102
92-35-030	NEW	05-02-094	199-08-465	NEW	05-07-045	212-17-300	AMD-P	05-07-102
92-35-040	NEW	05-02-094	199-08-470	NEW	05-07-045	212-17-310	AMD-P	05-07-102
92-35-050	NEW	05-02-094	199-08-475	NEW	05-07-045	212-17-317	AMD-P	05-07-102
92-35-060	NEW	05-02-094	199-08-480	NEW	05-07-045	212-17-335	AMD-P	05-07-102
92-35-070	NEW	05-02-094	199-08-485	NEW	05-07-045	212-17-342	NEW-P	05-07-102
92-35-080	NEW	05-02-094	199-08-490	NEW	05-07-045	212-17-345	AMD-P	05-07-102
92-35-090	NEW	05-02-094	199-08-495	NEW	05-07-045	212-17-350	AMD-P	05-07-102
92-35-100	NEW	05-02-094	199-08-500	NEW	05-07-045	212-17-352	AMD-P	05-07-102
92-35-110	NEW	05-02-094	199-08-505	NEW	05-07-045	212-17-355	AMD-P	05-07-102
92-35-120	NEW	05-02-094	199-08-510	NEW	05-07-045	212-17-360	AMD-P	05-07-102
92-110-015	AMD-E	05-03-011	199-08-515	NEW	05-07-045	212-17-365	NEW-P	05-07-102
92-110-017	NEW-E	05-03-011	199-08-520	NEW	05-07-045	212-17-370	NEW-P	05-07-102
92-150-112	NEW-P	05-07-144	199-08-525	NEW	05-07-045	212-17-375	NEW-P	05-07-102
92-150-113	NEW-P	05-07-144	199-08-535	NEW-W	05-07-079	212-17-380	NEW-P	05-07-102
92-170-060	NEW-E	05-03-011	199-08-540	NEW	05-07-045	212-17-385	NEW-P	05-07-102
92-170-060	NEW-P	05-07-144	199-08-545	NEW	05-07-045	212-17-390	NEW-P	05-07-102
92-180-013	NEW-E	05-03-011	199-08-550	NEW	05-07-045	212-17-395	NEW-P	05-07-102
92-180-014	NEW-P	05-07-144	199-08-555	NEW	05-07-045	212-17-400	NEW-P	05-07-102
92-300-050	AMD-E	05-03-011	199-08-565	NEW	05-07-045	212-17-405	NEW-P	05-07-102
92-310-030	AMD-E	05-03-011	199-08-570	NEW	05-07-045	212-17-410	NEW-P	05-07-102
92-320-005	NEW-E	05-03-011	199-08-580	NEW	05-07-045	212-17-415	NEW-P	05-07-102
92-320-010	NEW-E	05-03-011	208-680A-040	AMD	05-03-038	212-17-420	NEW-P	05-07-102
92-320-020	NEW-E	05-03-011	208-680E-025	NEW	05-03-038	212-17-425	NEW-P	05-07-102
96-25-002	AMD-P	05-07-142	208-680F-020	AMD	05-03-038	212-17-430	NEW-P	05-07-102
96-25-040	AMD-P	05-07-142	208-680G-050	AMD	05-03-037	212-17-435	NEW-P	05-07-102
99-08-300	NEW	05-07-045	212-17-025	AMD-P	05-07-102	212-17-440	NEW-P	05-07-102
99-08-305	NEW	05-07-045	212-17-030	AMD-P	05-07-102	212-17-445	NEW-P	05-07-102
99-08-310	NEW	05-07-045	212-17-032	NEW-P	05-07-102	212-17-450	NEW-P	05-07-102
99-08-315	NEW	05-07-045	212-17-035	AMD-P	05-07-102	212-17-455	NEW-P	05-07-102
99-08-320	NEW	05-07-045	212-17-040	AMD-P	05-07-102	212-17-460	NEW-P	05-07-102
99-08-325	NEW	05-07-045	212-17-042	NEW-P	05-07-102	212-17-465	NEW-P	05-07-102
99-08-330	NEW	05-07-045	212-17-050	AMD-P	05-07-102	212-17-470	NEW-P	05-07-102
99-08-335	NEW	05-07-045	212-17-055	AMD-P	05-07-102	212-17-475	NEW-P	05-07-102
99-08-340	NEW	05-07-045	212-17-060	AMD-P	05-07-102	212-17-480	NEW-P	05-07-102
99-08-345	NEW	05-07-045	212-17-070	AMD-P	05-07-102	212-17-485	NEW-P	05-07-102
99-08-350	NEW	05-07-045	212-17-085	AMD-P	05-07-102	212-17-490	NEW-P	05-07-102
99-08-355	NEW	05-07-045	212-17-125	AMD-P	05-07-102	212-17-495	NEW-P	05-07-102
99-08-360	NEW	05-07-045	212-17-170	AMD-P	05-07-102	212-17-500	NEW-P	05-07-102
99-08-365	NEW	05-07-045	212-17-185	AMD-P	05-07-102	212-17-505	NEW-P	05-07-102
99-08-370	NEW	05-07-045	212-17-198	AMD-P	05-07-102	212-17-510	NEW-P	05-07-102
99-08-375	NEW	05-07-045	212-17-21503	AMD-P	05-07-102	212-17-515	NEW-P	05-07-102
99-08-380	NEW	05-07-045	212-17-21505	AMD-P	05-07-102	212-17-900	AMD-P	05-07-102
99-08-385	NEW	05-07-045	212-17-21507	AMD-P	05-07-102	212-80	PREP	05-07-101
99-08-390	NEW	05-07-045	212-17-21509	AMD-P	05-07-102	212-80-001	AMD	05-05-006
99-08-395	NEW	05-07-045	212-17-21511	AMD-P	05-07-102	212-80-005	AMD	05-05-006
99-08-400	NEW	05-07-045	212-17-21513	AMD-P	05-07-102	212-80-010	AMD	05-05-006
99-08-405	NEW-W	05-07-079	212-17-21515	AMD-P	05-07-102	212-80-015	AMD	05-05-006
99-08-410	NEW-W	05-07-079	212-17-21517	AMD-P	05-07-102	212-80-018	NEW	05-05-006
99-08-415	NEW-W	05-07-079	212-17-21519	AMD-P	05-07-102	212-80-023	RECOD	05-05-006
99-08-420	NEW-W	05-07-079	212-17-220	AMD-P	05-07-102	212-80-025	AMD	05-05-006
99-08-425	NEW	05-07-045	212-17-230	AMD-P	05-07-102	212-80-025	DECOD	05-05-006
99-08-426	NEW-W	05-07-079	212-17-235	AMD-P	05-07-102	212-80-028	RECOD	05-05-006
99-08-427	NEW-W	05-07-079	212-17-250	AMD-P	05-07-102	212-80-030	AMD	05-05-006
99-08-428	NEW-W	05-07-079	212-17-255	AMD-P	05-07-102	212-80-030	DECOD	05-05-006
99-08-429	NEW-W	05-07-079	212-17-260	AMD-P	05-07-102	212-80-033	RECOD	05-05-006
99-08-430	NEW	05-07-045	212-17-265	REP-P	05-07-102	212-80-035	AMD	05-05-006
99-08-435	NEW	05-07-045	212-17-270	AMD-P	05-07-102	212-80-035	DECOD	05-05-006
99-08-440	NEW	05-07-045	212-17-275	AMD-P	05-07-102	212-80-038	RECOD	05-05-006
99-08-445	NEW	05-07-045	212-17-280	AMD-P	05-07-102	212-80-040	AMD	05-05-006
99-08-450	NEW	05-07-045	212-17-285	AMD-P	05-07-102	212-80-040	DECOD	05-05-006

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
212- 80-043	RECOD	05-05-006	212- 80-235	NEW	05-05-006	220- 52-07100P	NEW-E	05-07-062
212- 80-045	AMD	05-05-006	212- 80-240	NEW	05-05-006	220- 52-07100P	REP-E	05-07-083
212- 80-045	DECOD	05-05-006	212- 80-245	NEW	05-05-006	220- 52-07100Q	NEW-E	05-07-083
212- 80-048	NEW	05-05-006	212- 80-250	NEW	05-05-006	220- 52-07100Q	REP-E	05-07-083
212- 80-050	AMD	05-05-006	212- 80-255	NEW	05-05-006	220- 52-07300Q	REP-E	05-03-068
212- 80-050	DECOD	05-05-006	212- 80-260	NEW	05-05-006	220- 52-07300R	NEW-E	05-03-068
212- 80-053	RECOD	05-05-006	212- 80-265	NEW	05-05-006	220- 52-07300R	REP-E	05-05-039
212- 80-055	AMD	05-05-006	220- 20-010	AMD-P	05-03-117	220- 52-07300S	NEW-E	05-05-039
212- 80-055	DECOD	05-05-006	220- 20-05100A	REP-E	05-03-013	220- 52-07300S	REP-E	05-07-009
212- 80-058	RECOD	05-05-006	220- 20-05100B	NEW-E	05-03-013	220- 52-07300T	NEW-E	05-07-009
212- 80-060	AMD	05-05-006	220- 20-05100B	REP-E	05-03-013	220- 52-07300T	REP-E	05-07-103
212- 80-060	DECOD	05-05-006	220- 32-05100G	REP-E	05-04-068	220- 56-115	AMD	05-05-035
212- 80-063	RECOD	05-05-006	220- 32-05100H	NEW-E	05-03-061	220- 56-118	AMD	05-05-035
212- 80-065	AMD	05-05-006	220- 32-05100H	REP-E	05-03-061	220- 56-128	AMD	05-05-035
212- 80-065	DECOD	05-05-006	220- 32-05100H	REP-E	05-04-068	220- 56-129	AMD	05-05-035
212- 80-068	RECOD	05-05-006	220- 32-05100I	NEW-E	05-04-068	220- 56-130	AMD	05-05-035
212- 80-070	AMD	05-05-006	220- 32-05100I	REP-E	05-04-068	220- 56-156	AMD	05-05-046
212- 80-070	DECOD	05-05-006	220- 32-05100I	REP-E	05-07-084	220- 56-25000H	NEW-E	05-06-008
212- 80-073	RECOD	05-05-006	220- 32-05100J	NEW-E	05-07-084	220- 56-27000W	REP-E	05-06-043
212- 80-075	AMD	05-05-006	220- 33-01000S	NEW-E	05-05-091	220- 56-27000X	NEW-E	05-06-043
212- 80-075	DECOD	05-05-006	220- 33-01000S	REP-E	05-06-010	220- 56-27000X	REP-E	05-06-043
212- 80-078	RECOD	05-05-006	220- 33-01000T	NEW-E	05-06-010	220- 56-282	AMD	05-05-035
212- 80-080	AMD	05-05-006	220- 33-01000T	REP-E	05-06-072	220- 56-28200H	NEW-E	05-06-006
212- 80-080	DECOD	05-05-006	220- 33-01000U	NEW-E	05-06-072	220- 56-310	AMD	05-05-035
212- 80-083	RECOD	05-05-006	220- 33-01000U	REP-E	05-07-005	220- 56-310	AMD-P	05-07-042
212- 80-085	AMD	05-05-006	220- 33-01000V	NEW-E	05-07-005	220- 56-312	AMD-P	05-07-042
212- 80-085	DECOD	05-05-006	220- 33-01000V	REP-E	05-07-026	220- 56-315	AMD	05-05-035
212- 80-088	RECOD	05-05-006	220- 33-01000W	NEW-E	05-07-026	220- 56-315	AMD-P	05-07-042
212- 80-090	AMD	05-05-006	220- 33-01000W	REP-E	05-07-043	220- 56-320	AMD	05-05-035
212- 80-090	DECOD	05-05-006	220- 33-01000X	NEW-E	05-07-043	220- 56-325	AMD	05-05-035
212- 80-093	RECOD	05-05-006	220- 33-01000X	REP-E	05-07-082	220- 56-326	AMD	05-05-035
212- 80-095	AMD	05-05-006	220- 33-01000Y	NEW-E	05-07-082	220- 56-330	AMD	05-05-035
212- 80-095	DECOD	05-05-006	220- 33-04000W	REP-E	05-06-042	220- 56-330	AMD-P	05-07-042
212- 80-098	RECOD	05-05-006	220- 33-04000X	NEW-E	05-06-042	220- 56-33000Q	REP-E	05-07-149
212- 80-100	DECOD	05-05-006	220- 33-04000X	REP-E	05-06-042	220- 56-33000R	NEW-E	05-07-008
212- 80-103	RECOD	05-05-006	220- 48-01500V	NEW-E	05-05-090	220- 56-33000R	REP-E	05-07-149
212- 80-105	AMD	05-05-006	220- 52-030	AMD	05-05-027	220- 56-33000S	NEW-E	05-07-149
212- 80-105	DECOD	05-05-006	220- 52-04000F	REP-E	05-03-039	220- 56-350	AMD	05-05-035
212- 80-108	RECOD	05-05-006	220- 52-04000H	NEW-E	05-03-039	220- 56-35000U	REP-E	05-06-007
212- 80-110	AMD	05-05-006	220- 52-04000H	REP-E	05-06-034	220- 56-35000V	NEW-E	05-06-007
212- 80-110	DECOD	05-05-006	220- 52-04000I	NEW-E	05-04-065	220- 56-36000E	NEW-E	05-02-047
212- 80-113	RECOD	05-05-006	220- 52-04000I	REP-E	05-04-065	220- 56-36000E	REP-E	05-02-047
212- 80-115	AMD	05-05-006	220- 52-04000J	NEW-E	05-06-034	220- 56-36000F	NEW-E	05-04-064
212- 80-115	DECOD	05-05-006	220- 52-04000J	REP-E	05-07-060	220- 56-36000F	REP-E	05-04-064
212- 80-118	RECOD	05-05-006	220- 52-04000K	NEW-E	05-07-060	220- 56-36000G	NEW-E	05-06-071
212- 80-120	AMD	05-05-006	220- 52-04600A	NEW-E	05-06-034	220- 56-36000G	REP-E	05-06-071
212- 80-120	DECOD	05-05-006	220- 52-04600A	REP-E	05-07-060	220- 56-380	AMD	05-05-035
212- 80-123	RECOD	05-05-006	220- 52-04600B	NEW-E	05-07-060	220- 69-236	AMD	05-05-035
212- 80-125	AMD	05-05-006	220- 52-04600R	REP-E	05-03-063	220- 69-26401	AMD	05-05-026
212- 80-125	DECOD	05-05-006	220- 52-04600T	REP-E	05-04-065	220- 88C-030	AMD-P	05-03-117
212- 80-128	RECOD	05-05-006	220- 52-04600W	REP-E	05-02-048	220- 88C-040	AMD-P	05-03-117
212- 80-130	AMD	05-05-006	220- 52-04600X	NEW-E	05-03-063	220- 88C-050	AMD-P	05-03-117
212- 80-130	DECOD	05-05-006	220- 52-04600X	REP-E	05-05-041	222	AMD-S	05-04-007
212- 80-135	AMD	05-05-006	220- 52-04600Y	NEW-E	05-04-065	222- 10-030	AMD-P	05-06-096
212- 80-135	DECOD	05-05-006	220- 52-04600Z	NEW-E	05-05-041	222- 10-040	AMD-P	05-06-096
212- 80-200	RECOD	05-05-006	220- 52-04600Z	REP-E	05-06-034	222- 12-040	AMD-P	05-06-096
212- 80-205	RECOD	05-05-006	220- 52-07100L	NEW-E	05-05-040	222- 12-045	AMD-P	05-06-096
212- 80-210	NEW	05-05-006	220- 52-07100L	REP-E	05-06-009	222- 12-046	AMD-P	05-06-096
212- 80-215	NEW	05-05-006	220- 52-07100M	NEW-E	05-06-009	222- 12-080	AMD-P	05-06-096
212- 80-220	NEW	05-05-006	220- 52-07100M	REP-E	05-07-010	222- 12-090	AMD-P	05-06-096
212- 80-225	NEW	05-05-006	220- 52-07100N	NEW-E	05-07-010	222- 16-010	AMD-P	05-06-096
212- 80-230	NEW	05-05-006	220- 52-07100N	REP-E	05-07-062	222- 16-030	AMD-P	05-06-096

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22- 16-031	AMD-P	05-06-096	232- 28-61900B	REP-E	05-07-061	246-101-101	AMD	05-03-055
22- 16-050	AMD-P	05-06-096	232- 28-61900C	NEW-E	05-04-003	246-101-201	AMD	05-03-055
22- 16-070	AMD-P	05-06-096	232- 28-61900D	NEW-E	05-05-002	246-101-301	AMD	05-03-055
22- 16-080	AMD-P	05-06-096	232- 28-61900D	REP-E	05-05-002	246-101-505	AMD-P	05-06-123
22- 20-010	AMD-P	05-06-096	232- 28-61900F	NEW-E	05-07-077	246-101-520	AMD-P	05-06-123
22- 20-020	AMD-P	05-06-096	232- 28-61900F	REP-E	05-07-077	246-130	PREP	05-06-119
22- 20-040	AMD-P	05-06-096	232- 28-61900G	NEW-E	05-07-061	246-140-001	NEW	05-04-112
22- 20-050	AMD-P	05-06-096	232- 28-61900H	NEW-E	05-07-078	246-140-010	NEW	05-04-112
22- 20-060	AMD-P	05-06-096	232- 28-61900H	REP-E	05-07-078	246-140-020	NEW	05-04-112
22- 20-075	NEW-P	05-06-096	232- 28-61900I	NEW-E	05-07-148	246-260-031	AMD-X	05-03-057
22- 21-030	AMD-P	05-06-096	232- 28-61900I	REP-E	05-07-148	246-260-041	AMD-X	05-03-057
22- 22-010	AMD-P	05-06-096	232- 28-61900Y	REP-E	05-03-062	246-260-061	AMD-X	05-03-057
22- 22-070	AMD-P	05-06-096	232-288-61900E	NEW-E	05-05-089	246-260-091	AMD-X	05-03-057
22- 22-090	AMD-P	05-06-096	232-288-61900E	REP-E	05-05-089	246-260-131	AMD-X	05-03-057
22- 23-020	AMD-P	05-06-096	236- 22-010	AMD	05-04-072	246-260-171	AMD-X	05-03-057
22- 23-025	AMD-P	05-06-096	236- 22-010	DECOD	05-04-072	246-272-00101	REP-P	05-02-082
22- 24-010	AMD-P	05-06-096	236- 22-020	AMD	05-04-072	246-272-00501	REP-P	05-02-082
22- 24-051	AMD-P	05-06-096	236- 22-020	DECOD	05-04-072	246-272-01001	REP-P	05-02-082
22- 30-020	AMD-P	05-06-096	236- 22-030	AMD	05-04-072	246-272-02001	REP-P	05-02-082
22- 30-021	AMD-P	05-06-096	236- 22-030	DECOD	05-04-072	246-272-03001	REP-P	05-02-082
22- 30-022	AMD-P	05-06-096	236- 22-031	AMD	05-04-072	246-272-04001	REP-P	05-02-082
22- 30-023	AMD-P	05-06-096	236- 22-031	DECOD	05-04-072	246-272-05001	REP-P	05-02-082
22- 30-025	AMD-P	05-06-096	236- 22-032	DECOD	05-04-072	246-272-07001	REP-P	05-02-082
22- 30-050	AMD-P	05-06-096	236- 22-033	DECOD	05-04-072	246-272-08001	REP-P	05-02-082
22- 30-110	AMD-P	05-06-096	236- 22-034	AMD	05-04-072	246-272-09001	REP-P	05-02-082
22- 34-010	AMD-P	05-06-096	236- 22-034	DECOD	05-04-072	246-272-09501	REP-P	05-02-082
22- 34-020	AMD-P	05-06-096	236- 22-035	DECOD	05-04-072	246-272-11001	REP-P	05-02-082
30- 04-142	AMD-P	05-07-118	236- 22-036	AMD	05-04-072	246-272-12501	REP-P	05-02-082
30- 04-255	AMD-P	05-07-115	236- 22-036	DECOD	05-04-072	246-272-13501	REP-P	05-02-082
30- 04-270	AMD-P	05-07-117	236- 22-037	AMD	05-04-072	246-272-14501	REP-P	05-02-082
30- 08-130	AMD-P	05-07-119	236- 22-037	DECOD	05-04-072	246-272-15501	REP-P	05-02-082
30- 08-140	AMD-P	05-07-119	236- 22-038	AMD	05-04-072	246-272-16501	REP-P	05-02-082
30- 08-150	AMD-P	05-07-119	236- 22-038	DECOD	05-04-072	246-272-17501	REP-P	05-02-082
30- 08-160	AMD-P	05-07-119	236- 22-040	DECOD	05-04-072	246-272-18501	REP-P	05-02-082
30- 08-165	AMD-P	05-07-119	236- 22-050	AMD	05-04-072	246-272-19501	REP-P	05-02-082
30- 12-305	AMD-P	05-07-119	236- 22-050	DECOD	05-04-072	246-272-20501	REP-P	05-02-082
30- 12-310	AMD-P	05-07-119	236- 22-060	AMD	05-04-072	246-272-21501	REP-P	05-02-082
30- 20-115	AMD-P	05-03-115	236- 22-060	DECOD	05-04-072	246-272-22501	REP-P	05-02-082
30- 20-115	AMD	05-07-106	236- 22-070	AMD	05-04-072	246-272-23501	REP-P	05-02-082
30- 20-335	AMD-P	05-03-114	236- 22-070	DECOD	05-04-072	246-272-24001	REP-P	05-02-082
30- 20-335	AMD	05-07-107	236- 22-080	AMD	05-04-072	246-272-25001	REP-P	05-02-082
32- 12-021	AMD	05-02-046	236- 22-080	DECOD	05-04-072	246-272-26001	REP-P	05-02-082
32- 12-129	AMD	05-05-008	236- 22-100	AMD	05-04-072	246-272-27001	REP-P	05-02-082
32- 12-619	AMD	05-05-035	236- 22-100	DECOD	05-04-072	246-272-28001	REP-P	05-02-082
32- 28-248	AMD	05-02-046	236- 22-200	AMD	05-04-072	246-272A-0001	NEW-P	05-02-082
32- 28-248	AMD-P	05-06-108	236- 22-200	DECOD	05-04-072	246-272A-0005	NEW-P	05-02-082
32- 28-266	AMD-P	05-06-108	236- 22-210	AMD	05-04-072	246-272A-0010	NEW-P	05-02-082
32- 28-271	AMD	05-02-046	236- 22-210	DECOD	05-04-072	246-272A-0015	NEW-P	05-02-082
32- 28-273	AMD-P	05-06-108	246- 08-400	AMD-P	05-06-121	246-272A-0020	NEW-P	05-02-082
32- 28-282	AMD-P	05-06-108	246-100-011	AMD-P	05-06-123	246-272A-0025	NEW-P	05-02-082
32- 28-284	NEW	05-02-046	246-100-072	AMD-P	05-06-123	246-272A-0100	NEW-P	05-02-082
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32- 28-333	AMD-P	05-06-108	246-100-202	NEW-P	05-06-123	246-272A-0125	NEW-P	05-02-082
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32- 28-341	AMD-P	05-06-108	246-100-205	NEW-P	05-06-123	246-272A-0140	NEW-P	05-02-082
32- 28-351	AMD-P	05-06-106	246-100-206	AMD-P	05-06-123	246-272A-0145	NEW-P	05-02-082
32- 28-352	AMD-P	05-06-107	246-100-207	AMD-P	05-06-123	246-272A-0150	NEW-P	05-02-082
32- 28-619	AMD	05-03-005	246-100-208	AMD-P	05-06-123	246-272A-0170	NEW-P	05-02-082
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246-272A-0230	NEW-P	05-02-082	246-836-990	AMD-P	05-07-109	260- 08-760	REP	05-05-049
246-272A-0232	NEW-P	05-02-082	246-840-990	AMD-P	05-07-109	260- 08-770	REP	05-05-049
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246-292-085	AMD	05-06-122	246-922-995	REP-P	05-07-109	260- 34-045	NEW	05-07-066
246-292-090	AMD	05-06-122	246-924-990	AMD-P	05-07-109	260- 34-050	REP-P	05-04-085
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246-564-010	NEW-P	05-03-007	250- 83-020	NEW-P	05-05-073	260- 34-110	REP	05-07-066
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246-802-130	AMD-P	05-06-120	250- 83-060	NEW-P	05-05-073	260- 34-130	REP	05-07-066
246-802-990	AMD-P	05-07-109	250- 83-070	NEW-P	05-05-073	260- 34-140	REP-P	05-04-085
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246-812-990	AMD-P	05-07-109	260- 08-671	NEW	05-05-049	260- 34-160	REP	05-07-066
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246-815-990	AMD-P	05-07-109	260- 08-675	NEW	05-05-049	260- 34-170	REP	05-07-066
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246-824-995	REP-P	05-07-109	260- 08-700	REP	05-05-049	260- 34-190	REP	05-07-066
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260-60-300	AMD	05-07-063	260-70-700	REP	05-07-067	284-17-235	REP	05-07-091
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260-70-520	AMD-P	05-04-086	260-70-720	AMD-E	05-07-068	284-17-238	NEW	05-07-091
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260-70-520	AMD-E	05-07-068	260-70-730	AMD	05-07-067	284-17-240	AMD	05-07-091
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260-70-530	AMD	05-07-067	260-72-050	NEW-P	05-02-077	284-17-242	NEW	05-07-091
260-70-530	AMD-E	05-07-068	260-72-050	NEW	05-05-045	284-17-244	NEW-P	05-03-110
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260-70-540	AMD-E	05-07-068	260-84	AMD-P	05-04-083	284-17-246	NEW	05-07-091
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260-70-550	AMD-E	05-07-068	260-84-010	REP	05-07-064	284-17-252	NEW	05-07-091
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260-70-560	AMD	05-07-067	260-84-020	REP	05-07-064	284-17-254	NEW	05-07-091
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260-70-570	AMD-P	05-04-086	260-84-030	REP	05-07-064	284-17-256	NEW	05-07-091
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260-70-570	AMD-E	05-07-068	260-84-050	AMD	05-07-064	284-17-258	NEW	05-07-091
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260-70-580	AMD	05-07-067	260-84-060	AMD	05-07-064	284-17-260	AMD	05-07-091
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260-70-600	AMD-P	05-04-086	260-84-070	AMD	05-07-064	284-17-262	NEW	05-07-091
260-70-600	AMD	05-07-067	260-84-090	NEW-P	05-04-083	284-17-264	NEW-P	05-03-110
260-70-600	AMD-E	05-07-068	260-84-090	NEW	05-07-064	284-17-264	NEW	05-07-091
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260-70-610	AMD	05-07-067	260-84-100	NEW	05-07-064	284-17-270	AMD	05-07-091
260-70-610	AMD-E	05-07-068	260-84-110	NEW-P	05-04-083	284-17-272	NEW-P	05-03-110
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260-70-660	AMD	05-07-067	284-17-224	NEW	05-07-091	284-17-286	NEW	05-07-091
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260-70-670	REP-P	05-04-086	284-17-226	NEW	05-07-091	284-17-288	NEW	05-07-091
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284-17-302	NEW	05-07-091	284-49-330	REP	05-02-074	296-46B-250	AMD-P	05-06-063
284-17-304	NEW-P	05-03-110	284-49-500	REP	05-02-074	296-46B-300	AMD-P	05-06-063
284-17-304	NEW	05-07-091	284-49-510	REP	05-02-074	296-46B-314	AMD-P	05-06-063
284-17-306	NEW-P	05-03-110	284-49-520	REP	05-02-074	296-46B-334	AMD-P	05-06-063
284-17-306	NEW	05-07-091	284-49-900	REP	05-02-074	296-46B-410	AMD-P	05-06-063
284-17-308	NEW-P	05-03-110	284-49-999	REP	05-02-074	296-46B-527	REP-P	05-06-063
284-17-308	NEW	05-07-091	284-54-750	AMD-X	05-03-111	296-46B-590	NEW-P	05-06-063
284-17-310	AMD-P	05-03-110	296-05-303	AMD	05-04-093	296-46B-700	AMD-P	05-06-063
284-17-310	AMD	05-07-091	296-05-316	AMD-P	05-04-092	296-46B-760	NEW-P	05-06-063
284-17-312	NEW-P	05-03-110	296-17	PREP	05-03-090	296-46B-800	AMD-P	05-06-063
284-17-312	NEW	05-07-091	296-17-31002	AMD-P	05-07-121	296-46B-900	AMD-P	05-06-063
284-17-320	AMD-P	05-03-110	296-17-310041	NEW-W	05-03-088	296-46B-915	AMD-P	05-06-063
284-17-320	AMD	05-07-091	296-17-310042	NEW-W	05-03-088	296-46B-920	AMD-P	05-06-063
284-24A-005	AMD-W	05-06-054	296-17-310043	NEW-W	05-03-088	296-46B-925	AMD-P	05-06-063
284-24A-010	AMD-W	05-06-054	296-17-310044	NEW-W	05-03-088	296-46B-930	AMD-P	05-06-063
284-24A-033	NEW-W	05-06-054	296-17-310045	NEW-W	05-03-088	296-46B-935	AMD-P	05-06-063
284-24A-045	AMD-W	05-06-054	296-17-310046	NEW-W	05-03-088	296-46B-940	AMD-P	05-06-063
284-24A-050	AMD-W	05-06-054	296-17-310047	NEW-W	05-03-088	296-46B-945	AMD-P	05-06-063
284-24A-055	AMD-W	05-06-054	296-17-31013	AMD-P	05-07-121	296-46B-950	AMD-P	05-06-063
284-24A-065	AMD-W	05-06-054	296-17-31024	AMD-P	05-07-121	296-46B-951	REP-P	05-06-063
284-34-010	REP	05-02-076	296-17-31031	NEW-W	05-03-088	296-46B-955	AMD-P	05-06-063
284-34-020	REP	05-02-076	296-17-31032	NEW-W	05-03-088	296-46B-960	AMD-P	05-06-063
284-34-030	REP	05-02-076	296-17-31033	NEW-W	05-03-088	296-46B-965	AMD-P	05-06-063
284-34-040	REP	05-02-076	296-17-524	AMD-P	05-07-121	296-46B-970	AMD-P	05-06-063
284-34-050	REP	05-02-076	296-17-526	AMD-P	05-07-121	296-46B-998	AMD-P	05-06-063
284-34-060	REP	05-02-076	296-17-527	AMD-P	05-07-121	296-46B-999	AMD-P	05-06-063
284-34-070	REP	05-02-076	296-17-538	AMD-P	05-07-121	296-54-51150	AMD	05-03-093
284-34-100	NEW	05-02-076	296-17-568	AMD-P	05-07-121	296-54-51150	AMD-X	05-07-125
284-34-110	NEW	05-02-076	296-17-58201	AMD-P	05-07-121	296-56-60001	AMD	05-03-093
284-34-120	NEW	05-02-076	296-17-701	AMD-P	05-07-121	296-56-60005	AMD	05-03-093
284-34-130	NEW	05-02-076	296-17-764	AMD-P	05-07-121	296-56-60053	AMD	05-03-093
284-34-140	NEW	05-02-076	296-20-010	AMD-P	05-05-065	296-56-60057	AMD	05-03-093
284-34-150	NEW	05-02-076	296-20-135	AMD-P	05-05-064	296-56-60107	AMD	05-03-093
284-34-160	NEW	05-02-076	296-23-220	AMD-P	05-05-064	296-56-60110	AMD	05-03-093
284-34-170	NEW	05-02-076	296-23-220	PREP	05-07-122	296-56-60110	AMD-X	05-07-125
284-34-180	NEW	05-02-076	296-23-230	AMD-P	05-05-064	296-56-60235	AMD	05-03-093
284-34-190	NEW	05-02-076	296-23-230	PREP	05-07-122	296-62	PREP	05-03-091
284-34-200	NEW	05-02-076	296-23-250	PREP	05-07-122	296-62-07306	AMD	05-03-093
284-34-210	NEW	05-02-076	296-24	PREP	05-05-067	296-62-07329	AMD	05-03-093
284-34-220	NEW	05-02-076	296-24-58513	AMD	05-03-093	296-62-07336	AMD	05-03-093
284-34-230	NEW	05-02-076	296-24-58515	AMD	05-03-093	296-62-07342	AMD	05-03-093
284-34-240	NEW	05-02-076	296-24-58517	AMD	05-03-093	296-62-07367	AMD	05-03-093
284-34-250	NEW	05-02-076	296-24-67515	AMD	05-03-093	296-62-07413	AMD	05-03-093
284-34-260	NEW	05-02-076	296-24-67517	AMD	05-03-093	296-62-07460	AMD	05-03-093
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96-62-40001	AMD	05-03-093	296-307-69410	NEW-W	05-05-070	308-19-150	AMD-P	05-04-105
96-62-40007	AMD	05-03-093	296-307-69415	NEW-W	05-05-070	308-19-160	AMD-P	05-04-105
96-78-665	AMD	05-03-093	296-307-69420	NEW-W	05-05-070	308-19-200	AMD-P	05-04-105
96-78-665	AMD-X	05-07-125	296-307-69425	NEW-W	05-05-070	308-19-210	AMD-P	05-04-105
96-78-71015	AMD	05-03-093	296-307-69430	NEW-W	05-05-070	308-19-220	AMD-P	05-04-105
96-78-71015	AMD-X	05-07-125	296-307-69435	NEW-W	05-05-070	308-19-230	AMD-P	05-04-105
96-78-71019	AMD	05-03-093	296-307-69440	NEW-W	05-05-070	308-19-240	AMD-P	05-04-105
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96-78-84005	AMD-X	05-07-125	296-307-69605	NEW-W	05-05-070	308-19-300	AMD-P	05-04-105
96-79-29007	AMD	05-03-093	296-307-69610	NEW-W	05-05-070	308-19-305	NEW-P	05-04-105
96-79-29007	AMD-X	05-07-125	296-307-69615	NEW-W	05-05-070	308-19-310	NEW-P	05-04-105
96-96	PREP	05-05-066	296-307-69620	NEW-W	05-05-070	308-19-315	NEW-P	05-04-105
96-104	PREP	05-05-068	296-307-69625	NEW-W	05-05-070	308-19-320	NEW-P	05-04-105
96-104	PREP	05-05-069	296-307-69630	NEW-W	05-05-070	308-19-400	AMD-P	05-04-105
96-150C	PREP	05-05-066	296-307-698	NEW-W	05-05-070	308-19-410	AMD-P	05-04-105
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96-155-17317	AMD	05-03-093	296-307-70005	NEW-W	05-05-070	308-48-810	PREP	05-04-106
96-155-174	AMD	05-03-093	296-307-702	NEW-W	05-05-070	308-48-820	PREP	05-04-106
96-155-17613	AMD	05-03-093	296-400A	PREP	05-05-066	308-48-830	PREP	05-04-106
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96-155-17625	AMD-X	05-07-125	296-400A-021	AMD-P	05-06-062	308-56A-500	AMD-P	05-03-106
96-155-17652	AMD	05-03-093	296-400A-022	NEW-P	05-06-062	308-56A-500	AMD	05-07-152
96-155-20301	AMD	05-03-093	296-400A-045	AMD-P	05-06-062	308-56A-530	AMD-W	05-02-069A
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96-155-367	AMD	05-03-093	296-824-20005	AMD	05-03-093	308-56A-530	AMD	05-07-152
96-155-525	AMD	05-03-093	296-824-40005	AMD	05-03-093	308-66-110	PREP	05-07-044
96-155-525	AMD-X	05-07-125	296-824-60005	AMD	05-03-093	308-66-155	PREP	05-07-044
96-155-655	AMD	05-03-093	296-824-70005	AMD	05-03-093	308-66-157	PREP	05-07-044
96-155-655	AMD-X	05-07-125	296-824-800	AMD	05-03-093	308-66-180	PREP	05-07-071
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96-304-09007	AMD	05-03-093	296-849-13045	AMD-X	05-07-123	308-124A-460	PREP	05-03-041
96-304-09007	AMD-X	05-07-125	296-855	PREP	05-03-091	308-125-200	AMD-P	05-02-095
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96-305-04001	AMD-X	05-07-125	308-18-240	AMD-P	05-06-004	314-07-005	NEW	05-07-012
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96-305-05503	AMD-X	05-07-125	308-18-305	NEW-P	05-06-004	314-07-015	NEW	05-07-012
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96-307-68805	NEW-W	05-05-070	308-19-020	AMD-P	05-04-105	314-07-035	NEW	05-07-012
96-307-68810	NEW-W	05-05-070	308-19-030	AMD-P	05-04-105	314-07-040	NEW	05-07-012
96-307-690	NEW-W	05-05-070	308-19-100	AMD-P	05-04-105	314-07-045	NEW	05-07-012
96-307-69005	NEW-W	05-05-070	308-19-101	NEW-P	05-04-105	314-07-055	NEW	05-07-012
96-307-69010	NEW-W	05-05-070	308-19-102	NEW-P	05-04-105	314-07-065	NEW	05-07-012
96-307-69015	NEW-W	05-05-070	308-19-105	AMD-P	05-04-105	314-07-070	NEW	05-07-012
96-307-692	NEW-W	05-05-070	308-19-107	AMD-P	05-04-105	314-07-080	NEW	05-07-012
96-307-69205	NEW-W	05-05-070	308-19-110	AMD-P	05-04-105	314-07-085	NEW	05-07-012
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314-07-100	NEW	05-07-012	315-34-090	REP-E	05-04-010	357-58-115	NEW-P	05-04-087
314-07-110	NEW	05-07-012	315-34-090	REP-P	05-04-081	357-58-120	NEW-P	05-04-088
314-07-120	NEW	05-07-012	315-34-100	REP-E	05-04-010	357-58-125	NEW-P	05-04-088
314-09-010	AMD	05-07-011	315-34-100	REP-P	05-04-081	357-58-130	NEW-P	05-04-088
314-09-015	AMD	05-07-011	315-36-010	REP-X	05-05-059	357-58-135	NEW-P	05-04-088
314-12-005	REP	05-07-012	315-36-020	REP-X	05-05-059	357-58-140	NEW-P	05-04-088
314-12-020	AMD	05-07-012	315-36-030	REP-X	05-05-059	357-58-145	NEW-P	05-04-088
314-12-025	REP	05-07-012	315-36-040	REP-X	05-05-059	357-58-150	NEW-P	05-04-088
314-12-060	REP	05-07-012	315-36-050	REP-X	05-05-059	357-58-155	NEW-P	05-04-088
314-12-080	REP	05-07-012	315-36-060	REP-X	05-05-059	357-58-160	NEW-P	05-04-088
314-12-100	REP	05-07-012	315-36-070	REP-X	05-05-059	357-58-165	NEW-P	05-04-088
314-12-110	REP	05-07-012	315-36-080	REP-X	05-05-059	357-58-170	NEW-P	05-04-088
315-10-010	AMD-P	05-04-079	315-36-090	REP-X	05-05-059	357-58-175	NEW-P	05-04-088
315-10-020	AMD-P	05-04-079	315-36-100	REP-X	05-05-059	357-58-180	NEW-P	05-04-088
315-10-022	AMD-P	05-04-079	315-36-110	REP-X	05-05-059	357-58-185	NEW-P	05-04-088
315-10-023	AMD-P	05-04-079	315-36-120	REP-X	05-05-059	357-58-190	NEW-P	05-04-088
315-10-024	AMD-P	05-04-079	315-36-130	REP-X	05-05-059	357-58-195	NEW-P	05-04-088
315-10-030	AMD-P	05-04-079	315-36-140	REP-X	05-05-059	357-58-200	NEW-P	05-04-088
315-10-035	AMD-P	05-04-079	315-36-150	REP-X	05-05-059	357-58-205	NEW-P	05-04-088
315-10-040	AMD-P	05-04-079	315-37-010	REP-X	05-03-060	357-58-210	NEW-P	05-04-088
315-10-055	AMD-P	05-04-079	315-37-020	REP-X	05-03-060	357-58-215	NEW-P	05-04-088
315-10-070	AMD-P	05-04-079	315-37-030	REP-X	05-03-060	357-58-220	NEW-P	05-04-088
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315-33A-010	AMD-P	05-04-080	315-37-060	REP-X	05-03-060	357-58-235	NEW-P	05-04-088
315-33A-010	AMD	05-07-100	315-37-070	REP-X	05-03-060	357-58-240	NEW-P	05-04-089
315-33A-020	AMD-E	05-04-019	315-37-080	REP-X	05-03-060	357-58-245	NEW-P	05-04-089
315-33A-020	AMD-P	05-04-080	315-37-090	REP-X	05-03-060	357-58-250	NEW-P	05-04-089
315-33A-020	AMD	05-07-100	315-37-100	REP-X	05-03-060	357-58-255	NEW-P	05-04-089
315-33A-030	AMD-E	05-04-019	315-37-110	REP-X	05-03-060	357-58-260	NEW-P	05-04-089
315-33A-030	AMD-P	05-04-080	315-37-120	REP-X	05-03-060	357-58-265	NEW-P	05-04-089
315-33A-030	AMD	05-07-100	315-38	PREP	05-06-026	357-58-270	NEW-P	05-04-089
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315-33A-040	AMD-P	05-04-080	332-120	PREP	05-02-073	357-58-280	NEW-P	05-04-089
315-33A-040	AMD	05-07-100	332-130	PREP	05-02-073	357-58-285	NEW-P	05-04-089
315-33A-050	AMD-E	05-04-019	352-28	PREP	05-06-125	357-58-290	NEW-P	05-04-089
315-33A-050	AMD-P	05-04-080	356-10-060	AMD	05-04-043	357-58-295	NEW-P	05-04-089
315-33A-050	AMD	05-07-100	356-10-065	NEW	05-04-043	357-58-300	NEW-P	05-04-089
315-33A-060	AMD-E	05-04-019	357-01-255	NEW-W	05-02-061	357-58-305	NEW-P	05-04-089
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315-33A-060	AMD	05-07-100	357-58-005	NEW-P	05-04-087	357-58-315	NEW-P	05-04-089
315-33A-070	REP-E	05-04-019	357-58-010	NEW-P	05-04-087	357-58-320	NEW-P	05-04-089
315-33A-070	REP-P	05-04-080	357-58-015	NEW-P	05-04-087	357-58-325	NEW-P	05-04-089
315-33A-070	REP	05-07-100	357-58-020	NEW-P	05-04-087	357-58-330	NEW-P	05-04-089
315-34-010	AMD-E	05-04-010	357-58-025	NEW-P	05-04-087	357-58-335	NEW-P	05-04-089
315-34-010	AMD-P	05-04-081	357-58-030	NEW-P	05-04-087	357-58-340	NEW-P	05-04-089
315-34-020	AMD-E	05-04-010	357-58-035	NEW-P	05-04-087	357-58-345	NEW-P	05-04-089
315-34-020	AMD-P	05-04-081	357-58-040	NEW-P	05-04-087	357-58-350	NEW-P	05-04-089
315-34-030	AMD-E	05-04-010	357-58-045	NEW-P	05-04-087	357-58-355	NEW-P	05-04-089
315-34-030	AMD-P	05-04-081	357-58-050	NEW-P	05-04-087	357-58-360	NEW-P	05-04-089
315-34-040	AMD-E	05-04-010	357-58-055	NEW-P	05-04-087	357-58-365	NEW-P	05-04-089
315-34-040	AMD-P	05-04-081	357-58-060	NEW-P	05-04-087	357-58-370	NEW-P	05-04-089
315-34-050	AMD-E	05-04-010	357-58-065	NEW-P	05-04-087	357-58-375	NEW-P	05-04-089
315-34-050	AMD-P	05-04-081	357-58-070	NEW-P	05-04-087	357-58-380	NEW-P	05-04-089
315-34-057	AMD-E	05-04-010	357-58-075	NEW-P	05-04-087	357-58-385	NEW-P	05-04-089
315-34-057	AMD-P	05-04-081	357-58-080	NEW-P	05-04-087	357-58-390	NEW-P	05-04-089
315-34-060	AMD-E	05-04-010	357-58-085	NEW-P	05-04-087	357-58-395	NEW-P	05-04-089
315-34-060	AMD-P	05-04-081	357-58-090	NEW-P	05-04-087	357-58-400	NEW-P	05-04-089
315-34-070	REP-E	05-04-010	357-58-095	NEW-P	05-04-087	357-58-405	NEW-P	05-04-091
315-34-070	REP-P	05-04-081	357-58-100	NEW-P	05-04-087	357-58-410	NEW-P	05-04-091
315-34-080	REP-E	05-04-010	357-58-105	NEW-P	05-04-087	357-58-415	NEW-P	05-04-091

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357- 58-420	NEW-P	05-04-091	388- 14A-7100	AMD-P	05-03-095	388- 71-0405	REP-P	05-03-096
357- 58-425	NEW-P	05-04-091	388- 14A-7100	AMD	05-07-059	388- 71-0410	REP-P	05-03-096
357- 58-430	NEW-P	05-04-091	388- 14A-7110	NEW-E	05-03-095	388- 71-0415	REP-P	05-03-096
357- 58-435	NEW-P	05-04-091	388- 14A-7110	NEW	05-07-059	388- 71-0420	REP-P	05-03-096
357- 58-440	NEW-P	05-04-091	388- 14A-7115	NEW-E	05-03-095	388- 71-0425	REP-P	05-03-096
357- 58-445	NEW-P	05-04-091	388- 14A-7115	NEW	05-07-059	388- 71-0430	REP-P	05-03-096
357- 58-450	NEW-P	05-04-091	388- 14A-7117	NEW-E	05-03-095	388- 71-0435	REP-P	05-03-096
357- 58-455	NEW-P	05-04-091	388- 14A-7117	NEW	05-07-059	388- 71-0440	REP-P	05-03-096
357- 58-460	NEW-P	05-04-091	388- 14A-7120	NEW-E	05-03-095	388- 71-0442	REP-P	05-03-096
357- 58-465	NEW-P	05-04-091	388- 14A-7120	NEW	05-07-059	388- 71-0445	REP-P	05-03-096
357- 58-470	NEW-P	05-04-091	388- 14A-8100	AMD-E	05-07-034	388- 71-0450	REP-P	05-03-096
357- 58-475	NEW-P	05-04-091	388- 14A-8600	NEW-E	05-03-095	388- 71-0455	REP-P	05-03-096
357- 58-480	NEW-P	05-04-091	388- 14A-8600	NEW	05-07-059	388- 71-0460	REP-P	05-03-096
357- 58-485	NEW-P	05-04-091	388- 25-0225	AMD-P	05-03-082	388- 71-0465	REP-P	05-03-096
357- 58-490	NEW-P	05-04-091	388- 25-0225	AMD	05-06-091	388- 71-0470	REP-P	05-03-096
357- 58-495	NEW-P	05-04-091	388- 25-0225	AMD-E	05-06-093	388- 71-0480	REP-P	05-03-096
357- 58-500	NEW-P	05-04-090	388- 25-0226	NEW-P	05-03-082	388- 71-0500	AMD-P	05-03-096
357- 58-505	NEW-P	05-04-090	388- 25-0226	NEW	05-06-091	388- 71-0515	AMD-P	05-03-096
357- 58-510	NEW-P	05-04-090	388- 25-0226	NEW-E	05-06-093	388- 71-0520	AMD-P	05-03-096
357- 58-515	NEW-P	05-04-090	388- 25-0227	NEW-P	05-03-082	388- 71-0540	AMD-P	05-03-096
357- 58-520	NEW-P	05-04-090	388- 25-0227	NEW	05-06-091	388- 71-05832	NEW-P	05-03-096
357- 58-525	NEW-P	05-04-090	388- 25-0227	NEW-E	05-06-093	388- 71-0600	REP-P	05-03-096
357- 58-530	NEW-P	05-04-090	388- 25-0228	NEW-P	05-03-082	388- 71-0605	REP-P	05-03-096
357- 58-535	NEW-P	05-04-090	388- 25-0228	NEW	05-06-091	388- 71-0610	REP-P	05-03-096
357- 58-540	NEW-P	05-04-090	388- 25-0228	NEW-E	05-06-093	388- 71-0613	REP-P	05-03-096
357- 58-545	NEW-P	05-04-090	388- 25-0229	NEW-P	05-03-082	388- 71-0615	REP-P	05-03-096
363-116	PREP	05-04-094	388- 25-0229	NEW	05-06-091	388- 71-0620	REP-P	05-03-096
363-116-082	AMD	05-04-028	388- 25-0229	NEW-E	05-06-093	388- 71-0700	REP-P	05-03-096
365-110-035	AMD-W	05-06-057	388- 25-0230	REP-P	05-03-082	388- 71-0704	AMD-P	05-03-096
371- 08-305	AMD-E	05-05-005	388- 25-0230	REP	05-06-091	388- 71-0706	AMD-P	05-03-096
371- 08-335	AMD-E	05-05-005	388- 25-0230	REP-E	05-06-093	388- 71-0708	AMD-P	05-03-096
371- 08-345	AMD-E	05-05-005	388- 25-0231	NEW-P	05-03-082	388- 71-0710	AMD-P	05-03-096
388- 02-0215	PREP	05-06-081	388- 25-0231	NEW	05-06-091	388- 71-0716	AMD-P	05-03-096
388- 14A-3102	PREP	05-05-078	388- 25-0231	NEW-E	05-06-093	388- 71-0720	AMD-P	05-03-096
388- 14A-3120	PREP	05-05-078	388- 25-1000	NEW-P	05-06-086	388- 71-0734	AMD	05-02-064
388- 14A-3304	AMD-P	05-03-095	388- 25-1000	NEW-E	05-06-094	388- 71-0800	REP-P	05-03-096
388- 14A-3304	AMD	05-07-059	388- 25-1010	NEW-P	05-06-086	388- 71-0805	REP-P	05-03-096
388- 14A-3310	AMD-P	05-03-095	388- 25-1010	NEW-E	05-06-094	388- 71-0810	REP-P	05-03-096
388- 14A-3310	AMD	05-07-059	388- 25-1020	NEW-P	05-06-086	388- 71-0815	REP-P	05-03-096
388- 14A-3317	NEW-P	05-03-095	388- 25-1020	NEW-E	05-06-094	388- 71-0820	REP-P	05-03-096
388- 14A-3317	NEW	05-07-059	388- 25-1030	NEW-P	05-06-086	388- 71-0825	REP-P	05-03-096
388- 14A-3320	AMD-P	05-03-095	388- 25-1030	NEW-E	05-06-094	388- 71-0830	REP-P	05-03-096
388- 14A-3320	AMD	05-07-059	388- 25-1040	NEW-P	05-06-086	388- 71-0835	REP-P	05-03-096
388- 14A-3321	NEW-E	05-03-095	388- 25-1040	NEW-E	05-06-094	388- 71-0840	REP-P	05-03-096
388- 14A-3321	NEW	05-07-059	388- 25-1050	NEW-P	05-06-086	388- 71-0845	REP-P	05-03-096
388- 14A-4119	NEW-E	05-03-094	388- 25-1050	NEW-E	05-06-094	388- 71-0900	REP-P	05-03-096
388- 14A-4119	NEW-P	05-05-082	388- 71-0194	REP-P	05-03-096	388- 71-0905	REP-P	05-03-096
388- 14A-4180	NEW-E	05-03-094	388- 71-0202	REP-P	05-03-096	388- 71-0910	REP-P	05-03-096
388- 14A-4180	NEW-P	05-05-082	388- 71-0203	REP-P	05-03-096	388- 71-0915	REP-P	05-03-096
388- 14A-4304	AMD	05-07-087	388- 71-0205	REP-P	05-03-096	388- 71-0920	REP-P	05-03-096
388- 14A-5000	AMD-P	05-02-063	388- 71-0210	REP-P	05-03-096	388- 71-0925	REP-P	05-03-096
388- 14A-5000	AMD	05-06-014	388- 71-0215	REP-P	05-03-096	388- 71-0930	REP-P	05-03-096
388- 14A-5001	AMD-P	05-02-063	388- 71-0220	REP-P	05-03-096	388- 71-0935	REP-P	05-03-096
388- 14A-5001	AMD	05-06-014	388- 71-0225	REP-P	05-03-096	388- 71-0940	REP-P	05-03-096
388- 14A-5005	AMD-P	05-02-063	388- 71-0230	REP-P	05-03-096	388- 71-0945	REP-P	05-03-096
388- 14A-5005	AMD	05-06-014	388- 71-0235	REP-P	05-03-096	388- 71-0950	REP-P	05-03-096
388- 14A-5008	AMD-P	05-02-063	388- 71-0240	REP-P	05-03-096	388- 71-0955	REP-P	05-03-096
388- 14A-5008	AMD	05-06-014	388- 71-0245	REP-P	05-03-096	388- 71-0960	REP-P	05-03-096
388- 14A-5009	NEW-P	05-02-063	388- 71-0250	REP-P	05-03-096	388- 71-0965	REP-P	05-03-096
388- 14A-5009	NEW	05-06-014	388- 71-0255	REP-P	05-03-096	388- 71-1000	REP-P	05-03-096
388- 14A-5010	NEW-P	05-02-063	388- 71-0260	REP-P	05-03-096	388- 71-1005	REP-P	05-03-096
388- 14A-5010	NEW	05-06-014	388- 71-0400	REP-P	05-03-096	388- 71-1010	REP-P	05-03-096

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-106-0070	NEW-P	05-03-096	388-106-0815	NEW-P	05-03-096	388-462-0015	AMD-P	05-03-081
388-106-0075	NEW-P	05-03-096	388-106-0900	NEW-P	05-03-096	388-462-0015	AMD	05-07-032
388-106-0080	NEW-P	05-03-096	388-106-0905	NEW-P	05-03-096	388-474-0012	AMD	05-07-031
388-106-0085	NEW-P	05-03-096	388-106-0950	NEW-P	05-03-096	388-475-0550	AMD-E	05-05-088
388-106-0090	NEW-P	05-03-096	388-106-0955	NEW-P	05-03-096	388-475-0700	AMD-E	05-05-088
388-106-0095	NEW-P	05-03-096	388-106-1000	NEW-P	05-03-096	388-475-0800	AMD-E	05-05-088
388-106-0100	NEW-P	05-03-096	388-106-1005	NEW-P	05-03-096	388-475-0820	AMD-E	05-05-088
388-106-0105	NEW-P	05-03-096	388-106-1010	NEW-P	05-03-096	388-475-0860	AMD-E	05-05-088
388-106-0110	NEW-P	05-03-096	388-106-1015	NEW-P	05-03-096	388-478-0070	AMD-P	05-02-091
388-106-0115	NEW-P	05-03-096	388-106-1020	NEW-P	05-03-096	388-478-0070	AMD	05-06-090
388-106-0120	NEW-P	05-03-096	388-106-1025	NEW-P	05-03-096	388-478-0075	PREP	05-07-095
388-106-0125	NEW-P	05-03-096	388-106-1030	NEW-P	05-03-096	388-478-0075	AMD-E	05-07-098
388-106-0130	NEW-P	05-03-096	388-106-1035	NEW-P	05-03-096	388-478-0080	AMD-P	05-02-091
388-106-0135	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096	388-478-0080	AMD	05-06-090
388-106-0140	NEW-P	05-03-096	388-106-1045	NEW-P	05-03-096	388-478-0085	PREP	05-07-095
388-106-0200	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096	388-478-0085	AMD-E	05-07-098
388-106-0210	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096	388-492-0040	AMD-P	05-05-087
388-106-0213	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096	388-492-0070	AMD-P	05-05-086
388-106-0220	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096	388-501-0135	PREP	05-06-079
388-106-0225	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096	388-501-0200	PREP-W	05-02-068
388-106-0230	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096	388-503-0510	AMD	05-07-097
388-106-0235	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096	388-513-1325	PREP-W	05-02-068
388-106-0300	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096	388-513-1340	PREP-W	05-02-068
388-106-0305	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096	388-513-1350	AMD-P	05-03-109
388-106-0310	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096	388-513-1350	AMD	05-07-033
388-106-0315	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096	388-513-1380	AMD-P	05-03-109
388-106-0320	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096	388-513-1380	AMD	05-07-033
388-106-0325	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096	388-515-1505	AMD	05-03-077
388-106-0330	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096	388-515-1505	PREP	05-06-084
388-106-0335	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096	388-515-1540	AMD-P	05-03-096
388-106-0350	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096	388-515-1550	AMD-P	05-03-096
388-106-0355	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096	388-519-0110	AMD-P	05-05-083
388-106-0360	NEW-P	05-03-096	388-145-0100	AMD-P	05-07-134	388-519-0110	AMD-E	05-07-057
388-106-0400	NEW-P	05-03-096	388-145-0230	AMD-P	05-07-134	388-530-1280	AMD-X	05-06-095
388-106-0410	NEW-P	05-03-096	388-273-0035	AMD-E	05-06-024	388-531-0150	AMD-E	05-07-058
388-106-0415	NEW-P	05-03-096	388-273-0035	PREP	05-06-077	388-531-0150	AMD-P	05-07-135
388-106-0420	NEW-P	05-03-096	388-290-0010	PREP	05-06-078	388-531-0200	AMD-E	05-07-058
388-106-0425	NEW-P	05-03-096	388-290-0025	PREP	05-06-078	388-531-0200	AMD-P	05-07-135
388-106-0430	NEW-P	05-03-096	388-290-0075	PREP	05-06-078	388-531-0250	AMD-E	05-07-058
388-106-0435	NEW-P	05-03-096	388-290-0095	PREP	05-06-078	388-531-0250	AMD-P	05-07-135
388-106-0500	NEW-P	05-03-096	388-290-0100	PREP	05-06-078	388-531-0650	AMD-E	05-07-058
388-106-0510	NEW-P	05-03-096	388-290-0105	PREP	05-06-078	388-531-0650	AMD-P	05-07-135
388-106-0515	NEW-P	05-03-096	388-290-0110	PREP	05-06-078	388-531-1600	AMD-E	05-07-058
388-106-0520	NEW-P	05-03-096	388-290-0120	PREP	05-06-078	388-531-1600	AMD-P	05-07-135
388-106-0525	NEW-P	05-03-096	388-290-0200	AMD-E	05-05-024	388-533-0710	AMD-P	05-05-085
388-106-0530	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024	388-533-0720	AMD-P	05-05-085
388-106-0535	NEW-P	05-03-096	388-296	PREP	05-07-131	388-533-0730	AMD-P	05-05-085
388-106-0600	NEW-P	05-03-096	388-310-0600	PREP	05-07-074	388-535-1070	AMD-P	05-03-080
388-106-0610	NEW-P	05-03-096	388-410-0001	AMD-P	05-05-081	388-535-1070	AMD	05-06-092
388-106-0615	NEW-P	05-03-096	388-412-0025	PREP	05-07-130	388-538	PREP	05-04-082
388-106-0620	NEW-P	05-03-096	388-416-0005	AMD-P	05-05-081	388-538-112	AMD-E	05-05-038
388-106-0625	NEW-P	05-03-096	388-416-0015	PREP	05-05-079	388-546	PREP-W	05-02-068
388-106-0630	NEW-P	05-03-096	388-418-0005	AMD-P	05-06-089	388-550-2301	NEW-E	05-07-058
388-106-0650	NEW-P	05-03-096	388-418-0011	PREP	05-05-079	388-550-2301	NEW-P	05-07-135
388-106-0655	NEW-P	05-03-096	388-418-0011	AMD-P	05-06-088	388-550-2800	AMD-E	05-07-058
388-106-0700	NEW-P	05-03-096	388-418-0020	AMD-P	05-06-088	388-550-2800	AMD-P	05-07-135
388-106-0705	NEW-P	05-03-096	388-450-0015	AMD	05-03-078	388-550-3000	AMD-P	05-07-096
388-106-0710	NEW-P	05-03-096	388-450-0020	PREP-W	05-02-068	388-550-3300	PREP	05-06-080
388-106-0715	NEW-P	05-03-096	388-450-0195	AMD-P	05-06-085	388-550-3800	AMD	05-06-044
388-106-0800	NEW-P	05-03-096	388-450-0200	AMD-E	05-03-079	388-550-4300	PREP	05-06-080
388-106-0805	NEW-P	05-03-096	388-450-0200	AMD	05-05-025	388-550-4400	AMD-E	05-07-058
388-106-0810	NEW-P	05-03-096	388-450A-0010	NEW-P	05-07-133	388-550-4400	AMD-P	05-07-135

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388-825-086	REP-P	05-05-084	388-845-0020	NEW-E	05-04-020	388-845-1205	NEW-E	05-04-020
388-825-087	REP-P	05-05-084	388-845-0025	NEW-E	05-04-020	388-845-1210	NEW-E	05-04-020
388-825-090	REP-P	05-05-084	388-845-0030	NEW-E	05-04-020	388-845-1300	NEW-E	05-04-020
388-825-095	REP-P	05-05-084	388-845-0035	NEW-E	05-04-020	388-845-1305	NEW-E	05-04-020
388-825-103	AMD-P	05-05-084	388-845-0040	NEW-E	05-04-020	388-845-1310	NEW-E	05-04-020
388-825-120	AMD-E	05-07-075	388-845-0041	NEW-E	05-04-020	388-845-1400	NEW-E	05-04-020
388-825-125	NEW-E	05-07-075	388-845-0045	NEW-E	05-04-020	388-845-1405	NEW-E	05-04-020
388-825-130	NEW-E	05-07-075	388-845-0050	NEW-E	05-04-020	388-845-1410	NEW-E	05-04-020
388-825-135	NEW-E	05-07-075	388-845-0051	NEW-E	05-04-020	388-845-1500	NEW-E	05-04-020
388-825-140	NEW-E	05-07-075	388-845-0055	NEW-E	05-04-020	388-845-1505	NEW-E	05-04-020
388-825-145	NEW-E	05-07-075	388-845-0056	NEW-E	05-04-020	388-845-1510	NEW-E	05-04-020
388-825-150	NEW-E	05-07-075	388-845-0060	NEW-E	05-04-020	388-845-1515	NEW-E	05-04-020
388-825-155	NEW-E	05-07-075	388-845-0065	NEW-E	05-04-020	388-845-1600	NEW-E	05-04-020
388-825-160	NEW-E	05-07-075	388-845-0070	NEW-E	05-04-020	388-845-1605	NEW-E	05-04-020
388-825-165	NEW-E	05-07-075	388-845-0075	NEW-E	05-04-020	388-845-1606	NEW-E	05-04-020
388-825-170	REP-E	05-07-075	388-845-0080	NEW-E	05-04-020	388-845-1610	NEW-E	05-04-020
388-825-180	REP-E	05-07-075	388-845-0085	NEW-E	05-04-020	388-845-1615	NEW-E	05-04-020
388-825-190	REP-E	05-07-075	388-845-0090	NEW-E	05-04-020	388-845-1620	NEW-E	05-04-020
388-825-260	REP-E	05-07-075	388-845-0095	NEW-E	05-04-020	388-845-1700	NEW-E	05-04-020
388-825-262	REP-E	05-07-075	388-845-0096	NEW-E	05-04-020	388-845-1705	NEW-E	05-04-020
388-825-264	REP-E	05-07-075	388-845-0100	NEW-E	05-04-020	388-845-1710	NEW-E	05-04-020
388-825-266	REP-E	05-07-075	388-845-0105	NEW-E	05-04-020	388-845-1800	NEW-E	05-04-020
388-825-268	REP-E	05-07-075	388-845-0110	NEW-E	05-04-020	388-845-1805	NEW-E	05-04-020
388-825-270	REP-E	05-07-075	388-845-0115	NEW-E	05-04-020	388-845-1810	NEW-E	05-04-020
388-825-272	REP-E	05-07-075	388-845-0120	NEW-E	05-04-020	388-845-1900	NEW-E	05-04-020
388-825-276	REP-E	05-07-075	388-845-0200	NEW-E	05-04-020	388-845-1905	NEW-E	05-04-020
388-825-278	REP-E	05-07-075	388-845-0205	NEW-E	05-04-020	388-845-1910	NEW-E	05-04-020
388-825-280	REP-E	05-07-075	388-845-0210	NEW-E	05-04-020	388-845-2000	NEW-E	05-04-020
388-825-282	REP-E	05-07-075	388-845-0215	NEW-E	05-04-020	388-845-2005	NEW-E	05-04-020
388-825-284	REP-E	05-07-075	388-845-0220	NEW-E	05-04-020	388-845-2010	NEW-E	05-04-020
388-825-300	NEW-E	05-07-075	388-845-0300	NEW-E	05-04-020	388-845-2100	NEW-E	05-04-020
388-825-305	NEW-E	05-07-075	388-845-0305	NEW-E	05-04-020	388-845-2105	NEW-E	05-04-020
388-825-310	NEW-E	05-07-075	388-845-0310	NEW-E	05-04-020	388-845-2110	NEW-E	05-04-020
388-825-315	NEW-E	05-07-075	388-845-0400	NEW-E	05-04-020	388-845-2200	NEW-E	05-04-020
388-825-316	NEW-E	05-07-075	388-845-0405	NEW-E	05-04-020	388-845-2205	NEW-E	05-04-020
388-825-320	NEW-E	05-07-075	388-845-0410	NEW-E	05-04-020	388-845-2210	NEW-E	05-04-020
388-825-325	NEW-E	05-07-075	388-845-0500	NEW-E	05-04-020	388-845-3000	NEW-E	05-04-020
388-825-330	NEW-E	05-07-075	388-845-0505	NEW-E	05-04-020	388-845-3005	NEW-E	05-04-020
388-825-335	NEW-E	05-07-075	388-845-0510	NEW-E	05-04-020	388-845-3010	NEW-E	05-04-020
388-825-340	NEW-E	05-07-075	388-845-0600	NEW-E	05-04-020	388-845-3015	NEW-E	05-04-020
388-825-345	NEW-E	05-07-075	388-845-0605	NEW-E	05-04-020	388-845-3020	NEW-E	05-04-020
388-825-355	NEW-E	05-07-075	388-845-0610	NEW-E	05-04-020	388-845-3025	NEW-E	05-04-020
388-825-360	NEW-E	05-07-075	388-845-0700	NEW-E	05-04-020	388-845-3030	NEW-E	05-04-020
388-825-365	NEW-E	05-07-075	388-845-0705	NEW-E	05-04-020	388-845-3035	NEW-E	05-04-020
388-825-370	NEW-E	05-07-075	388-845-0710	NEW-E	05-04-020	388-845-3040	NEW-E	05-04-020
388-825-375	NEW-E	05-07-075	388-845-0800	NEW-E	05-04-020	388-845-3045	NEW-E	05-04-020
388-825-380	NEW-E	05-07-075	388-845-0805	NEW-E	05-04-020	388-845-3050	NEW-E	05-04-020
388-825-381	NEW-E	05-07-075	388-845-0810	NEW-E	05-04-020	388-845-3055	NEW-E	05-04-020
388-825-385	NEW-E	05-07-075	388-845-0820	NEW-E	05-04-020	388-845-3060	NEW-E	05-04-020
388-825-390	NEW-E	05-07-075	388-845-0900	NEW-E	05-04-020	388-845-3065	NEW-E	05-04-020
388-825-395	NEW-E	05-07-075	388-845-0905	NEW-E	05-04-020	388-845-3070	NEW-E	05-04-020
388-825-396	NEW-E	05-07-075	388-845-0910	NEW-E	05-04-020	388-845-3075	NEW-E	05-04-020
388-825-400	NEW-E	05-07-075	388-845-1000	NEW-E	05-04-020	388-845-3080	NEW-E	05-04-020
388-827	PREP-W	05-02-066	388-845-1010	NEW-E	05-04-020	388-845-3085	NEW-E	05-04-020
388-827	PREP	05-02-067	388-845-1015	NEW-E	05-04-020	388-845-3090	NEW-E	05-04-020
388-827-0115	AMD-E	05-05-023	388-845-1100	NEW-E	05-04-020	388-845-3095	NEW-E	05-04-020
388-827-0115	AMD-P	05-06-087	388-845-1105	NEW-E	05-04-020	388-845-4000	NEW-E	05-04-020
388-827-0145	AMD-E	05-05-023	388-845-1110	NEW-E	05-04-020	388-845-4005	NEW-E	05-04-020
388-827-0145	AMD-P	05-06-087	388-845-1150	NEW-E	05-04-020	388-845-4010	NEW-E	05-04-020
388-845-0005	NEW-E	05-04-020	388-845-1155	NEW-E	05-04-020	388-845-4015	NEW-E	05-04-020
388-845-0010	NEW-E	05-04-020	388-845-1160	NEW-E	05-04-020	388-850-035	AMD-P	05-05-084
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390-16-012	AMD	05-06-070	434-333-013	NEW-E	05-05-033	434-333-165	REP-P	05-05-034
390-16-105	AMD-P	05-06-068	434-333-015	AMD-E	05-05-033	434-333-170	AMD-E	05-05-033
390-16-125	AMD-P	05-06-068	434-333-015	REP-P	05-05-034	434-333-170	REP-P	05-05-034
390-16-310	AMD	05-06-070	434-333-020	AMD-E	05-05-033	434-333-175	AMD-E	05-05-033
390-16-311	REP	05-06-070	434-333-020	REP-P	05-05-034	434-333-175	REP-P	05-05-034
390-17-310	AMD	05-04-039	434-333-025	AMD-E	05-05-033	434-333-180	NEW-E	05-05-033
390-19-030	AMD-P	05-06-068	434-333-025	REP-P	05-05-034	434-333-185	NEW-E	05-05-033
390-20-0101	AMD	05-06-070	434-333-030	REP-P	05-05-034	434-333-190	NEW-E	05-05-033
390-20-110	AMD	05-06-070	434-333-035	AMD-E	05-05-033	434-333-195	NEW-E	05-05-033
390-20-130	AMD-P	05-06-069	434-333-035	REP-P	05-05-034	434-333-200	NEW-E	05-05-033
390-24-010	AMD	05-06-070	434-333-040	REP-P	05-05-034	434-333-205	NEW-E	05-05-033
390-24-020	AMD	05-06-070	434-333-045	AMD-E	05-05-033	434-333-210	NEW-E	05-05-033
390-37-060	AMD-P	05-06-068	434-333-045	REP-P	05-05-034	434-333-215	NEW-E	05-05-033
390-37-090	AMD-P	05-06-068	434-333-050	AMD-E	05-05-033	434-333-220	NEW-E	05-05-033
390-37-160	AMD	05-04-038	434-333-050	REP-P	05-05-034	434-333-225	NEW-E	05-05-033
390-37-165	AMD	05-04-038	434-333-055	AMD-E	05-05-033	434-333-230	NEW-E	05-05-033
390-37-170	AMD	05-04-038	434-333-055	REP-P	05-05-034	434-333-235	NEW-E	05-05-033
390-37-175	AMD	05-04-038	434-333-060	AMD-E	05-05-033	434-333-240	NEW-E	05-05-033
392-121	PREP	05-06-065	434-333-060	REP-P	05-05-034	434-333-245	NEW-E	05-05-033
392-125	PREP	05-07-002	434-333-063	REP-P	05-05-034	434-333-250	NEW-E	05-05-033
392-126	PREP	05-06-027	434-333-065	AMD-E	05-05-033	434-333-255	NEW-E	05-05-033
392-139	PREP	05-04-044	434-333-065	REP-P	05-05-034	434-333-260	NEW-E	05-05-033
392-168-110	AMD-P	05-06-066	434-333-070	AMD-E	05-05-033	434-333-265	NEW-E	05-05-033
392-168-115	AMD-P	05-06-066	434-333-070	REP-P	05-05-034	434-333-270	NEW-E	05-05-033
392-168-120	REP-P	05-06-066	434-333-075	AMD-E	05-05-033	434-333-275	NEW-E	05-05-033
392-168-125	AMD-P	05-06-066	434-333-075	REP-P	05-05-034	434-333-280	NEW-E	05-05-033
392-168-132	AMD-P	05-06-066	434-333-080	NEW-E	05-05-033	434-333-285	NEW-E	05-05-033
392-168-135	AMD-P	05-06-066	434-333-082	REP-P	05-05-034	434-333-290	NEW-E	05-05-033
392-168-140	AMD-P	05-06-066	434-333-085	AMD-E	05-05-033	434-333-295	NEW-E	05-05-033
392-168-145	AMD-P	05-06-066	434-333-085	REP-P	05-05-034	434-333-300	NEW-E	05-05-033
392-168-155	AMD-P	05-06-066	434-333-090	AMD-E	05-05-033	434-335-010	NEW-P	05-05-034
392-168-160	REP-P	05-06-066	434-333-090	REP-P	05-05-034	434-335-020	NEW-P	05-05-034
392-168-165	REP-P	05-06-066	434-333-095	AMD-E	05-05-033	434-335-030	NEW-P	05-05-034
392-168-167	REP-P	05-06-066	434-333-095	REP-P	05-05-034	434-335-040	NEW-P	05-05-034
392-168-170	REP-P	05-06-066	434-333-100	AMD-E	05-05-033	434-335-050	NEW-P	05-05-034
392-168-180	AMD-P	05-06-066	434-333-100	REP-P	05-05-034	434-335-060	NEW-P	05-05-034
415-108	PREP	05-06-040	434-333-105	AMD-E	05-05-033	434-335-070	NEW-P	05-05-034
415-108-728	AMD	05-03-001	434-333-105	REP-P	05-05-034	434-335-080	NEW-P	05-05-034
415-110	PREP	05-06-041	434-333-107	NEW-E	05-05-033	434-335-090	NEW-P	05-05-034
415-111-310	PREP	05-04-011	434-333-110	AMD-E	05-05-033	434-335-100	NEW-P	05-05-034
415-112-155	AMD	05-03-001	434-333-110	REP-P	05-05-034	434-335-110	NEW-P	05-05-034
415-112-541	AMD	05-03-006	434-333-115	NEW-E	05-05-033	434-335-120	NEW-P	05-05-034
415-501-110	PREP	05-07-030	434-333-120	AMD-E	05-05-033	434-335-130	NEW-P	05-05-034
434-04-017	AMD-E	05-06-001	434-333-120	REP-P	05-05-034	434-335-140	NEW-P	05-05-034
434-230-175	NEW-E	05-05-033	434-333-125	AMD-E	05-05-033	434-335-150	NEW-P	05-05-034
434-230-177	NEW-E	05-05-033	434-333-125	REP-P	05-05-034	434-335-160	NEW-P	05-05-034
434-253-043	AMD	05-06-035	434-333-127	REP-P	05-05-034	434-335-170	NEW-P	05-05-034
434-253-045	AMD	05-06-035	434-333-130	AMD-E	05-05-033	434-335-180	NEW-P	05-05-034
434-253-047	AMD	05-06-035	434-333-130	REP-P	05-05-034	434-335-190	NEW-P	05-05-034
434-253-048	NEW	05-06-035	434-333-135	AMD-E	05-05-033	434-335-200	NEW-P	05-05-034
434-253-049	AMD	05-06-035	434-333-135	REP-P	05-05-034	434-335-210	NEW-P	05-05-034
434-253-085	NEW-E	05-05-033	434-333-140	AMD-E	05-05-033	434-335-220	NEW-P	05-05-034
434-253-160	AMD	05-06-035	434-333-140	REP-P	05-05-034	434-335-230	NEW-P	05-05-034
434-253-165	NEW	05-06-035	434-333-145	AMD-E	05-05-033	434-335-240	NEW-P	05-05-034
434-253-203	NEW	05-06-035	434-333-145	REP-P	05-05-034	434-335-250	NEW-P	05-05-034
434-260-300	AMD	05-06-036	434-333-150	AMD-E	05-05-033	434-335-260	NEW-P	05-05-034
434-261-045	NEW-E	05-05-033	434-333-150	REP-P	05-05-034	434-335-270	NEW-P	05-05-034
434-261-110	NEW	05-06-035	434-333-155	AMD-E	05-05-033	434-335-280	NEW-P	05-05-034
434-262-203	NEW	05-06-035	434-333-155	REP-P	05-05-034	434-335-290	NEW-P	05-05-034
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434-335-320	NEW-P	05-05-034	463- 60-385	RECOD-W	05-03-087	468- 38-405	AMD	05-04-053
434-335-330	NEW-P	05-05-034	463- 60-435	RECOD-W	05-03-087	468- 38-420	AMD	05-04-053
434-335-340	NEW-P	05-05-034	463- 60-525	RECOD-W	05-03-087	468-300-010	AMD-P	05-05-058
434-335-350	NEW-P	05-05-034	463- 60-625	RECOD-W	05-03-087	468-300-010	AMD-P	05-07-159
434-335-360	NEW-P	05-05-034	463- 60-645	RECOD-W	05-03-087	468-300-020	AMD-P	05-05-058
434-335-370	NEW-P	05-05-034	463- 60-655	RECOD-W	05-03-087	468-300-020	AMD-P	05-07-159
434-335-380	NEW-P	05-05-034	463- 60-665	RECOD-W	05-03-087	468-300-040	AMD-P	05-05-058
434-335-390	NEW-P	05-05-034	463- 60-675	RECOD-W	05-03-087	468-300-040	AMD-P	05-07-159
434-335-400	NEW-P	05-05-034	463- 60-680	RECOD-W	05-03-087	468-300-220	AMD-P	05-05-058
434-335-410	NEW-P	05-05-034	463- 60-685	RECOD-W	05-03-087	468-300-220	AMD-P	05-07-159
434-335-420	NEW-P	05-05-034	463- 60-690	RECOD-W	05-03-087	478-118-010	AMD-P	05-03-071
434-335-430	NEW-P	05-05-034	463- 64-060	NEW-W	05-03-087	478-118-020	AMD-P	05-03-071
434-335-440	NEW-P	05-05-034	463- 66-010	RECOD-W	05-03-087	478-118-045	NEW-P	05-03-071
434-335-450	NEW-P	05-05-034	463- 70-080	RECOD-W	05-03-087	478-118-050	AMD-P	05-03-071
434-335-460	NEW-P	05-05-034	463- 76-020	RECOD-W	05-03-087	478-118-055	NEW-P	05-03-071
434-335-470	NEW-P	05-05-034	463- 76-030	RECOD-W	05-03-087	478-118-060	AMD-P	05-03-071
434-335-480	NEW-P	05-05-034	463- 76-040	RECOD-W	05-03-087	478-118-080	AMD-P	05-03-071
434-335-490	NEW-P	05-05-034	463- 76-050	RECOD-W	05-03-087	478-118-100	AMD-P	05-03-071
434-335-500	NEW-P	05-05-034	463- 76-060	RECOD-W	05-03-087	478-118-200	AMD-P	05-03-071
434-335-510	NEW-P	05-05-034	468- 38	AMD	05-04-053	478-118-210	AMD-P	05-03-071
434-335-520	NEW-P	05-05-034	468- 38-001	NEW	05-04-053	478-118-270	AMD-P	05-03-071
434-335-530	NEW-P	05-05-034	468- 38-005	NEW	05-04-053	478-118-290	NEW-P	05-03-071
434-335-540	NEW-P	05-05-034	468- 38-010	REP	05-04-053	478-118-300	NEW-P	05-03-071
434-335-550	NEW-P	05-05-034	468- 38-020	REP	05-04-053	478-118-400	AMD-P	05-03-071
434-335-560	NEW-P	05-05-034	468- 38-030	AMD	05-04-053	478-118-410	AMD-P	05-03-071
434-335-570	NEW-P	05-05-034	468- 38-040	REP	05-04-053	478-118-420	AMD-P	05-03-071
434-335-580	NEW-P	05-05-034	468- 38-050	AMD	05-04-053	478-118-510	REP-P	05-03-071
434-335-590	NEW-P	05-05-034	468- 38-060	REP	05-04-053	479- 12-150	AMD	05-05-004
434-335-600	NEW-P	05-05-034	468- 38-070	AMD	05-04-053	479- 14-180	AMD	05-05-004
434-335-610	NEW-P	05-05-034	468- 38-071	AMD	05-04-053	480- 60-035	PREP-W	05-07-007
434-335-620	NEW-P	05-05-034	468- 38-073	NEW-P	05-07-085	480- 62-218	NEW-W	05-04-008
434-335-630	NEW-P	05-05-034	468- 38-075	AMD	05-04-053	480- 70-041	AMD	05-06-051
434-335-640	NEW-P	05-05-034	468- 38-080	AMD	05-04-053	480- 70-051	AMD	05-06-051
446- 20-600	AMD	05-03-034	468- 38-080	AMD	05-04-053	480- 70-077	NEW	05-06-051
446- 20-610	AMD-P	05-03-036	468- 38-095	NEW	05-04-053	480- 70-078	NEW	05-06-051
446- 20-610	AMD	05-07-141	468- 38-100	AMD	05-04-053	480- 70-079	NEW	05-06-051
446- 20-630	AMD-P	05-03-035	468- 38-110	REP	05-04-053	480- 70-079	NEW	05-06-051
446- 20-630	AMD	05-07-157	468- 38-120	AMD	05-04-053	480- 73-010	NEW	05-06-051
446- 65-010	AMD	05-04-002	468- 38-130	REP	05-04-053	480- 73-020	NEW	05-06-051
458- 12-342	PREP	05-06-017	468- 38-135	REP	05-04-053	480- 73-030	NEW	05-06-051
458- 16-1000	NEW-E	05-04-047	468- 38-140	REP	05-04-053	480- 73-040	NEW	05-06-051
458- 16-1000	NEW-P	05-05-063	468- 38-155	NEW	05-04-053	480- 73-050	NEW	05-06-051
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458- 20-141	AMD	05-03-053	468- 38-175	NEW	05-04-053	480- 73-110	NEW	05-06-051
458- 20-144	AMD	05-03-052	468- 38-180	REP	05-04-053	480- 73-120	NEW	05-06-051
458- 20-168	AMD-P	05-06-019	468- 38-180	REP	05-04-053	480- 73-130	NEW	05-06-051
458- 20-177	AMD-P	05-06-018	468- 38-200	REP	05-04-053	480- 73-140	NEW	05-06-051
458- 20-17803	NEW	05-03-051	468- 38-220	REP	05-04-053	480- 73-150	NEW	05-06-051
458- 20-190	AMD	05-03-002	468- 38-230	REP	05-04-053	480- 73-160	NEW	05-06-051
458- 20-191	REP	05-03-002	468- 38-235	REP	05-04-053	480- 73-180	NEW	05-06-051
458- 20-194	PREP	05-06-124	468- 38-240	REP	05-04-053	480- 73-190	NEW	05-06-051
458- 20-196	AMD	05-04-048	468- 38-250	REP	05-04-053	480- 73-210	NEW	05-06-051
458- 20-198	AMD	05-04-048	468- 38-260	REP	05-04-053	480- 73-999	NEW	05-06-051
458- 20-24001	PREP	05-05-061	468- 38-280	AMD	05-04-053	480- 80-123	AMD	05-03-031
458- 20-24001A	PREP	05-05-061	468- 38-290	AMD	05-04-053	480- 80-204	AMD	05-03-031
458- 20-24003	PREP	05-05-062	468- 38-300	REP	05-04-053	480- 80-206	AMD	05-03-031
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458- 20-268	NEW-E	05-03-017	468- 38-320	REP	05-04-053	480- 90-023	AMD	05-06-051
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480-93-115	AMD-S	05-02-096	480-110-431	NEW	05-06-051	480-120-355	NEW	05-06-051
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480-93-185	AMD-S	05-02-096	480-110-555	NEW	05-06-051	480-120-999	AMD	05-03-031
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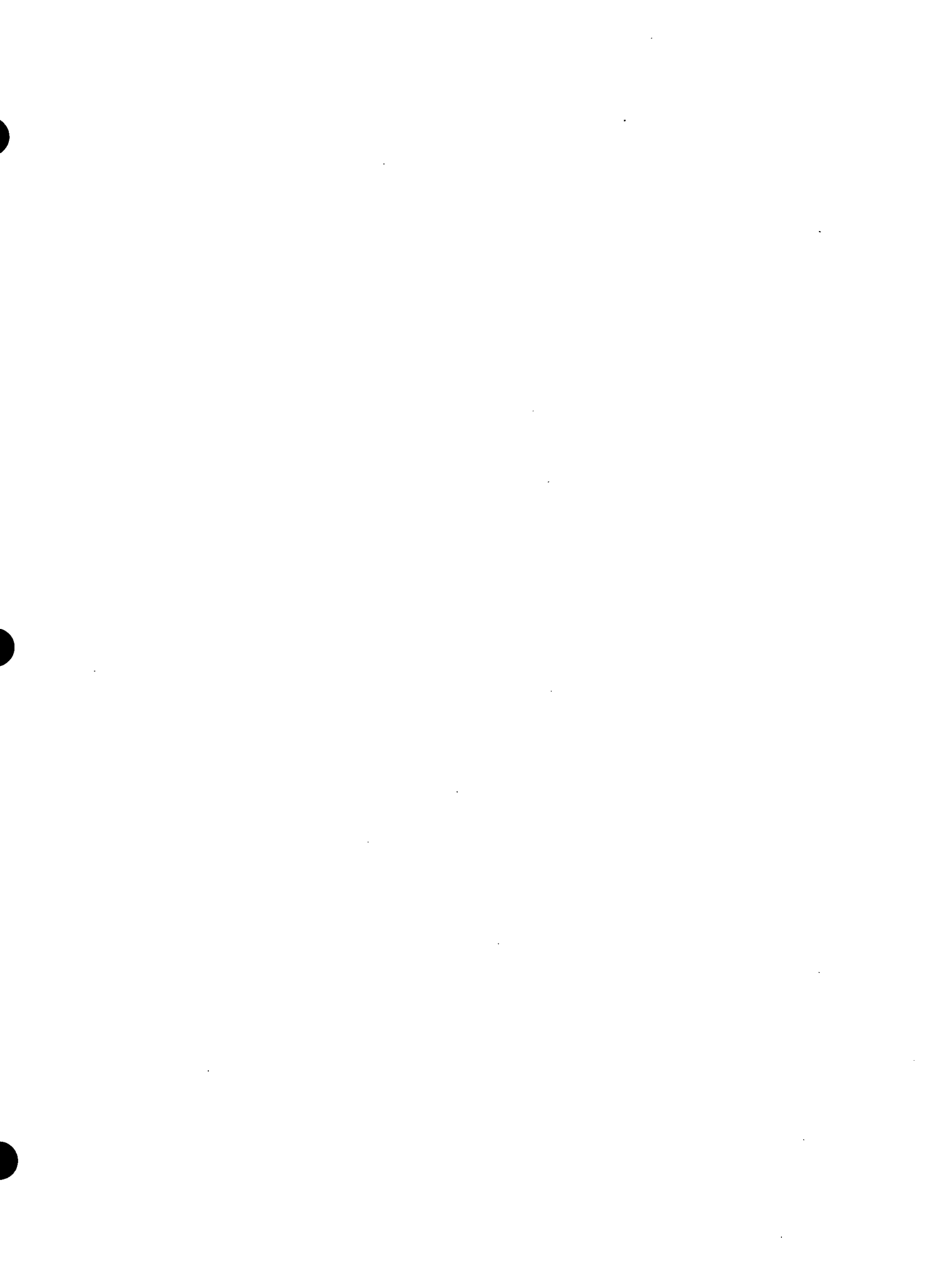
















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