

# Washington State Register

May 4, 2005

OLYMPIA, WASHINGTON

ISSUE 05-09



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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located 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 May 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 May 2005 is 5.125%.

**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

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

**POSTMASTER:** SEND ADDRESS CHANGES TO:

### WASHINGTON STATE REGISTER

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

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

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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 ((timed 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;

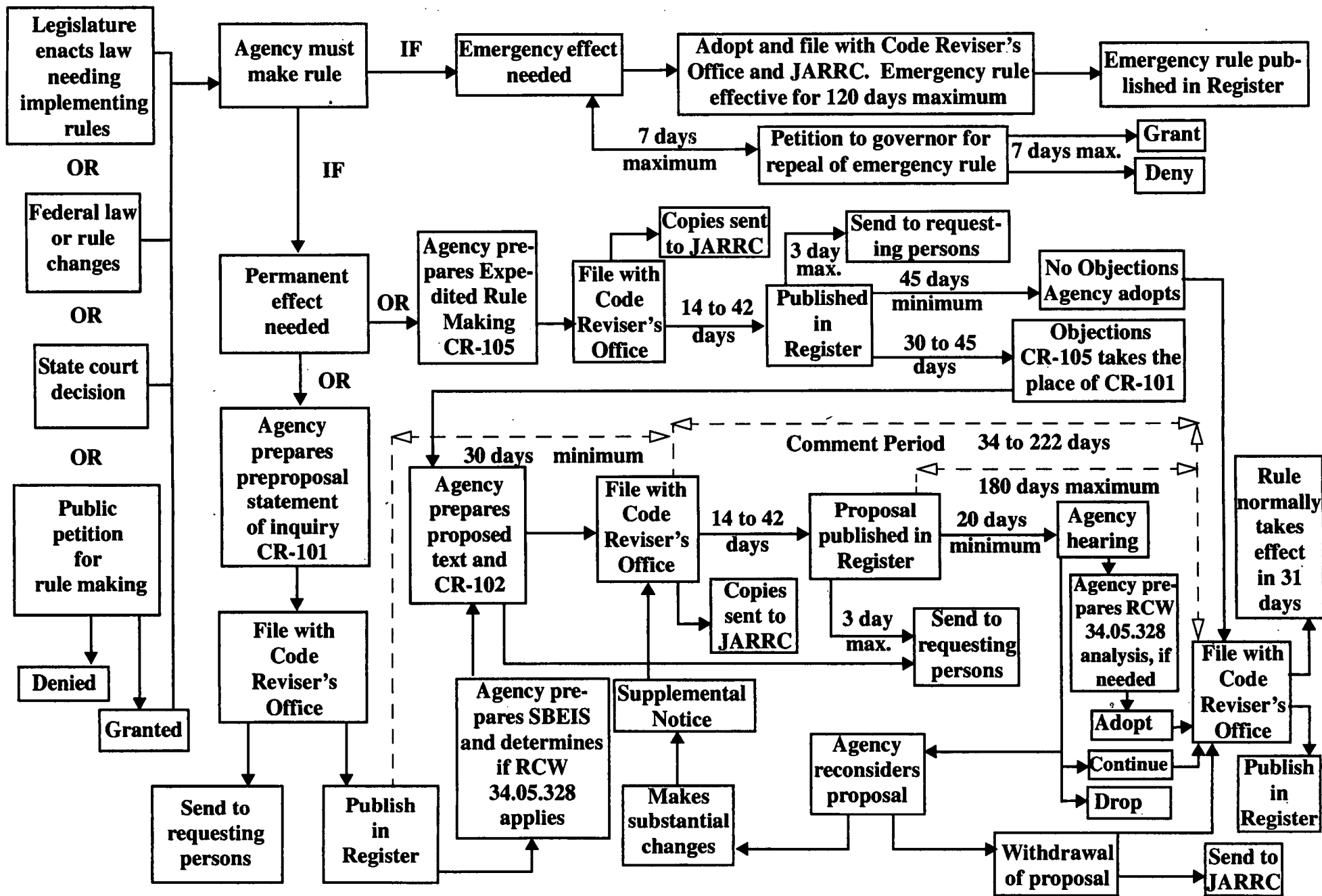
There is less than minor economic impact on business;

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 05-09-001****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed April 7, 2005, 8:13 a.m.]

Subject of Possible Rule Making: Administration of anesthetic agents for dental procedures, to include WAC 246-817-701 Purpose, 246-817-710 Definitions, 246-817-720 Basic life support, 246-817-730 Local anesthesia, 246-817-740 Nitrous oxide/oxygen sedation, 246-817-750 Conscious sedation with an oral agent, 246-817-760 Conscious sedation with parenteral or multiple oral agents, 246-817-770 General anesthesia (including deep sedation), and 246-817-780 Mandatory reporting of death or significant complications.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.32.0365 and 18.32.640.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules on this subject need to be amended to accurately reflect the current use of general anesthesia and conscious sedation in the dental office setting. There have been changes in scope of practice, technology, and procedures over the past several years that make it necessary to update the current rules.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Anderson, Program Manager, Dental Quality Assurance Commission, P.O. Box 47867, Olympia, WA 98504-7867, (360) 236-4863, fax (360) 664-9077, e-mail lisa.anderson@doh.wa.gov. We anticipate conducting multiple open public forums. Please submit any comments or suggestions in writing, along with a statement regarding your interest in continued participation in the rule-making process.

February 24, 2005

Joy N. King

Executive Director

Health Section #3

**WSR 05-09-006****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed April 7, 2005, 8:50 a.m.]

Subject of Possible Rule Making: Chapter 260-40 WAC, Entries, starts, declarations and scratches.

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: To amend provisions in chapter 260-40 WAC to include provisions for (1) enter to run, and (2) ability of the commission to enforce the eligibility conditions of a race as published in the condition book.

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 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.

April 6, 2005

R. M. Leichner

Executive Secretary

**WSR 05-09-007****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed April 7, 2005, 8:51 a.m.]

Subject of Possible Rule Making: WAC 260-32-160 Physical examinations and Title 260 WAC, Physician's written statements.

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: To amend WAC 260-32-160 to: (1) Eliminate the need for jockeys to have a physical examination by a licensed physician before riding in a race; (2) to allow to attest to their physical soundness during the application process; and (3) to allow the board of stewards, at their discretion to demand a jockey produce a physician's written statement releasing a jockey to ride. In addition, to amend or adopt new language to also establish similar requirements for pony persons, outriders and exercise riders.

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.

April 6, 2005

R. M. Leichner

Executive Secretary

**WSR 05-09-008****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed April 7, 2005, 8:51 a.m.]

Subject of Possible Rule Making: Chapter 260-28 WAC, Ownership, trainers, and employees.

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: To amend and/or adopt new sections in chapter 260-28 WAC addressing the ownership interests of trainers.

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 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.

April 6, 2005  
R. M. Leichner  
Executive Secretary

**WSR 05-09-017**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 8, 2005, 1:26 p.m.]

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

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

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

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

Process for Developing New Rule: Agency study; notification by the examination vendor that fees will increase in December 2005. Fees are collected from candidates by the Department of Licensing, held in a pass-through account, and then reimbursed to the exam vendor after the exam has been conducted.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joe Vincent Jr., Administrator, Department of Licensing, Business and Professions Division, Land-

scape Architect Registration Board, P.O. Box 9045, Olympia, WA 98507-9045, (360) 664-1386, fax (360) 664-1495.

April 8, 2005  
Joe Vincent Jr.  
Administrator

**WSR 05-09-035**

**WITHDRAWAL OF  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed April 13, 2005, 11:41 a.m.]

Please withdraw preproposal statement of inquiry WSR 03-03-076 filed on January 15, 2003. The subject of this rule making was to allow:

- (1) Well-loggers to use energy compensation and tritium neutron generator target sources.
- (2) Radioactive materials licensees to use dosimetry from providers accredited by the National Institute of Standards and Technology.

After filing the preproposal statement of inquiry, the Department of Health determined the rule making was exempt under RCW 34.05.310(4) because the revisions incorporated federal regulations without material change. The department adopted rules under a separate process using this exemption. For this reason, the CR-101 is no longer necessary.

For more information regarding this rule making, please contact Terry Frazee, Office of Radiation Protection, at (360) 236-3213.

M. C. Selecky  
Secretary

**WSR 05-09-044**

**PREPROPOSAL STATEMENT OF INQUIRY  
BELLEVUE COMMUNITY COLLEGE**

[Filed April 18, 2005, 11:19 a.m.]

Subject of Possible Rule Making: Changes to student code policy of Bellevue Community College.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW and RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 132H-120 WAC, the student code of Community College District VIII, will be modified to reflect the current standards for students.

Process for Developing New Rule: Other [no further information supplied by agency].

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tika Esler, Dean of Student Services, Bellevue Community College, 3000 Landerholm Circle S.E.,



Bellevue, WA 98007-6484, phone (425) 564-2205, fax (425) 564-4065.

April 15, 2005

Debra Ross  
Executive Assistant  
to the President

2005, at the Holiday Inn Express Hotel & Suites, Evergreen Room, 19621 International Boulevard, SeaTac, WA.

April 18, 2005

Barrie Althoff  
Executive Director

**WSR 05-09-057**

**PREPROPOSAL STATEMENT OF INQUIRY  
COMMISSION ON  
JUDICIAL CONDUCT**

[Filed April 19, 2005, 10:31 a.m.]

**Subject of Possible Rule Making:** Consideration of whether to amend, to repeal or to leave as is, existing Rule 24 (b)(8) of the commission's rules of procedure relating to participation in commission deliberations and decisions by a member of the commission who has not heard all, or a part, of the evidence.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Washington Constitution, Article IV, Section 31, paragraph 10.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The current rule permits a member of the commission who has not heard all or a part of the evidence in a proceeding, to participate in commission deliberations or a decision only after the member personally considers the whole record or portion of the hearing from which the member was absent. The current rule, which has only been utilized once, is intended to be used in rare cases where a member might miss a portion of a hearing due, for example, to ill-health or bad weather, but can become informed about the missed portion by a review of the record, and thereafter fully participate. Being able to do so obviates the possible need to postpone the hearing due to that member's temporary absence, or, if a quorum would otherwise be lost by the member's temporary absence, possibly engage in a completely new hearing, at very considerable cost to the respondent, counsel, and the commission. The continued participate of such a member, however, may raise lack of due process concerns or the appearance thereof.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other federal or state agencies regulate this subject.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Send written comments by May 31 to Barrie Althoff, Executive Director, Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98504, phone (360) 753-4585, fax (360) 586-2918.

The commission will hold a public meeting on this inquiry, at which in-person comments may be made, subject to time limitations, beginning at 11 a.m. on Friday, June 10,

**WSR 05-09-060**

**WITHDRAWAL OF  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 19, 2005, 11:54 a.m.]

In accordance with RCW 34.05.335(1), the Department of Labor and Industries withdraws the preproposal statement of inquiry on motor vehicles filed as WSR 04-11-062 on May 18, 2004. A portion of these rules have been proposed under WSR 05-08-112. The rules related to construction will be promulgated at a later date to be determined.

Please contact Carmen Moore at (360) 902-4206, if you have questions.

Carmen Moore  
Rules Coordinator

**WSR 05-09-061**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 19, 2005, 11:55 a.m.]

**Subject of Possible Rule Making:** Formaldehyde, chapter 296-62 WAC, General occupational health standards.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 49.17.010, [49.17].040, and [49.17].050.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The purpose of this rule making is to clarify requirements relating to formaldehyde. We will rewrite and reorganize the rule for clarity, while eliminating unnecessary requirements and outdated terminology.

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

**Process for Developing New Rule:** Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carol Stevenson, Department of Labor and Industries, WISHA Services Division, P.O. Box 44635,

Olympia, WA 98504-4635, phone (360) 902-4778, fax (360) 902-5529.

April 19, 2005  
Judy Schurke  
Acting Director

**WSR 05-09-095**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed April 20, 2005, 7:59 a.m.]

Subject of Possible Rule Making: The department is considering enacting a potato tuber moth quarantine area within a portion or all of the state, to protect uninfested areas of western Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.24 and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making has been requested by the Washington Seed Potato Commission. The potato tuber moth is an extremely serious pest of potato production worldwide. It causes damage by burrowing into potato tubers held in storage, creating conditions for bacterial infection, which makes them unfit for consumption or use as seed. Recent surveys for tuber moth indicate that it does not currently occur in northwest areas of the state. Shipment of potatoes grown or stored in tuber moth infested areas creates a pathway for transmitting the potato tuber moth to noninfested areas. Placing restrictions on transporting potatoes, particularly culls for livestock feed, from infested areas may be useful in protecting the seed and other potato growers in northwest Washington.

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

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

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

April 20, 2005  
Mary A. Martin Toohey  
Assistant Director

**WSR 05-09-121**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed April 20, 2005, 10:58 a.m.]

Subject of Possible Rule Making: WAC 458-20-268 Annual surveys for certain tax adjustments.

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: In order to take certain tax credits and deferrals ("tax adjustments"), taxpayers must file an annual survey with the Department of Revenue containing certain information about their business activities and employment. The department anticipates adopting a new permanent WAC 458-20-268 Annual surveys for certain tax adjustments, to explain the survey requirements for tax adjustments provided to the high technology industry and the manufacturing industry located in rural areas. This rule would explain who is required to file an annual survey, how to file a survey, and what information must be included in the surveys.

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. The department will be using WAC 458-20-268 Emergency rule, as a preliminary rule draft for discussion purposes. WAC 458-20-268 is available upon request and posted on the department's web site www.dor.wa.gov. Written comments on and/or requests for copies of the rule may be directed to Julie Sexton, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, e-mail JulieS@dor.wa.gov, phone 570-6135, fax (360) 664-0693.

Public Meeting Locations: At the Fourth & Blanchard Building, 2101 Fourth Avenue, 14th Floor, Suite 1400, Seattle, phone (206) 956-3002, on June 6, at 10:00 a.m.; at the Holiday Inn Express, 1745 Kittleson Road, The Meeting Room, Moses Lake, phone 1-800-576-7500, on June 7, at 1:30 p.m.; at the Capitol Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, phone (360) 570-6124, on June 8, at 10:00 a.m.; and at the Department of Revenue, Conference Room, 8008 N.E. Fourth Plain Road, Vancouver, (access to building information: From N.E. 4th Plain Boulevard, turn right into parking lot (south side of Vancouver Plaza). Office is at far (west) end of parking lot (behind WINCO Foods Store). Public meeting sign will be placed by the conference room entrance), phone (360) 260-6176, on June 9, at 1:30 p.m.

April 20, 2005  
Alan R. Lynn  
Rules Coordinator

**WSR 05-08-092**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed April 1, 2005, 3:45 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-087.

Title of Rule and Other Identifying Information: WAC 388-544-0010, 388-544-0050, 388-544-0100, 388-544-0150, 388-544-0200, 388-544-0250, 388-544-0300, 388-544-0350, 388-544-0400, 388-544-0450, 388-544-0475, 388-544-0500, 388-544-0550, and 388-544-0600, vision care services.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC revision is intended to accomplish several objectives:

- Aligning MAA policies with industry standard when applicable;
- Clarifying vision care coverage;
- Clarifying client eligibility;
- Updating and clarifying wording in the definition section;
- Adding "ocularists" to eligible provider types;
- Adding policy regarding unclaimed hardware and contact lenses;
- Updating noncovered section;
- Clarifying sphere power and diopter guidelines as per stakeholders' responses;
- Clarifying coverage for back-up glasses for clients with developmental disabilities;
- Clarifying medical criteria for durable and flexible frames;
- Outlining coverage for scratch resistant coating for all plastic lenses;
- Updating replacement lense(s) allowances;
- Updating diagnoses for photochromatic lenses;
- Adding coverage for infants and toddlers with motor ataxia for polycarbonate lenses;
- Expanding coverage of contact lenses to include monthly and quarterly wear disposable;
- Discontinuing coverage of glass lenses;
- Updating cataract surgery conditions; and
- Updating expedited prior authorization section.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.510, and 74.09.520; 42 C.F.R. 440.120, 42 C.F.R. 440.225.

Statute Being Implemented: 42 C.F.R. 440.225.

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: Marlene Black, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1577.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule will not create more than minor costs for affected small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Marlene Black, Division of Medical Management, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1577, fax (360) 586-8827, e-mail blackml@dshs.wa.gov.

March 31, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

#### NEW SECTION

**WAC 388-544-0010 Vision care - General.** (1) The medical assistance administration (MAA) covers the vision care listed in this chapter only, subject to the exceptions, restrictions, and limitations listed in this chapter when they are:

(a) Within the scope of the eligible client's medical care program (see chapter 388-529 WAC); and

(b) Medically necessary as defined in WAC 388-500-0005.

(2) MAA evaluates a request for any service that is listed as noncovered in this chapter under the provisions of WAC 388-501-0160.

(3) MAA evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.

(4) MAA evaluates a request for a service that is in a covered category, but has been determined to be experimental or investigational under WAC 388-531-0550, under the provisions of WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

**WAC 388-544-0050 Vision care - Definitions** (~~for vision care services~~). The following definitions (~~and abbreviations~~) and those found in WAC 388-500-0005 apply to this chapter. (~~Defined words and phrases are bolded the first time they are used in the text.~~) Unless otherwise defined in this chapter, medical terms are used as commonly defined

within the scope of professional medical practice in the state of Washington.

"Blindness" - A diagnosis of visual acuity for distance vision of twenty/two hundred or worse in the better eye with best correction or a limitation of the client's visual field (widest diameter) subtending an angle of less than twenty degrees from central.

"Conventional soft contact lenses" or "rigid gas permeable contact lenses" - FDA-approved contact lenses that do not have a scheduled replacement (discard and replace with new contacts) plan. The soft lenses usually last one year, and the rigid gas permeable lenses usually last two years. Although some of these lenses are designed for extended wear, MAA generally approves only those lenses that are designed to be worn as daily wear (remove at night).

"Disposable contact lenses" - FDA-approved contact lenses that have a planned replacement schedule (e.g., daily, every two weeks, monthly, quarterly). The contacts are then discarded and replaced with new ones as scheduled. Although many of these lenses are designed for extended wear, MAA generally approves only those lenses that are designed to be worn as daily wear (remove and night).

"Extended wear soft contacts" - Contact lenses that are designed to be worn for longer periods than daily wear (remove at night) lenses. These can be conventional soft contact lenses or disposable contact lenses designed to be worn for several days and nights before removal.

"Hardware" - Eyeglass frames and lenses and contact lenses.

"Specialty contact lens design" - Custom contact lenses that have a more complex design than a standard spherical lens. These specialty contact lenses (e.g., lenticular, aspheric, or myodisc) are designed for the treatment of specific disease processes, such as keratoconus, or are required due to high refractive errors. This definition of specialty contact lens does not include lenses used for surgical implantation.

"Stable visual condition" ((means that)) - A client's eye condition has no acute disease or injury; or the client has reached a point after any acute disease or injury where the variation in need for refractive correction has diminished or steadied. The client's vision condition has stabilized to the extent that eyeglasses or contact lenses are appropriate and that any prescription for refractive correction is likely to be sufficient for one year or more.

"Visual field exams or testing" ((means)) - A process to determine defects in the field of vision and test(s) the function of the retina, optic nerve and optic pathways. The process may include simple confrontation to increasingly complex studies with sophisticated equipment.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0100 Vision care - Eligible clients ((eligibility for vision care services)). (1) ((The medical assistance administration (MAA) covers vision care services for clients eligible for the following "scope of care" designations (see WAC 388-529-0100)) Clients who receive ser-

VICES under the following medical assistance programs are eligible for covered vision care:

(a) Categorically needy program ((e.g.,) CN or CNP((-CHIP, children's health));

(b) ((Medically needy (MNP); and) Categorically needy program - Children's health insurance program (CNP-CHIP);

(c) ((Medical care services (MCS or GAU/ADATSA)) Limited casualty program - medically needy program (LCP-MNP);

(d) General assistance (GA-U/ADATSA) (within Washington state or designated border cities); and

(e) Emergency medical only programs when the services are directly related to an emergency medical condition only.

(2) ((MAA does not cover vision care services for clients with the following program designations:

(a) Medically indigent (MIP) unless the qualifying emergency medical condition is related to the eye(s);

(b) Family planning only;

(c) Any program designated "emergency medical only";  
or

(d) Any other program that does not meet the conditions of subsection (1) of this section)) Clients who are enrolled in an MAA managed care plan are eligible under fee-for-service for covered vision care services that are not covered by their plan, subject to the provisions of chapter 388-544 WAC and other applicable WAC.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0150 Vision care - Provider requirements ((for vision care providers)). (1) ((The following providers are eligible to enroll/contract with MAA to provide and bill for vision care services furnished to eligible clients:

(a) Ophthalmologists/MD or DO.

(b) Optometrists; and

(c) Opticians)) Enrolled/contracted eye care providers must:

(a) Meet the requirements in chapter 388-502 WAC;

(b) Provide only those services that are within the scope of the provider's license;

(c) Obtain all hardware and contact lenses for MAA clients from MAA's contracted supplier; and

(d) Return all unclaimed hardware and contact lenses to MAA's contracted supplier using a postage-paid envelope furnished by the contractor.

(2) ((Enrolled/contracted eye care providers must:

(a) Meet the requirements in chapter 388-502 WAC;

(b) Provide only those services that are within the scope of the provider's license; and

(c) Obtain all hardware and contact lenses from MAA's contract suppliers)) The following providers are eligible to enroll/contract with MAA to provide and bill for vision care services furnished to eligible clients:

(a) Ophthalmologists;

(b) Optometrists;

(c) Opticians; and

(d) Ocularists.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

~~WAC 388-544-0250 Vision care - Covered eye services ((MAA does not cover without MAA's prior authorization)) (examinations and refractions). (1) ((MAA evaluates a request for any service that is listed as noncovered in this chapter under the provisions of WAC 388-501-0165.~~

~~(2) MAA evaluates a request for a service that is in a covered category, but has been determined to be experimental or investigational under WAC 388-531-0550, under the provisions of WAC 388-501-0165 which relate to medical necessity.~~

~~(3) MAA evaluates a request for a covered service that is subject to limitation(s) or other restriction(s), and approves such a service beyond those specific limitations or restrictions when the service is medically necessary, under the standards for covered services in WAC 388-501-0165.~~

~~(4) The vision care services that MAA does not cover without MAA's prior authorization include, but are not limited to:~~

~~(a) Any of the following types of contact lenses:~~

- ~~(i) Disposable lenses;~~
- ~~(ii) Extended wear soft lenses; or~~
- ~~(iii) Extended wear soft toric lenses.~~

~~(b) Any eye service or hardware that MAA considers not to be medically necessary;~~

~~(c) Any eyeglasses (frames and/or lenses) or contact lenses upgraded at private expense to avoid MAA's contract limitations (e.g., frames that are not available through MAA's contract or noncontract frames or lenses for which the client or other person pays the difference between MAA's payment and the total cost) (see WAC 388-544-0300(7) and 388-544-0350(3));~~

~~(d) Bifocal additions to eyeglasses with bifocal correction of less than 1.0 diopter;~~

~~(e) Both eyeglasses and contact lenses in a two year period for any client (see WAC 388-544-0200 (3)(b) for backup eyeglass exceptions);~~

~~(f) Eyeglasses or contact lenses when the prescribed need does not meet the minimum corrections described in this chapter;~~

~~(g) Eyeglasses or contact lenses when the prescription is over two years old;~~

~~(h) Group vision screening for eyeglasses;~~

~~(i) Lens replacements for a refractive change when the client does not have a stable visual condition as defined in WAC 388-544-0050 (see WAC 388-544-0350(1));~~

~~(j) Other vision services or hardware for persons enrolled in MAA's managed care program (Healthy Options) when the requirements of that program have not been met;~~

~~(k) Orthoptics and visual training therapy;~~

~~(l) Plano lenses (no refractive correction) for both eyes, except as provided in WAC 388-544-0350 (12)(a));~~

~~(m) Progressive additions lenses, including blended bifocals;~~

~~(n) Refractive surgery of any type (e.g., Radial Keratotomy or laser resurfacing);~~

~~(o) Separate charges for eye exams conducted in combination with emergency or operating room procedures;~~

~~(p) Strabismus surgery for a client eighteen years of age or older, unless the client meets MAA's established prior authorization criteria for correctable double vision;~~

~~(q) Sunglasses or colored/tinted lenses requested for cosmetic or other nonmedical reasons;~~

~~(r) Two pairs of eyeglasses (e.g., instead of one pair of multifocals); and~~

~~(s) Other services or hardware that do not meet the requirements in this chapter)) The medical assistance administration (MAA) covers eye examinations and refraction services for asymptomatic clients under the following conditions and limitations, unless the circumstances in subsections (2) or (3) of this section apply:~~

~~(a) For clients twenty-one years of age or older, once every twenty-four months;~~

~~(b) For clients twenty years of age or younger, once every twelve months; or~~

~~(c) For clients with developmental disabilities, regardless of age, once every twelve months.~~

~~(2) MAA covers eye examinations and refraction services as often as medically necessary when:~~

~~(a) The provider is diagnosing or treating the client for a medical condition that has symptoms of vision problems or disease; or~~

~~(b) The client is on medication that affects vision.~~

~~(3) MAA covers eye examinations/refractions outside the time limitations in subsection (1) of this section when the eye examination/refraction is necessary due to lost or broken eyeglasses/contacts. In this situation, MAA does not require authorization for children. To receive payment for an adult client, providers must:~~

~~(a) Follow the expedited prior authorization process; and~~

~~(b) Document the following in the client's file:~~

~~(i) The eyeglasses or contacts are lost or broken; and~~

~~(ii) The last examination was at least eighteen months ago.~~

~~(4) MAA covers visual field exams for the diagnosis and treatment of abnormal signs, symptoms, or injuries. To receive payment, providers must document all of the following in the client's record:~~

~~(a) The extent of the testing;~~

~~(b) Why the testing was reasonable and necessary for the client; and~~

~~(c) The medical basis for the frequency of testing.~~

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0300 ((~~Eye~~glasses frames and service)) Vision care - Covered eyeglasses (frames and/or lenses) and repair services. (1) The medical assistance administration (MAA) covers ((pre-approved eyeglass frames through MAA's contracted supplier)) eyeglasses for asymptomatic clients:

(a) Under the following conditions and limitations:

(i) For clients twenty-one years of age or older, once every twenty-four months;

(ii) For clients twenty years of age or younger, once every twelve months; or

(iii) For clients with developmental disabilities, regardless of age, once every twelve months.

(b) When:

(i) The client has a stable visual condition;

(ii) The client's treatment is stabilized;

(iii) The prescription is less than eighteen months old; and

(iv) One of the following minimum correction needs in a least one eye is documented in the client's file:

(A) Sphere power equal to, or greater than, plus or minus 0.50 diopter;

(B) Astigmatism power equal to, or greater than, plus or minus 0.50 diopter; or

(C) Add power equal to, or greater than, 1.0 diopter for bifocals and trifocals.

(2) MAA covers ((eyeglass frames, with specific time limits, for eligible clients who:

(a) Are twenty-one years of age and older, once every twenty-four months;

(b) Are twenty years of age and younger, once every twelve months;

(c) Are identified on the MAID card as being developmentally disabled (adults or children), once every twelve months;

(d) Have been unable to adjust to contact lenses after thirty days. The provider must document the client's inability to adjust and the client must return the contact lenses to the provider)) eyeglasses and/or lenses for clients who are twenty years of age or younger with a diagnosis of accommodative esotropia or any strabismus correction. In this situation, the client is not subject to the requirements in subsection (1)(b) of this section.

(3) MAA covers ((preapproved special)) selected frames called "durable((-and))" or "flexible" frames((")) through MAA's contracted supplier when a client((:

(a) Is diagnosed with a seizure disorder that results in frequent falls; or

(b)) has a diagnosed medical condition that has ((resulted in)) contributed to two or more broken eyeglass frames in a twelve-month period ((e.g., Tourette's syndrome)). To receive payment, providers must follow the expedited prior authorization process.

(4) MAA covers ((replacement eyeglass frames that have been lost, broken, or stolen:

(a) For adults, only with MAA's prior authorization (see WAC 388-501-0165); and

(b) Without MAA's prior authorization for clients who are either:

(i) Twenty years of age or younger; or

(ii) Identified on the MAID card as being developmentally disabled, regardless of the client's age)) the cost of coating contract eyeglass frames to make the frames nonallergenic if the client has a medically diagnosed and documented allergy to the materials in the available eyeglass frames.

(5) MAA ((covers)) pays for incidental repairs to a client's eyeglass frames when ((both)) all of the following apply:

(a) The ((repair or adjustment is not typically provided to the public at no cost; and)) provider typically charges the general public for the repair or adjustment;

(b) The contractor's one year warranty period has expired; and

(c) The cost of the repair does not exceed MAA's cost for replacement frames. ((MAA's reimbursement for repairs does not exceed its payment level for replacement frames.))

(6) ((If the client has a medically diagnosed allergy to the materials in the available eyeglass frames, MAA covers the cost of coating the contract eyeglass frames to make the frames nonallergenic)) MAA covers replacement eyeglass frames and/or lenses that have been lost or broken. To receive payment, providers must follow the expedited prior authorization process for clients twenty-one years of age and older. MAA does not require authorization for clients who are twenty years of age and younger or for clients with developmental disabilities, regardless of age. (See WAC 388-544-0350 for additional coverage of lens replacement.)

(7) MAA ((does not allow clients to upgrade eyeglass frames and pay only the upgrade costs in order to avoid MAA's contract limitations (see WAC 388-544-0250 (1)(e) and 388-544-0350(3)))) covers one pair of back-up eyeglasses when contact lenses are medically necessary and the contact lenses are the client's primary visual correction aid as described in WAC 388-544-0400(1). MAA limits coverage for back-up eyeglasses as follows:

(a) For clients twenty-one years of age and older, once every six years;

(b) For clients twenty years of age or younger, once every two years; or

(c) For clients with developmental disabilities, regardless of age, once every two years.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0350 Vision care - Covered plastic scratch-resistant eyeglass lenses and services. (1) The medical assistance administration (MAA) covers ((medically necessary eyeglass lenses to correct a client's vision if both of the following apply:

(a) The condition requiring correction is a stable visual condition as defined in WAC 388-544-0050; and

(b) The prescription is less than two years old.

(2) MAA covers)) the following ((types of medically necessary)) plastic scratch-resistant eyeglass lenses:

(a) Single vision lenses;

(b) Round or flat top D-style bifocals;

(c) Flat top trifocals ((that are twenty-five or twenty-eight millimeters)); and

(d) Slab-off and prism lenses (including Fresnel lenses)((; and

(e) Glass lenses fifty-four millimeters and smaller)).

(2) MAA allows bifocal lenses to be replaced with single vision lenses or trifocal lenses to be replaced with bifocal or single vision lenses when all of the following apply:

(a) A client has attempted to adjust to the bifocals or trifocals for at least sixty days;

(b) The client is unable to make the adjustment; and

(c) The bifocal or trifocal lenses being replaced are returned to the provider.

(3) ~~((For clients who own their own serviceable eyeglass frames and request lenses only, MAA covers these requests if the lenses are medically necessary and the size and style of the required lens(es) meet MAA's contract requirements))~~ MAA covers high index lenses for clients who require one of the following in at least one eye:

(a) A spherical refractive correction of plus or minus eight diopters or greater; or

(b) A cylinder correction of plus or minus eight diopters or greater.

To receive payment, providers must follow the expedited prior authorization process.

~~(4) MAA covers ((medically necessary lens replacements without regard to time limits when (a), (b), and (c) of this subsection apply:~~

~~(a) One of the following caused the vision change:~~

~~(i) Eye surgery;~~

~~(ii) The effect(s) of prescribed medication; or~~

~~(iii) One or more diseases;~~

~~(b) Both the eye condition and the treatment have stabilized as defined in WAC 388-544-0050, Stable visual condition; and~~

~~(c) The lens correction has at least one diopter difference between the old and new prescriptions.~~

~~(5) MAA covers lens replacement for lost or broken lenses according to the same standards as frames in WAC 388-544-0300 (2) and (4).~~

~~(6) MAA allows bifocal lenses to be replaced with single vision lenses or trifocal lenses to be replaced with bifocals or single vision lenses when all of the following apply:~~

~~(a) A client has attempted to adjust to the bifocals or trifocals for at least sixty days;~~

~~(b) The client is unable to make the adjustment; and~~

~~(c) The bifocal or trifocal lenses being replaced are returned to the provider.~~

~~(7) MAA covers plastic executive bifocals or trifocals only for clients who are diagnosed with:~~

~~(a) Accommodative esotropia; or~~

~~(b) Strabismus.~~

~~(8) MAA covers high index lenses when the client requires a refractive correction of plus or minus eight diopters or greater.~~

~~(9) MAA covers the tinting of plastic lenses when:~~

~~(a) The client's medical need is diagnosed and documented as a chronic eye condition causing photophobia; and~~

~~(b) The tinting is done by MAA's contracted lens supplier.~~

~~(10) MAA covers glass photochromatic lenses when the client's medical need is diagnosed and documented as related to either (a) or (b) of this subsection:~~

~~(a) Ocular albinism; or~~

~~(b) Blindness, defined as:~~

~~(i) Visual acuity for distance vision of twenty-two hundred or worse in the better eye with best correction; or~~

~~(ii) A limitation of the client's visual field (widest diameter) subtending an angle of less than twenty degrees from central.~~

~~(11) MAA covers treating plastic lenses for scratch resistance only when the client is either:~~

~~(a) Twenty years of age or younger; or~~

~~(b) Identified on the MAID card as being developmentally disabled.~~

~~(12) MAA covers polycarbonate lenses when a client is any of the following:~~

~~(a) Blind in one eye as defined in subsection (10) of this section and the client needs protection for the other eye, regardless of whether a vision correction is required;~~

~~(b) Twenty years of age or younger and diagnosed with strabismus or amblyopia; or~~

~~(c) Identified on the MAID card as being developmentally disabled))~~ the tinting of plastic lenses through MAA's contracted lens supplier. The client's medical need must be diagnosed and documented as one or more of the following chronic (expected to last longer than three months) eye conditions causing photophobia:

(a) Blindness;

(b) Chronic corneal keratitis;

(c) Chronic iritis, iridocyclitis;

(d) Diabetic retinopathy;

(e) Fixed pupil;

(f) Glare from cataracts;

(g) Macular degeneration;

(h) Migraine disorder;

(i) Ocular albinism;

(j) Optic atrophy and/or optic neuritis;

(k) Rare photo-induced epilepsy conditions; or

(l) Retinitis pigmentosa.

(5) MAA covers plastic photochromatic lenses when the client's medical need is diagnosed as relating to ocular albinism or retinitis pigmentosa.

(6) MAA covers polycarbonate lenses as follows:

(a) For clients who are blind in one eye and need protection for the other eye, regardless of whether a vision correction is required;

(b) Infants and toddlers with motor ataxia;

(c) For clients twenty years of age or younger who are diagnosed with strabismus or amblyopia; or

(d) For clients with developmental disabilities.

(7) MAA covers requests for lenses only when the client owns frames not purchased by MAA, when:

(a) The eyeglass frames are serviceable (MAA and MAA's contractor do not accept responsibility for these frames); and

(b) The size and style of the required lenses meet MAA's contract requirements.

(8) MAA covers replacement lenses as follows:

(a) Due to lost or broken lenses according to WAC 388-544-0300(6); and

(b) Due to refractive changes, without regard to time limits, when caused by one of the following:

(i) Eye surgery, the effects of prescribed medication, or one or more diseases affecting vision. In this case, all of the following must be documented in the client's file:

(A) The client has a stable visual condition;

(B) The client's treatment is stabilized;

(C) The lens correction must have a 1.0 or greater diopter change between the sphere or cylinder correction in at least one eye; and

(D) The previous and new refraction.

(ii) Headaches, blurred vision, or difficulty with school or work. In this case, all of the following must be documented in the client's file:

(A) Copy of current prescription (less than eighteen months old);

(B) Date of last dispensing, if known;

(C) Absence of a medical condition that is known to cause temporary visual acuity changes (e.g., diabetes, pregnancy, etc.); and

(D) A refractive change of at least .75 diopter or greater between the sphere or cylinder correction in at least one eye.

(c) To receive payment for replacement lenses, providers must follow the expedited prior authorization process.

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0400 Vision care - Covered contact lenses and services. (1) The medical assistance administration (MAA) covers ((gas permeable or daily wear soft contact lenses as the client's primary refractive correction method if a client has a vision correction of plus or minus 6.0 diopters or greater.

~~(2) MAA does not cover contact lenses if the client's ocular condition makes it medically inadvisable (contraindicated) for the client to use contact lenses.~~

~~(3) MAA covers contact lens replacements:~~

~~(a) Once every twelve months for normal replacement;~~

~~or~~  
~~(b) When the contact lenses are lost or damaged, with the following limitations:~~

~~(i) The prescription must not be over seventeen months old; and~~

~~(ii) The date of dispensing for the lost or damaged lenses must not be within the past eleven months.~~

~~(4) MAA does not cover contact lenses for a patient who has received MAA covered eyeglasses within the past two years unless the provider:~~

~~(a) Documents the medical necessity to MAA's satisfaction; and~~

~~(b) Receives prior authorization from MAA.~~

~~(5) MAA covers soft toric contact lenses (daily wear) for clients with astigmatism requiring a correction equal to or greater than one diopter (plus or minus).~~

~~(6) MAA covers lenticular, aspheric and mydise contact lenses when the client has one or more of the following:~~

~~(a) Multiple cataract surgeries on the same eye;~~

~~(b) Aphakia;~~

~~(c) Keratoconus with refractive error of plus or minus ten diopters; or~~

~~(d) Corneal softening (e.g., bullous keratopathy).~~

~~(7) MAA covers contact lenses when:~~

~~(a) The client has high anisometropia (the eyes have refractive errors that differ, left to right, by plus or minus three diopters or greater); and~~

~~(b) Eyeglasses cannot reasonably correct the refractive errors)) the following types of contact lenses as the client's primary refractive correction method when a client has a spherical correction of plus or minus 6.0 diopters or greater in at least one eye. In order to qualify for the spherical correc-~~

~~tion, the prescription may be from either the glasses or the contact lenses prescriptions and/or written in either "minus cyl" or "plus cyl" form. See subsection (2) of this section for exception to the plus or minus 6.0 diopter criteria.~~

~~(a) Conventional soft contact lenses or rigid gas permeable contact lenses that are prescribed for daily wear; or~~

~~(b) Disposable contact lenses that are prescribed for daily wear and have a monthly or quarterly planned replacement schedule, as follows:~~

~~(i) Twelve pairs of monthly replacement contact lenses;~~

~~or~~  
~~(ii) Four pairs of three-month replacement contact lenses.~~

~~(2) For clients diagnosed with high anisometropia, MAA covers the contact lenses in subsection (1) of this section when the client's refractive error difference between the two eyes is plus or minus 3.0 diopters and eyeglasses cannot reasonably correct the refractive errors.~~

~~(3) A client who qualifies for contact lenses as the primary refractive correction method must choose one style of contact lenses from those listed in subsection (1) of this section for each twelve-month period of coverage.~~

~~(4) MAA covers soft toric contact lenses for clients with astigmatism requiring a cylinder correction of plus or minus 1.0 diopter in at least one eye and the client also meets the spherical correction listed in subsection (1) of this section.~~

~~(5) MAA covers specialty contact lens designs for clients who are diagnosed with one or more of the following:~~

~~(a) Aphakia;~~

~~(b) Keratoconus; or~~

~~(c) Corneal softening.~~

~~(6) MAA covers replacement contact lenses as follows:~~

~~(a) Once every twelve months for lost or damaged contact lenses; or~~

~~(b) As often as medically necessary when all of the following apply:~~

~~(i) One of the following caused the vision change:~~

~~(A) Eye surgery;~~

~~(B) The effect(s) of prescribed medication; or~~

~~(C) One or more diseases affecting vision.~~

~~(ii) The client as a stable visual condition;~~

~~(iii) The client's treatment is stabilized; and~~

~~(iv) The lens correction has a 1.0 or greater diopter change in at least one eye between the sphere or cylinder correction. The previous and new refraction must be documented in the client's record.~~

~~(c) To receive payment for adults, providers must follow the expedited prior authorization process. Prior authorization is not required for children or for clients with developmental disabilities.~~

~~(7) MAA covers therapeutic contact bandage lenses only when needed immediately after eye injury or eye surgery.~~

AMENDATORY SECTION (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

WAC 388-544-0450 ((Therapeutic contact bandage lenses)) Vision care - Prior authorization. ((The medical assistance administration (MAA) covers therapeutic contact bandage lenses only when needed immediately after:))



(1) ~~((Eye injury; or))~~ The medical assistance administration (MAA) requires a provider to follow the prior authorization and expedited prior authorization (EPA) process for certain vision care services as identified in this chapter.

(2) ~~((Eye surgery))~~ For prior authorization (PA), a provider must call or fax MAA using the appropriate telephone or fax number listed in MAA's published vision care billing instructions.

(3) For expedited prior authorization (EPA), a provider must create an EPA number. The process and criteria used to create this authorization number are explained in MAA's published vision care billing instructions. The EPA number must be used when the provider bills MAA.

(4) MAA denies payment for vision care submitted without the required PA or EPA number, or the appropriate diagnosis or procedure code as indicated by the EPA number.

(5) Upon request, a provider must provide documentation to MAA showing how the client's condition met the criteria for PA or EPA.

(6) MAA may recoup any payment made to a provider under this chapter if MAA later determines that the service was not properly authorized or did not meet the EPA criteria. Refer to WAC 388-502-0100 (1)(c).

(7) When a client's situation does not meet the EPA criteria for vision care, or a requested service or item exceeds the limit indicated in this chapter, a provider must follow the requirements of WAC 388-501-0165.

(8) MAA evaluates a request for any service that is listed as noncovered in this chapter under the provisions of WAC 388-501-0160.

#### NEW SECTION

**WAC 388-544-0475 Vision care - Noncovered services, eyeglasses, and contact lenses.** The medical assistance administration (MAA) does not cover the following:

- (1) Executive style eyeglass lenses;
- (2) Bifocal contact lenses;
- (3) Daily and two week disposable contact lenses;
- (4) Extended wear soft contact lenses, except when used as therapeutic contact bandage lenses or for aphakic clients;
- (5) Services for cosmetic purposes only;
- (6) Glass lenses including those that darken when exposed to light;
- (7) Group vision screening for eyeglasses;
- (8) Nonglare or anti-reflective lenses;
- (9) Orthoptics and visual training therapy;
- (10) Progressive lenses;
- (11) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens corrections. This does not include intraocular lens implantation following cataract surgery.
- (12) Sunglasses and accessories that function as sunglasses (e.g., "clip-ons");
- (13) Upgrades at private expense to avoid MAA's contract limitations (e.g., frames that are not available through MAA's contract or noncontract frames or lenses for which the client or other person pays the difference between MAA's payment and the total cost).

**AMENDATORY SECTION** (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

**WAC 388-544-0500 Vision care - Ocular prosthetics.** The medical assistance administration (MAA) covers medically necessary ocular prosthetics ~~((which are medically necessary and))~~ when provided by any of the following:

- (1) An ophthalmologist;
- (2) An ocularist; or
- (3) An optometrist who specializes in orthotics.

**AMENDATORY SECTION** (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

**WAC 388-544-0550 ((Cataract)) Vision care - surgery.** (1) The medical assistance administration (MAA) covers cataract surgery when:

- (a) It is included in the scope of care for the client's medical program;
  - (b) It is medically necessary as defined in subsection (2) of this section; and
  - (c) The provider clearly documents the need in the client's record.
- (2) MAA considers ((the)) cataract surgery to be medically necessary when the client has:
- (a) Correctable visual acuity in the affected eye at 20/50 or worse, as measured on the Snellen test chart; or
  - (b) One or more of the following conditions:
    - (i) Dislocated or subluxated lens;
    - (ii) Intraocular foreign body;
    - (iii) Ocular trauma;
    - (iv) Phacogenic glaucoma;
    - (v) Phacogenic uveitis; ~~((or))~~
    - (vi) Phacoanaphylactic endophthalmitis; or
    - (vii) Increased ocular pressure in a person who is blind and is experiencing ocular pain.

(3) MAA covers ~~((cataract surgery as a nonemergent procedure under any of its medical coverage programs, unless the client is diagnosed as being statutorily blind as defined in WAC 388-544-0350 (10)(b). If the client is blind, the need for cataract surgery is emergent and the cataract surgery is covered by MAA, even if the client is eligible only for medically indigent coverage (MIP)))~~ strabismus surgery as follows:

- (a) For clients seventeen years of age and younger, when medically necessary. The provider must clearly document the need in the client's record.
- (b) For clients eighteen years of age and older when:
  - (i) The client has double vision; and
  - (ii) The surgery is not performed for cosmetic reasons.
- (c) To receive payment for clients eighteen years of age and older, providers must follow MAA's expedited prior authorization process listed in WAC 388-544-0450. MAA does not require authorization for clients seventeen years of age and younger.
- (4) MAA covers blepharoplasty or blepharoptosis surgery for noncosmetic reasons when:
  - (a) The excess upper eyelid skin impairs the vision by blocking the superior visual field; and
  - (b) The vision is blocked to within ten degrees of central fixation using a central visual field test.

**AMENDATORY SECTION** (Amending WSR 01-01-010, filed 12/6/00, effective 1/6/01)

**WAC 388-544-0600 Vision care - Payment methodology.** (1) In order to receive payment, vision care providers must bill the medical assistance administration (MAA) according to the conditions of payment under WAC 388-502-0020 (1)(a) through (c) and WAC 388-502-0100 and MAA's published billing instructions.

(2) ~~((The medical assistance administration (MAA)))~~ MAA covers one hundred percent of the MAA contract price for eyeglass frames, lenses, and contact lenses when these items are obtained through MAA's approved contract(s).

~~((2))~~ (3) See WAC 388-531-1850 for professional fee payment methodology.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-544-0200 Vision care services MAA covers without MAA's prior authorization.

**WSR 05-09-002**  
**PROPOSED RULES**  
**STATE BOARD OF HEALTH**

[Filed April 7, 2005, 8:14 a.m.]

Continuance of WSR 05-02-082.

Preproposal statement of inquiry was filed as WSR 02-03-137.

**Title of Rule and Other Identifying Information:** Chapter 246-272A WAC, Onsite sewage systems, this chapter contains the design, installation and operation requirements for onsite sewage systems handling 3,500 gallons per day and under; specific criteria for proprietary product registration; and direction to local health jurisdictions to develop an onsite sewage system management plan.

**Hearing Location(s):** Alderbrook Resort, 10 East Alderbrook [Alderbrook] Drive, Union, WA 98592, on May 11, 2005, at 1:30 p.m.

**Date of Intended Adoption:** May 11, 2005.

**Assistance for Persons with Disabilities:** Contact Desiree Robinson by May 1, 2005, TTY (800) 833-6388 or (360) 236-4107.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of this continuance is to allow the board additional time to fully assess input received during the public comment period, which concluded at the board's March 9 meeting. The board will continue discussion on this item at its May 11, 2005, meeting. At that time, it will decide whether to adopt the rule, file a supplemental proposal with another public comment period, or take some other course of action. Interested persons may view the meeting agenda at <http://www.sboh.wa.gov>.

The proposed rule is intended to protect the public health by updating the design, installation and operation requirements for onsite sewage systems. The proposed changes were based on new understanding of the technology that has emerged since the last time the rule was revised, in 1995. The proposal moves the specific criteria for registering the various types of products and technologies from guidance to rule. The proposal also requires local health jurisdictions to write an onsite sewage management plan. High-risk (marine shoreline) counties are required to complete a more extensive plan.

**Reasons Supporting Proposal:** The proposed rule will help ensure: The requirements for onsite systems reflect current technology; new systems are appropriate to the types of soils in which they are situated; and local health jurisdictions are able to identify existing and new systems in their communities. These changes will help prevent public health risks that occur when sewage systems are not designed, installed and operated properly. The changes will specifically help protect public health by reducing the health risks associated with inadequately treated sewage contaminating groundwater, surface water, or the ground with bacteria, viruses or other pathogens.

**Statutory Authority for Adoption:** RCW 43.20.050.

**Statute Being Implemented:** RCW 43.20.050.

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

**Name of Proponent:** Washington State Board of Health and Washington State Department of Health, governmental.

**Name of Agency Personnel Responsible for Drafting:** Kelly Cooper, 7171 Clearwater Lane, Building 2, Tumwater, WA 98504, (360) 236-3012; **Implementation and Enforcement:** Maryanne Guichard, 7171 Clearwater Lane, Building 4, Tumwater, WA 98504, (360) 236-3391.

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

#### Small Business Economic Impact Statement

[See WSR 05-02-082.]

A copy of the statement may be obtained by contacting Kelly Cooper, P.O. Box 47820, Olympia, WA 98504, phone (360) 236-3012, fax (360) 236-2250, e-mail [Kelly.cooper@doh.wa.gov](mailto:Kelly.cooper@doh.wa.gov).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kelly Cooper, P.O. Box 47820, Olympia, WA 98504, phone (360) 236-3012, fax (360) 236-2250, e-mail [Kelly.cooper@doh.wa.gov](mailto:Kelly.cooper@doh.wa.gov).

April 4, 2005  
Craig McLaughlin  
Executive Director

**WSR 05-09-011**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 7, 2005, 3:54 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-02-045.

Title of Rule and Other Identifying Information: Sea cucumber buy-back rules.

Hearing Location(s): Clarion Hotel, 1507 North First Street, Yakima, WA, on June 17-18, 2005, begins at 8:00 a.m., June 17, 2005.

Date of Intended Adoption: June 17, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by June 14, 2004.

Assistance for Persons with Disabilities: Contact Susan Yeager by June 3, 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 sea cucumber buy back to increase maximum amount that can be paid.

Reasons Supporting Proposal: Encourage participation in buy back program.

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: Jim Lux, 1111 Washington Street, Olympia, (360) 902-2444; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

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

**Small Business Economic Impact Statement**

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: There are no reporting, record-keeping, or other compliance requirements for this rule. The sea cucumber buy back program is an industry-funded program to reduce the number of sea cucumber licenses. Election to participate in the program is voluntary.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: There are minimal costs of compliance. Persons who wish to offer their license for sale make an offer by mail. The total costs are taking time to fill out the preprinted offer form and the cost of mailing it back to the department.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? Persons who sell their license back to the department will have that license retired.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

The total out-of-pocket costs are postage.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The department has preprinted the offer sheet, and provides envelopes for mailing.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The sea cucumber advisory board was consulted on the offer amount, and felt that a 50% increase in the maximum offer amount (\$8,000 to \$12,000) was reasonable.

8. A List of Industries That Will Be Required to Comply with the Rule: No one is required to comply with this rule. Only current sea cucumber licensees may participate.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

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

April 7, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 02-184, filed 8/9/02, effective 9/9/02)

**WAC 220-95-110 Sea cucumber license reduction program.** In order to provide for economic stability in the commercial sea cucumber fishery, and in accordance with RCW 77.70.190, the department establishes the sea cucumber license reduction program (program).

(1) Eligibility: All persons who currently hold a sea cucumber commercial fishery license are eligible to offer their license(s) for purchase under the program.

(2) Method of purchase: The department will rank offers to sell sea cucumber licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.190, with a maximum purchase price of ~~\$(8,000)~~ 12,000 per license.

(3) Offer process: The department will accept offers to sell beginning August 1st of each year and will purchase licenses based on the funds that are available on the following September 30th.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

(6) No prohibition on reentry: License holders who sell a license under the program may reenter the sea cucumber commercial fishery.

(7) Program termination: This program terminates when the number of sea cucumber commercial fishery licensees is reduced to twenty-five.

### WSR 05-09-018

#### PROPOSED RULES

#### STATE BOARD FOR

#### COMMUNITY AND TECHNICAL COLLEGES

[Filed April 11, 2005, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-019.

Title of Rule and Other Identifying Information: Tuition charges for uncertain ungraded courses.

Hearing Location(s): Big Bend Community College, 7662 Chanute, Moses Lake, WA 98837, on June 23, 2005, at 10:00 a.m.

Date of Intended Adoption: June 23, 2005.

Submit Written Comments to: DelRae Oderman, P.O. Box 42495, Olympia, WA 98504, e-mail doderman@sbctc.ctc.edu, fax (360) 586-6440, by June 6, 2005.

Assistance for Persons with Disabilities: Contact Del-Rae Oderman by June 6, 2005, fax (360) 586-6440.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 28B.50 RCW provides that the State Board for Community and Technical Colleges is responsible for establishing the fees for certain ungraded courses. The proposed change would provide for college flexibility within certain parameters related to apprentice programs.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: Section 603, chapter 371, Laws of 2002.

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

Name of Proponent: State Board for Community and Technical Colleges, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Reykdal, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4390; Implementation and Enforcement: Mary Alice Grobins, 319 7th Avenue S.E., Olympia, WA 98504, (360) 704-4381.

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

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

April 11, 2005

DelRae Oderman

Executive Assistant

Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-11-027, filed 5/11/04, effective 6/11/04)

**WAC 131-28-026 Tuition charges for certain ungraded courses.** (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025. Ungraded shall mean courses not categorized by level of instruction and may be assigned degree credit or letter grades.

(2) Ungraded courses shall meet the following qualifications:

(a) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(b) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge that is intended to enhance potential for initial or continued employment, parenting skills or retirement.

(c) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(d) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journeyperson training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: An amount to be established by the state board.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices registered with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: A college shall waive one-half of the standard per credit tuition and services and activities fee. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may (~~not~~) deduct the tuition owed from training contracts with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15-.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

**WSR 05-09-023**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 12, 2005, 2:36 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-06-104.

Title of Rule and Other Identifying Information: Aquatic farm registration rules.

Hearing Location(s): Clarion Hotel, 1507 North First Street, Yakima, WA, on June 17-18, 2005, begins at 8:00 a.m., June 17, 2005.

Date of Intended Adoption: June 17, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by June 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by June 3, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend aquatic farm registration to require each farm site to be separately registered, rather than all sites within an aquaculture district being registered as a single farm.

Reasons Supporting Proposal: This clarifies the source of aquatic farm product.

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.

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

**Small Business Economic Impact Statement**

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule:

Aquatic farmers will be required to separately register each geographically isolated farm site. Since farmers are currently required to provide site maps and proof of lawful occupation for each site, the additional requirement in the application process is to complete a separate (free) application for each site, rather than grouping all sites within a single aquaculture district into one site registration.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The compliance cost is completing a separate registration application for each site.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

The cost is minimum. All current application requirements meet the new rule, with the single exception of a separate application for each geographically isolated site.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency has supplied the registration forms, and there is no cost to register an aquatic farm.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: Public hearing.

8. A List of Industries That Will Be Required to Comply with the Rule: Aquatic farmers.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

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

April 12, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 86-102, filed 9/12/86)

**WAC 220-76-015 Aquatic farm—Definition.** An aquatic farm is any facility or tract of land used for private, commercial culture of aquatic products. Each geographically separate facility or tract of land used for commercial culture shall constitute a separate farm. ~~((In marine waters, facilities, or tracts of land in the same marine aquaculture district which are owned or operated by the same person shall be considered to be a single farm for the purposes of this section.))~~

**WSR 05-09-028**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed April 12, 2005, 2:43 p.m.]

**Original Notice.**

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

Title of Rule and Other Identifying Information: WAC 308-30-100 Fees.

Hearing Location(s): Department of Licensing, Room 209, 405 Black Lake Boulevard, Olympia, WA 98502, on May 24, 2005, at 3:00 p.m.

Date of Intended Adoption: May 26, 2005.

Submit Written Comments to: Linda Mead, Program Manager, P.O. Box 9027, Olympia, WA 98507-9027, e-mail Notaries@dol.wa.gov, fax (360) 586-4414, by May 20, 2005.

Assistance for Persons with Disabilities: Contact Linda Mead by May 20, 2005, TTY (360) 664-8885 or (360) 664-1550.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To increase the fees for an application for notary appointment and also for renewal of notary appointment. The amount of the increase is \$10.00 for a four-year appointment.

Reasons Supporting Proposal: The notary program is subject to RCW 43.24.086 that requires the program to be self-supporting.

Statutory Authority for Adoption: RCW 43.24.086, 42.44.190, 43.35.055, WAC 308-30-100.

Statute Being Implemented: RCW 42.44.190 and 43.24.086.

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: The budget for 2003-2005 provided the following:

"Pursuant to RCW 43.135.055, during the 2003-05 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs."

The fees for this program were last adjusted fifteen years ago. Program expenditures currently exceed revenues and the six-year budget projections indicate a larger deficit as expenditures increase. The proposed fees should sustain the program until 2011.

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret Vogeli, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1530; Implementation: Linda Mead, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1531; and Enforcement: Jon Donnellan, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1528.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3) this rule making is exempt.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Licensing is not one of the named agencies.

April 11, 2005  
 Jon Donnellan  
 Administrator

**AMENDATORY SECTION** (Amending WSR 90-06-052, filed 3/2/90, effective 4/2/90)

**WAC 308-30-100 Fees.** The following fees shall be charged by the director of the department of licensing:

<b>Title of Fee</b>	<b>Fee</b>
Application for notary appointment	\$((20.00)) <u>30.00</u>
Renewal of notary appointment	((20.00)) <u>30.00</u>
Duplicate certificate of appointment (including change of name)	15.00
Evidence of verification of notarial commission	15.00
Apostille	15.00

**WSR 05-09-032**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed April 13, 2005, 9:27 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-24-100.

Title of Rule and Other Identifying Information: WAC 458-20-216 Successors, quitting business.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on May 25, 2005, at 9:30 a.m.

Date of Intended Adoption: June 1, 2005.

Submit Written Comments to: Allan C. Lau, P.O. Box 47453, Olympia, WA 98504-7453, e-mail AllanL@dor.wa.gov, fax (360) 586-5543, by May 25, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 82.32.140 requires a taxpayer to remit any outstanding tax liability to the Department of Revenue within ten days of quitting business. If this tax is not paid by the taxpayer, any successor to the taxpayer becomes liable for the outstanding tax. This rule explains under what circumstances a person is considered a successor to a person quitting business. It explains the successor's responsibility for payment of an outstanding tax liability incurred owed by the person taxpayer quitting business, whether that liability is known at the time of purchase or not. This rule also provides examples illustrating when successorship does or does not apply.

PROPOSED

The department is proposing a revision to this rule to incorporate provisions of chapter 13, Laws of 2003 1st sp.s. These provisions changes revised RCW 82.04.180 and 82.32.140 to change the conditions under which a person becomes a successor. They also provide that if the fair market value of assets acquired by a successor is less than \$50,000, the successor's liability for payment of the taxpayer's unpaid tax is limited to the fair market value of the acquired assets.

Reasons Supporting Proposal: To update the rule to reflect legislative changes.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: To the extent the following apply to successorship - RCW 82.32.140, 82.04.180, and 82.32.330.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

April 13, 2005

Alan R. Lynn

Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 99-08-034, filed 3/31/99, effective 5/1/99)

**WAC 458-20-216 Successors, quitting business.** (1) **Introduction.** RCW 82.32.140 requires a taxpayer to remit any outstanding tax liability to the department of revenue (department) within ten days of quitting business. If this tax is not paid by the taxpayer, any successor to the taxpayer becomes liable for the outstanding tax. This rule explains under what circumstances a person is considered a successor to a person quitting business. It explains the successor's responsibility for payment of an outstanding tax liability (~~incurred~~) owed by the (~~person~~) taxpayer quitting business, whether that liability is known at the time of purchase or not. This rule also provides examples illustrating when successorship does or does not apply.

(2) (~~"Successor" defined. For purposes of this rule, the term "successor" means:~~) Who is a "successor"?

(a) "Successor" on or after July 1, 2003.

(i) RCW 82.04.180 provides that a "successor" is:

(A) Any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, (~~a major part of the mate-~~

~~rials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. RCW 82.04.180. Persons acquiring only intangible assets such as copyrights and trademarks are not "successors."~~

(i) ~~A person is a successor if he or she acquires a major part of the taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment in bulk, whether he or she operates the business or not. A person acquires a "major part" of the materials, supplies, merchandise, inventory, fixtures, or equipment if he or she acquires more than fifty percent of the fair market value of any such property at the time of conveyance.~~

(ii) ~~However, persons who acquire a major part of a taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, or judgment, or by repossession under a security agreement are not successors.~~

(b)) more than fifty percent of the fair market value of either (I) tangible assets or (II) intangible assets:

(B) Any surviving corporation of a statutory merger; or

(C) Any person obligated to fulfill the terms of a contract as a surety or guarantor of a defaulting contractor, in which case the person is deemed a successor only to that contract. (RCW 82.04.180.

~~(3) Responsibility)) (ii) A person, however, is not a "successor" if the person acquires more than fifty percent of the fair market value of the tangible or intangible assets of the taxpayer through insolvency proceedings, regular legal proceedings to enforce a lien, security interest, or judgment, or by repossession under a security agreement.~~

(b) "Successor" prior to July 1, 2003.

(i) RCW 82.04.180 provides that a "successor" is:

(A) Any person who acquired a major part of the taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment, in bulk, whether he or she operates the business or not. A person acquires a "major part" of the taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment if he or she acquired more than fifty percent of the fair market value of such property at the time of the sale or conveyance;

(B) Any surviving corporation of a statutory merger occurred prior to July 1, 2003, that is not a successor under RCW 82.04.180 but can be liable for a disappearing company's tax liabilities under other provisions of the law; or

(C) Any person obligated to fulfill the terms of a contract as a surety or guarantor of a defaulting contractor, in which case the person is deemed a successor only to that contract.

(ii) A person, however, is not a "successor" if the person acquires a major part of a taxpayer's materials, supplies, merchandise, inventory, fixtures, or equipment through insolvency proceedings, regular legal proceedings to enforce a lien, security interest, or judgment, or by repossession under a security agreement.

(3) What are tangible and intangible assets for purposes of this rule?

(a) Tangible assets. "Tangible assets" include, but are not limited to, materials, supplies, merchandise, inventory, equipment, or other tangible personal property.

**(b) Intangible assets.** "Intangible assets" include, but are not limited to, all moneys and credits including mortgages, notes, accounts, certificates of deposit; tax certificates; judgments; state, county and municipal bonds; bonds of the United States and of foreign countries; bonds, stocks, or shares of private corporations; personal service contracts; trademarks; trade names; brand names; patents; copyrights; trade secrets; franchise agreements; licenses; permits; core deposits of financial institutions; noncompete agreements; business name; telephone numbers and internet addresses; customer or patient lists; favorable contracts and financing agreements; reputation; exceptional management; prestige; good name; integrity of a business; or other intangible personal property.

**(4) What are taxpayer's responsibilities for outstanding tax liability?** Whenever a taxpayer quits business, or sells out, exchanges, or otherwise disposes of more than fifty percent of the tangible or intangible assets of the business, any tax administered by the department and which the taxpayer is liable for is immediately due and payable. The taxpayer must, within ten days (of quitting, selling out, exchanging, or otherwise disposing of the business), complete a tax return and pay the tax due. RCW 82.32.140.

**(5) What are successor's responsibilities for taxpayer's outstanding tax liability?**

**(a) Withholding tax or obtaining documentation that no tax is due from taxpayer.** A successor must withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until the taxpayer produces either a statement of tax status from the department showing payment in full of any tax due or a certificate from the department that no tax is due. If the tax is not paid by the taxpayer within ten days from the date of sale, exchange, or disposal of the business, the successor will become liable for the payment of the full amount of tax. A successor is not liable for interest or penalties associated with the taxpayer's tax liability. RCW 82.32.140.

**(b) Payment of successor liability is payment against purchase price.** The payment of the taxpayer's tax liability by the successor is deemed a payment upon the purchase price. If the sum of the payment to the department plus any payments made, directly or indirectly, to the taxpayer is greater in amount than the purchase price, the amount of the difference becomes a debt due the successor from the taxpayer. RCW 82.32.140.

**(c) Limitation on successor's responsibility for taxpayer's outstanding tax liability.** Effective July 1, 2003, if the fair market value of the assets acquired by a successor is less than fifty thousand dollars, the successor's liability for payment of the unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor.

**(6) Can a successor avoid responsibility for taxpayer's outstanding tax liability?**

**(a) What must a successor do to avoid responsibility for tax due by a taxpayer?** A successor is not liable for any tax due from the taxpayer if

(i) the successor provides written notice of the acquisition to the department and

(ii) within six months of receiving the written notice, the department has not issued a tax assessment against the taxpayer and mailed a copy of a notice of tax due to the successor. RCW 82.32.140. The six-month period begins upon the department's receipt of the written notice, or the date the person becomes a successor, whichever is later.

If there are circumstances that prohibit an audit from being completed within six months of the department receiving a proper written notice, the successor and the department may execute a Liability of Successor Waiver Agreement (Form Rev 31 0068) to extend the time in which the department may issue a tax assessment, and the successor will remain liable for the taxes. In lieu of executing such agreement, the department may issue a protective assessment under RCW 82.32.100 if the records cannot be made available for examination in a timely manner.

**(b) How does a successor notify the department of the acquisition of a taxpayer?** Written notice of the acquisition must be made on a form prescribed by the department, or it must contain substantially the same information. The written notice must be provided by mailing to the Department of Revenue, Attn: Successorship Notices, P.O. Box 47476, Olympia, Washington 98504-7476 (or to one of the department's field offices). The six-month period begins upon the department's receipt of the written notice). The written notice must contain the following information:

(i) The predecessor taxpayer's name, business name, address, and UBI number (if known);

(ii) The successor's name, business name, address, and UBI number;

(iii) The date of the acquisition;

(iv) Whether or not the successor acquired more than fifty percent of the tangible or intangible assets of the predecessor taxpayer (who was quitting business; and

(v) A description of the assets acquired

and their estimated fair market value;

(vi) The total costs of acquisition; and

(vii) How the person became a successor (i.e., asset purchase, merger, guarantor of a defaulting contractor, etc.).

**(7) Disclosure.** The department is not prohibited from disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded. RCW 82.32.330. For example, a successor is liable under RCW 82.32.140 within an audit period of the predecessor taxpayer. The department is only authorized to provide the successor return or tax information within that audit period pertaining to the specific business of the predecessor taxpayer.

**(8) Tax deferrals not terminated.** A tax deferral granted to a predecessor taxpayer may be transferred to the successor if the successor meets the eligibility requirements for the remaining periods of the deferral and the parties agree in writing that the successor will assume liability for the tax deferral. RCW 82.60.060, 82.63.045, 82.68.050 and 82.69.-



PROPOSED

050. If the deferral is transferred, the successor of the investment project is liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient of the deferral. If the deferral is not transferred, the successor's liability for deferred tax is limited to the deferred taxes due at the time of the transfer. Refer to WAC 458-20-24001 and 458-20-24001A (Sales and use tax deferral—Manufacturing and research/development activities in distressed areas), 458-20-24002 (Sales and use tax deferral—New manufacturing and research/development facilities), and 458-20-24003 (Tax incentives for high technology businesses) for further reference regarding successors of deferral investment projects.

(9) Examples. The following factual situations illustrate the application of successorship. These factual situations should be used only as a general guide. The successorship status of each situation depends on all the facts and circumstances. Assume all the examples below occur on or after July 1, 2003.

(a) Example 1. Taxpayer quits business and sells all equipment, fixtures, and inventory to one purchaser. The taxpayer may be either solvent or insolvent at the time of sale. The purchaser is a successor.

(b) Example 2. Taxpayer quits business, selling ~~((only))~~ all of its intangible assets consisting of customer lists and a covenant not to compete. The purchaser is ~~((not))~~ a successor.

(c) Example 3. Taxpayer sells its entire business, including all fixtures and equipment ~~((60% of its tangible assets))~~ to Purchaser A, and all inventory ~~((40% of its tangible assets))~~ to Purchaser B. ~~((Both purchasers are successors.))~~ Purchaser A is a successor. Purchaser B is not a successor.

(d) Example 4. Taxpayer sells its entire business, including all ~~((fixtures, equipment, and inventory in the following percentages of fair market value))~~ assets as follows to three purchasers on January 1, 2004:

PURCHASER A	PURCHASER B	PURCHASER C
<del>((55% of))</del>	<del>((25% of fixtures))</del>	<del>((20% of fixtures))</del>
<u>Fixtures of</u>	<u>Equipment of</u>	<u>Receivable of</u>
<u>\$100,000</u>	<u>\$100,000</u>	<u>\$45,000</u>
<del>((30% of equipment</del>	<u>30% of equipment</u>	<u>40% of equipment))</u>
<del>((30% of))</del>	<del>((55% of inventory</del>	<del>15% of inventory))</del>
<u>Inventory of</u>		
<u>\$200,000</u>		

Purchaser A is a successor because it has acquired ~~((a major part, 55%))~~ more than 50% of the fair market value, of the ~~((fixtures))~~ tangible assets of the taxpayer. Purchaser B is not a successor because it has acquired ~~((a major part, 55%))~~ less than 50% of the fair market value ~~((;))~~ of the ~~((inventory))~~ tangible assets of the taxpayer. Purchaser C is ~~((not))~~ a successor because it has ~~((not))~~ acquired ~~((a major part of any of the categories of))~~ more than 50% of the intangible assets ~~((sold by))~~ of the taxpayer. Purchaser C's tax liability is limited to \$45,000 because the fair market value of the assets acquired is less than \$50,000.

(i) On February 1, 2004, Purchaser C provides a proper written notice to the department regarding its purchase from

the taxpayer. Purchaser A does not provide any written notice to the department regarding its purchase from the taxpayer. On September 30, 2004, the department issues a tax assessment to the taxpayer for \$100,000 in taxes owed, plus penalties and interest. A copy of the tax assessment is also mailed to Purchaser A as a successor to the taxpayer. Purchaser A is liable for the \$100,000 in taxes owed by the taxpayer since it did not provide a proper written notice to the department. Purchaser C is not liable for the \$100,000 in taxes because it provided a proper written notice, and the department did not issue an assessment within six months of receiving the notice.

(ii) Same facts as in the previous example except the department issues its tax assessment on July 15, 2004, and mails a copy of the tax assessment to both Purchasers A and C as successors. Both Purchasers A and C are liable as successors for the taxes owed by the taxpayer. However, Purchaser C's liability is limited to \$45,000 in taxes since the fair market value of the assets it acquired was less than \$50,000.

(e) Example 5. Taxpayer obtains a loan from a financial institution to purchase equipment, fixtures, and inventory. The financial institution secures the loan by taking a security interest in the equipment, fixtures, and inventory. Taxpayer quits business, leaving the equipment, fixtures, and inventory behind. The financial institution repossesses these items. The financial institution is not a successor.

(f) Example 6. Taxpayer purchases all equipment and inventory under a line of credit extended by a bank and guaranteed by a third party. The third party perfects a security interest in the equipment and inventory. Taxpayer quits business, surrendering the equipment and inventory to the third party guarantor. The third party guarantor is not a successor.

(g) Example 7. Taxpayer leaves business, including fixtures, materials and inventory, which the landlord holds for unpaid rent. The landlord forecloses the landlord's lien using the summary foreclosure provisions of RCW 60.10.030, or holds a foreclosure sale by the sheriff, or accepts a bill of sale in satisfaction of the landlord's lien for rent created by RCW 60.72.010. The landlord is not a successor.

(h) Example 8. Taxpayer purchases all equipment and inventory under a security agreement.

(i) If the property is repossessed by the vendor, the vendor is not a successor.

(ii) If the taxpayer sells his or her equity under the security agreement to a third person, the third person is a successor.

(iii) If the equipment and inventory is not repossessed and the vendor buys back the interest of the taxpayer without following the summary foreclosure provisions of RCW 60.10.030, the vendor is a successor.

(i) Example 9. Taxpayer dies or becomes bankrupt, goes into receivership, or makes an assignment for the benefit of creditors. The executor, administrator, trustee, receiver, or assignee is not a successor but stands in the place of the taxpayer and is responsible for payment of tax out of the proceeds derived upon disposition of the assets. A purchaser from the executor, administrator, trustee, receiver, or assignee is not a successor, unless under the terms of the purchase agreement the purchaser assumes and agrees to pay taxes and/or lien claims.

PROPOSED

(j) **Example 10.** Taxpayer is a contractor and is required to post a bond to insure completion of the contract. Taxpayer defaults on the contract and the bonding company completes it. The bonding company is a successor to the contractor to the extent of the contractor's liability for that particular contract and is also liable for taxes incurred in the completion of the contract.

**WSR 05-09-038**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed April 14, 2005, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-03-041.

Title of Rule and Other Identifying Information: The Department of Licensing real estate regulatory program proposes suspending indefinitely the current collection of change of address and transfer fees from real estate licensees, addressed under WAC 308-124A-460.

Hearing Location(s): Department of Licensing, 2000 4th Street, Real Estate Conference Room, 2nd Floor, Olympia, WA, on May 25, 2005, at 3:00 p.m. to 5 p.m.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: Jana Jones, P.O. Box 9015, Olympia, WA 98507-9015, e-mail jajones@dol.wa.gov, fax (360) 586-0998, by May 24, 2005.

Assistance for Persons with Disabilities: Contact Jana Jones, Administrator, by May 24, 2005, TTY (360) 753-1996 or (360) 664-6526.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To suspend indefinitely the collection of change of address and transfer fees from real estate licensees, addressed under WAC 308-124A-460. It is anticipated that the department will retain its statutory authority to collect such a fee in the future, however, current licensee levels indicate the collection of this fee at this time is unnecessary for administering the program. The department seeks to suspend the collection of the \$26.50 fee at this time.

Reasons Supporting Proposal: Increased real estate licensee base during the 03-05 biennium has resulted in adequate revenues to administer the dedicated account.

Statutory Authority for Adoption: RCW 18.85.040(1).

Statute Being Implemented: RCW 18.85.200.

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

Name of Proponent: Washington State Real Estate Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jana Jones, Department of Licensing, Black Lake #3, 2000 4th Street, Olympia, WA, (360) 664-6526.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no small business impact resulting from the suspension of the \$26.50 fee collection for the occasional name change or address change of a licensee in the business community.

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

April 11, 2005  
 Andrea C. Archer  
 Assistant Director  
 Business and  
 Professions Division

AMENDATORY SECTION (Amending WSR 02-03-057, filed 1/10/02, effective 5/1/02)

**WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees.** These fees are applicable to all original licenses, examination services, and fee generating services issued or performed after April 30, 2002, and all renewals for existing licenses with expiration date after April 30, 2002. The following fees for a two-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
<b>Real estate broker:</b>	
Application/examination	\$138.25
Reexamination	138.25
Original license	200.00
License renewal	200.00
Late renewal with penalty	226.50
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	(( <del>26.50</del> )) <u>0.00</u>
<b>Real estate broker - Branch office:</b>	
Original license	\$189.50
License renewal	189.50
Late renewal with penalty	216.00
Duplicate license	26.50
Name or address change	(( <del>26.50</del> )) <u>0.00</u>
<b>Real estate salesperson:</b>	
Application/examination	\$138.25
Reexamination	138.25
Original license	136.25
License renewal	136.25
Late renewal with penalty	162.75
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	(( <del>26.50</del> )) <u>0.00</u>

The following fee shall be charged annually for land development representatives:

<b>Land development representative:</b>	
Registration	26.50

**WSR 05-09-041**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 15, 2005, 2:15 p.m.]

The Department of Fish and Wildlife withdraws WSR 05-09-023 filed April 12, 2005.

Evan Jacoby  
 Rules Coordinator

**WSR 05-09-042**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 15, 2005, 2:15 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-06-104.

Title of Rule and Other Identifying Information: Aquatic farm registration rules.

Hearing Location(s): Clarion Hotel, 1507 North First Street, Yakima, WA, on June 17-18, 2005, begins at 8:00 a.m., June 17, 2005.

Date of Intended Adoption: June 17, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by June 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by June 3, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend aquatic farm registration to require each farm site to be separately registered, rather than all sites within an aquaculture district being registered as a single farm.

Reasons Supporting Proposal: This clarifies the source of aquatic farm product.

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.

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

**Small Business Economic Impact Statement**

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Aquatic farmers will be required to separately register each geographically isolated farm site. Since farmers are currently

required to provide site maps and proof of lawful occupation for each site, the additional requirement in the application process is to complete a separate (free) application for each site, rather than grouping all site within a single aquaculture district into one site registration.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: The compliance cost is completing a separate registration application for each site.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

The cost is minimal. All current application requirements meet the new rule, with the single exception of a separate application for each geographically isolated site.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The agency has supplied the registration forms, and there is no cost to register an aquatic farm.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: Public hearing.

8. A List of Industries That Will Be Required to Comply with the Rule: Aquatic farmers.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

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

April 15, 2005

Evan Jacoby

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 86-102, filed 9/12/86)

**WAC 220-76-015 Aquatic farm—Definition.** An aquatic farm is any facility or tract of land used for private, commercial culture of aquatic products. Each geographically separate facility or tract of land used for commercial culture shall constitute a separate farm. ~~((In marine waters, facilities, or tracts of land in the same marine aquaculture district which are owned or operated by the same person shall be considered to be a single farm for the purposes of this section.))~~

**WSR 05-09-047**  
**PROPOSED RULES**  
**SECRETARY OF STATE**  
 [Filed April 18, 2005, 4:47 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-06-002.

Title of Rule and Other Identifying Information: Initiative filing and signature verification.

Hearing Location(s): 520 Union Avenue S.E., Olympia, WA 98504, on May 27, 2005, at 9:00 a.m.

Date of Intended Adoption: May 27, 2005.

Submit Written Comments to: Pamela Floyd, P.O. Box 40237, Olympia, WA 98504-0237, e-mail pfloyd@sec.state.wa.gov, fax (360) 664-2971 by May 2, 2005.

Assistance for Persons with Disabilities: Contact Pamela Floyd by May 2, 2005, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules will clarify the procedure and set the fee for the filing of initiatives. The rules will also detail the standards for verifying signatures.

Reasons Supporting Proposal: While a filing fee is required by statute, the fee amount was removed from rule in 1993 and never reinstated. A need has been demonstrated by county auditors and the Secretary of State for signature verification standards.

Statutory Authority for Adoption: RCW 29A.04.611 and 43.07.120.

Statute Being Implemented: RCW 29A.72.010, 29A.72.020, 29A.72.220, 29A.72.230, and 43.07.120.

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: These rules clarify and detail the procedures in state statutes regarding the filing of initiatives, as well as the standards for verifying signatures. They reflect the policies and procedures that are currently followed, and the rules serve to standardize the process.

Name of Proponent: Office of the Secretary of State, governmental.

Name of Agency Personnel Responsible for Drafting: Pamela Floyd, 520 Union Avenue S.E., Olympia, WA 98504, (360) 725-5781; Implementation and Enforcement: Tina Clarke, 520 Union Avenue S.E., Olympia, WA 98504, (360) 725-5780.

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

A cost-benefit analysis is not required under RCW 34.05.328. Incorporates state statutes without material change.

April 18, 2005

Steve Excell

Assistant Secretary of State

retary of state a petition to enact a proposed measure to the legislature or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, may do so by filing the following documents:

(1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;

(2) A notarized affidavit that the sponsor is a legal voter;

(3) A filing fee of five dollars for each measure submitted.

**NEW SECTION**

**WAC 434-379-007 Certificate of review.** After filing the documents listed in WAC 434-379-005, a copy of the documents is sent to the code reviser. The code reviser shall issue a certificate of review certifying that he or she has reviewed the measure and that any recommendations have been communicated to the sponsor. Within fifteen working days after the date that the secretary of state submits the proposed measure to the code reviser's office, the sponsor shall file the measure and the certificate of review with the secretary of state for assignment of a serial number. The secretary of state shall refuse to make such assignment unless the measure is accompanied by a certificate of review that has substantially the same topic as the measure.

**AMENDATORY SECTION** (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

**WAC 434-379-010 Random sampling procedure.** In the verification of signatures on initiative and referendum petitions, under RCW 29A.72.230, the following statistical test may be employed:

(1) Take ~~((n))~~ a minimum three percent unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the number of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of the number of signatures required by Article II, Section 1A of the Washington state constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

**NEW SECTION**

**WAC 434-379-005 Filing of an initiative—Fee—Required documents.** A person desiring to file with the sec-

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legislature as provided in RCW 29A.72.230 or to the county auditors as provided in RCW 29A.72.250.

NEW SECTION

**WAC 434-379-020 Signature verification standard.**

A signature on a petition sheet will be matched to the signature on file in the voter registration records. A signature is considered a match if at least three of the following criteria are met:

- (1) The capital letters match;
- (2) Letters tail off alike;
- (3) Letter spacing is the same;
- (4) The space between the signature and the line is the same;
- (5) The beginning and ending of the signature and the slant are consistent;
- (6) Unique letters in the signature match;
- (7) The overall appearances match.

In determining whether a signature matches the signature in the registration file, the age of the voter and the date of the signature on the registration file may also be considered.

**WSR 05-09-048**

**WITHDRAWAL OF PROPOSED RULES  
NOXIOUS WEED CONTROL BOARD**

(By the Code Reviser's Office)

[Filed April 19, 2005, 8:33 a.m.]

WAC 16-750-005, proposed by the Noxious Weed Control Board in WSR 04-20-028 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-049**

**WITHDRAWAL OF PROPOSED RULES  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

(By the Code Reviser's Office)

[Filed April 19, 2005, 8:34 a.m.]

WAC 286-42-070, proposed by the Interagency Committee for Outdoor Recreation in WSR 04-20-097 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-050**

**WITHDRAWAL OF PROPOSED RULES  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

(By the Code Reviser's Office)

[Filed April 19, 2005, 8:35 a.m.]

WAC 286-26-095, proposed by the Interagency Committee for Outdoor Recreation in WSR 04-20-098 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-051**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

(By the Code Reviser's Office)

[Filed April 19, 2005, 8:35 a.m.]

WAC 173-400-035 and 173-400-107, proposed by the Department of Ecology in WSR 04-20-105 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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

PROPOSED

**WSR 05-09-052**

**WITHDRAWAL OF PROPOSED RULES  
GAMBLING COMMISSION  
(By the Code Reviser's Office)  
[Filed April 19, 2005, 8:35 a.m.]**

WAC 230-02-205, proposed by the Gambling Commission in WSR 04-20-107 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-053**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(By the Code Reviser's Office)  
[Filed April 19, 2005, 8:36 a.m.]**

WAC 357-43-008, proposed by the Department of Personnel in WSR 04-20-113 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-054**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(By the Code Reviser's Office)  
[Filed April 19, 2005, 8:36 a.m.]**

WAC 357-46-010 and 357-46-012, proposed by the Department of Personnel in WSR 04-20-114 appearing in issue 04-20 of the State Register, which was distributed on October 20, 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 05-09-055**

**PROPOSED RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS  
[Filed April 19, 2005, 8:48 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-037.

Title of Rule and Other Identifying Information: Chapter 415-112 WAC, Teachers' retirement system, includes proposed new, amended and repealed rules from WAC 415-112-41301 through 415-112-920.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 24, 2005, at 9:00 a.m.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 24, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 16, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department has been reviewing and rewriting the teachers' retirement system rules to reflect current policy and clear writing standards. This is the second of three phases. Phase 1 is scheduled for a public rules hearing on May 12, 2005. Phase 3 will include topics, identified by staff in Phases 1 and 2, that they would like addressed or expanded upon in rule.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: WAC 415-112-41301, 415-112-415, 415-112-417, 415-112-4601, 415-112-4602, 415-112-4603, 415-112-4604, 415-112-4607, 415-112-4608, 415-112-4609, 415-112-471, 415-112-477, 415-112-480, 415-112-482, 415-112-485, 415-112-487, 415-112-489 and 415-112-490 implement RCW 41.32.010(10); WAC 415-112-473 and 415-112-475 implement RCW 41.32.267, 41.32.810, 41.32.865; WAC 415-112-500 implements RCW 41.32.480; WAC 415-112-501 implements RCW 41.32.765; WAC 415-112-502 implements RCW 41.32.875; WAC 415-112-507, 415-112-523, 415-112-610 and 415-112-620 implement chapter 41.32 RCW; WAC 415-112-630 implements RCW 41.32.570; and WAC 415-112-700 implements RCW 41.32.520.

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

April 19, 2005

Leslie Saeger

Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

~~WAC 415-112-41301 ((Vehicle allowances—))Are vehicle allowances earnable compensation? (((1) If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not earnable compensation. Your vehicle allowance does not qualify as earnable compensation if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes.~~

~~(2) The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not earnable compensation. If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.~~

~~(3) Your vehicle allowance may qualify as earnable compensation to the extent that it exceeds your actual expenses. If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is earnable compensation. Your employer must maintain monthly contemporaneous records documenting the following:~~

~~(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;~~

~~(b) The miles you drove the vehicle on each of these trips; and~~

~~(c) Your itinerary for each of these trips.~~

~~(4) How to determine what amount of your vehicle allowance, if any, is reportable as earnable compensation. If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as earnable compensation:~~

~~Your Vehicle Allowance LESS (Miles x IRS Rate)~~

~~(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.~~

~~(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.~~

~~(5) Your vehicle allowance qualifies as earnable compensation if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes. If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is earnable compensation.~~

~~(6) Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation. If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your~~

~~retirement allowance payment attributable to your vehicle allowance.)~~ (1)(a) Plan 1. Vehicle allowances may be earnable compensation for Plan 1 members according to this section.

(b) Plans 2 and 3. Vehicle allowances are not earnable compensation for members of Plans 2 and 3. Subsections (2) through (5) of this section apply to Plan 1 members only.

(2) For TRS Plan 1:

(a) A vehicle allowance is not earnable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as earnable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursement for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is earnable compensation.

(3) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips;

(c) Your itinerary for each of these trips; and

(d) The amount of the allowance LESS the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(4) If a vehicle allowance exceeds your actual expenses, your employer must report the excess, calculated in subsection (3)(d) of this section.

(5) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

AMENDATORY SECTION (Amending WSR 00-13-001, filed 6/7/00, effective 7/8/00)

WAC 415-112-415 ((Treatment of cash payments made in lieu of unused leave—First in first out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions,)) Are cash-outs for annual leave and personal leave included in earnable compensation and/or average final compensation? (((1) Cash compensation in lieu of unused annual leave may be considered earnable compensation for Plan 1 members subject to the provisions of RCW 41.32.010 (10)(a) and WAC 415-112-4605. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual leave as compensation earnable in conflict with RCW 41.32.010 (10)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules

~~applied by an employer that conflict with RCW 41.32.010 (10)(a) and rules adopted thereunder are without legal effect.~~

~~(2) When an employer provides cash compensation in lieu of unused annual leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned and when or whether the leave was used or cashed out, unless the employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed-out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.~~

~~Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.~~

~~(3) A cash-out of leave which is not annual leave as defined under WAC 415-112-015, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash-out as excess compensation under RCW 41.50.150.~~

~~(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer of one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.) (1)(a) Plan 1. Under RCW 41.32.010 (10)(a), cash-outs for up to two hundred forty hours of unused annual leave are included in earnable compensation<sup>1</sup> for Plan 1 members according to this section.~~

~~(b) Plans 2 and 3. Under RCW 41.32.010 (10)(b), cash-outs for unused annual leave and personal leave are not earnable compensation in Plans 2 and 3, and are not includable in average final compensation. Subsections (2) through (4) of this section apply to Plan 1 members only.~~

~~(2) For Plan 1 members, cash-outs for unused annual leave and personal leave may be included in average final compensation only if the leave was earned during the two fiscal years used to calculate your average final compensation under WAC 415-112-430.~~

~~(3) The department determines when your cashed-out leave was earned as follows:~~

~~(a) You accrue annual leave and personal leave at a prescribed rate, often a certain number of hours per month. Your accrued leave is stored until you use it.~~

(b) Except as provided in (c) of this subsection, the department applies a "first-in-first-out (FIFO)" methodology to determine what personal leave and annual leave you have used.

**Example:**

John has accrued ten days of annual leave. He earned five days in 2000 and five days in 2001. In 2002, John uses five days of annual leave. He is deemed to have used the five days earned in 2000. The five days earned in 2001 remain unused.

(c) If the employer has a different methodology in place, the department will use the employer's methodology, rather than the FIFO methodology; provided that:

(i) The employer's methodology was clearly documented by a collective bargaining agreement, regulation, charter provision, ordinance, or other comparable written policy statement; and

(ii) The employer's methodology was applied consistently to all employees for all purposes.

(4) For purposes of determining average final compensation and excess compensation, the department will consider the hours of leave in the form in which the leave was earned. If an employer converts one form of leave to another form of leave, the department will disregard the conversion and bill the employer for the amount converted if it meets the definition of excess compensation in RCW 41.50.150.

In certain cases, an employee may cash out personal leave and/or more than two hundred forty hours of annual leave. Although this cash-out is not earnable compensation, it may be used in the calculation of the employee's retirement allowance and the employer will be billed for the excess compensation. See WAC 415-02-140.

**NEW SECTION**

WAC 415-112-417 Are cash-outs for sick leave included in earnable compensation and/or average final compensation? Cash-outs for unused sick leave are not earnable compensation in TRS Plans 1, 2, or 3, and are not includable in average final compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4601 **Are contract salary payments(✓) earnable compensation?** (1) **Base contract.** ((The base contract establishes the payment for teaching or administrative services provided during each day of the district's school year. For classroom teachers, the base contract authorizes the salary for providing basic education services per RCW 28A.405.200. For administrators and principals, other items may be included. Because services are rendered in exchange for this payment, it is reportable compensation. This does not mean that a payment is reportable compensation solely because it is authorized in an employee's base contract. Rather than relying on the name of a payment or the document where it is authorized, you must evaluate whether services were rendered in exchange for the payment.



~~(2) Evening or summer school contracts. Evening or summer school payments are for additional time worked. These payments are often authorized in a supplemental contract. These payments are for services rendered and are reportable compensation.~~

~~(3) Supplemental or TRI contracts under RCW 28A.400.200. A school district may compensate an employee for additional time, responsibility or incentives with a supplemental contract.~~

~~(a) If the payment is for additional time, then it is for services rendered and qualifies as reportable compensation.~~

~~(b) If the payment is for additional responsibility (i.e., additional service which does not specifically require more time) within the regularly scheduled working day, then it is also for services rendered and is reportable. Examples of additional responsibility include payments linked to extra enrollment or additional duties outside the scope of the base contract.~~

~~(c) If the payment is made as an incentive, then it is also for services rendered and is reportable compensation. Incentive payments include payments for meeting performance goals specified by the employer.~~

~~(4) Longevity or educational attainment. Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.~~

~~(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is reportable compensation.~~

~~(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.) Payments authorized under a base contract may be earnable compensation.~~

~~(a) Payments made to classroom teachers for the provision of educational services are earnable compensation.~~

~~(b) Payments made to administrators and principals for the provision of administrative services are earnable compensation.~~

~~(c) Even though salaries are derived from a salary schedule that incorporates experience and educational attainment, to the extent that the salaries are paid for services provided, they are earnable compensation. Both experience and educational attainment are deemed to increase the quality of the service performed. See RCW 28A.405.200.~~

~~(d) Payments pursuant to the base contract that are not made in exchange for services performed are not earnable compensation.~~

~~(2) Supplemental contract. Payments authorized under a supplemental time, responsibility or incentives (TRI) contract may be earnable compensation. RCW 28A.400.200 allows the use of supplemental TRI contracts to compensate an employee for additional time, additional responsibility, or the achievement of stated incentives.~~

(a) Payments authorized by a supplemental contract for services requiring additional time are earnable compensation. Examples include payments for the provision of educational services during evening or summer school.

(b) Payments authorized by a supplemental contract for services requiring additional responsibility within the regularly scheduled working day are earnable compensation. Examples include payments linked to over enrollment or additional duties.

(c) Payments authorized by a supplemental contract for the achievement of stated incentives are earnable compensation. Examples include meeting performance goals specified by the employer.

(3) Longevity or educational attainment. Payments for longevity or educational attainment must be analyzed to determine whether they are paid for services provided. Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.

(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is earnable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be earnable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

#### NEW SECTION

**WAC 415-112-4602 Are bonuses for National Board for Professional Teaching Standards certification earnable compensation?** Bonuses you receive for attaining National Board for Professional Teaching Standards certification are not earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-4603 Are performance bonuses(§) earnable compensation?** ~~((Bonuses that are based upon meeting certain performance goals or having to work under unusual conditions, such as over enrollment, are earned for services rendered and are reportable compensation.))~~ Bonuses for meeting certain performance goals or working under unusual conditions, such as over enrollment, are earnable compensation because they are paid for services provided.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-4604 ((Cafeteria plans.)) Is compensation applied toward cafeteria plans earnable compensation?** ~~((Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is reportable compensation if the~~

employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered reportable compensation, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not reportable compensation, see WAC 415-112-480.) Compensation you receive and apply toward a benefit plan under I.R.C. Section 125 may be earnable compensation. If you have an absolute right to receive cash or deferred cash payments instead of the fringe benefit, the payment is earnable compensation. If you have no cash option, the value of the fringe benefit is not earnable compensation. Also see WAC 415-112-480.

**AMENDATORY SECTION** (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-4607** Are retroactive salary increases((r)) **earnable compensation?** ((A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

**Note:** A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in place of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-112-477.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency; or

(c) A collective bargaining agreement.

(2) The payments will be deemed earned in the period in which the work was done.) (1) A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment for the increased amount earned during the earlier period.

**Example:** John's salary is \$2000 per month. On April 10, his salary is increased to \$2200 per month. The increase is made retroactive to January 1. On April 25, he receives a lump sum payment of \$600, i.e., the \$200 increase for January, February, and March. In April he also receives a paycheck at the new rate of \$2200.

(2) A lump sum payment received pursuant to certain retroactive salary increases is earnable compensation. See subsection (3) of this section. The payment will be deemed to be earned in the period in which the work was done.

**Example:** When the \$600 payment is reported to the department, John will receive an additional \$200 of earnable compensation for each of January, February, and March.

(3) To qualify as earnable compensation, the retroactive salary increase must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of a claim before a court or administrative agency for a retroactive salary increase;

(c) A collective bargaining agreement; or

(d) A legislative enactment.

**AMENDATORY SECTION** (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

**WAC 415-112-4608** Is severance pay ((earned over time)) **earnable compensation?** (1) **Severance pay earned over time.**

(a) Plan 1. Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously ((rendered)) provided and to be reportable in Plan 1. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services ((rendered)) provided.

**Example:** Mr. Jones is a TRS Plan 1 member employed as a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is ((reportable)) earnable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his TRS Plan 1 retirement calculation.

((2)) (b) Plans 2 and 3. All forms of severance pay are excluded from earnable compensation for Plans 2 and 3 by RCW 41.32.010(10).

((3)) (2) Severance pay that is not earned over time ((is not earned for services rendered and is not reportable in Plan 1, 2, or 3, see WAC 415-112-491)), Severance pay that is not earned over time is not earned for services provided and is not earnable compensation for Plan 1, 2 or 3.

**Example:** A school administrator and a school district negotiate a termination agreement. In the agreement, the school district agrees to pay the administrator a lump sum payment equal to two months salary as severance pay. The severance payment was not accrued over time in exchange for services provided, and therefore is not earnable compensation.

**AMENDATORY SECTION** (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

**WAC 415-112-4609** Are payroll deductions((r)) **earnable compensation?** ((Salary or wages for services ren-

dered that are withheld from a member's pay still qualify as reportable compensation.

(1) ~~Retirement contributions. Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.~~

(2) ~~Tax withholding. Payments withheld to satisfy federal tax obligations qualify as reportable compensation.~~

(3) ~~Voluntary deductions. Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable.~~ Amounts withheld from your salary or wages are earnable compensation. Examples include:

(1) Your employee contributions to TRS (compare WAC 415-112-480 regarding employer contributions);

(2) Amounts withheld for federal income tax purposes; and

(3) Other authorized voluntary deductions, such as the deferred compensation plan or 403(b) plan deferrals.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-471 Is compensation reported for legislative leave((s))? ~~If ((an employee)) you take((s)) a leave without pay to serve in the legislature, ((the member is)) you are entitled to service and ((reportable)) earnable compensation credit ((for the period)) according to this section.~~

(1) Plan 1. The salary ~~((the employee))~~ you would have earned in the position from which you took leave of absence is ((reportable)) earnable compensation if ((the employee)) you serve((s)) at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) Plans 2 and ((Plan)) 3. ~~((The employee))~~ You may choose between:

(a) The ~~((reportable))~~ earnable compensation ~~((he or she))~~ you would have earned had ~~((the member))~~ you not served in the legislature; or

(b) The actual ~~((reportable))~~ earnable compensation received for ~~((teaching))~~ service plus the legislative ~~((reportable))~~ earnable compensation.

If ~~((the employee))~~ you select((s)) option (a), ~~((he or she is))~~ you are responsible for paying the additional employer and employee contributions to the extent the ~~((reportable))~~ earnable compensation reported is higher than it would have been under (b) of this subsection.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-473 Is paid leave, which is not earned over time((s)), earnable compensation? If paid leave is not based upon earned leave accumulated over time, the payment is not ~~((a deferred payment))~~ for services previously ~~((rendered))~~ provided and is generally not earnable compensation. ~~((Further, the member on leave is not currently rendering services in exchange for the payment. However,))~~ Exceptions identified in RCW 41.32.267, 41.32.810 and 41.32.865 ((identify payments received from the employer while on paid leave as)) are reportable ((for TRS-)), and contributions

are due on these payments to the extent they meet both of the following conditions:

(1) The ~~((payment))~~ compensation reported is equal to the salary for the position ~~((that the person is))~~ from which you are on leave ((from)); and

(2) The payment is ~~((actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267 (Plan 1), 41.32.810 (Plan 2), 41.32.865 (Plan 3), and WAC 415-112-475))~~ received from your employer, not from a third party. Except as provided in WAC 415-112-475, if you receive payment from your employer but your employer is reimbursed for the payment by a third party, the payment is not earnable compensation.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-475 ((Union leave.)) Is the pay I receive from my employer when I am on union leave earnable compensation? ~~If ((a member)) you take((s)) an authorized leave of absence to serve as an elected official of a labor organization ((and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of)) and you receive payment from your employer during your leave, the payments may be earnable compensation, even if the union reimburses your employer. To qualify as earnable compensation, the payments must meet the specific conditions in RCW 41.32.267 (Plan 1), RCW 41.32.810 (Plan 2), or RCW 41.32.865 (Plan 3)((as appropriate, are met)).~~

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-477 Are payments for reinstatement or payment instead of reinstatement((s)) earnable compensation? (1) ~~((Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.32.010(10) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working.))~~ When you receive payments upon reinstatement or instead of reinstatement, such payments are earnable compensation to the extent they are equivalent to the salary you would have earned by working in your position. RCW 41.32.010 defines these payments as earnable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period that ((the employee was)) you were suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of ~~((either))~~:

(a) The employer; ~~((or))~~

(b) ~~((A personnel board, personnel appeals board))~~ A school district; or

(c) A court of law ~~((following a hearing))~~.

AMENDATORY SECTION (Amending WSR 03-06-042, filed 2/27/03, effective 4/1/03)

**WAC 415-112-480 Are fringe benefits~~(\*)~~ earnable compensation?** Fringe benefits provided by an employer are not a salary or wage, and ~~((therefore))~~ are not ~~((reportable))~~ earnable compensation. Fringe benefits include, but are not limited to:

(1) Employer retirement contributions;

(2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or

(3) Any employer payments into a private fund to provide health or welfare benefits for ~~((the member (or the member and the member's)))~~ you or your dependents~~(\*)~~, with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-112-4604.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-482 ~~((Disability insurance.))~~ Are disability insurance or workers' compensation payments earnable compensation?** (1) Disability insurance payments ~~((are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they))~~ are not ~~((reportable))~~ earnable compensation ~~((This is true))~~, whether the payments come directly from the employer or from an insurance company.

(2) Workers' compensation payments are not earnable compensation.

**Example:** Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and it is not earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-485 ~~((Illegal payments.))~~ Are payments that are outside my employer's legal authority earnable compensation?** Payments made by an employer ~~((in excess of))~~ that are outside the employer's legal authority are not ~~((reportable))~~ earnable compensation.

**Example:** School districts are prohibited by RCW 28A.400.220 from increasing an employee's salary ~~((to include a payment in lieu))~~ instead of pro-

viding a fringe benefit ~~((per RCW 28A.400-220)). If a district increased a person's salary instead of providing a district car, the ~~((payment would be illegal and could not be reported))~~ teacher's increased salary payments would not be earnable compensation.~~

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-487 Are optional payments~~(\*)~~ considered earnable compensation?** If ~~((an employee can))~~ you receive an additional payment only on the condition of taking an action other than providing service to ~~((the))~~ your employer, the payment is not ~~((for services rendered and is not reportable))~~ earnable compensation.

**Example:** An employer offers to make a contribution to ~~((a))~~ Joe's deferred compensation plan ~~((on behalf of an employee))~~ only if ~~((the employee))~~ Joe agrees to have a portion of his ~~((or her))~~ salary deferred. Because ~~((the employee))~~ Joe does not have a right to receive the contribution based solely on ~~((the rendering of))~~ providing service, the payment is not ~~((reportable))~~ earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-489 Are reimbursements for business expenses~~(\*)~~ earnable compensation?** Reimbursements are not ~~((earned for services rendered and thus are not reportable))~~ earnable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, ~~((see WAC 415-112-41301.))~~ or meal and lodging reimbursements for business trips.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

**WAC 415-112-490 Is a retirement bonus or incentive~~(\*)~~ earnable compensation?** A payment made ~~((to an employee as a bonus or))~~ as an incentive ~~((when retiring or terminating))~~ to retire or terminate is not a payment for services ~~((rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive))~~ provided, and is not ~~((reportable))~~ earnable compensation.

**Example:** A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire. Because the payment is in exchange for the agreement to retire and not for services, the payment is not ~~((reportable))~~ earnable compensation.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

~~WAC 415-112-500 ((Minimum service required for retirement.)) Do I qualify for retirement from Plan 1? ((In qualifying a member for a retirement allowance the minimum service requirement of "five years of credit for public school service in this state" as set forth in RCW 41.32.470 shall not include credit for professional preparation or credit for military service, but shall be limited to credit for Washington public school service.)) You may retire from Plan 1:~~

~~(1) At age sixty with a minimum of five years of service. You may not use service credit you purchased for professional preparation or military service to meet the five-year minimum;~~

~~(2) At age fifty-five with a minimum of twenty-five years of service; or~~

~~(3) At any age with a minimum of thirty years of service. See RCW 41.32.480.~~

NEW SECTION

**WAC 415-112-501 Do I qualify for retirement from Plan 2?** You may retire from Plan 2:

(1) At age sixty-five with a minimum of five years of service;

(2) At age fifty-five with a minimum of twenty years of service, however, your retirement allowance will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five; or

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.765.

NEW SECTION

**WAC 415-112-502 Do I qualify for retirement from Plan 3?** You may retire from Plan 3:

(1) At age sixty-five with the following amounts of service credit to retire with an unreduced defined benefit:

(a) Ten years of service credit; or

(b) Five years of service credit, including at least twelve service credit months after attaining age fifty-four; or

(c) Five years of TRS Plan 2 service credit earned prior to July 1, 1996, before transferring to Plan 3 under RCW 41.40.750.

(2) At age fifty-five with a minimum of ten years of service credit, however, your defined benefit will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five.

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.875.

NEW SECTION

**WAC 415-112-507 How do I apply for retirement benefits?** To apply for retirement benefits, you must submit the following to the department:

(1) A completed, signed, and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-112-493.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected. See WAC 415-112-015(10).

(i) If you are married and you do not provide spousal consent, the department will pay you a joint and one-half survivor benefit allowance and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2), 41.32.785(2), and 41.32.851(2).

(ii) If you are married, but have had a prior dissolution decree on file with the department designating a survivor beneficiary under RCW 41.50.790, spousal consent is not required. The dissolution decree must have been filed at least thirty days prior to your retirement;

(2) Evidence of your birth date, such as a certified copy of your birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department; and

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

NEW SECTION

**WAC 415-112-523 How does the department calculate my retirement allowance?** (1) When you apply for retirement, you will begin to receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and earnable compensation in the department's system at the time it is calculated;

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your employer.

The department may also require any of the following from your employer:

(a) Cash-out information (Plan 1 only).

(b) Earnings history.

(c) Copies of your employment contract(s).

(d) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and average final compensation and by applying the correct formula to these values. Your actual

retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-610 (~~(Payment of)~~ What temporary disability benefits are due upon death of a member?) ~~((Any disability benefits which have accrued and are payable upon the death of a member who had applied for or who had qualified for a temporary disability allowance, shall be paid to the deceased member's designated beneficiary as recorded and filed with the department in connection with his application for temporary disability benefits, or to his estate.))~~ When a member applies for temporary disability benefits, the member may designate a beneficiary. Any temporary disability benefits that have accrued and are payable upon the death of the member will be paid to the deceased member's designated beneficiary or to the member's estate if there is no designated beneficiary.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-620 (~~(Date from which)~~ When will my disability retirement allowances begin to accrue?) ~~(1) ((A member who qualifies directly))~~ If you qualify for a disability retirement allowance without first qualifying for temporary disability benefits, your retirement allowance will start according to the provisions governing service retirement in WAC 415-112-520.

(2) If ~~((a member qualifies))~~ you qualify for a disability retirement allowance after having first qualified for TRS Plan 1 temporary disability benefits, ~~((the effective date of his))~~ your disability retirement allowance ~~((shall be))~~ will start the first of the month following termination of ~~((his))~~ your temporary disability allowance, and ~~((shall))~~ will otherwise be consistent with WAC 415-112-520, which governs service retirement.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-630 (~~(Employment of persons retired for disability.)~~ How will returning to work affect my Plan 1 disability retirement benefits?) The provisions of RCW 41.32.570 with regard to service in public education by a

retired teacher ~~((shall apply))~~ applies equally to ~~((teachers))~~ TRS Plan 1 members retired for disability.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-700 (~~(Determining dependency under RCW 41.32.520.)~~ How is "dependent" defined for determining Plan 1 beneficiary rights?) ~~((To qualify as a dependent of a deceased member under the authority of RCW 41.32.520 the individual must provide proof of the following conditions:~~

~~(1) The beneficiary must receive one half or more of their financial support from the deceased member. Such support must have been continuous prior to death and in effect at the time of the member's death.~~

~~(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.))~~ (1) For purposes of TRS Plan 1 death benefits under RCW 41.32.520, a dependent must be a dependent as defined in 26 U.S.C. 152.

(2) The department must receive proof that the beneficiary stands in the necessary relationship to the member, and that either:

(a) The member had provided over half of the beneficiary's financial support continuously prior to death and at the time of the member's death; or

(b) The beneficiary otherwise meets the definition of beneficiary set forth in 26 U.S.C. 152.

(3) Financial support includes the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-4605	Leave payments earned over time.
WAC 415-112-483	Workers' compensation.
WAC 415-112-491	Severance pay not earned over time—Contract buy out.
WAC 415-112-550	Peace Corps volunteers not employed in public education.
WAC 415-112-710	When are survivor benefits payable?
WAC 415-112-725	Married member's benefit selection—Spousal consent required.
WAC 415-112-800	Scope.
WAC 415-112-850	Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of

retirement allowance for errors.

WAC 415-112-920 TRS Plan 3 defined benefit retirement eligibility.

**WSR 05-09-056**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed April 19, 2005, 8:50 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-06-040.

Title of Rule and Other Identifying Information: WAC 415-108-475 Fringe benefits, is being amended to correct a statutory citation. WAC 415-108-575 How is the compensation adjustment for elected officials computed?, is being amended to add the 2003 and 2004 compensation threshold under RCW 41.40.023.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on May 24, 2005, at 9:00 a.m.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: Leslie L. Saeger, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail [leslies@drs.wa.gov](mailto:leslies@drs.wa.gov), fax (360) 753-3166, by 5:00 p.m. on May 24, 2005.

Assistance for Persons with Disabilities: Contact Leslie L. Saeger, Rules Coordinator, by May 16, 2005, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Two amendments are being proposed; one to correct a statutory citation, and one to add the 2003 and 2004 compensation threshold under RCW 41.40.023.

Statutory Authority for Adoption: RCW 41.50.050(5).

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

Name of Proponent: Department of Retirement Systems, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Saeger, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Dorothy Bailey, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Retirement Systems is not one of the named departments in RCW 34.05.328.

April 19, 2005

Leslie Saeger

Rules and Contracts Coordinator

**AMENDATORY SECTION** (Amending WSR 03-06-042, filed 2/27/03, effective 4/1/03)

**WAC 415-108-475 Fringe benefits.** Fringe benefits provided by an employer are not a salary or wage, and therefore are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC ((415-108-459)) 415-108-455.

**AMENDATORY SECTION** (Amending WSR 03-08-090, filed 4/2/03, effective 5/1/03)

**WAC 415-108-575 How is the compensation adjustment for elected officials computed?** (1) This section provides the department's inflation adjustment under RCW 41.40.023 (3)(b) regarding elected officials.

(2) The department uses the criteria in RCW 41.26.240<sup>1</sup> in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.40.023 (3)(b).

(3) The department adjusts the compensation threshold on April 1st of each year.<sup>2</sup>

(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.

Footnotes to section:

<sup>1</sup> The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

<sup>2</sup> In 2001, the threshold was \$19,263. In 2002, the threshold was \$19,948. In 2003, the threshold was \$20,595. The 2004 threshold, effective April 2005, is \$20,919.

**WSR 05-09-058**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed April 19, 2005, 11:48 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-23-079.

Title of Rule and Other Identifying Information: Chapter 296-06 WAC, Public records.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA 98501, on May 26, 2005, at 2:00 p.m.

PROPOSED

Date of Intended Adoption: June 21, 2005.

Submit Written Comments to: Joseph Molenda, P.O. Box 44632, Olympia, WA 98504-4632, e-mail MOLE235@LNI.WA.GOV, fax (360) 902-5529, by June 3, 2005.

Assistance for Persons with Disabilities: Contact Resenda Canada by May 16, 2005, TTY (360) 902-4677 or (360) 902-5464.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This revision is intended to replace outdated information and language to make chapter 296-06 WAC, Public records, more usable to the public. The changes in process and records index availability are intended to make labor and industries public records more accessible: WAC 296-06-010, 296-06-050, 296-06-090, 296-06-100, 296-06-130 and 296-06-150, "plain talk" language; WAC 296-06-020, "plain talk" language, update organizational information; WAC 296-06-030, "plain talk" language, update office location information; WAC 296-06-040, "plain talk" language, update general operation and procedure descriptions; WAC 296-06-080, "plain talk" language, clarification of procedure to release protected information by written authorization; WAC 296-06-110, "plain talk" language, clarification of procedure to request inspection or copies of public records; WAC 296-06-120, "plain talk" language, clarification of different fees charged for copying; WAC 296-06-140, "plain talk" language, removing time requirements for request for review and response; and WAC 296-06-170, "plain talk" language, procedure for obtaining index of labor and industries public records.

Statutory Authority for Adoption: For WAC 296-06-010 is chapter 43.17 RCW, RCW 42.17.250, [42.17].251, 51.04.020, 51.04.030; for WAC 296-06-020 is chapter 43.17 RCW, RCW 42.17.250 (1)(a), 51.04.020, 51.04.030; for WAC 296-06-030 is chapter 43.17 RCW, RCW 42.17.250, 42.17.290, 51.04.020, 51.04.030; for WAC 296-06-040 is chapter 43.17 RCW, RCW 42.17.250 (1)(a) and (c), 42.17.290, 51.04.020, 51.04.030; for WAC 296-06-050 is RCW 42.17.250 (1)(b) and (c), 42.17.290; for WAC 296-06-080 is RCW 51.28.070, 51.16.070; for WAC 296-06-090 is RCW 43.17.060, 51.04.020, 51.04.030; for WAC 296-06-100 is RCW 42.17.270, [42.17].280, [42.17].290; for WAC 296-06-110 is RCW 42.17.260(1), 42.17.320, 42.17.290; for WAC 296-06-120 is RCW 42.17.260 (7) and (8), 42.17.270, 42.17.280, 42.17.290, 42.17.300, 42.17.305; for WAC 296-06-130 is RCW 42.17.260(1), 42.17.320; for WAC 296-06-140 is RCW 42.17.290, 42.17.320, 42.17.325; for WAC 296-06-150 is RCW 42.17.290; and for WAC 296-06-170 is RCW 42.17.260 (5), (6).

Statute Being Implemented: RCW 42.17.260(5).

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: Joseph Molenda, Tumwater, Washington, (360) 902-6462; Implementation: Russell Johnson, Tumwater, Washington, (360) 902-6995; and Enforcement: Melanie Roberts, Tumwater, Washington, (360) 902-6961.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from the [small] business economic impact statement requirement under RCW 19.85.025(3), referencing RCW 34.05.310 (4)(c), (d), (e) and (f), since this rule making revises and updates the rule. The copying fees are pursuant to legislative standards, and the content of the rule is specifically mandated by chapter 42.17 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt from the cost-benefit analysis requirement under RCW 34.05.028 (5)(b)(iii), (iv), (v), and (vi), since this rule making revises and updates the rule. The copying fees are pursuant to legislative standards and the content of the [rule] is specifically mandated by chapter 42.17 RCW.

April 19, 2005

Judy Schurke

Acting Director

AMENDATORY SECTION (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-010 Purpose.** The department of labor and industries (~~(L&I)~~ is ~~((a department))~~ an agency of state government created by RCW 43.17.010. ~~((It shall hereafter))~~ In this chapter it shall be referred to as the "department." Where appropriate, "department" also refers to its staff and employees. The ~~((department promulgates))~~ purpose of this chapter is to ensure compliance with the public records provisions of chapter 42.17 RCW ~~((, and in particular with sections of that act dealing with public records)).~~

AMENDATORY SECTION (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-020 Description of department organization** ~~((of the department))~~. (1) Central organization. The chief executive officer of the department is the director of labor and industries, ~~((hereinafter called))~~ referred to here as "director." ~~((He or she))~~ The director is appointed by the governor with the consent of the senate ~~((to hold office))~~ and serves at the pleasure of the governor. The department is organized in six regions across five divisions: ~~((Industrial insurance, industrial safety and health, industrial relations, apprenticeship, and building and construction safety inspection services.))~~ Insurance services, WISHA (Washington Industrial Safety and Health Act) services, specialty compliance services, operations, and field services. Each region and division is responsible to a deputy director or assistant director appointed by the director ~~((, although the industrial relations and apprenticeship divisions both report to one assistant director, whose appointment as the head of apprenticeship must be confirmed by the Washington state apprenticeship and training council, the members of which are also appointed by the director. This combined industrial relations and apprenticeship division, which includes a section to administer the Crime Victims Act, chapter 7.68 RCW, is known as the employment standards, apprenticeship and crime victims compensation division)).~~ Major policy decisions, rule-making, and the primary administrative functions



of the department are carried out by the department's central organizations in Olympia.

(2) ~~Field ((organization)) services.~~

~~((a)) The department maintains service locations, or major field offices, in ((seventeen)) many cities ((other than Olympia)). These service locations are grouped into six regions throughout the state, each ((of which is)) headed by a regional ((field-service manager. In addition, certain programs operate field offices in other cities, but these are not complete service locations and are not required to keep complete policy manuals and other records available for public inspection.~~

~~(b) The department's rehabilitation center in Tukwila is headed by a superintendent)) administrator.~~

AMENDATORY SECTION (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-030 Locations ~~((of established places)) where information about the department may be obtained and the department((s)) public records inspected and copied. (1) ((Olympia)) Tumwater office.~~**

~~((a)) The office of the director, the administrative office of the department, the main offices of the divisions ((of industrial insurance)), and the office of the public records officer are in the ((General Administration Building, Olympia)) Labor and Industries headquarters building, Tumwater, Washington. ((The main offices of the other divisions are located at the following places: Industrial Safety and Health at 805 Plum Street S.E., Olympia, Washington; Apprenticeship, Employment Standards, and Crime Victims Compensation at 925 Plum Street S.E., Olympia, Washington; and Building and Construction Safety Inspection Services at 406 Legion Way S.E., Olympia, Washington.)) General information about the department and its divisions may be obtained at ~~((these places))~~ this location, and on the internet at [www.lni.wa.gov](http://www.lni.wa.gov).~~

(2) **Field offices.**

(a) General information about the department may also be obtained at its service locations, or ~~((major))~~ field offices, at the following places:

Aberdeen, ((P.O. Box 66, 2700 Simpson Avenue))  
415 West Wishkah, Suite 1B,  
(98520-0013)) 98520-4315

Bellevue,  
616 120th Avenue Northeast, Suite C201, 98005

Bellingham, ((P.O. Box 608,  
2500 Elm Street, Suite F, 98227))  
1720 Ellis Street, Suite 200, 98225

Bremerton, ((4841 Auto Center Way,  
Suite 201, 98312-3440))  
500 Pacific Avenue, Suite 400, 98337-1943

Colville,  
298 South Main, Suite 203, 99114

East Wenatchee,  
519 Grant Road, 98802-5459

~~((Ephrata,  
21 "C" Street, Southwest, 98823-1895))~~

Everett, P.O. Box 67,  
(8625 Evergreen Way, Suite 250, 98206))  
100th Avenue Southeast, 98208-3727

~~((Kelso,  
711 Vine Street, 98626-2621))~~

Kennewick, ((500 North Morain,  
Suite 1110, 99336))  
4310 West 24th Avenue, 99338

Longview,  
900 Ocean Beach Highway, 98632

Moses Lake,  
3001 West Broadway, 98837-2907

Mount Vernon,  
(1220 Memorial Highway, 98273-3262))  
525 East College Way, Suite H, 98273

Okanogan, ((P.O. Box 632,))  
1234 2nd Avenue South, 98840-9723

Port Angeles,  
(1026 East First Street, Suite 1, 98362))  
1605 East Front Street, Suite C, 98362-4628

Pullman,  
S.E. 1250 Bishop Boulevard, Suite G, 99163

Seattle,  
(300 West Harrison, 98119))  
315 West 5th Avenue South, Suite 200, 98104-2607

Spokane,  
(TAF C33, E. 3901 Main, 99220))  
N. 901 Monroe, Suite 100, 99201

Tacoma, Room 305, ((Public Service Building,  
1305 Tacoma Avenue South, 98402-1988))  
950 Broadway, Suite 200, 98402

Tukwila, P.O. Box 69050,  
12806 Gateway Drive, Seattle, 98168-3311

Tumwater, P.O. Box 44810,  
7273 Linderson Way Southwest, Olympia 98504-4810

Vancouver,  
(10401 N.E., 4th Plain, 98662))  
312 Southeast Stonemill Drive, Suite 120, 98684

Walla Walla,  
1815 Portland Avenue, Suite 2, 99362

~~((Wenatchee,  
123 Ohme Garden Road, 98801))~~

Yakima,  
(1716 South 16th Avenue, 98902-5713))  
15 West Yakima Avenue, 98902-3480

~~(b) ((Information about the extended care services offered injured workers, including physical therapy, special instruction, or vocational counseling, may be obtained from~~

the department's Rehabilitation Center at 12806 Gateway Drive, Tukwila, Washington 98168.) Requests for public records containing confidential information will be processed only through the Tumwater office, unless the requestor is authorized to access them.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-040 Operations and procedures.** The general ((course and method of channeling and determining the)) operations ((of the five divisions)) and procedures of the department's ((and the nature of requirements of all formal and informal procedures connected therewith)) five divisions are summarized ((in the following subsections:)) below. For more information, go to: [www.lni.wa.gov](http://www.lni.wa.gov).

(1) ~~(Industrial insurance. This division administers medical care and payment of disability compensation for workers (or their dependents or survivors) sustaining job injuries or occupational diseases. Virtually all employers in the state must provide this industrial insurance coverage. The medical program of the state fund is funded through payments by employers and employees. The disability payments by the state fund are funded by premiums collected from employers. Descriptions of procedures to be followed by employers and employees are outlined in department publications entitled Employers' Guide to Industrial Insurance and Workers' Guide to Industrial Insurance Benefits.~~

In order to ensure that premium costs are equitably distributed, the division sets rates, determines classifications, rates individual firms based on claims experience, and periodically audits businesses to ensure accurate reporting and premium payment. Information about the records required during an industrial insurance audit can be found in the department publication *Preparing for Your Audit*.

The division also provides guidance to individual employers and groups of employers in controlling industrial insurance premiums through better claims management, return-to-work efforts, and effective safety programs, as well as through a financial incentive program known as retrospective rating. Further information is available in *Guide to Loss Control and Retrospective Rating*.

The department also certifies certain employers to become "self insured," which means that they are permitted to pay the legally defined industrial insurance benefits from their own funds. After the department certifies an employer as a self insurer, it monitors all claims for injury benefits to make certain employees receive all rightful benefits. Descriptions of procedures to be followed by self-insured employers and their employees are outlined in *Employers' Guide to Self-insurance and Employees of Self-insured Businesses: Guide to Industrial Insurance Benefits*.

(2) ~~Industrial safety and health. This division endeavors to prevent job injuries and illnesses by adopting and enforcing safety and health standards and by training employers and employees in safe working procedures. It administers the Washington Industrial Safety and Health Act (WISHA), operating under a state plan agreement with the federal Occupational Safety and Health Administration (OSHA). Employer and employee procedures and responsibilities are~~

outlined in the department's publications, *A Guide to WISHA and Workplace Safety and Health Standards*. Information about voluntary consultations to improve workplace safety can be found in *Free, No Fault, No Hassle*, and reporting workplace accidents to OSHA is outlined in *Injury and Illness Recordkeeping Requirements*.

(3) ~~Employment standards, apprenticeship and crime victims compensation. The industrial relations, or employment standards, portion of this division administers the laws regulating wages, hours, and working conditions. It also enforces the minimum wage and family care laws and may assist in the collection of claims for unpaid wages. The industrial statistician determines the "prevailing rate of wage" on public works contracts and gathers information on wages and conditions of labor in the state, the consumer price index, standard family budgets, and manpower data on the labor force, employment, unemployment, and earnings. The section headed by the supervisor of employment standards administers the state employment standard designed to protect the health, safety, and welfare of the vast majority of employees. This section also issues minor work permits designed to protect young workers from exploitation and hazardous environments. More information on this subject can be found in *Youth in the Job Force: A Guide for Employers and Minor Workers*. Industrial relations agents investigate complaints of violations of employment standards, the minimum wage law and other wage laws; hold conferences between employees and employers; inspect records; make investigations to determine whether or not there have been violations of statutes, rules, or regulations; and suggest remedial actions.~~

The apprenticeship portion of this division, with the Washington state apprenticeship and training council, administers the apprenticeship training law for those persons desiring to become skilled in any one of various trades, crafts, and services. Local joint apprenticeship committees and program sponsors throughout the state are responsible for the actual training. This division acts as a liaison between these committees and the council to make certain that the policies of the council are followed uniformly. The division also administers on the job training programs for those persons training in occupations other than occupations in which apprenticeship is an option.

The crime victims compensation section of this division pays medical and disability benefits to innocent victims (or to their dependents or survivors) who sustain injuries as a result of criminal acts. Benefit payments and procedures are outlined in the department's publication *Help for Crime Victims*. This section also certifies local prosecutor-based victim witness units.

(4) ~~Building and construction safety inspection services. This division administers programs designed to protect the life, health, and property of the general public. The various sections of this division issue licenses; promulgate rules and regulations; certify standards; and ensure compliance. The division conducts electrical inspections; registers electrical contractors; inspects and regulates the use of boilers and pressure vessels; inspects elevators; ensures compliance with the standards for the manufacture, lease, and sale of mobile homes and recreational vehicles; enforces the statutes, rules,~~

and regulations governing factory-built structures; reviews electrical plans for health care facilities, plans for elevators and other conveyances, and plans for factory-assembled structures; tests and licenses plumbers and electricians; and registers general and specialty contractors.) **Insurance services.**

This division administers Washington's workers' compensation program—medical care and disability benefits for workers who are injured on the job. Every business with employees must provide this coverage. L&I administers the "state fund," which covers the majority of the state's workers. Through its self-insurance program, it also monitors coverage offered by large companies that choose to self-insure and manage their own claims.

This division includes all of the workers' compensation programs that:

- Manage injured worker claims;
- Bill employers for their required quarterly premiums;
- Pay health care (and other) providers for their services.

The division also:

- Sets workers' compensation rates;
- Helps employers control their premiums through a variety of financial incentive, claims management, return-to-work and safety programs;

• Administers the department's crime victims compensation program, which covers those who are injured as a result of criminal acts.

More information is available at [www.LNI.wa.gov/ClaimsIns](http://www.LNI.wa.gov/ClaimsIns).

### (2) WISHA services.

This division administers the Washington Industrial Safety and Health Act (WISHA), under a state plan agreement with the federal Occupational Safety and Health Administration (OSHA). It aids in the prevention of job injuries and illnesses by adopting and enforcing safety and health standards and by training employers and employees in safe working procedures.

Through the RCW, the legislature has directed L&I to administer and enforce three additional programs. These programs are also handled by WISHA:

- Asbestos, including certifications and notifications of asbestos projects;
- Explosives, regulating the possession, handling, and use of explosives or explosive devices;
- Worker and community right to know, which provides a way of communicating information regarding hazardous substances in the workplace and the community.

Employer and employee procedures and responsibilities, and information about voluntary consultations to improve workplace safety can be found on the internet at [www.lni.wa.gov/FormPublications](http://www.lni.wa.gov/FormPublications). Information about reporting workplace accidents to OSHA can be found on the internet at <http://www.osha.gov/pls/publications/pubindex.list>.

### (3) Specialty compliance services.

This division encompasses several diverse programs related to the construction trades, workplace rights, and apprenticeship. Its programs' duties include:

- Registering contractors to ensure they are bonded and insured.

• Licensing electrical contractors and elevator mechanics.

• Certifying plumbers and electricians.

• Regulating and inspecting:

– Electrical installations.

– Boilers and pressure vessels.

– Factory assembled structures.

– Elevators and other conveyances.

Employment standards program:

Develops and enforces rules regulating wages (including prevailing wages for public works projects) and hours, and working conditions, including those for teenagers.

Apprenticeship program:

Administers the state's apprenticeship training laws and policies.

### (4) Operations.

This area includes several internal support divisions including administrative services, information services, the office of human resources, and fraud prevention and compliance.

Fraud prevention and compliance:

This division encompasses several diverse programs related to the prevention of abuse in the workers' compensation system. Its programs include:

- Audit.
- Collections.
- Detection and tracking.
- Firm appeals.
- Investigations.
- Significant employer cases.

### (5) Field services.

This division provides the agency with local department program service throughout its service locations in six geographic regions of Washington.

AMENDATORY SECTION (Amending Order 76-27, filed 9/28/76)

WAC 296-06-050 ((~~Rules of procedure, substantive rules, general policy statements, and interpretations of general applicability.~~) **Department rules.** The department's rules ((~~of procedures, substantive rules of general applicability, and statements of general policy and interpretations of general applicability~~)), adopted as authorized by law, are ((~~contained~~)) in Title 296 WAC.

AMENDATORY SECTION (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

WAC 296-06-080 ~~Authorization ((~~for~~)) to release ((~~of~~)) information. ((Any person having a right of privacy in any public records of the department may authorize the inspection and copying of any such records by persons not otherwise so authorized by providing the department with a signed and dated written authorization describing the records covered by the authorization, and naming the person or persons authorized to inspect and copy. In the event that a department file contains information related to a disease or condition usually transmitted through sexual contact, or to testing for the presence of such a disease, the authorization to release information must be specific to sexually transmitted~~

disease. ~~A general authorization to release information is not adequate for the release of information related to sexually transmitted disease. The department shall make a record of all authorizations to release information. The authorizations shall be immediately attached to such files and records and shall become a part thereof. No such authorization shall be valid until submitted to the department.~~) Some public records are protected from inspection and/or copying by state and/or federal law. You may access these records by either:

- Being the person legally authorized to access them; or
- Getting a notarized written authorization from the person with legal access. This authorization must:
  - Include a description of the records.
  - State the name of the person or persons authorized to inspect and copy the records.
  - Be signed and dated by the person with legal access to the records.

**Note:** If the records contain information about a disease or a condition usually transmitted through sexual contact, the release authorization must specifically mention sexually transmitted disease.

Authorizations to release information, once submitted to the department, become a part of the public record and the department's files.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-090 Public records officer.** ~~((The department's public records officer shall have charge of its public records. He or she shall have an office in the administrative office of the department at Olympia, Washington. He or she shall be responsible for the enforcement of the department's rules and regulations regarding the release of public records, and shall ensure compliance and cooperation of the department's staff with the public records disclosure requirements of chapter 42.17 RCW. He or she may choose such designees as may be necessary.))~~ The department will designate a public records officer to be in charge of its public records. This officer will have an office at the department's Tumwater headquarters. They are responsible for the enforcement of the department's rules and regulations regarding the release of public records, and for making sure the department's staff cooperates and complies with the public disclosure requirements of chapter 42.17 RCW. They may appoint delegates to help with the work as necessary.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-100 Office hours.** ~~((The customary office hours of the department's Olympia offices and complete service locations, for the purpose of inspection and copying of any of the department's public records as provided by this chapter, shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. The only exceptions to this are the Okanogan and Walla Walla service locations, where the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m.))~~ Inspecting and copying the department's public records will be allowed only

during regular office hours, which are 8:00 a.m. through 5:00 p.m. Monday through Friday, not including legal holidays.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-110 ((Requests for)) Requesting public records.** ~~((Persons requesting opportunity to copy or inspect the department's public records shall follow these procedures:~~

~~(1) Informal oral requests may be made to any of the department's full service locations or its office in Olympia.~~

~~(2) The department may require a person who has made an informal request to submit a formal written request.~~

~~(3) All formal requests shall be submitted by mail or personally to the deputy director or assistant director who heads the division or the section from which records are being requested. If such a request is misdirected, department staff shall forward it to the proper person.~~

~~(4) Each formal request shall include the following information:~~

~~(a) The name of the person or persons making the request;~~

~~(b) The time of day and calendar date on which the request is made;~~

~~(c) The nature of the request, including description of the requested records by title, subject matter, date, and other means of enabling the staff of the department to identify the requested records and make them available.~~

~~(d) A signed statement that the material will not be used for commercial purposes, in the event that a list of any type is included in the material being requested.~~

~~(5) The staff of the department shall assist any person making a request, whether formal or informal, in identifying the requested record or records but in the event the records cannot be identified, the department shall so advise the person making the request, and, in the case of formal requests, return the formal request for resubmission with additional description of the requested records.~~

~~(6) When any request is made to inspect and copy material in files and public records where a right of privacy is involved, or when such files and records are exempt by any other provision of law, inspection and copying shall not be permitted until the authorization described in WAC 296-06-080, together with a formal request, is presented to the department.))~~ (1) You can request an inspection or copy of the department's public records by either:

• Making a request at any of the department's service locations, listed in WAC 296-06-030; or

• Sending a written request to the L&I public disclosure unit at:

Department of Labor & Industries

Public Disclosure Unit

Post Office Box 44632

Olympia, WA 98504-4632

**Note:** If you make an oral request, the department may require you to put your request in writing.

(2) Written requests must include the following:

• The requestor's name.

• The date the request is being made.

• A description of the requested records, including the title, subject matter, date the records were made, and any other identifying information.

• A signed statement that the material will not be used for commercial purposes, if the requested material includes a list of individuals.

**Note:** Department staff will assist the requestor in identifying records if needed. If the request is not clear, the department will ask for clarification. If no clarification is received, the department will not respond.

(3) Records that are protected by an individual's rights to privacy will not be released until the authorization described in WAC 296-06-080 is submitted, with the written request, to the department.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-120 Copying (~~and~~) fees.** ((Where copies of public records are requested, the department may charge a fee, to be set by the public records officer, for reimbursement of its actual costs incident to such a request. The fees the contractor registration section charges for copies of material from a contractor's file are set out in WAC 296-200-900. Whenever copies of public records are mailed to the person making the request, the department may require reimbursement for postage costs. All copies made at the request of persons desiring copies on copy equipment of the department will be made by department staff at times when the making of such copies will not unreasonably disrupt the operations of the department. If the records to be copied contain information that would violate any right of personal privacy, the department staff member shall prevent such information from appearing on any copy. Where the use of such equipment does not harm the public records or impede the normal work of the department, those requesting copies of public records may use their own copying equipment and paper without charge, but in such event the department staff will supervise the copying at all times.)) The department may charge the requestor a fee for reimbursement of actual copying costs and postage costs. Requestors may make their own copies at a department location, under the supervision of a department staff member, if the records will not be harmed and it will not interfere with the normal work of the department.

**Note:** The contractor registration section and electrical program charge separate fees for copies of material from a contractor's or an electrician's files. These fees are in WAC 296-200-900 and 296-46B-910.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-130 Denials of (~~requests for public~~) records requests.** ((Only the public records officer or his or her designee shall have the power to deny a request for public records. Action on all such requests shall be prompt. In cases of informal requests, any member of the department's staff to whom an informal request is made may require the person making the request to submit a formal request or such staff member may bring the matter to the attention of the assistant

director or his designee of the division from which records are being requested.

A decision on a formal request may be deferred for a reasonable time but immediate written notice of such deferral shall be given. All denials of requests for public records shall be in written form. All denials shall include a statement specifying the reason for the denial, a statement of any exemption authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld, and the signature of the public records officer or his or her designee.)) The public records officer and his or her designees have the power to deny a request for public records. Denials must include:

- The reason for the denial.
- A statement of any exemption that authorizes the denial of the record.
- A brief explanation of how the exemption applies to the withheld record.
- The signature of the public records officer or their designee.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-140 (~~Review~~) Appeal of denial(s) of requests (~~for inspection or copying of public records~~).** ((After any request for inspection or copying is denied, any person may petition the department to review its denial. Any such petition for review must be made in writing to the public records officer prior to the end of the second business day following the denial. Such petition shall specifically refer to the denial and shall contain a brief statement or any reasons for reconsideration of the denial. Any such petition shall be immediately referred to the director or such persons as he or she may designate to review such petitions. The person reviewing such petitions shall review and reconsider the matter and either affirm or reverse the denial and communicate the decision to the person submitting the petition prior to the end of the second business day following the petition for review.)) After a request for inspection or copying of public records is denied, the requestor may ask the department to review the denial. The request for review must:

- Be made in writing.
- Be sent to the public records officer or his/her designee after receiving the denial.
- Specifically refer to the denial.
- Contain a brief statement that gives reasons for reconsideration of the denial.

**AMENDATORY SECTION** (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

**WAC 296-06-150 Protection of public records.** ((The department shall protect public records from damage or disorganization and prevent excessive interference with other essential functions of the department. All inspections of public records shall be supervised by a department staff member. Any staff member supervising public records inspection may decline to act upon the requests of person who are intoxicated, violent, abusive, threatening, or disruptive, and may terminate the inspection or copying of public records by such

PROPOSED

persons. Any staff member supervising public records inspection will at all times ensure that those inspecting the department's public records do not tear, mutilate, mark, or otherwise harm such records and shall terminate the inspection or copying of public records by any person who has harmed such records. The staff member may limit inspection and copying to any extent necessary to prevent such activity from unreasonably disrupting the department's operations. Any staff member supervising public records inspection shall at all times provide full, prompt, courteous assistance to persons requesting the inspection and copying of the department's public records.) The department will protect its public records from damage or disorganization. Public records requests will not be allowed to interfere with essential functions of the department.

All inspections of public records will be supervised by a department staff member. Staff members will not allow records to be inspected or copied by anyone who is intoxicated, violent, abusive, threatening, or otherwise disruptive. Anyone who displays these characteristics during a records inspection may have the inspection terminated by department staff.

Staff members who are supervising the inspection or copying of public records will make sure of the following:

- Records are not torn, mutilated, marked, or otherwise harmed by the requestor.

- Inspection and copying activities do not disrupt the department's operations.

- Full, prompt, and courteous assistance is provided to the requestor.

AMENDATORY SECTION (Amending WSR 90-07-004, filed 3/9/90, effective 4/9/90)

WAC 296-06-170 Records index. ((The department of labor and industries will not maintain a current index as provided for in RCW 42.17.260(2). As provided in RCW 42.17.260(3), this formal order is issued and published specifying the reasons why and the extent to which maintenance of such a current index would unduly burden or interfere with the operations of the department.

(1) It would both unduly burden and interfere with department operations to maintain a current index with the items specified in RCW 42.17.260 (2)(a), "final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases," as the department through its several divisions, sections, and other subdivisions routinely and regularly issues a great number of determinative orders. The division of industrial insurance alone is estimated to issue daily an average of about 1,200 to 2,000 or more determinative orders. To index all such orders would either require more personnel and consequent expense or reduce the level of handling the essential functions and result in constantly greater periods of delay. Furthermore, all indexes maintained for departmental use by the various divisions, sections, and subdivisions of the department for internal use will remain available for public inspection and copying where permitted by law. A listing of such indexes and other available material shall be available for public inspection and copying.

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

(2) It would both unduly burden and interfere with the department's operations to maintain a current index with all "instructions to staff that affect a member of the public" within the scope of RCW 42.17.260 (2)(c). The inclusion of every such instruction to the staff would require either more personnel to index such instructions or a reduction in the department's capacity to carry out its other functions. The department will, however, continue to make available to the public for inspection or copying all instructions of a general nature to its staff that affects members of the public. A listing of all manuals containing such instructions shall be available for public inspection and copying.

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

(3) It would both unduly burden and interfere with department operations to maintain a current index of the materials within the scope of RCW 42.17.260 (2)(f), that is, all "correspondence, and materials, referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party." The department daily, routinely, and regularly receives and sends a vast amount of material fitting this description. It would require either a greatly increased staff to index everything of that nature or a drastic reduction of the department's ability to carry out its other essential functions.

Accordingly, and for the above reasons, it is ordered that the public records officer not establish an index relative to such subject matter.

(4) The department did maintain a current index of the matters not covered by subsections (1) through (3) for nearly three years following the promulgation of its initial set of public records rules which was filed with the office of the code reviser on July 31, 1973. That index was virtually never asked for, nor was it used to any extent at all by the public. The department devoted many manhours that could have been put to accomplishment of its statutory duties to prepare and maintain that current index. The department finds it has been unduly burdensome to make the extensive effort necessary to maintain such a current index. Therefore, pursuant to RCW 42.17.260(3), the department issues and publishes this formal order specifying the reasons why and the extent to which compliance with any of the provisions of RCW 42.17.260(2) requiring the maintenance of a current index would unduly burden or interfere with its operations. The department herewith states that it will not hereafter maintain such a current index. The department further states that it will, however, make available for public inspection and copying all indexes and lists, not otherwise exempt, maintained for normal agency use. Guidance to public records available through the department and a general listing of such records and how they may be obtained will be provided by the public records officer upon request.) The department of labor and industries will maintain a current index as required

by RCW 42.17.260. The index will consist of record types and/or descriptions, their locations, and availabilities. These records will be made available according to public disclosure law. The agency records index is accessible online at [www.lni.wa.gov](http://www.lni.wa.gov). The index will be updated as needed. Copies of the index will be provided upon request by the public disclosure unit.

**WSR 05-09-064**

**PROPOSED RULES**

**BELLEVUE COMMUNITY COLLEGE**

[Filed April 19, 2005, 1:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-096.

Title of Rule and Other Identifying Information: Chapter 132H-136 WAC, Library-Media Center, Policy of Community College District VIII, formerly titled Library-Media Center Code of Community College District VIII.

Hearing Location(s): Bellevue Community College, 3000 Landerholm Circle S.E., Room L100, Bellevue, WA 98007-6484, on June 13, 2005, at 9:00 a.m.

Date of Intended Adoption: June 29, 2005.

Submit Written Comments to: Myra Van Vactor, Bellevue Community College, 3000 Landerholm Circle S.E., Room L100, Bellevue, WA 98007-6484, e-mail [mvanvact@bcc.ctc.edu](mailto:mvanvact@bcc.ctc.edu), fax 564-6186, by June 9, 2005.

Assistance for Persons with Disabilities: Contact Susan Gjomesli by June 8, 2005, TTY (425) 564-4110 or (425) 564-2498.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal streamlines the existing Library-Media Center WAC so that it is easier to read and understand. It adds new sections identifying the purpose of the center and the services offered by the Library-Media Center. It amends information about library loans and clarifies information about how fines are levied. The proposal repeals sections on the schedule of fines and information about the student handbook, since both sections are not relevant.

Reasons Supporting Proposal: The changes make the chapter easier to read and understand and clarifies information that is important for library users.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 28B.50.140.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Myra Van Vactor, L100, (425) 564-2252.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The policy changes to the existing WAC have no impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs associated with implementation of this rule.

April 18, 2005  
Debra P. Ross  
Rules Coordinator

AMENDATORY SECTION (Amending Order 13, filed 2/13/73 [3/9/73])

**WAC 132H-136-010 Title.** WAC 132H-136-010 through 132H-136-040 will be known as the library-media center ((eode)) policy of Community College District VIII.

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

NEW SECTION

**WAC 132H-136-015 Purpose.** The Library Media Center (LMC) provides the information resources needed by students, faculty, staff and the community to encourage learning, innovation, intellectual integrity and civic responsibility. The LMC resources and services support the college's mission to provide accessible services and meet the changing educational needs of our diverse community. This policy applies to all BCC employees, students and library users who use any of the Library Media Center resources and facilities.

AMENDATORY SECTION (Amending Order 35, filed 9/3/75 [10/10/75])

**WAC 132H-136-020 Loans.** Materials from the Bellevue Community College library((-)) media center are available to be checked out ((tø)) by members of the following groups.

- (1) All currently registered students of Bellevue Community College.
- (2) All currently employed faculty, ((and)) administrative and classified staff ((members)).  
(((3) All persons currently employed in classified staff positions.))  
(((4) All holders of currently valid courtesy cards. This latter group includes members of the board of trustees, community educators whose work might necessitate usage of library media materials, and other individuals who show a particular need for specialized items in the library media collections which are not available elsewhere.))

((5)) (3) Students from other institutions with which the Bellevue Community College library\_((-))media center has a "Reciprocal Borrowing Agreement". ((reciprocal lending agreement through the "shared use plan.")) This group may use materials on a loan basis at the discretion of the circulation/media services manager, ((supervisor)) who shall determine lending priorities based upon the current usage of individual items by Bellevue Community College students.

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

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.

## NEW SECTION

**WAC 132H-136-025 Services.** The Library Media Center maintains a web site and publishes a brochure summarizing information about the LMC, including hours of service, circulation of collections (including print and non-print materials), and services and resources available (including media, equipment, and facilities).

## AMENDATORY SECTION (Amending WSR 92-19-052, filed 9/10/92)

**WAC 132H-136-030 Fines. Charges are levied for overdue, lost, damaged materials and equipment. (1) Replacement charges will include cost of replacement plus a processing fee. Replacement costs for items that are no longer in print or not available for purchase will be based upon the cost of a similar item plus a processing fee.**

**(2) Charges for overdue materials will be according to a fee schedule that is posted in the circulation desk area and the LMC web site and brochure. Students may appeal charges by following the Library Fines and Appeal Procedure as detailed in the LMC Manual of Policies and Procedures, a copy of which is available in the Reserve Collection.**

~~((1) In cases where damage or loss of library material is evident, the offending patron is assessed the replacement cost.~~

~~(2) Where library media materials are retained by the borrower beyond the designated due date, fines are levied as a sanction to effect the prompt return of items which might be in demand by others.)~~

(3) When materials are not returned, or ~~((fines))~~ charges not paid, holds are placed on the transcript records of those involved — only as a sanction to cause the ultimate return of library((-) media material in order to protect the integrity of the library((-media)) collection.

(4) In extreme cases, when expensive or valuable items are involved, the provisions of RCW 27.12.340 may be invoked.

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132H-136-035	Schedule of fines.
WAC 132H-136-040	Student handbook.

**WSR 05-09-065  
PROPOSED RULES  
GAMBLING COMMISSION**  
[Filed April 19, 2005, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-032.

Title of Rule and Other Identifying Information: WAC 230-02-505 Recreational gaming activity—Defined.

Hearing Location(s): LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, on June 10, 2005, at 9:30 a.m.

Date of Intended Adoption: June 10, 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 June 1, 2005.

Assistance for Persons with Disabilities: Contact Shirley Corbett by June 1, 2005, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A recreational gaming activity (RGA) is not a gambling activity and its purpose is purely entertainment, not fund-raising. Participants are each given the same number of chips and the chips have no value (scrip). Additional scrip cannot be purchased. The only cost to participants is to defray costs of food, entertainment, and/or hiring a fund-raising event equipment provider (FRE provider). Sponsoring organizations may hire a licensed FRE provider to bring in professional gambling tables, and/or staff to operate the games. All prizes are donated and players may bid on them at the end of the evening, using scrip collected during the event. RGAs are often sponsored by companies as a way to get employees together to socialize (for example, a company may sponsor an RGA during a holiday party.) In 1997, rules were adopted creating RGAs in response to requests to allow gambling equipment to be used at nongambling events. The permit is our way of tracking the gambling equipment. During the past five years, the commission has issued an average of thirty permits each year. Permit fees are \$54 for charitable/non-profits and \$55 for commercials. RGAs can be held without a permit, if professional gambling equipment is not used. Organizations must be in existence for at least six months before sponsoring an RGA and they can sponsor two RGAs each year. This limit was intended to discourage organizations from forming solely for the purpose of offering the activity. Only members and guests of the sponsoring organization may participate in the RGA. Only activities authorized at fund-raising events (FREs) are allowed at RGA. Poker is no allowed at FREs; therefore, it's not allowed at RGAs.

Reasons Supporting Proposal: The growing popularity of poker has brought this rule change to the commission at the request of several FRE equipment providers. Staff reviewed these requests and do not have regulatory concerns with: (1) Poker be allowed; (2) ability for organizations to sponsor more than two RGAs each year; and (3) no longer require sponsoring organizations to be in existence at least six months.

Statutory Authority for Adoption: RCW 9.46.070.

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.

April 18, 2005  
Susan Arland  
Rules Coordinator

**AMENDATORY SECTION** [(Amending Order 224, filed 7/17/91, effective 8/17/91)]

**WAC 230-02-505 Recreational gaming activity—Defined.** A recreational gaming activity is a nongambling activity (~~(utilizing)~~) using poker tables and/or gambling devices authorized for use in fund raising events (~~(conducted no more than two times per year, by or on behalf of an organization that has been in existence for at least six months)~~). Only members and guests of the sponsoring organization may participate and (~~(such)~~) the activity (~~(shall be)~~) is subject to the requirements of WAC 230-25-330.

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

**WSR 05-09-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Children's Administration)  
[Filed April 19, 2005, 3:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-18-067.

Title of Rule and Other Identifying Information: Amending WAC 388-160-0075 What qualifications do I need to care for youth at an overnight youth shelter?, and 388-160-0195 When must the department deny, suspend or revoke a license?, amendments are proposed for two sections of the licensing rules for overnight youth shelters (OYS), chapter 388-160 WAC, for clarity and consistency with licensing rule chapters for other residential facilities licensed by Children's Administration (CA).

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 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 CA's licensed residential facilities. The changes further increase the safety protections around child abuse or neglect history of applicants and staff of an OYS.

Reasons Supporting Proposal: The proposed amendments to WAC 388-160-0075 allow the department discretion in denying or revoking an application or employment due to a previous denial or revocation of a license or employment. The change will make the language consistent with other licensed facilities.

The proposed amendments to WAC 388-160-0195 clarifies the meaning of the word "disqualify" by replacing it with the words that are the intent of this section, which are "deny, suspend, or revoke." This adds clarity and consistency.

Statutory Authority for Adoption: RCW 74.15.030.

Statute Being Implemented: Chapter 74.15 RCW.

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

Name of Proponent: Department of Social and Health Services, Children's Administration, 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. CA has determined based on information received that the costs of implementing the proposed rules does 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) 902-7903, e-mail loje300@dshs.wa.gov.

April 12, 2005  
Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-15-001, filed 7/5/01, effective 8/5/01)

**WAC 388-160-0075 What qualifications ~~((do I))~~ does a person need to care for youth at an overnight youth shelter?** If ~~((you are))~~ a person is requesting a license or a position as an employee, intern, or a volunteer at an overnight youth shelter, ~~((you))~~ he/she must not:

- (1) Have a history of ~~((founded))~~ child abuse or neglect.
- (2) Be disqualified by our background check (see chapter 388-06 WAC).
- (3) 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.

(4) The department may require additional information from you, your staff, interns, or volunteers. We may request this information at any time and it may include, but is not limited to any of the following evaluations and/or documentation of completed treatment:

(a) Substance and alcohol abuse evaluations;  
 (b) Psychiatric evaluations;  
 (c) Psycho-sexual evaluations; and  
 (d) Medical evaluations or reports.  
 (((4))) (5) Any evaluation or information requested by the department must be supplied at the expense of the applicant or licensee.

((5)) (6) The department must approve the evaluator providing the above services and you must give the licensor permission to speak with the evaluator before and after the evaluation.

**AMENDATORY SECTION** (Amending WSR 01-15-001, filed 7/5/01, effective 8/5/01)

**WAC 388-160-0195 When must the department deny, suspend or revoke a license?** (1) A license must be denied, suspended or revoked if the department decides that you cannot provide care for youth 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) You have failed your background check (see chapter 388-06 WAC).

(b) You have been found to have committed child abuse or neglect or you treat, permit or assist in treating children in your care with cruelty, indifference, abuse, neglect, or exploitation.

(c) You or anyone on the premises had a license denied or revoked from an agency that provided care to children or vulnerable adults.

(d) You attempt to get a license by deceitful means, such as making false statements or leaving out important information on the application.

(e) You commit, permit or assist in an illegal act on the premises of a home or facility providing care to children.

(f) You are using illegal drugs, or excessively using alcohol and/or prescription drugs.

(g) You knowingly allowed employees or volunteers who made false statements on their applications to work at your agency.

(h) You repeatedly lack qualified or an adequate number of staff to care for the number and types of children under your care.

(i) You have refused to allow our authorized staff and inspectors to have requested information or access to your facility, child and program files, and/or your staff and clients.

(j) You are unable to manage the property, fiscal responsibilities, or staff in your agency.

**WSR 05-09-080**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Health and Rehabilitative Services Administration)

[Filed April 19, 2005, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-24-044.

Title of Rule and Other Identifying Information: WAC 388-865-0420 Intake evaluation, 388-865-0430 Clinical record, 388-865-0610 Definitions, 388-865-0620 Scope, and 388-865-0630 Time frame.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Mental Health Division intends to add new requirements to WAC 388-865-0420, 388-865-0430, 388-865-0610, 388-865-0620 and 388-865-0630 to comply with RCW 71.05.445 and 71.05.390 as amended by chapter 166, Laws of 2004 (E2SSB 6358). There are new requirements for mental health providers in their communication with the Department of Corrections and county designated mental health professionals.

Reasons Supporting Proposal: To comply with new statutory requirements.

Statutory Authority for Adoption: RCW 71.05.445 and 71.05.390.

Statute Being Implemented: Chapter 71.05 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: Implementation will include two statewide training sessions for stakeholders and the Mental Health Division will be providing additional training for mental health providers prior to implementation. Enforcement of the new rules will be assigned to the Mental Health Division quality assurance and improvement section in regular reviews of licensed mental health providers.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Robin Roberts, Olympia, Washington, (360) 902-0829; and Enforcement: Kelley Foster, Olympia, Washington, (360) 902-0795.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules incorporate language in state statute without material change, and are exempt under RCW 19.85.025 and 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. The rules incorporate language in state statute without material change, and are exempt under RCW 34.05.328 (5)(b)(iii).

April 12, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0420 Intake evaluation.** The community support service provider must complete an intake evaluation in collaboration with the consumer within fourteen days of admission to service. If seeking this information presents a barrier to service, the item may be left incomplete provided that the reasons are documented in the clinical record. The following must be documented in the consumer's intake evaluation:

- (1) A consent for treatment or copy of detention or involuntary treatment order;
- (2) Consumer strengths, needs and desired outcomes in their own words. At the consumer's request also include the input of people who provide active support to the consumer;
- (3) The consumer's age, culture/cultural history, and disability;
- (4) History of substance use and abuse or other co-occurring disorders;
- (5) Medical and mental health services history and a list of medications used;
- (6) Documentation that consumers receiving court ordered treatment or treatment ordered by the department of corrections (DOC) have been asked if they are under supervision by the department of corrections. The consumer is required to disclose this information.
- (7) For children:
  - (a) Developmental history; and
  - (b) Parent's goals and desired outcomes.
- ~~((7))~~ (8) Sufficient information to justify the diagnosis;
- ~~((8))~~ (9) Review of the intake evaluation by a mental health professional.

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0430 Clinical record.** The community support service provider must maintain a clinical record for each consumer and safeguard the record against loss, defacement, tampering, or use by unauthorized persons. The clinical record must contain:

- (1) An intake evaluation;
- (2) Evidence that the consumer rights statement was provided to the consumer;
- (3) A copy of any advance directives, powers of attorney or letters of guardianship provided by the consumer;
- (4) The crisis treatment plan when appropriate;
- (5) The individualized service plan and all changes in the plan;
- (6) Documentation that services are provided by or under the clinical supervision of a mental health professional;
- (7) Documentation that services are provided by, or under the clinical supervision, or the clinical consultation of a mental health specialist. Consultation must occur within thirty days of admission and periodically thereafter as specified by the mental health specialist;
- (8) Periodic documentation of the course of treatment and objective progress toward established goals for rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices;

(9) A notation of extraordinary events affecting the consumer;

(10) Documentation of mandatory reporting of abuse, neglect, or exploitation of consumers consistent with chapters 26.44 and 74.34 RCW;

(11) Documentation that the department of corrections was notified by the provider when a consumer on an less restrictive alternative or department of corrections order mental health treatment informs them that they are under supervision by department of corrections. Notification can be either written or oral. If oral notification, it must be confirmed by a written notice, including e-mail and fax. The disclosure to department of corrections does not require the person's consent;

(12) If the consumer has been given relief by the committing court it must be confirmed in writing;

(13) Documentation that an evaluation by a county designated mental health professional was requested when the mental health provider becomes aware of a violation of court ordered treatment if the consumer is both on an less restrictive alternative and is being supervised by the department of corrections;

(14) Documentation of informed consent to treatment and medications by the consumer or legally responsible other;

~~((12))~~ (15) Documentation of confidential information that has been released without the consent of the consumer including, but not limited to provisions in RCW 70.02.050, 71.05.390 and 71.05.630.

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0610 Definitions.** Relevant records and reports includes written documents obtained from other agencies or sources, often referred to as third-party documents, as well as documents produced by the agency receiving the request. Relevant records and reports do not include the documents restricted by either federal law or federal regulation related to treatment for alcoholism or drug dependency or the Health Insurance Portability and Accountability Act or state law related to sexually transmitted diseases, as outlined in RCW 71.05.445 and 71.34.225.

(1) "Relevant records and reports" means:

(a) Records and reports of inpatient treatment:

(i) Inpatient psychosocial assessment - Any initial, interval, or interim assessment usually completed by a person with a master's degree in social work (or equivalent) or equivalent document as established by the holders of the records and reports;

(ii) Inpatient intake assessment - The first assessment completed for an admission, usually completed by a psychiatrist or other physician or equivalent document as established by the holders of the records and reports;

(iii) Inpatient psychiatric assessment - Any initial, interim, or interval assessment usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(iv) Inpatient discharge/release summary - Summary of a hospital stay usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(v) Inpatient treatment plan - A document designed to guide multidisciplinary inpatient treatment or equivalent document as established by the holders of the records and reports;

(vi) Inpatient discharge and aftercare plan data base - A document designed to establish a plan of treatment and support following discharge from the inpatient setting or equivalent document as established by the holders of the records and reports.

(vii) Forensic discharge review - A report completed by a state hospital for individuals admitted for evaluation or treatment who have transferred from a correctional facility or is or has been under the supervision of the department of corrections.

(b) Records and reports of outpatient treatment:

(i) Outpatient intake evaluation - Any initial or intake evaluation or summary done by any mental health practitioner or case manager the purpose of which is to provide an initial clinical assessment in order to guide outpatient service delivery or equivalent document as established by the holders of the records and reports;

(ii) Outpatient periodic review - Any periodic update, summary, or review of treatment done by any mental health practitioner or case manager. This includes, but is not limited to: Documents indicating diagnostic change or update; annual or periodic psychiatric assessment, evaluation, update, summary, or review; annual or periodic treatment summary; concurrent review; individual service plan as required by WAC 388-865-0425 through 388-865-0430, or equivalent document as established by the holders of the records and reports;

(iii) Outpatient crisis plan - A document designed to guide intervention during a mental health crisis or decompensation or equivalent document as established by the holders of the records and reports;

(iv) Outpatient discharge or release summary - Summary of outpatient treatment completed by a mental health professional or case manager at the time of termination of outpatient services or equivalent document as established by the holders of the records and reports;

(v) Outpatient treatment plan - A document designed to guide multidisciplinary outpatient treatment and support or equivalent document as established by the holders of the records and reports.

(c) Records and reports regarding providers and medications:

(i) Current medications and adverse reactions - A list of all known current medications prescribed by the licensed practitioner to the individual and a list of any known adverse reactions or allergies to medications or to environmental agents;

(ii) Name, address and telephone number of the case manager or primary clinician.

(d) Records and reports of other relevant treatment and evaluation:

(i) Psychological evaluation - A formal report, assessment, or evaluation based on psychological tests conducted by a psychologist;

(ii) Neuropsychological evaluation - A formal neuropsychological report, assessment, or evaluation based on neuropsychological tests conducted by a psychologist;

(iii) Educational assessment - A formal report, assessment, or evaluation of educational needs or equivalent document as established by the holders of the records and reports;

(iv) Functional assessment - A formal report, assessment, or evaluation of degree of functional independence. This may include but is not limited to: Occupational therapy evaluations, rehabilitative services data base activities assessment, residential level of care screening, problem severity scale, instruments used for functional assessment or equivalent document as established by the holders of the records and reports;

(v) Forensic evaluation - An evaluation or report conducted pursuant to chapter 10.77 RCW;

(vi) Offender/violence alert - A any documents pertaining to statutory obligations regarding dangerous or criminal behavior or to dangerous or criminal propensities. This includes, but is not limited to, formal documents specifically designed to track the need to provide or past provision of: Duty to warn, duty to report child/elder abuse, victim/witness notification, violent offender notification, and sexual/kidnaping offender notification per RCW 4.24.550, 10.77.205, 13.40.215, 13.40.217, 26.44.330, 71.05.120, 71.05.330, 71.05.340, 71.05.425, 71.09.140, and 74.34.035;

(vii) Risk assessment - Any tests or formal evaluations including department of corrections risk assessments administered or conducted as part of a formal violence or criminal risk assessment process that is not specifically addressed in any psychological evaluation or neuropsychological evaluation.

(e) Records and reports of legal status - Legal documents are documents filed with the court or produced by the court indicating current legal status or legal obligations including, but not limited to:

(i) Legal documents pertaining to chapter 71.05 RCW;

(ii) Legal documents pertaining to chapter 71.34 RCW;

(iii) Legal documents containing court findings pertaining to chapter 10.77 RCW;

(iv) Legal documents regarding guardianship of the person;

(v) Legal documents regarding durable power of attorney;

(vi) Legal or official documents regarding a protective payee;

(vii) Mental health advance directive.

(2) "**Relevant information**" means descriptions of a consumer's participation in, and response to, mental health treatment and services not available in a relevant record or report, including all statutorily mandated reporting or duty to warn notifications as identified in WAC 388-865-610 (1)(d) (vi), Offender/Violence alert, and all requests for evaluations for involuntary civil commitments under chapter 71.05 RCW. The information may be provided in verbal or written form at the discretion of the mental health service provider.

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

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0620 Scope.** Many records and reports are updated on a regular or as needed basis. The scope of the records and reports to be released to the department of corrections are dependent upon the reason for the request.

(1) For the purpose of a presentence investigation release only the most recently completed or received records of those completed or received within the twenty-four-month period prior to the date of the request; or

(2) For all other purposes including risk assessments release all versions of records and reports that were completed or received within the ten year period prior to the date of the request that are still available.

**AMENDATORY SECTION** (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

**WAC 388-865-0630 Time frame.** The mental health service provider shall provide the requested relevant records, reports and information to the authorized department of corrections person in a timely manner, according to the purpose of the request:

(1) Presentence investigation - within seven calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the seven-day-period and provide the requested relevant records, reports or information within a mutually agreed to time period; or

(2) All other purposes - within thirty calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the thirty-day period and provide the requested relevant records, reports or information within a mutually agreed to time period; or

(3) Emergent situation requests - When an offender subject has failed to report for department of corrections supervision or in an emergent situation that poses a significant risk to the public, the mental health provider shall upon request, release information related to mental health services delivered to the offender and, if known, information regarding the whereabouts of the offender. Requests if oral must be subsequently confirmed in writing the next working day, which includes e-mail or facsimile so long as the requesting person at the department of corrections is clearly defined. The request must specify the information being requested. Disclosure of the information requested does not require the consent of consumer.

(a) Information that can be released is limited to:

(i) A statement as to whether the offender is or is not being treated by the mental health services provider; and

(ii) Address or information about the location or whereabouts of the offender.

**WSR 05-09-081**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed April 19, 2005, 3:50 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-23-037.

Title of Rule and Other Identifying Information: Amendment of WAC 388-14A-8100 to remove subsection (2), Are there special rules for setting child support for children in foster care?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under prior statutes, the Division of Child Support (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 the statutory changes from the 2004 legislative session (chapter 183, Laws of 2004) which amended RCW 13.34.160, 14.34.270, 74.13.031, 74.13.350, and 74.20A.030.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.13.350, and 74.20A.310.

Statute Being Implemented: RCW 13.34.160, 13.34.-270, 74.13.031, 74.13.350, and 74.20A.030.

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 and Implementation and Enforcement: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects indi-

PROPOSED

viduals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

April 12, 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 05-09-082**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 19, 2005, 3:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-078.

Title of Rule and Other Identifying Information: The Division of Child Support (DCS) is amending WAC 388-14A-3102 and 388-14A-3120 to correct a date reference to clarify when, under the Uniform Parentage Act, chapter 26.26 RCW, an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity.

Rules Affected: WAC 388-14A-3102 When the parents have signed an acknowledgment or affidavit of paternity, which support establishment notice does the division of child support serve on the noncustodial parent?; and 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 1997, the Washington legislature enacted a statute providing that an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity, effective July 1, 1997. However, the new paternity acknowledgment forms were not available until August of 1997, so the Division of Child Support (DCS) used August 15, 1997, as the effective date for such filings. The Uniform Parentage Act makes it clear that any acknowledgment filed after July 1, 1997, is subject to the provisions of the UPA. DCS now seeks to bring its rules and policies in line with existing Washington law and clarify that the effective date is July 1, 1997.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310.

Statute Being Implemented: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 74.20A.056.

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: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

April 13, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-17-013, filed 8/12/03, effective 9/12/03)

**WAC 388-14A-3102 When the parents have signed an acknowledgment or affidavit of paternity, which support establishment notice does the division of child support serve on the noncustodial parent?** (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For affidavits or acknowledgments filed on or before ((August 14, 1997)) July 1, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For affidavits or acknowledgments filed after ((August 14, 1997)) July 1, 1997 with the center for health statistics in the state of Washington, DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-

14A-3115, because the affidavit or acknowledgment has become a conclusive presumption of paternity under RCW 26.26.320.

(4) For acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on the acknowledgment or affidavit, even if the mother or father were not yet eighteen years of age at the time they signed or filed the acknowledgment or affidavit, as provided in RCW 26.26.315(4).

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed and filed a denial of paternity within ten days of the child's birth.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

**AMENDATORY SECTION** (Amending WSR 03-17-013, filed 8/12/03, effective 9/12/03)

**WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity.** (1) A notice and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.056.

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR) (see WAC 388-14A-3115) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before (~~August 14, 1997~~) July 1, 1997; or

(b) An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by RCW 26.23.050, 74.20A.055, and 74.20A.056.

(7) The NFPR includes the noncustodial parent's health insurance obligation, pursuant to RCW 26.18.170 and 26.23.050.

(8) The NFPR may include an obligation to provide support for day care expenses or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the noncustodial parent hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by 388-14A-3375.

(12) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFPR is a final order. See WAC 388-14A-3110 for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-14A-3810 describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the noncustodial parent, or the mother, if she is also the custodial parent, may request genetic tests. A mother who is not the custodial parent may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC 388-14A-3110 for time limits. DCS does not refund any money collected under the notice if the noncustodial parent is later:

(a) Excluded from being the father by genetic tests; or

(b) Found not to be the father by a court of competent jurisdiction.

(16) If the noncustodial parent requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

(a) A hearing on the NFPR.

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(17) If the noncustodial parent was not excluded as the father, the mother, if she is also the custodial parent, may within twenty days of the date of service of the genetic tests request:

(a) A hearing on the NFPR; or

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(18) If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

(19) A hearing on a NFPR is for the limited purpose of resolving the accrued support debt, current support obligation and reimbursement to DCS for paternity-related costs. The NCP has the burden of proving any defenses to liability.

RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

April 13, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**PROPOSED**

**WSR 05-09-083**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 19, 2005, 3:52 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-12-096.

Title of Rule and Other Identifying Information: WAC 388-400-0005 Who is eligible for temporary assistance for needy families (TANF)?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 25, 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 fernax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 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 this proposed change is to clarify in rule that every TANF assistance unit must contain either an "eligible child" or a pregnant woman. This change will bring rule in line with current practice and result in the department not losing fair hearings if this practice is challenged. This proposed change also clarifies that a client cannot receive both state and tribal TANF benefits in the same month.

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, 74.08.090.

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: Tom Berry, 1009 College S.E., Lacey, WA 98504, (360) 725-4617.

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

AMENDATORY SECTION (Amending WSR 04-23-027, filed 11/8/04, effective 12/9/04)

**WAC 388-400-0005 Who is eligible for temporary assistance for needy families?** (1) You can get temporary assistance for needy families (TANF), if you:

(a) Can be in a TANF/SFA assistance unit as allowed under WAC 388-408-0015 through 388-408-0030;

(b) Meet the citizenship/alien status requirements of WAC ((388-424-0001)) 388-424-0010;

(c) Live in the state of Washington. A child must live with a caretaker relative, guardian, or custodian who meets the state residency requirements of WAC 388-468-0005;

(d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;

(e) Meet TANF/SFA:

(i) Income requirements under chapter 388-450 WAC;

(ii) Resource requirements under chapter 388-470 WAC;

and

(iii) Transfer of property requirements under chapter 388-488 WAC.

(f) Assign your rights to child support as required under WAC 388-422-0005;

(g) Cooperate with the division of child support (DCS) as required under WAC 388-422-0010 by helping them:

(i) Prove who is the father of children applying for or getting TANF or SFA; and

(ii) Collect child support.

(h) Tell us your Social Security number as required under WAC 388-476-0005;

(i) Cooperate in a review of your eligibility as required under WAC 388-434-0005;

(j) Cooperate in a quality assurance review as required under WAC 388-464-0001;

(k) Participate in the WorkFirst program as required under chapter 388-310 WAC;

(l) Report changes of circumstances as required under WAC 388-418-0005; and

(m) Complete a six-month report and provide proof of any changes as required under WAC 388-418-0011.

(2) If you are an adult ((and do not)), you must have ((a)) an eligible child living with you((?)) or you must be pregnant and meet the requirements of WAC 388-462-0010.

(3) If you are an unmarried pregnant teen or teen parent:

(a) Your living arrangements must meet the requirements of WAC 388-486-0005; and

(b) You must attend school as required under WAC 388-486-0010.

(4) In addition to rules listed in subsection (1) of this section, a child must meet the following rules to get TANF:

(a) Meet the age requirements under WAC 388-404-0005; and



(b) Live in the home of a relative, court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* as required under WAC 388-454-0005; or

(c) If the child lives with a parent or other adult relative that provides care for the child, that adult cannot have used up their sixty-month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005.

(5) You cannot get TANF if you have been:

(a) Convicted of certain felonies and other crimes under WAC 388-442-0010; or

(b) Convicted of unlawful practices to get public assistance under WAC 388-446-0005 or 388-446-0010.

(6) If you are a client in a household which is eligible for a tribal TANF program, you cannot receive state and tribal TANF in the same month.

**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 05-09-084

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 19, 2005, 3:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-23-103.

Title of Rule and Other Identifying Information: Adopting new chapter 388-824 WAC, Division of Developmental Disabilities (DDD) assessment process.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on June 7, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 8, 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., June 7, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 3, 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 these rules is to govern and support the implementation of DDD's new mini-assessment and information and referral requirements. DDD plans to implement these rules effective September 15, 2005. Adoption of these rules will help promote consistent application and understanding of the division's client assessment processes. This new chapter:

- Describes the purpose of the mini-assessment and who receives a mini-assessment;
- Defines "level of need" groups and how the mini-assessment assigns clients to a level of need group; and
- Identifies how clients are referred to receive a full assessment.

Reasons Supporting Proposal: In June 2003, the Joint Legislative Audit and Review Committee (JLARC) recommended that DSHS develop an assessment process for developmentally disabled clients designed to be consistently applied, to all clients, in all parts of the state.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: Chapters 71A.12, 71A.10 RCW.

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: John Gaskell, 640 Woodland Square Loop S.E., Lacey, WA 98504-5600, P.O. Box 45600, Olympia, WA 98504-5600, e-mail gaskejw@dshs.wa.gov, (360) 725-2517, fax (360) 407-0955; Implementation and Enforcement: Don Clintsman, 640 Woodland Square Loop S.E., Lacey, WA 98504-5600, P.O. Box 45600, Olympia, WA 98504-5600, e-mail ClintDL@dshs.wa.gov, (360) 725-3421, fax (360) 407-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has determined that these rules do not affect small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Bob Beckman, 640 Woodland Square Loop S.E., Lacey, WA 98504-5600, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2490, fax (360) 407-0955, e-mail beckmrc@dshs.wa.gov.

April 13, 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 05-10 issue of the Register.

#### WSR 05-09-085

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed April 19, 2005, 3:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-080.

Title of Rule and Other Identifying Information: **(Part 1 of 2)** Amending WAC 388-550-3300 Hospital peer groups and cost caps, 388-550-4300 Hospitals and units exempt from the DRG payment method, 388-550-4600 Hospital selective contracting program and 388-550-4800 Hospital payment methods—State administered programs; and new WAC 388-550-4650 "Full cost" public hospital certified public expenditure (CPE) payment program.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 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 fernax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 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 allow the department to reimburse certain public hospitals through the "full cost" public hospital certified public expenditure (CPE) payment program. MAA is also updating, amending, and repealing other applicable sections in a separate related proposed rule-making notice (see Part 2 of 2). In addition, MAA is adding clarifying language to explain how high cost outliers are paid for state administered program claims.

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, (360) 725-1342; Implementation and Enforcement: John Hanson, P.O. Box 45510, Olympia, WA 98504, (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 required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting John Hanson, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1856, fax (360) 753-9152, e-mail hansonjr@dshs.wa.gov.

April 14, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-3300 Hospital peer groups and cost caps.** (1) For rate-setting purposes the department groups hospitals into peer groups and establishes cost caps for each peer group. The department sets hospital reimbursement rates at levels that recognize the costs of reasonable, efficient, and effective providers.

(2) The ~~((four))~~ six medical assistance administration (MAA) hospital peer groups are:

(a) Group A, rural hospitals;

(b) Group B, urban hospitals without medical education programs;

(c) Group C, urban hospitals with medical education program; ~~((and))~~

(d) Group D, specialty hospitals or other hospitals not easily assignable to the other three groups;

(e) Group E, public hospitals participating in the "full cost" public hospital certified public expenditure (CPE) program; and

(f) Group F, critical access hospitals.

(3) ~~MAA uses a cost cap at the seventieth percentile for ((a peer group-~~

~~)) MAA caps at the seventieth percentile the costs of)) hospitals in peer groups B and C ((whose costs exceed the seventieth percentile for their peer group)). All other peer groups are exempt from the cost cap.~~

~~((b))~~ (a) MAA exempts peer group A hospitals from the cost cap because they are paid under the ratio of costs-to-charges methodology for Medicaid claims.

~~((c))~~ (b) MAA exempts peer group D hospitals from the cost cap because they are specialty hospitals without a common peer group on which to base comparisons.

(c) MAA exempts peer group E hospitals from the cost cap because they are paid under the ratio of costs-to-charges (RCC) methodology for Medicaid and GAU inpatient claims.

(d) MAA exempts peer group F hospitals from the cost cap because they are paid under the departmental weighted costs-to-charges methodology for Medicaid claims.

(4) MAA calculates a peer group's cost cap based on the hospitals' base period costs after subtracting:

(a) Indirect medical education costs, in accordance with WAC 388-550-3250(2), from the aggregate operating and capital costs of each hospital in the peer group; and

(b) The cost of outlier cases from the aggregate costs in accordance with WAC 388-550-3350(1).

(5) MAA uses the lesser of each individual hospital's calculated aggregate cost or the peer group's seventieth percentile cost cap as the base amount in calculating the individual hospital's adjusted cost-based conversion factor. After the peer group cost cap is calculated, MAA adds back to the individual hospital's base amount its indirect medical education costs and appropriate outlier costs, as determined in WAC 388-550-3350(2).

~~(6) ((In its rate setting process for peer groups A and B, MAA recognizes changes in peer group status and considers DOH's approval or recommendation.))~~ In cases where corrections or changes in an individual hospital's base-year cost or peer group assignment occur after peer group cost caps are calculated, MAA updates the peer group cost caps involved only if the change in the individual hospital's base-year costs or peer group assignment will result in a five percent or greater change in the seventieth percentile of costs calculated for either its previous peer group category, its new peer group category, or both.

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-4300 Hospitals and units exempt from the DRG payment method.** (1) Except when otherwise specified, inpatient services provided by hospitals and units that are exempt from the diagnosis-related group (DRG) pay-

ment method are reimbursed ~~((by))~~ under the RCC payment method described in WAC 388-550-4500.

(2) Subject to the restrictions and limitations listed in this section, the department exempts the following hospitals and units from the DRG payment method for inpatient services provided to Medicaid-eligible clients:

(a) Peer group A hospitals, as ~~((defined))~~ described in WAC 388-550-3300(2). Exception: Inpatient services provided to clients eligible under the following programs are reimbursed through the DRG payment method:

- (i) General assistance programs; and
- (ii) ~~((Medically indigent program (MIP); and~~
- ~~((iii)))~~ Other state-only administered programs.

(b) Peer group E hospitals, as described in WAC 388-550-3300(2). See WAC 388-550-4650 for how the department calculates payment to Peer group E hospitals.

(c) Peer group F hospitals (critical access hospitals).

(d) Rehabilitation units when the services are provided in medical assistance administration (MAA)-approved acute physical medicine and rehabilitation (acute PM&R) hospitals and designated distinct rehabilitation units in acute care hospitals.

MAA uses the same criteria as the Medicare program to identify exempt rehabilitation hospitals and designated distinct rehabilitation units. Exception: Inpatient rehabilitation services provided to clients eligible under the following programs are covered and reimbursed through the DRG payment method:

- (i) General assistance programs; and
- (ii) ~~((Medically indigent program (MIP); and~~
- ~~((iii)))~~ Other state-only administered programs.

~~((e))~~ (e) Out-of-state hospitals excluding hospitals located in designated ~~((border areas))~~ bordering cities as described in WAC 388-501-0175. Inpatient services provided in out-of-state hospitals to clients eligible under the following programs are not covered or reimbursed by the department:

- (i) General assistance programs; and
- (ii) ~~((Medically indigent program (MIP); and~~
- ~~((iii)))~~ Other state-only administered programs.

~~((d))~~ (f) Military hospitals when no other specific arrangements have been made with the department. Military hospitals may individually elect or arrange for one of the following payment methods in lieu of the RCC payment method:

- (i) A negotiated per diem rate; or
- (ii) DRG.

~~((e))~~ (g) Nonstate-owned specifically identified psychiatric hospitals and designated hospitals with Medicare certified distinct psychiatric units. The department uses the same criteria as the Medicare program to identify exempt psychiatric hospitals and distinct psychiatric units of hospitals.

(i) Inpatient psychiatric services provided to clients eligible under the following programs are reimbursed through the DRG payment method:

- (A) General assistance programs; and
- (B) ~~((Medically indigent program (MIP); and~~
- ~~((C)))~~ Other state-only administered programs.

(ii) If the department determines that the psychiatric services provided to a client~~((s))~~ eligible under ~~((the))~~ a pro-

gram~~((s))~~ listed in subsection 2)~~((e))~~(g)(i) of this section qualify for a special exemption, the services may be reimbursed by using the ratio of costs-to-charges (RCC) payment method.

(iii) Regional support networks (RSNs) that arrange to reimburse nonstate-owned psychiatric hospitals and designated distinct psychiatric units of hospitals directly, may use the department's payment methods or contract with the hospitals to reimburse using different methods. Claims not paid directly through an RSN are paid through the department's MMIS payment system.

(3) The department limits inpatient hospital stays that are exempt from the DRG payment method and identified in subsection (2) of this section to the number of days established at the seventy-fifth percentile in the current edition of the publication, "Length of Stay by Diagnosis and Operation, Western Region," unless the stay is:

(a) Approved for a specific number of days by the department, or for psychiatric inpatient stays, by the regional support network (RSN);

(b) For chemical dependency treatment which is subject to WAC 388-550-1100; or

(c) For detoxification of acute alcohol or other drug intoxication.

(4) If subsection (3)(c) of this section applies to an eligible client~~((s))~~, the department will:

(a) Pay for three-day detoxification services for an acute alcoholic condition; or

(b) Pay for five-day detoxification services for acute drug addiction when the services are directly related to detoxification; and

(c) Extend the three- and five-day limitations for up to six additional days if either of the following is invoked on a client under care in a hospital:

(i) Petition for commitment to chemical dependency treatment; or

(ii) Temporary order for chemical dependency treatment.

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

**WAC 388-550-4600 Hospital selective contracting program.** (1) The department ~~((shall))~~ designates selective contracting areas (SCA) in which hospitals participate in competitive bidding to provide hospital services to ~~((medical care))~~ Medicaid clients. Selective contracting areas are based on historical patterns of hospital use by Medicaid clients.

(2) The department ~~((shall))~~ requires ~~((medical care))~~ Medicaid clients in a selective contracting area obtain their elective (nonemergent) inpatient hospital services from participating or exempt hospitals in the SCA. Elective (nonemergent) inpatient hospital services provided by nonparticipating hospitals in an SCA shall not be reimbursed by the department, except as provided in WAC 388-550-4700.

(3) The department ~~((shall))~~ exempts from the selective contracting program those hospitals that are:

(a) In an SCA but designated by the department as remote. The department ~~((shall))~~ designates as remote, hospitals meeting the following criteria:

- (i) Located more than ten miles from the nearest hospital in the SCA;
- (ii) Having fewer than seventy-five beds; and
- (iii) Having fewer than five hundred Medicaid admissions in a two-year period.

(b) Owned by health maintenance organizations (HMOs) and providing inpatient services to HMO enrollees only;

(c) Children's hospitals;

(d) State psychiatric hospitals or separate (freestanding) psychiatric facilities; ~~((and))~~

(e) Out-of-state hospitals located in ((nonborder areas)) nonbordering cities, and out-of-state hospitals in ~~((border areas))~~ bordering cities not designated as selective contracting areas;

(f) Peer group E hospitals; and

(g) Peer group F hospitals (critical access hospitals).

(4)~~((a) The department shall)~~ MAA:

(a) Negotiates with selectively contracted hospitals a negotiated conversion factor (NCF) for inpatient hospital services provided to Medicaid clients.

~~((The department shall))~~ Calculates its maximum financial obligation for a Medicaid client under the hospital selective contract in the same manner as DRG payments using cost-based conversion factors (CBCFs).

~~((The department shall apply))~~ Applies NCFs to Medicaid clients only. ((The department shall)) (MAA uses CBCFs in calculating payments for ((MI)) medical care services clients.)

#### NEW SECTION

**WAC 388-550-4650 "Full cost" public hospital certified public expenditure (CPE) payment program.** (1) The medical assistance administration's (MAA's) "full cost" public hospital certified public expenditure (CPE) payment program is a public hospital program that pays eligible hospitals the same amount as the Medicaid federal match portion of the "full cost" of covered medically necessary services. MAA uses the ratio of costs-to-charges methodology described in WAC 388-550-4500 to determine "full cost."

(2) Only the following facilities are reimbursed through the "full cost" public hospital CPE payment program:

(a) Public hospitals located in the state of Washington that are:

- (i) Owned by public hospital districts; and
- (ii) Not certified by the department of health (DOH) as a critical access hospital;

(b) Harborview Medical Center; and

(c) University of Washington Medical Center.

(3) Payments made under the CPE payment program are limited to inpatient hospital services provided to clients eligible under the Medicaid and general assistance-unemployable (GA-U) fee-for-service programs.

(4) Each hospital described in subsection (2) of this section is responsible to provide certified public expenditures as the required state match for claiming federal Medicaid funds. Certified public expenditures cannot include federal funds or money used to match federal funds.

(5) Payments made by MAA under the CPE payment program equal the hospital's RCC rate times allowable charges times the state's Medicaid federal match percentage.

(6) Client responsibility and third party liability as identified on the hospital claim or by MAA are deducted from the basic payment to determine MAA's actual payment for that admission.

AMENDATORY SECTION (Amending WSR 04-19-113, filed 9/21/04, effective 10/22/04)

**WAC 388-550-4800 Hospital payment methods—State administered programs.** (1) Except as provided in subsection (2) of this section, the medical assistance administration (MAA) uses the ratio of costs-to-charges (RCC) and diagnosis-related group (DRG) payment methods described in this section to reimburse hospitals at reduced rates for covered services provided to a client~~((s))~~ not eligible under ((the following state administered programs)) any Medicaid program and:

~~((a))~~ (a) ((Medically indigent (MI) program;

~~((b))~~ Who qualifies for the general assistance unemployable (GAU) program; or

~~((c))~~ Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program; and

~~((d))~~ (b) Is involuntarily detained under the Involuntary Treatment Act (ITA)((-Q program. (The ITA-Q program covers ITA services for non-Medicaid eligible clients.))

(2) MAA exempts the following services from the state-administered programs' payment methods and/or reduced rates:

(a) Detoxification services when the services are provided under an MAA-assigned provider number starting with "thirty-six." (MAA reimburses these services using the Title XIX Medicaid RCC payment method.)

(b) Program services provided by MAA-approved critical access hospitals (CAHs) to clients eligible under state-administered programs. (MAA reimburses these services through cost settlement as described in WAC 388-550-2598.)

(c) Program services provided by Peer group E hospitals to clients eligible under the GAU program. (MAA reimburses these services through the "full cost" public hospital certified public expenditure (CPE) program (see WAC 388-550-4650)).

(3) MAA determines:

(a) A state-administered program RCC payment by reducing a hospital's Title XIX Medicaid RCC rate using the hospital's ratable.

(b) A state-administered program DRG payment by reducing a hospital's Title XIX Medicaid DRG cost based conversion factor (CBCF) using the hospital's ratable and equivalency factor (EF).

(4) MAA determines:

(a) The RCC rate for the state-administered programs mathematically as follows:

State-administered programs' RCC rate = current Title XIX Medicaid RCC rate x (one minus the current hospital ratable)

(b) The DRG conversion factor (CF) for the state-administered programs mathematically as follows:

PROPOSED

State-administered programs' DRG CF = current Title XIX Medicaid DRG CBCF x (one minus the current hospital ratable) x EF

(5) MAA determines payments to hospitals for covered services provided to clients eligible under the state-administered programs mathematically as follows:

(a) Under the RCC payment method:

State-administered programs' RCC payment = state-administered programs' RCC Rate x allowed charges

(b) Under the DRG payment method:

State-administered programs' DRG payment = state-administered programs' DRG CF x all patient DRG relative weight ((to include any necessary high-cost outlier payment)) (See subsection (6) of this section for how MAA determines payment for state-administered program claims that qualify as DRG high-cost outliers.)

(6) For state-administered program claims that qualify as DRG high-cost outliers, MAA determines:

(a) In-state children's hospital payments for state-administered program claims that qualify as DRG high-cost outliers mathematically as follows:

Eighty-five percent of the allowed charges above the outlier threshold x the specific hospital's RCC rate x (one minus the current hospital ratable) plus the DRG allowed amount

(b) Psychiatric DRG high-cost outlier payments for DRGs 424 through 432 mathematically as follows:

One hundred percent of the allowed charges above the outlier threshold x the specific hospital's RCC rate x (one minus the current hospital ratable) plus the applicable DRG allowed amount

(c) Payments for all other claims that qualify as DRG high-cost outliers as follows:

Sixty percent x the specific hospital's RCC rate x (one minus the current hospital ratable) plus the applicable DRG allowed amount

High-cost Outlier Calculations for Qualifying Claims State-administered Programs (for admission dates January 1, 2001 and after)														
In-state Children's Hospitals Allowed charges	(-)	> of \$33000 or 3 x DRG	(=)	Charges ≥ threshold	(x)	RCC	(x)	1 (-) Ratable	(x)	85%	(=)	Outlier Add-on Amount	(+)	*DRG Allowed Amount
Psychiatric DRGs 424-432 Allowed charges	(-)	> of \$33000 or 3 x DRG	(=)	Charges > threshold	(x)	RCC	(x)	1 (-) Ratable	(x)	100%	(=)	Outlier Add-on Amount	(+)	*DRG Allowed Amount
All other qualifying claims Allowed charges	(-)	> of \$33000 or 3 x DRG	(=)	Charges > threshold	(x)	RCC	(x)	1 (-) Ratable	(x)	60%	(=)	Outlier Add-on Amount	(+)	*DRG Allowed Amount
*Basic DRG allowed amount calculation: DRG relative weight x conversion factor = DRG allowed amount														

(7) See WAC 388-550-3700(5) for how claims qualify as low-cost outliers.

(8) MAA determines payments for claims that qualify as DRG low-cost outliers mathematically as follows:

Allowed charges for the claim x the specific hospital's RCC rate x (one minus the current hospital ratable)

(9) To calculate a hospital's ratable that is applied to both the Title XIX Medicaid RCC rate and the Title XIX Medicaid DRG CBCF used to determine the respective state-administered program's reduced rates, MAA:

(a) Adds the hospital's Medicaid revenue (Medicaid revenue as reported by department of health (DOH) includes all Medicaid revenue and all other medical assistance revenue) and Medicare revenue to the value of the hospital's charity care and bad debts, all of which is taken from the most recent complete calendar year data available from DOH at the time of the ratable calculation; then

(b) Deducts the hospital's low-income disproportionate share hospital (LIDSH) revenue from the amount derived in (a) of this subsection to arrive at the hospital's community care dollars; then

(c) Subtracts the hospital-based physicians revenue that is reported in the hospital's most recent HCFA-2552 Medicare cost report received by MAA at the time of the ratable

calculation, from the total hospital revenue reported by DOH from the same source as discussed in (a) of this subsection, to arrive at the net hospital revenue; then

(d) Divides the amount derived in (b) of this subsection by the amount derived in (c) of this subsection to obtain the ratio of community care dollars to net hospital revenue (also called the preliminary ratable factor); then

(e) Subtracts the amount derived in (d) of this subsection from 1.0 to obtain the hospital's preliminary ratable; then

(f) Determines a neutrality factor by:

(i) Multiplying hospital-specific Medicaid revenue that is reported by DOH from the same source as discussed in (a) of this subsection by the preliminary ratable factor; then

(ii) Multiplying that same hospital-specific Medicaid revenue by the prior year's final ratable factor; then

(iii) Summing all hospital Medicaid revenue from the hospital-specific calculations that used the preliminary ratable factor discussed in (f)(i) of this subsection; then

(iv) Summing all hospital revenue from the hospital-specific calculations that used the prior year's final ratable factor discussed in (f)(ii) of this subsection; then

(v) Comparing the two totals; and

(vi) Setting the neutrality factor at 1.0 if the total using the preliminary ratable factor is less than the total using the prior year's final ratable factor; or

(vii) Establishing a neutrality factor that is less than 1.0 that will reduce the total using the preliminary ratable factor to the level of the total using the prior year's final ratable factor, if the total using the preliminary ratable factor is greater than the total using the prior year's ratable factor; then

(g) Multiplies, for each specific hospital, the preliminary ratable by the neutrality factor to establish hospital-specific final ratables for the year; then

(h) Subtracts each hospital-specific final ratable from 1.0 to determine hospital-specific final ratable factors for the year; then

(i) Calculates an in-state-average ratable and an in-state-average ratable factor used for new hospitals with no prior year history.

~~((7))~~ (10) MAA updates each hospital's ratable annually on August 1.

~~((8))~~ (11) MAA:

(a) Uses the equivalency factor (EF) to hold the hospital specific state-administered programs' DRG CF at the same level prior to rebasing, adjusted for inflation; and

(b) Calculates a hospital's EF as follows:

EF = State-administered programs' prior DRG CF divided by current Title XIX Medicaid DRG CBCF x (one minus the prior ratable)

~~((9) Effective December 1, 1991, for hospital admissions of clients eligible under the state-administered MI program, MAA:~~

~~(a) Further reduces RCC and DRG payments to a hospital for covered services provided to clients eligible under the MI program by multiplying the respective payment referred to in subsection (5) of this section by ninety-seven percent; and~~

~~(b) Applies this payment reduction to the medically indigent disproportionate share hospital (MIDSH) payment methodology in accordance with section 3(b) of the "Medicaid Voluntary Contributions and Provider Specific Tax Amendment of 1991."~~

## WSR 05-09-086

### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed April 19, 2005, 3:55 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-080.

Title of Rule and Other Identifying Information: **(Part 2 of 2) Amending WAC 388-550-4900 Disproportionate share payments, 388-550-5210 Payment method—SRHIAAPDSH (rural hospital indigent adult assistance program disproportionate share hospital), 388-550-5220 Payment method—NRHIAAPDSH (hospital indigent adult assistance program disproportionate share hospital), 388-550-5400 Payment**

**method—PHDDSH (public hospital district disproportionate share hospital), and 388-550-6800 Proportionate share payments for inpatient hospital services; and repealing WAC 388-550-5100 Payment method—MIDSH (medically indigent disproportionate share hospital), 388-550-5250 Payment method—THAPDSH (teaching hospital assistance program disproportionate share hospital), 388-550-5300 Payment method—STHFPDSH (teaching hospital financing program disproportionate share hospital), 388-550-5350 Payment method—CTHFPDSH (county teaching hospital financing program disproportionate share hospital); and 388-550-6900 Proportionate share payments for outpatient hospital services.**

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 25, 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 24, 2005.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 20, 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/repeal the above listed WAC sections applicable to MAA's proposed new WAC 388-550-4650 "Full cost" public hospital certified public expenditure (CPE) payment program (see the separate related rule-making notice, Part 1 of 2). MAA is also replacing the verbiage, "medically indigent (MI)" costs or charges with "charity" costs or charges.

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, (360) 725-1342; Implementation and Enforcement: John Hanson, P.O. Box 45510, Olympia, WA 98504, (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 required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting John Hanson, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1856, fax (360) 753-9152, e-mail hansonjr@dshs.wa.gov.

April 14, 2005

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-12-044, filed 5/28/04, effective 7/1/04)

**WAC 388-550-4900 Disproportionate share payments.** As required by section 1902 (a)(13)(A) of the Social Security Act, the medical assistance administration (MAA) gives consideration to hospitals that serve a disproportionate number of low-income clients with special needs by making a payment adjustment to eligible hospitals per legislative direction and established prospective payment methods. MAA considers this adjustment a disproportionate share hospital (DSH) payment.

(1) To qualify for a DSH payment for each state fiscal year (SFY), an instate or ~~((border area))~~ bordering city hospital provider must submit to MAA, the hospital's completed and final DSH application by the due date specified in that year's application letter. The application due date will not be less than sixty days after MAA makes the application available.

(2) A hospital is a disproportionate share hospital eligible for the low-income disproportionate share hospital (LIDSH) program for a specific SFY if the hospital submits a DSH application for that specific year in compliance with subsection (1) and if both the following apply:

(a) The hospital's Medicaid inpatient utilization rate (MIPUR) is at least one standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state, or its low-income utilization rate (LIUR) exceeds twenty-five percent; and

(b) At least two obstetricians who have staff privileges at the hospital ~~((and))~~ have agreed to provide obstetric services to eligible individuals at the hospital. For the purpose of establishing DSH eligibility, "obstetric services" is defined as routine nonemergency delivery of babies. This requirement for two obstetricians with staff privileges does not apply to a hospital:

(i) That provides inpatient services predominantly to individuals under eighteen years of age; or

(ii) That did not offer nonemergency obstetric services to the general public as of December 22, 1987, when section 1923 of the Social Security Act was enacted.

(3) For hospitals located in rural areas, "obstetrician" means any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

(4) MAA may consider a hospital a disproportionate share hospital for programs other than the LIDSH program if the hospital submits a DSH application for the specific year and meets the following criteria for the year specified in the application:

(a) The hospital has a MIPUR of not less than one percent; and

(b) The hospital meets the requirement of subsection (2)(b) of this section.

(5) MAA administers the low-income disproportionate share (LIDSH) program and may administer any of the following DSH programs:

(a) ~~((Medically indigent disproportionate share hospital (MIDSH);~~

~~((b)))~~ General assistance-unemployable disproportionate share hospital (GAUDSH);

~~((e)))~~ (b) Small rural hospital assistance program disproportionate share hospital (SRHAPDSH);

~~((d)))~~ (c) Small rural hospital indigent adult assistance program disproportionate share hospital (SRHIAAPDSH);

~~((e)))~~ (d) Nonrural hospital indigent adult assistance program disproportionate share hospital (NRHIAAPDSH);

~~((f))~~ ~~Teaching hospital assistance program disproportionate share hospital (THAPDSH);~~

~~((g))~~ ~~State teaching hospital financing program disproportionate share hospital (STHFPDSH);~~

~~((h))~~ ~~County teaching hospital financing program disproportionate share hospital (CTHFPDSH); and~~

~~((i)))~~ and

~~((e))~~ Public hospital ~~((district))~~ disproportionate share hospital ~~((PHDDSH))~~ (PHDSH).

(6) MAA allows a hospital to receive any one or all of the DSH payment adjustments discussed in subsection (5) of this section when the hospital:

(a) Meets the requirements in subsection (4) of this section; and

(b) Meets the eligibility requirements for the particular DSH payment program, as discussed in WAC 388-550-5000 through 388-550-5400.

(7) MAA ensures each hospital's total DSH payments do not exceed the individual hospital's DSH limit, defined as:

(a) The cost to the hospital of providing services to Medicaid clients, including clients served under Medicaid managed care programs;

(b) Less the amount paid by the state under the non-DSH payment provision of the state plan;

(c) Plus the cost to the hospital of providing services to uninsured patients;

(d) Less any cash payments made by uninsured clients; and

(e) Plus any adjustments required and/or authorized by federal regulation.

(8) MAA's total annual DSH payments must not exceed the state's DSH allotment for the federal fiscal year.

If the MAA statewide allotment is exceeded, MAA may adjust future DSH payments to each hospital to compensate for the amount overpaid. Adjustments will be made in the following program order:

(a) ~~((PHDDSH);~~

~~((b))~~ THAPDSH;

~~((c))~~ CTHFPDSH;

~~((d))~~ STHFPDSH;

~~((e)))~~ SRHAPDSH;

~~((f)))~~ (b) NRHIAAPDSH;

~~((g)))~~ (c) SRHIAAPDSH;

~~((h))~~ MIDSH;

~~((i)))~~ (d) GAUDSH; ~~((and~~

~~((j)))~~ (e) LIDSH; and

~~((f))~~ PHDSH.

**AMENDATORY SECTION** (Amending WSR 04-12-044, filed 5/28/04, effective 7/1/04)

**WAC 388-550-5210 Payment method—SRHIAAPDSH.** (1) The medical assistance administration (MAA) makes small rural hospital indigent adult assistance program

disproportionate share hospital (SRHIAAPDSH) payments to qualifying small rural hospitals through the disproportionate share hospital (DSH) program.

(2) To qualify for an SRHIAAPDSH payment, a hospital must:

(a) Meet the criteria in WAC 388-550-4900 (2)(b) and (4);

(b) Be an in-state hospital that provided charity services to clients (~~(eligible under the medically indigent (MI) program)~~) during the most recent, completed fiscal year;

(c) Be a small rural hospital with fewer than seventy-five acute licensed beds; and

(d) For state fiscal year (SFY) beginning July 1, 2003, be located in a city or town that has a nonstudent population of fifteen thousand eight hundred ten or less. For each subsequent SFY, the nonstudent population requirement is increased cumulatively by two percent.

(3) MAA pays hospitals qualifying for SRHIAAPDSH payments from a legislatively appropriated pool. MAA determines each hospital's individual SRHIAAPDSH payment from the total dollars in the pool using percentages established through the following prospective payment method:

(a) At the time the SRHIAAPDSH payment is to be made, MAA calculates each hospital's profitability margin based on the most recent, completed year-end data using audited financial statements from the hospital.

(b) MAA determines the average profitability margin for the qualifying hospitals.

(c) Any hospital with a profitability margin of less than one hundred ten percent of the average profitability margin for qualifying hospitals receives a profit factor of 1.1. All other hospitals receive a profit factor of 1.0.

(d) MAA:

(i) Identifies from historical data considered to be complete, each individual qualifying hospital's (~~(inpatient and outpatient)~~) allowed charity charges (~~(for MAA's MI clients)~~); then

(ii) Multiplies the total allowed charity charges by the hospital's ratio of costs-to-charges (RCC), limiting the RCC to a value of 1, to determine the hospital's (~~(MI)~~) charity costs; then

(iii) Multiplies the hospital's (~~(MI)~~) charity costs by the hospital's profit factor assigned in (c) of this subsection to identify a revised cost amount; then

(iv) Determines the hospital's percentage of revised costs by dividing its revised cost amount by the sum of the revised (~~(MI)~~) charity cost amounts for all qualifying hospitals during the same period.

(4) MAA's SRHIAAPDSH payments to a hospital may not exceed one hundred percent of the projected cost of care for Medicaid clients and uninsured indigent patients for that hospital unless an exception is identified by federal regulation. MAA reallocates dollars as defined in the state plan.

**AMENDATORY SECTION** (Amending 04-12-044, filed 5/28/04, effective 7/1/04)

**WAC 388-550-5220 Payment method—NRHIAAPDSH.** (1) The medical assistance administration (MAA) makes nonrural hospital indigent adult assistance program

disproportionate share hospital (NRHIAAPDSH) payments to qualifying nonrural hospitals through the disproportionate share (DSH) program.

(2) To qualify for an NRHIAAPDSH payment, a hospital must:

(a) Meet the criteria in WAC 388-550-4900 (2)(b) and (4);

(b) Be an in-state or (~~(border area)~~) bordering city hospital that provided charity services to clients (~~(eligible under the medically indigent (MI) program)~~) during the most recent, completed fiscal year; and

(c) Be a hospital that does not qualify as a small rural hospital as defined in WAC 388-550-5210.

(3) MAA pays hospitals qualifying for NRHIAAPDSH payments from a legislatively appropriated pool. MAA determines each hospital's individual NRHIAAPDSH payment from the total dollars in the pool using percentages established through the following prospective payment method:

(a) At the time the NRHIAAPDSH payment is to be made, MAA calculates each hospital's profitability margin based on the most recent, completed year-end data using audited financial statements from the hospital.

(b) MAA determines the average profitability margin for the qualifying hospitals.

(c) Any hospital with a profitability margin of less than one hundred ten percent of the average profitability margin for qualifying hospitals receives a profit factor of 1.1. All other hospitals receive a profit factor of 1.0.

(d) MAA:

(i) Identifies from historical data considered to be complete, each individual qualifying hospital's (~~(inpatient and outpatient)~~) allowed charity charges (~~(for MAA's MI clients)~~); then

(ii) Multiplies the total allowed charity charges by the hospital's ratio of costs-to-charges (RCC), limiting the RCC to a value of 1, to determine the hospital's (~~(MI)~~) charity costs; then

(iii) Multiplies the hospital's (~~(MI)~~) charity costs by the hospital's profit factor assigned in (c) of this subsection to identify a revised cost amount; then

(iv) Determines the hospital's percentage of the NRHIAAPDSH revised costs by dividing the hospital's revised cost amount by the total (~~(MI)~~) charity costs for all qualifying hospitals during the same period.

(4) MAA's NRHIAAPDSH payments to a hospital may not exceed one hundred percent of the projected cost of care for Medicaid clients and uninsured indigent patients for the hospital unless an exception is identified by federal regulation. MAA reallocates dollars as defined in the state plan.

**AMENDATORY SECTION** (Amending WSR 03-13-055, filed 6/12/03, effective 7/13/03)

**WAC 388-550-5400 Payment method—(~~(PHDDSH)~~) PHDSH.** (1) The medical assistance administration's (MAA's) (~~(considers a hospital eligible for the public hospital district disproportionate share hospital (PHDDSH) payment if the hospital:~~

(a) Meets the criteria in WAC 388-550-4900 (2)(b) and (4);



~~(b) Is a public district hospital in Washington state or a border area hospital owned by a public corporation; and~~

~~(c) Provides at least one percent of its services to low-income patients.~~

~~(2) Using a prospective payment method, MAA pays hospitals considered eligible under the criteria in subsection (1) of this section a PHDDSH payment amount from the legislatively appropriated PHDDSH pool)) public hospital disproportionate share hospital (PHDSH) program is a public hospital program for:~~

~~(a) Public hospitals located in the state of Washington that are:~~

~~(i) Owned by public hospital districts; and~~

~~(ii) Not certified by the department of health (DOH) as a critical access hospital;~~

~~(b) Harborview Medical Center; and~~

~~(c) University of Washington Medical Center.~~

~~(2) MAA pays hospitals eligible under this program a payment equal to the hospital's individual disproportionate share hospital (DSH) payment limit calculated according to WAC 388-550-4900. The resulting amount is multiplied by the federal matching assistance percentage in effect for Washington State at the time of the payment. This amount is sent to the hospital.~~

~~(3) Hospitals receiving payment in this DSH program must certify that funds have been spent on uncompensated care at the hospital equal to or in excess of the payment amount before applying the federal matching assistance percentage. Certified funds cannot include federal funds or money used to match federal funds.~~

**AMENDATORY SECTION** (Amending WSR 03-13-055, filed 6/12/03, effective 7/13/03)

**WAC 388-550-6800 Proportionate share payments for inpatient hospital services.** (1) Each state fiscal year, per legislative direction and established prospective payment methods, the department creates a proportionate share pool that provides supplemental payments for inpatient hospital services to a hospital provider of Title XIX Medicaid services that is classified as either a:

(a) Washington state-owned or state-operated hospital; or

(b) Nonstate government-owned hospital.

(2) Prior to payment, proportionate share payments for inpatient hospital services are subject to:

(a) Federal approval for federal matching funds;

(b) A department analysis of the Medicare upper limit; and

(c) The federal Medicare upper payment limit for hospital payment.

(3) The medical assistance administration (MAA) determines each payment year's total proportionate share payment for inpatient hospital services by:

(a) Using the charge and payment data from MAA's Medicaid Management Information System (MMIS) for inpatient hospital services for the base years; and

(b) Calculating the cumulative difference between covered Title XIX inpatient charges, Title XIX payments, and

third party liability payments for all eligible hospitals during the most recent federal fiscal year.

(4) Proportionate share payments for inpatient hospital services:

(a) Are determined and paid periodically to participating eligible hospitals during each federal fiscal year; and

(b) Must be used to improve health care services to low income patients.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-550-5100	Payment method—MIDSH.
WAC 388-550-5250	Payment method—THAP-DSH.
WAC 388-550-5300	Payment method—STHFP-DSH.
WAC 388-550-5350	Payment method—CTHFP-DSH.
WAC 388-550-6900	Proportionate share payments for outpatient hospital services.

**WSR 05-09-088**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed April 19, 2005, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-065.

Title of Rule and Other Identifying Information: WAC 392-121-182 Alternative learning experience.

Hearing Location(s): Old Capitol Building, 600 South Washington Street, Olympia, WA, and video conference locations at Education Service District 101, 4202 South Regal Street, Spokane, WA 99223-7738; at Educational Service District 105, 33 South 2nd Avenue, Yakima, WA 98902-3486; at Education Service District 112, 2500 N.E. 65th Avenue, Vancouver, WA 98661-6812; at Olympic Educational Service District 114, 105 National Avenue North, Bremerton, WA 98312; at Educational Service District 123, 3918 West Court Street, Pasco, WA 99301; at North Central Education Service District 171, 640 South Mission Street, P.O. Box 1847, Wenatchee, WA 98807-1847; at Northwest Educational Service District 189, 1601 R Avenue, Anacortes, WA 98221; and at Puget Sound Education Service District, 400 S.W. 152nd Street, Burien, WA 98166-2209, on May 24, 2005, at 1:00.

Date of Intended Adoption: June 21, 2005.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by May 23, 2005.

Assistance for Persons with Disabilities: Contact Sheila Emery by May 17, 2005, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules are being revised in response to a number of developments:

- Legislative bill requiring OSPI to develop rules encompassing digital learning programs.
- Preliminary report from the Joint Legislative Audit and Review Committee on the digital learning programs.
- The rapid growth and diversity of programs operating under these rules.
- Uncertainty about a school district's oversight role in alternative learning programs.

These proposed rules will provide:

- Increased flexibility for distance learning and part-time enrollment.
- Better alignment of alternative learning experience with education reform.
- Increased oversight of these programs by local school boards through annual program reporting to the local school boards.

Statutory Authority for Adoption: RCW 28A.150.290 and SB 5828.

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: These rules address a type of local school district program eligible for state support.

Name of Proponent: Superintendent of Public Instruction, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Martin Mueller, Olympia, Washington; and Enforcement: Calvin W. Brodie, Olympia, Washington.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is not applicable to nongovernmental agencies.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not applicable to nongovernmental agencies.

April 18, 2005

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**AMENDATORY SECTION** (Amending Order 99-01, filed 3/25/99, effective 4/25/99)

**WAC 392-121-182 Alternative learning experience requirements.** ~~(1) An alternative learning experience may be counted as a course of study. ((An alternative learning experience is an individualized course of study for a student who is not home based pursuant to RCW 28A.225.010(4), a private school student pursuant to RCW 28A.225.010 (1)(a), or an adult education student. The alternative learning experience is provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experi-~~

~~ences. The school district board policy must have been adopted in a public meeting. The alternative learning experience may be conducted in part outside of the regular classroom. A portion of the alternative learning experience may be provided by the student's parent(s) or guardian under supervision by school staff. As used in this section "school staff" means staff of the school district or a contractor pursuant to WAC 392-121-188. Alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:~~

~~(1) School district board policies for alternative learning experiences—Effective January 1, 1996, each school district claiming basic education funding for alternative learning experiences shall have written policies on file that:~~

~~(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (2) of this section;~~

~~(b) Require that all alternative learning experience curriculum and course requirements be approved by the school district;~~

~~(c) Describe how student performance will be supervised, evaluated, and recorded by school staff;~~

~~(d) Require that each student's educational progress will be reviewed at least once during the first twenty school days and afterwards at least once every forty five school days and that the results of each evaluation shall be communicated to the student and if the student is in grades K-8, the student's parent or guardian. If the school staff determines that a student is not substantially successful in completing the learning activities described in the written alternative learning experience plan, a revised written plan may be implemented. Any revised written plan shall be designed to enable the student to be substantially successful in completing the learning activities described in the revised written plan within ninety school days from the date that the school staff first determines that the student is not substantially successful in completing the assigned learning activities included in the original written plan. If the school staff determines that the student is still not substantially successful in completing their assigned learning activities after ninety school days from the date that the district first determines that the student is not substantially successful in completing the learning activities included in the original written plan, or sooner at the discretion of the school staff, a plan to remove the student from the alternative program shall be devised. Such plan shall specify that the student shall be removed from the alternative program no later than the end of the current school year for a period of at least one school term. Students removed from the alternative program shall be offered the opportunity to enroll in another course of study as defined in WAC 392-121-107;~~

~~(e) A requirement that the alternative learning experience plan for each student and all records of enrollment, attendance, and total hours of participation in educational activities for the student are maintained and available for audit in the appropriate school building; and~~

~~(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:~~

~~(i) Approval of the written alternative learning experience plan;~~

(ii) Responsibility for the parent(s) or guardian to provide or supervise a portion of the student's alternative learning experience if the parent(s) or guardian agrees; and

(iii) Requirements to meet with school staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or can not be a participant in the student's alternative learning experience;

(2) A written alternative learning experience plan is developed — Effective January 1, 1996, the alternative learning experience plan for a student shall be a written plan of instruction designed to meet the individual needs of the student, and shall be approved by a school official and any other person(s) as required or allowed by school district policy. The written plan shall include, but not be limited to, the following elements:

(a) A schedule of the duration of the program, including beginning and ending dates;

(b) A description of the learning activities the student is expected to successfully complete. Such description shall be sufficient in detail to guide and advise the student of the expectations;

(c) A description of the teaching component(s) of the program, including where and when teaching activities will be conducted by school staff;

(d) A description of the responsibilities of the student including a requirement that if, on average, the student attends school less than five hours a week, the student shall meet one on one with qualified school staff for an average minimum of sixty minutes every five school days for instruction, review of the student's assignments, testing, and/or other learning activities. If more than one student meets with a qualified school staff member at one time, the required time is increased proportionately, for example, the requirement becomes one hundred twenty minutes if two 1.0 full-time equivalent students meet with the staff member at one time; and

(e) A reasonably accurate estimate of the average number of hours per month that the student will be engaged in learning activities to meet the requirements of the alternative learning experience plan. This estimate may be used in reporting enrollment in compliance with subsection (3) of this section and must be based upon the criteria in subsection (3)(a)(i) of this section;

(3) Reporting enrollment — Effective beginning with the 1995-96 school year the full-time equivalency of students enrolled in alternative learning experiences shall be determined based upon both (a) and (b) of this subsection as follows:

(a) Using the definition of a full-time equivalent student in WAC 392-121-122 and the number of hours that each student engages in learning activities as determined by either (a)(i) or (ii) of this subsection as follows:

(i) The total number of hours that the student engages in learning activities pursuant to the written alternative learning experience plan including:

(A) Those hours that meet the criteria in WAC 392-121-107 (1)(a);

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(i)(A), (B) and (D) of this subsection that are provided by the student's parent(s) or guardian, or other person as designated by the written plan, under the direct supervision of the school's qualified instructional staff; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(i)(A), (B) and (C) of this subsection. Such learning activity shall be pursuant to the student's alternative learning experience plan and if the student is in grades K-8, only includes those hours the student is supervised by the student's parent(s) or guardian or other person designated by the written alternative learning experience plan;

(ii) The district may use the estimated average hours per month the student is engaged in learning activities as stated in the alternative learning experience plan which meet the requirements of (a)(i) of this subsection. Provided, That for any count date on which the student has averaged, for the immediate two prior months during the current school year, a number of hours engaged in learning activities that differ by more than five hours a week from the alternative learning experience plan estimate pursuant to subsection (2)(e) of this section, the full-time equivalency of the student for such count date shall be adjusted to the lesser of 1.0 or the full-time equivalency calculated using the two-month average;

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not met with appropriate school staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(4) Documentation required — Effective with the 1995-96 school year the district shall keep on file in the appropriate school building and have available for audit, documentation of all hours of learning activities used to determine the student's full-time equivalency including documentation of the following:

(a) For students in grades K-8, written statements from the student's parent(s) or guardian or other person as designated by the written alternative learning experience plan. Such statements shall be submitted to the district on a monthly basis or more often at the discretion of the district and shall list those hours that the student has engaged in planned learning activities while not in the presence of school staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section; and

(b) For students in grades 9-12, the student shall submit written statements on a monthly basis or more often at the discretion of the school staff. Such statements shall list those hours that the student has engaged in planned learning activities while not in the presence of school staff. Reported hours shall be used to determine the full-time equivalency of the student pursuant to subsection (3) of this section;

(5) Effective with the 1995-96 school year the school district shall either:

(a) Maintain a ratio of full-time equivalent certificated instructional staff serving the annual average full-time equivalent students reported for basic education funding pursuant to this section which is at least equal to the district's basic education funding ratio for the grade band of the students being reported for basic education funding pursuant to this section; or

(b) Separately account for, document, and have available for audit, evidence that the district expends during the school year at least seventy percent of the basic education entitlement claimed for students enrolled in alternative learning experiences during the school year. Such expenditures shall be direct expenditures in the following programs as defined in the Accounting Manual for Public School Districts in Washington State for the school year:

- (i) Program 01, Basic Education; and/or
- (ii) Program 31, Vocational, Basic, State; and/or
- (iii) Program 45, Skills Center, Basic, State;))

A school district alternative learning experience may make use of digital and/or on-line curricula, and may be delivered over the internet or using other electronic means. A school district alternative learning experience may also include significant participation by students, parents, and families in the design and implementation of a student's learning experience. This section provides an alternative method of determining full-time equivalent enrollment and claiming state funding for public school learning experiences that are:

(a) Individual courses of study for students who meet the definition for enrollment specified by WAC 392-121-106. Students may enroll part-time in alternative learning experiences. Such enrollment shall be subject to the provisions of RCW 28A.150.350 and chapter 392-134 WAC;

(b) Supervised, monitored, assessed, and evaluated by school staff. As used in this section, "school staff" means certificated instructional staff of the school district according to the provisions of chapter 180-82 WAC, or a contractor pursuant to WAC 392-121-188;

(c) Provided in accordance with a written alternative learning experience plan that is implemented pursuant to the school district board's policy for alternative learning experiences; and

(d) Provided in whole or part, outside the regular classroom setting, including those learning experiences provided digitally via the internet or other electronic means.

This section sets forth the standards, procedures, and requirements for state funded alternative learning experiences. This section is not intended to prevent or limit alternative education programs provided by a school district with federal or local resources.

An alternative learning experience may be counted as a course of study pursuant to WAC 392-121-107 if the following requirements are met:

(2) **School district board policies for alternative learning experiences:** Effective September 1, 2005, the board of directors of a school district claiming state funding for alternative learning experiences shall adopt and annually review written policies for each alternative learning experience program and program provider that:

(a) Require a written plan for each student participating in an alternative learning experience that meets the minimum criteria pursuant to subsection (4) of this section;

(b) Require that the overall ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience programs and courses, including those that rely primarily on digital curriculum, be explicitly identified and approved by the school district board of directors in a public meeting;

(c) Describe how student performance will be supervised, monitored, assessed, evaluated, and recorded by school staff. Such description shall include methods for periodic grade reporting, if different from existing school district policy;

(d) Require each student enrolled in an alternative learning experience to have direct personal contact with school staff at least weekly, until the student completes the course objectives or the requirements of the learning plan. Direct personal contact shall be for the purposes of instruction, review of assignments, testing, reporting of student progress, or other learning activities. Direct personal contact means a face-to-face meeting with the student and, where appropriate, the student's parent or guardian. In establishing policies for alternative learning experience programs and program providers, the school district board of directors may determine that direct personal contact can be accomplished through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication, instead of a face-to-face meeting, if in the judgment of the board such contact methods do not compromise educational quality, student health and safety, or the fiscal integrity of the district;

(e) Require that each student's educational progress be evaluated at least monthly and that the results of each review be communicated to the student and if the student is in grades K-8, the student's parent or guardian;

(f) At the discretion of the school district board, the policy may describe responsibilities of the student's parent(s) or guardian including, but not limited to:

(i) Approval of the written alternative learning experience plan;

(ii) Responsibility for the parent(s) or guardian to provide or implement a portion of the student's alternative learning experience under the supervision of school staff, if the parent(s) or guardian agrees; and

(iii) Requirements to meet with school staff for purposes of evaluating the student's performance and/or receiving instructions on assisting with the student's alternative learning experience. The school district board may also prescribe requirements for appointing a person to provide or supervise a portion of the student's alternative learning experience in the event the student's parent(s) or guardian will not or cannot be a participant in the student's alternative learning experience;

(g) Satisfy the state board of education's requirements for courses of study and equivalencies (chapter 180-50 WAC) and high school graduation requirements (chapter 180-51 WAC); and

(h) Designate one or more school district official(s) responsible for approving specific alternative learning experience

rience programs or courses, monitoring compliance with this section, and reporting at least annually to the school district board of directors on the program. This annual report shall include at least the following:

(i) Documentation of alternative learning experience student headcount and full-time equivalent enrollment claimed for basic education funding;

(ii) A description of how certificated and classified staff are assigned program management and instructional responsibilities that maximize student learning, including the ratio of certificated instructional staff to full-time equivalent students;

(iii) A description of how a written student learning plan pursuant to subsection (4) of this section, is developed, and student performance supervised and evaluated, by certificated staff;

(iv) A description of how the program supports the district's overall goals and objectives for student academic achievement; and

(v) Results of any self-evaluations conducted pursuant to subsection (7) of this section;

(i) Explicitly identify what, if any, expenditures which are directly related to the written student learning plan and are paid by participants of an alternative learning experience may be subject to reimbursement by the district.

**(3) Alternative learning experience implementation standards:**

(a) Alternative learning experiences shall be accessible to all students, including those with disabilities. Alternative learning experiences for special education students shall be provided in accordance with chapter 392-172 WAC.

(b) It is the responsibility of the school district or school district contractor to ensure that students have all curricula, course content, instructional materials, and other learning resources essential to successfully complete the requirements of the written student learning plan. Curricula, course content, instructional materials, and other learning resources for alternative learning experiences shall at minimum be consistent in quality with those available to the district's overall student population. Instructional materials shall be provided in accordance with RCW 28A.320.230.

(c) Work-based learning as a component of an alternative learning experience course of study shall be subject to the provisions of WAC 180-50-315 and 392-121-124.

(d) Contracting for alternative learning experiences shall be subject to the provisions of WAC 392-121-188 and RCW 28A.150.305.

(e) A school district that provides one or more alternative learning experiences to a student shall provide the parent(s) or guardian of the student, prior to the student's enrollment, with a description of the difference between home-based instruction pursuant to chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

(f) The school district shall institute reliable methods to verify a student is doing his or her own work. The methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored"

means directly monitored by an adult authorized by the school district.

(g) State funded public schools or public school programs whose primary purpose is to provide alternative learning experiences using digital or on-line means shall be accredited through the state accreditation program or through the regional accreditation program.

**(4) Written student learning plan:** Each student enrolled in an alternative learning experience course of study shall have a written student learning plan designed to meet the student's individual educational needs. The written student learning plan may be developed in partnership with the student, the student's parents, and other interested parties, with recognition that school staff has the primary responsibility and accountability for the plan, including supervision and monitoring, and evaluation and assessment of the student's progress. The written student learning plan shall include, but not be limited to, the following elements:

(a) A beginning and ending date for the learning experience;

(b) An estimate of the average number of hours per week that the student will engage in learning activities to meet the requirements of the student learning plan. This estimate may be used in reporting enrollment in compliance with subsection (5) of this section and must be based upon the criteria in subsection (6) of this section;

(c) A description of how weekly contact requirements will be fulfilled;

(d) A description of the specific learning goals and performance objectives of the alternative learning experience. This requirement may be met through the use of course syllabi or other similarly detailed descriptions of learning requirements. The description shall clearly identify the requirements a student must meet to successfully complete the course or program;

(e) Identification of instructional materials essential to successful completion of the learning plan; and

(f) A description of the timelines and methods for evaluating student progress toward the learning goals and performance objectives specified in the learning plan.

The written student learning plan shall identify whether the alternative learning experience meets one or more of the state essential academic learning requirements or any other academic goals, objectives, and learning requirements defined by the school district. For a high school alternative learning experience, the plan shall specify whether the experience meets state and district graduation requirements.

**(5) Enrollment reporting:** Effective the 2005-06 school year, the full-time equivalency of students enrolled in alternative learning experience programs shall be determined as follows:

(a) Using the definition of full-time equivalent student in WAC 392-121-122 and the number of hours the student is expected to engage in learning activities as follows:

(i) On the first enrollment count date on or after the start date specified in the written student learning plan, the expected average weekly hours of learning activity described in the written student learning plan;

(ii) On subsequent monthly count dates, if the student's progress review pursuant to subsection (6) of this section

indicates satisfactory progress, the student's full-time equivalent shall be based on the estimated average weekly hours of learning activity identified in the student learning plan;

(iii) If the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall be based on the expected average weekly hours of learning activity described in the student learning plan, and the actual number of hours the student engages in learning activity pursuant to the written student learning plan shall be documented during the ensuing month. Documented hours shall meet the following criteria and shall be verified by district staff:

(A) Those hours of classroom instruction provided by school staff;

(B) Those hours of work based learning calculated in accordance with WAC 392-121-107 (1)(f);

(C) Those hours of learning activity other than those specified in (a)(iii)(A), (B) and (D) of this subsection that are conducted and supervised by the student's parent(s) or guardian, or other person as designated by the written plan; and

(D) Those hours that the student participates in learning activities other than those specified in (a)(iii)(A), (B) and (C) of this subsection. If the student is in grades K-8, such learning activity shall be supervised by the student's parent(s) or guardian or other person designated by the written alternative learning experience plan;

(iv) On subsequent monthly count dates, if the student's progress review indicates a lack of satisfactory progress, the student's full-time equivalent shall be based on the actual average weekly hours of learning activity documented during the prior month;

(v) Enrollment of part-time students shall be subject to the provisions of RCW 28A.150.350, and shall generate the pro rata share of full-time funding.

(b) The enrollment count shall exclude students meeting the definition of enrollment exclusions in WAC 392-121-108 or students who have not had direct personal contact with school staff for twenty consecutive school days. Any such student shall not be counted as an enrolled student until the student has met with appropriate school staff and resumed participation in their alternative learning experience or participated in another course of study as defined in WAC 392-121-107;

(c) School districts providing alternative learning experiences to nonresident students shall document the district of the student's physical residence, and shall establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate.

**(6) Accountability for student performance:**

(a) At minimum, students enrolled in alternative learning experiences shall have their educational performance evaluated according to the following process and schedule:

(i) Each student's educational progress shall be reviewed at least once per month. The progress review shall be based on the learning goals and performance objectives defined in the written student learning plan.

(ii) The progress review shall be conducted by school staff and shall include direct personal contact with the student. If allowed by district policy, direct personal contact

may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. The results of the review shall be communicated to the student and, where possible, the student's parent(s) or guardian.

(iii) Based on the progress review, school staff shall determine and document whether the student is making satisfactory progress in completing the learning activities and reaching the learning goals and performance objectives defined in the written plan.

(iv) If the student fails to make satisfactory progress for no more than two consecutive evaluation periods or if the student fails to follow the written student learning plan, an intervention plan designed to improve student progress shall be developed and implemented. This intervention plan shall be developed by school staff in conjunction with the student and, for students in grades K-8, the student's parent(s) or guardian.

(v) If, after no more than three subsequent evaluation periods, the student still is not making satisfactory progress, a plan designed to more appropriately meet the student's educational need shall be developed and implemented.

(b) The educational progress of students enrolled in alternative learning experiences shall be assessed at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW.

(c) Students enrolled full-time in nonresident alternative learning experience schools, programs, or courses shall have the opportunity to participate in any required annual state assessments at the district of residence, subject to that district's planned testing schedule. It is the responsibility of the enrolling district to facilitate all necessary coordination with the district of residence and with the student and, where appropriate, the student's parent(s) or guardian to fulfill this requirement. Such coordination may include arranging for appropriate assessment booklets, student notification of assessment administration schedules, arrangements for forwarding of completed assessment booklets to the enrolling district for submission for scoring and reporting, and other steps as may be necessary. Assessment results for students assessed according to these provisions shall be included in the enrolling district's accountability measurements, and not in the district of residence's accountability measurements.

(7) Program evaluation: School districts offering alternative learning experiences shall engage in periodic self-evaluation of these learning experiences in a manner designed to objectively measure their effectiveness, including the impact of the experiences on student learning and achievement. Self-evaluation shall follow a continuous improvement model, and may be implemented as part of the school district's school improvement planning efforts.

(8) Annual reporting: Each school district offering alternative learning experiences shall report annually to the

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superintendent of public instruction on the types of programs and course offerings subject to this section, including student headcount and full-time equivalent enrollment claimed for basic education funding. The report shall identify the ratio of certificated instructional staff to full-time equivalent students enrolled in alternative learning experience courses or programs. The report shall separately identify alternative learning experience enrollment of students provided under contract pursuant to RCW 28A.150.305 and WAC 392-121-188.

(9) Documentation: In accordance with the General Records Retention Schedules and Records Management Manual for School Districts published by the Washington state secretary of state, a school district claiming state funding for alternative learning experiences shall maintain the following written documentation available for audit:

(a) School board policy for alternative learning experiences pursuant to this section;

(b) Annual reports to the school district board of directors as required by subsection (2)(h) of this section;

(c) Annual reports to the superintendent of public instruction as required by subsection (8) of this section;

(d) The written student learning plans required by subsection (4) of this section, including documentation of required weekly direct personal contact;

(e) Student progress reviews, evaluations, and assessments required by subsection (6) of this section;

(f) Student enrollment detail substantiating full-time equivalent enrollment reported to the state, including estimated total hours of participation in educational activities, and any actual documentation of hours of learning for those students failing to make satisfactory progress; and

(g) Signed parent enrollment disclosure documents required by subsection (3)(e) of this section.

**WSR 05-09-092**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed April 20, 2005, 7:55 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 05-06-110.

Title of Rule and Other Identifying Information: Chapter 16-401 WAC, Nursery inspection fees, this proposal increases the nursery inspection and nursery dealer license fees by the Office of Financial Management (OFM) fiscal growth factor for fiscal year 2006 (2.82%). In addition, this proposal amends the current language to increase its clarity and readability.

Hearing Location(s): Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on May 24, 2005, at 10:30 a.m.

Date of Intended Adoption: May 31, 2005.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by May 24, 2005.

Assistance for Persons with Disabilities: Contact Henri Gonzales by May 17, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule establishes the fees charged by the plant services program for activities authorized in chapter 15.13 RCW. This proposal increases the nursery inspection and nursery dealer license fees by 2.82%, which is the OFM fiscal growth factor for fiscal year 2006. Current fees are not adequate to cover the costs of providing nursery inspection services; therefore, the proposed increases are necessary to ensure that the program will remain financially solvent. RCW 15.13.260(4) and 15.14.015(11) authorize the director of the Washington State Department of Agriculture to establish fees to cover the cost of providing inspection services.

Reasons Supporting Proposal: Current fee levels are not adequate to cover the costs of providing nursery inspection services. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to represent the interests of the nursery industry, supports the proposal.

Statutory Authority for Adoption: Chapters 15.13, 15.14, and 34.05 RCW.

Statute Being Implemented: Chapters 15.13 and 15.14 RCW.

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

Name of Proponent: Washington State Department of Agriculture with the support of the Nursery Advisory Committee, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed fee increases, which are based upon the OFM fiscal growth rate factor for 2006, and has concluded that they do not impose a more than minor cost on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

April 20, 2005

Mary A. Martin Toohey  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 04-17-037, filed 8/10/04, effective 9/10/04)

**WAC 16-401-027 Schedule of fees and charges—Applicable rates and charges.** The following rates apply for requested inspection services:

<b>(1) Fee or Charge:</b>	
Hourly rate—business hours	<del>\$(31.10)</del> <b>31.95</b>
Hourly rate—nonbusiness hours	<del>\$(39.70)</del> <b>40.80</b>

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Certificate issued at time ((#)) of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$((14.80)) <u>15.20</u>
Additional certificates	\$((4.70)) <u>4.80</u>
Fumigation lot or container fee	\$((12.40)) <u>12.70</u>
Certificate of plant health for noncommercial movement	\$((6.10)) <u>6.25</u>
Compliance agreement	\$((31.10)) <u>31.95</u>
Inspection tags or stickers (lots of 250)	\$((6.10)) <u>6.25</u> per lot
Inspection tags or stickers (minimum 10)	\$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

(5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee.

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection.

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge.

**AMENDATORY SECTION** (Amending WSR 03-10-083, filed 5/6/03, effective 6/30/03)

**WAC 16-401-032 Schedule of fees and charges—Miscellaneous charges.** The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are ((charges)) charged at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter.

**AMENDATORY SECTION** (Amending WSR 03-21-166, filed 10/22/03, effective 11/22/03)

**WAC 16-401-041 Nursery dealer license fees.** Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars . . . . \$((37.67)) 38.73

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is . . . . . \$((80.72)) 82.99

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$((161.45)) 166.00

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars . . . . . \$((80.72)) 82.99

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more . . . . . \$((161.45)) 166.00

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270((Effective July 1, 2003)). . . . . \$((6.00)) 6.15

**WSR 05-09-093**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed April 20, 2005, 7:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-109.

Title of Rule and Other Identifying Information: Chapter 16-470 WAC, Quarantine—Agricultural pests (WAC 16-470-900 through 16-470-917). This proposal amends WAC 16-470-912 and 16-470-917 by increasing the plant pathology laboratory diagnostic fees, hourly fees, and post entry inspection fee within the Office of Financial Management (OFM) fiscal growth factor for fiscal year 2006 (2.82%). In addition, this proposal amends WAC 16-470-900 by increasing the penalty charge for past due accounts to make it consistent with charges related to other program rules.

Hearing Location(s): Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on May 24, 2005, at 10:30 a.m.



Date of Intended Adoption: May 31, 2005.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by May 24, 2005.

Assistance for Persons with Disabilities: Contact Henri Gonzales by May 17, 2005, TTY (360) 902-1996.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** This proposal increases the plant pathology laboratory diagnostic fees, hourly fees, and post entry inspection fee by the fiscal growth factor of 2.82% for fiscal year 2006. This fee increase is necessary because current fee levels do not cover the costs of providing plant pathology laboratory and post entry inspection services. RCW 17.24.131 mandates that the department support these activities through fees for services. With these modest increases, the department anticipates that the program will be able to remain financially solvent. The proposal also increases the penalty charge for past due accounts to make it consistent with the amount charged by other agency programs.

**Reasons Supporting Proposal:** Current fee levels are not adequate to cover the costs of providing plant pathology laboratory and post entry inspection services. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to represent the interests of the nursery industry, supports the proposal.

**Statutory Authority for Adoption:** Chapters 17.24 and 34.05 RCW.

**Statute Being Implemented:** Chapter 17.24 RCW.

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

**Name of Proponent:** Washington State Department of Agriculture with the support of the Nursery Advisory Committee, governmental.

**Name of Agency Personnel Responsible for Drafting:** Mary Toohey, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1907; **Implementation and Enforcement:** Tom Wessels, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed fee increases, which are based upon the OFM fiscal growth rate factor for 2006, and has concluded that they will not impose a more than minor cost on the regulated industry and, therefore, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

April 20, 2005  
 Mary A. Martin Toohey  
 Assistant Director

**AMENDATORY SECTION** (Amending WSR 99-12-035, filed 5/26/99, effective 6/26/99)

**WAC 16-470-900 Schedule of fees and charges—Billing policies and procedures.** (1) All billable services provided under chapter 17.24 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing. Accounts not paid in full within thirty days of billing are considered delinquent.

(2) All delinquent accounts are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(3) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less than twenty dollars are due and payable on the date that service is rendered.

(4) No person with an account ninety days or more in arrears will receive service except on the basis of payment in full at the time service is rendered. Such accounts are not restored to monthly billing status until all past due amounts are paid-in-full. Such accounts may be subject to legal action for collection.

(5) Accounts that become ninety days or more in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

**AMENDATORY SECTION** (Amending WSR 05-01-180, filed 12/21/04, effective 1/21/05)

**WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges.** (1) Hourly rate.

Hourly rate - business hours	<del>\$(31.10)</del> <u>31.95</u>
Hourly rate - nonbusiness hours	<del>\$(39.70)</del> <u>40.80</u>

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

Identity Determination	100+ samples				
	1 sample	5 samples	10 samples	50 samples	100+ samples
virus (ELISA)			<del>\$(10.30)</del> 10.55 ea	<del>\$(5.10)</del> 5.20 ea	<del>\$(2.95)</del> 3.00 ea
bacteria	<del>((41.20))</del> 42.35 ea	<del>((39.80))</del> 40.90 ea	<del>((37.30))</del> 38.35 ea	<del>((36.10))</del> 37.10 ea	<del>((36.10))</del> 37.10 ea
fungus	<del>((43.60))</del> 44.80 ea	<del>((37.30))</del> 38.35 ea	<del>((36.10))</del> 37.10 ea	<del>((34.80))</del> 35.75 ea	<del>((32.30))</del> 33.20 ea
nematode	<del>((32.30))</del> 33.20 ea	<del>((29.80))</del> 30.60 ea	<del>((27.30))</del> 28.05 ea	<del>((26.60))</del> 27.35 ea	<del>((24.80))</del> 25.45 ea

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples

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unless all pathogens can be detected in a single test without additional inputs.

(4) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

- (a) Projects greater than one hundred samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

**AMENDATORY SECTION** (Amending WSR 04-17-036, filed 8/10/04, effective 9/10/04)

**WAC 16-470-917 Schedule of fees and charges—Fees for post entry inspection services.** (1) Post entry site inspection and/or permit review and approval \$ ~~((62.30))~~ 64.05

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

**WSR 05-09-099**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**PERSONNEL RESOURCES BOARD**

[Filed April 20, 2005, 10:36 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Title 251 WAC.

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 9:30 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a proposal for the director of the Department of Personnel and Personnel Resources Board to jointly repeal Title 251 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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 Fis-

cal Matters: SHB 1268 transfers rule-making authority for a majority of subjects to the director of the Department of Personnel. Beginning in July 2004, the director and the Personnel Resources Board have taken action to adopt a new title of civil service rules (Title 357 WAC). The new title will be effective July 1, 2005. Therefore, all current civil service rules in Title 251 WAC need to be repealed. Because there are a few specific areas where the Personnel Resources Board retains rule-making authority the board and the director will be acting jointly to repeal these rules.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director, Department of Personnel  
Secretary, Personnel Resources Board

**REPEALER**

The following title of the Washington Administrative Code is repealed:

Title 251 WAC

**WSR 05-09-100**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**PERSONNEL RESOURCES BOARD**

[Filed April 20, 2005, 10:37 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Title 356 WAC.

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 9:30 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This is a proposal for the director of the Department of Personnel and Personnel Resources Board to jointly repeal Title 356 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: SHB 1268 transfers rule-making authority for a majority of subjects to the director of the Department of Personnel. Beginning in July 2004, the director and the Personnel Resources Board have taken action to adopt a new title of civil service rules (Title 357 WAC). The new title will be effective July 1, 2005. Therefore, all current civil service rules in Title 356 WAC need to be repealed. Because there are a few specific areas where the Personnel Resources Board retains rule-making authority the board and the director will be acting jointly to repeal these rules.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director, Department of Personnel  
Secretary, Personnel Resources Board

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The new section addresses drug/alcohol testing for employees or applicants.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding drug/alcohol testing for employees or applicants. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

## REPEALER

The following title of the Washington Administrative Code is repealed:

Title 356 WAC

### **WSR 05-09-101**

#### **PROPOSED RULES**

#### **DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:38 a.m.]

Continuance of WSR 04-08-126.

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

Title of Rule and Other Identifying Information: WAC 357-37-200 Can an employer require an employee or applicant to submit to drug/alcohol testing?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

## NEW SECTION

**WAC 357-37-200 Can an employer require an employee or applicant to submit to drug/alcohol testing?** In addition to drug/alcohol testing required by state or federal law, an employer may require a specific employee or applicant to submit to drug/alcohol testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

- (1) The employer has a policy that:
  - (a) Complies with legal requirements;
  - (b) Establishes procedures under which the test may be conducted;
  - (c) Provides for the confidential treatment of drug and or alcohol test results as required by law or in an action or proceeding challenging any disciplinary action arising from the circumstances which led to the test; and
- (2) If testing an employee, one of the following situations occur:
  - (a) The employer has specific, objective grounds to believe the employee's work performance is impaired due to the presence of such substances in the body; or
  - (b) While on duty the employee is involved in an accident or incident as described by the employer's policy.

**WSR 05-09-102**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:38 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-46-125 What happens if an employee does not complete the transition review period?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification adds language that addresses what happens when an employee who is serving a transition review period following an appointment to a position as a layoff option is separated from the position during the transition review period.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding appointments. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

**AMENDATORY SECTION** (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-125 What happens if an employee does not complete the transition review period?** (1) The employer may involuntarily separate an employee from a position during the transition review period or the employee may choose to voluntarily separate from a position. An

employee may voluntarily separate a maximum of three (3) times as a result of a single layoff action.

(2) When an employee who is serving a transition review period following appointment to a position as a layoff option is separated from the position during the transition review period, the following applies:

(a) The employee must be provided with a layoff option in accordance with WAC 357-46-035 if the employer involuntarily separates the employee; or

(b) The employee's name is placed on any layoff lists for which the employee is eligible if the employee voluntarily separates.

~~((2))~~ (3) ((#)) When an employee who is serving a transition review period following appointment from a layoff list or the general government transition pool is separated from the position during a transition review period, the employee's name is reinstated on any layoff list from which it was removed at the time of placement in the position. The employee remains on the list until the employee's initial eligibility expires or he/she is rehired. The time served during the transition review period does not extend the period of eligibility for a layoff list or the transition pool.

~~((3))~~ (4) Separation during the transition review period is not subject to appeal.

**WSR 05-09-103**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:40 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-04-105 When the civil service rules require an applicant, candidate, or employee, or employer to receive notice, how must notice be provided? and 357-40-050 How must notice of disciplinary action be provided to an employee?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification and new section clarify that notice of disciplinary action must be provided by personal service or certified mail.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
 Statute Being Implemented: RCW 41.06.150.

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

PROPOSED

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding disciplinary actions. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-201 [05-01-203], filed 12/21/04, effective 7/1/05)

**WAC 357-04-105 When the civil service rules require an applicant, candidate, employee, or employer to receive notice, how must notice be provided?** (1) Except as provided in chapters 357-40 and 357-52 WAC, when the civil service rules require an applicant, candidate, employee, or employer to receive notice, the notice must be provided by personal delivery, United States mail, or by telephone facsimile transmission with same-day mailing of copies unless the specific rule requiring notice allows for alternative methods of providing notice such as electronic mail ("e-mail"), state mail service, commercial parcel delivery or campus mail service.

(2) Except as provided in chapters 357-40 and 357-52 WAC, service of notice upon parties will be regarded as completed when personal delivery has been accomplished; or upon deposit in the United States mail, properly stamped and addressed; or upon production by telephone facsimile transmission of confirmation of transmission. When a specific rule allows alternative methods of service, service upon parties will be regarded as completed when it is actually received by the party to which notice is being provided.

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

#### NEW SECTION

**WAC 357-40-050 How must notice of disciplinary action be provided to an employee?** Notice of dismissal, suspension, demotion, or reduction in base salary must be provided by personal service or certified letter through the United States mail. Service of notice will be regarded as completed when personal delivery has been accomplished; or upon deposit of a certified letter in the United States mail properly stamped and addressed to the employee's last known home address.

#### WSR 05-09-104

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:41 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-31-165 At what rate do employees accrue vacation leave?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adds language that addresses lump-sum accrual of vacation leave for Washington management service employees.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding vacation leave for state employees. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

**WAC 357-31-165 At what rate do employees accrue vacation leave?** (1) Full-time employees accrue vacation leave at the following rates:

(a) During the first year of continuous state employment - 12 days (8 hours per month);

(b) During the second year of continuous state employment - 13 days (8 hours, 40 minutes per month);

(c) During the third and fourth years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - 15 days (10 hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the eleventh year of total state employment - 17 days (11 hours, 20 minutes per month).

(g) During the twelfth year of total state employment - 18 days (12 hours per month).

(h) During the thirteenth year of total state employment - 19 days (12 hours, 40 minutes per month).

(i) During the fourteenth year of total state employment - 20 days (13 hours, 20 minutes per month).

(j) During the fifteenth year of total state employment - 21 days (14 hours per month).

(k) During the sixteenth and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section.

(3) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or incumbent for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(k) of this section.

~~((3))~~ (4) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one (1) year of qualifying service.

(d) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

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 05-09-105

### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:42 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-13-090 How is an employee affected when his/her position is reallocated?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification adds language which states that upon reallocation, if a probationary or trial service period is longer than six months and the employee has not performed the higher level duties for the length of that period then the employer may require the employee to serve the remainder of their probationary or trial service period.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding reallocation. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-201, filed 12/21/04, effective 7/1/05)

**WAC 357-13-090 How is an employee affected when his/her position is reallocated?**

PROPOSED

This table is used to determine how an employee whose position is reallocated is affected.

	Employee's position reallocated to:		
	Class with a higher salary range maximum	Class with an equal salary range maximum	Class with a lower salary range maximum

Reallocation results from:

<p>A position review requested by the employee or initiated by the employer</p>	<p><i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i></p> <p>⇒ The employee remains in the position and (<del>retains existing appointment status</del>) <u>is appointed with permanent status when the probationary or trial service period for the class to which the position is reallocated is six months in duration. When the probationary period or trial service period is longer than six months and the employee has not performed higher level duties for the length of the probationary period or trial service period, the employer may require the employee serve the remainder of the probationary or trial service period before gaining permanent status in the reallocated position.</u></p> <p><i>If the reallocation is the result of a change in the duties of the position and the employee has not performed the higher level duties for six months or more:</i></p> <p>⇒ The employer must give the employee the opportunity to compete for the position. The employer may choose to promote the employee without competition as long as the employee meets the competencies and any other position requirements.</p> <p>If the employee is not selected for the position, the employer's layoff procedure applies. If the employee is appointed, the employee must serve a trial service period.</p> <p>Upon appointment to the higher class, the employee's base salary must be increased a minimum of a two step increase, not to exceed the top step of the range as provided in WAC 357-28-115.</p>	<p><i>If the employee meets the competencies and other position requirements:</i></p> <p>⇒ The employee remains in the position and retains existing appointment status.</p> <p><i>If the employee does not meet the competencies and other position requirements:</i></p> <p>⇒ The employee retains the previous base salary in accordance with WAC 357-28-120.</p> <p>⇒ The employer's layoff procedure applies.</p>	<p><i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i></p> <p>⇒ The employee retains appointment status; has the right to be placed on the employer's internal layoff list; and has his/her salary set in accordance with WAC 357-28-120.</p> <p><i>If the employee chooses to vacate the position or does not meet the competencies and other position requirements:</i></p> <p>⇒ The employer's layoff procedure applies.</p>
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The director implementing a new classification plan under provisions of RCW 41.06.136 or revising the classification plan.

The employee remains in the position and keeps existing appointment status. See WAC 357-28-125 and 357-28-130 for determining the employee's salary.

**WSR 05-09-106**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:43 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-49-010 A director's review may be requested for what actions?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification changes the question in the title of the rule and deletes language out of subsection (2) which limited an employee's ability to seek a director's review.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding director's reviews. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
 Eva N. Santos  
 Director

AMENDATORY SECTION (Amending WSR 05-01-182, filed 12/21/04, effective 7/1/05)

**WAC 357-49-010** (~~(A director's review may be requested for what actions?)~~) **For what actions may an individual request a director's review?** (1) If the department is responsible for the assessment process, an applicant or candidate may request a director's review of his/her examination results or the removal of his/her name from an applicant or candidate pool as specified in WAC 357-16-175. Director review decisions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are final and not subject to further review or appeal.

(2) (~~(If the department is responsible for maintaining the layoff list, an)~~) **An** individual may request (~~(the)~~) a director's review of the removal of his/her name from a layoff list as specified in WAC 357-46-145.

(3) An employee may request a director's review of the following:

(a) Allocation or reallocation per WAC 357-13-080; or

(b) Performance evaluation process or procedure per WAC 357-37-080.

(4) In addition to the subjects listed in section (2) of this rule, an employee may request a director's review of an alleged violation of the civil service laws or rules within thirty (30) calendar days of the date the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim or the stated effective date, whichever is later. An employee may not request a director's review of allegations arising from the development and adoption of the classification plan under the provisions of WAC 357-10-020 or the actions of reduction, dismissal, suspension, demotion or separation.

(5) An individual may request the director review his/her request for remedial action per WAC 357-19-430 or 357-19-450. Requests for remedial action must be received within thirty (30) calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules.

**WSR 05-09-107**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:44 a.m.]

Continuance of WSR 05-08-126.  
 Exempt from preproposal statement of inquiry under RCW 34.05.310(4).



**Title of Rule and Other Identifying Information:** WAC 357-19-183 Must DSHS conduct background checks on all employees in covered positions and candidates under final consideration for a covered position?, 357-19-184 Besides the department of social and health services, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?, 357-19-185 What is a covered position for purposes of WAC 357-19-183?, 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DSHS and what are the results of the background check used for?, 357-19-187 For purposes of WAC 357-19-183, must an employee and/or candidate authorize the secretary of the department of social and health services to conduct a background check and what happens if the employee or candidate doesn't provide authorization?, 357-19-188 What happens when a permanent DSHS employee is disqualified because of a background check?, 357-19-189 What are the responsibilities of the secretary of the DSHS in carrying out the requirement to conduct background checks?, and 357-19-191 May an applicant or candidate for a covered position who is denied employment due to a disqualifying background check request a review of the disqualification?

**Hearing Location(s):** Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

**Date of Intended Adoption:** May 24, 2005.

**Submit Written Comments to:** Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

**Assistance for Persons with Disabilities:** Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The new sections on background checks that were filed under WSR 05-08-126 are being continued to the May 24, 2005, director's meeting.

**Statutory Authority for Adoption:** Chapter 41.06 RCW.

**Statute Being Implemented:** RCW 41.06.150.

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

**Name of Proponent:** Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

## NEW SECTION

**WAC 357-19-183 Must DSHS conduct background checks on all employees in covered positions and candidates under final consideration for a covered position?** (1) The secretary of the Department of Social and Health Services (DSHS) must conduct background checks, which may include fingerprinting as authorized by statute, on all employees in covered positions and candidates under final consideration for a covered position.

(2) The requirement for background checks shall include the following:

(a) Any employee seeking a covered position because of a layoff, reallocation, transfer, promotion or demotion.

(b) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis in accordance with agency procedures authorized by WAC 357-19-189(2).

(3) A background check will be conducted on the final preferred candidate prior to appointment.

## NEW SECTION

**WAC 357-19-184 Besides the department of social and health services, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?** (1) Employers may conduct background checks on applicants and/or employees if required by state or federal law, or if the employer identifies the need for a background check to verify that the applicant or employee satisfies the position requirements.

(2) Employers who conduct background checks must develop procedures regarding how and when background checks will be conducted. The procedures must include notification to applicants and/or employees if a background check is required.

## NEW SECTION

**WAC 357-19-185 What is a covered position for purposes of WAC 357-19-183?** For purposes of WAC 357-19-183, a covered position is one in which a person will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities.

## NEW SECTION

**WAC 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DSHS and what are the results of the background check used for?** (1) The background check information considered by the secretary of the DSHS will include, but not be limited to:

(a) Conviction records, pending charges, disciplinary board final decisions, findings of abuse, neglect, exploitation or abandonment, denial, suspension, revocation or provider license, restrictions to license, and/or DSHS contract termination.

(b) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decision;

(v) The nature and number of previous offenses;

(vi) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee or applicant will or may have unsupervised access; and

(vii) The relationship between the potentially disqualifying event and the duties of the employee or applicant.

(c) Information contained in background checks must be used solely for the purpose of determining the character, suitability and competence of the candidate and/or employee. The information must not be disseminated further. Dissemination and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC.

**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.

#### NEW SECTION

**WAC 357-19-187** For purposes of WAC 357-19-183, must an employee and/or candidate authorize the secretary of the department of social and health services to conduct a background check and what happens if the employee or candidate doesn't provide authorization? An employee and/or candidate must authorize the secretary of the department of social and health services to conduct a background check which may include fingerprinting.

Failure to authorize the secretary of the DSHS to conduct a background check disqualifies an employee, candidate, or applicant from consideration for any covered position including their current covered position.

#### NEW SECTION

**WAC 357-19-188** What happens when a permanent DSHS employee is disqualified because of a background check? (1) A permanent employee with a background check disqualification may be subject to any of the following actions:

(a) Job restructuring;

(b) Job reassignment;

(c) Voluntary demotion;

(d) Voluntary resignation;

(e) Non-disciplinary separation in accordance with WAC 357-46-195; or

(f) Disciplinary action in accordance with WAC 357-40-010.

(2) An appointing authority may use the following interim measures while exploring the availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time;

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or

(c) Reassignment to another work location.

(d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

#### NEW SECTION

**WAC 357-19-189** What are the responsibilities of the secretary of the DSHS in carrying out the requirement to conduct background checks? In order to implement the requirements of WAC 357-19-183, the secretary of the DSHS must:

(1) Notify employees and applicants that a background check is required for covered positions;

(2) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(3) Develop policies and procedures pertaining to background checks.

#### NEW SECTION

**WAC 357-19-191** May an applicant or candidate for a covered position who is denied employment due to a disqualifying background check request a review of the disqualification? An applicant or candidate for a covered position who is denied employment due to a disqualifying background check may request review by the appointing authority.

**WSR 05-09-108**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:45 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date? and 357-31-347 Does leave without pay affect a higher education employee's seniority date?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed new sections address the effect of leave without pay on a higher education employee's periodic increment date and their seniority date.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding the effect of leave without pay. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

#### NEW SECTION

##### **WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?**

For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten (10) working days in a month or ten (10) consecutive working days except when the leave without pay is taken for:

- (1) Military leave of absence without pay as provided in WAC 357-31-370;
- (2) Compensable work-related injury or illness leave; and/or
- (3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295.

#### NEW SECTION

**WAC 357-31-347 Does leave without pay affect a higher education employee's seniority date?** In accordance with WAC 357-46-053, each higher education employer's layoff procedure defines how seniority is determined including any adjustments made for periods of leave without pay.

As provided by WAC 357-19-297, scheduled cyclic leave without pay for an employee in cyclic year positions does not affect the employee's seniority date.

#### WSR 05-09-109

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:46 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification clarifies the order candidates are certified to the employing official.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding certification of candidates. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

AMENDATORY SECTION (Amending WSR 05-01-199 [05-01-200], filed 12/21/04, effective 7/1/05)

**WAC 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration?** Only eligible candidates who satisfy the competencies and other requirements of the position to be filled will be certified. The order for certifying must follow these criteria:

(1) If there are names on the employer's internal layoff list for the class, all eligible candidates on the internal layoff list are certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified.

~~((2) If there are no names on the employer's internal layoff list and there are names on the statewide layoff list for the class, all eligible candidates on the statewide layoff list must be certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified. If the certification of candidates from the statewide layoff list and internal promotional candidates does not result in at least ten (10) eligible candidates being certified, the employer may certify other eligible candidates. If a general government employer certifies other eligible candidates, all transition pool candidates who satisfy the competencies and other position requirements must be certified.))~~

~~((3) If there are no names on the internal or statewide layoff list, the employer may then certify other available eligible candidates. For general government employers, all transition pool candidates who satisfy the competencies and other position requirements must be certified. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.))~~

(2) If there are no names on the internal layoff list, the employer:

(a) Must certify:

- All statewide layoff candidates who satisfy the competencies and other position requirements; and
- For general government employers, all transition pool candidates who satisfy the competencies and other position requirements.

(b) May then certify other available eligible candidates. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

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

## WSR 05-09-110

### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:47 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-46-050 How does an employer determine an employee's

employment retention rating? and 357-28-200 When must an employee receive holiday premium pay?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed modifications are housekeeping in nature.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding layoff and compensation. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-050 How does an employer determine an employee's employment retention rating?** The employer determines an employee's employment retention rating using seniority as calculated in WAC 357-46-055 for general government employees and 357-46-053 for higher education employees. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

**WAC 357-28-200 When must an employee receive holiday premium pay?** (1) Overtime-eligible employees who are directed to work on a designated holiday as listed in

chapter 357-31 WAC; must receive their regular rate of pay for the holiday. In addition, employees must receive premium pay at the overtime rate for all hours worked on the holiday. (~~This does not apply to employees assigned an emergency response fire officer work schedule; They must receive the overtime rate for eight hours rather than all hours worked.~~) The employer may offer compensatory time off in lieu of monetary payment.

(2) Overtime-exempt employees do not qualify for holiday premium pay unless the employer determines otherwise.

(3) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

**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 05-09-111

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:48 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-19-190 When is an employee appointed to a position with permanent status? and 357-19-181 When is an employee appointed to a position with permanent status?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal would repeal WAC 357-19-190 and replace it with WAC 357-19-181.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority

regarding appointments. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-19-190

When is an employee appointed to a position with permanent status?

#### NEW SECTION

**WAC 357-19-181** When is an employee appointed to a position with permanent status? An appointing authority must make a permanent status appointment of an employee under the following conditions:

(1) Upon successful completion of a probationary, trial service, or transition review period;

(2) Upon reassignment of a permanent employee who is not in trial service status;

(3) Upon transfer, demotion, or elevation when the employee is not required to serve a trial service period;

(4) Upon rehire from layoff or appointment to a position as a layoff option when a transition review period is not required;

(5) Upon the director conferring permanent status to an employee under remedial action provisions; and

(6) Upon conversion of an exempt position to the classified service, per WAC 357-19-225, if the incumbent has been employed for at least an amount of time equal to the probationary period for the class. If the incumbent has not been employed that long, the employee must serve a probationary period. The employer may count the time spent in the position prior to conversion towards the probationary period.

#### WSR 05-09-112

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:49 a.m.]

Original Notice.

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

PROPOSED

Title of Rule and Other Identifying Information: WAC 357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification clarifies how the twelve-month period under the Family and Medical Leave Act is measured.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding leave. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

AMENDATORY SECTION (Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05)

**WAC 357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993?** (1) The Family and Medical Leave Act of 1993 (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825, provide that an eligible employee must be granted, during a twelve-month period, a total of twelve (12) work weeks of absence (~~when one or more of the following conditions exist~~):

- (a) As a result of the employee's serious health condition;
- (b) To care for an employee's parent, spouse, or minor/dependent child who has a serious health condition; and/or
- (c) To provide care to an employee's newborn, adopted or foster child as provided in WAC 357-31-460.

(2) For general government employers, the twelve-month period in subsection (1) above is (~~a rolling twelve~~

~~(12) months measured from the date an employee~~) measured forward from the date the requesting employee begins leave under the Family and Medical Leave Act of 1993. The employee's next twelve (12) month period would begin the first time leave under the Family and Medical Leave Act is taken after completion of the previous twelve (12) month period. Higher education employers must define within their family and medical leave policy how the twelve (12) months (~~is~~) are measured.

**WSR 05-09-113  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:49 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-52-207 How does the board decide an appeal on exceptions? and 357-52-208 How does the board notify the parties whether the appeal on exceptions will be decided upon written or oral arguments?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed new sections address how the board will decide an appeal on exceptions and how the board will notify the parties whether the appeal will be decided on written or oral argument.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding appeals to the Personnel Resources Board. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

#### NEW SECTION

**WAC 357-52-207 How does the board decide an appeal on exceptions?** The board reviews the record created by the director's designee or hearing officer. At the board's discretion, the appeal is decided based upon:

- (1) The record and the written arguments on the exceptions, or
- (2) The record and oral arguments on the exceptions.

#### NEW SECTION

**WAC 357-52-208 How does the board notify the parties whether the appeal on exceptions will be decided upon written or oral arguments?** (1) The board provides thirty (30) calendar days' written notice to the parties of:

- (a) The timeline for submitting written arguments; or
  - (b) The date of the hearing.
- (2) The parties may agree to less than thirty (30) calendar days' notice.

#### WSR 05-09-114

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:50 a.m.]

#### Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-19-350 May a permanent WGS employee accept an acting Washington management service (WMS) appointment and what notices must the employee and employer provide each other when an employee accepts the acting appointment?, 357-19-353 What return rights must an employer provide to a permanent WGS employee who accepts an acting WMS appointment?, and 357-58-280 How much notice must an employer give for ending an acting appointment?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These new sections address return rights for a Washington general service employee who accepts an acting Washington management

service appointment and how much notice an employer must give when ending an acting appointment.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding acting appointments in the Washington management service. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

#### NEW SECTION

**WAC 357-19-350 May a permanent WGS employee accept an acting Washington management service (WMS) appointment and what notices must the employee and employer provide each other when an employee accepts the acting appointment?** Permanent WGS employees may accept acting appointments to WMS positions.

The employee must give his/her current employer at least fourteen (14) calendar days' written notice before moving to an acting WMS appointment. The current employer and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employer must notify the employee in writing of his/her return right at the conclusion of the acting WMS appointment.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

#### NEW SECTION

**WAC 357-19-353 What return rights must an employer provide to a permanent WGS employee who accepts an acting WMS appointment?** At a minimum, the employer must provide the permanent employee access to the employer's internal layoff list. If the employer agrees to return the employee to a position, the employee must notify the employer of his/her intent to return to a permanent position at least fourteen (14) calendar days in advance of return unless the employee and employer agree otherwise. Failure

of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

#### NEW SECTION

**WAC 357-58-280 How much notice must an employer give for ending an acting appointment?** The end date of an acting appointment may be set in the appointment letter. If the end date is not set in the appointment letter, the employer must give written notice of the termination date of the acting appointment. If the employee is a permanent state employee, the employer must provide at least fifteen (15) calendar days' notice. If the employee is not a permanent state employee, the employer must give one (1) work day's notice.

An acting appointment may be terminated immediately with pay in lieu of the one (1) work day of notice required for nonpermanent employees or the fifteen (15) calendar days' notice required for permanent employees.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

#### WSR 05-09-115

##### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:52 a.m.]

##### Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-19-395 What return rights must an agency provide to a permanent employee who accepts a nonpermanent appointment?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification changes the term "agency" to "employer" and language is added to address if an employee fails to provide proper notice, of return from a nonpermanent appointment, to the employer.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding returning from a nonpermanent appointment. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

**WAC 357-19-395 What return rights must an ((agency)) employer provide to a permanent employee who accepts a nonpermanent appointment?** At a minimum, the ((agency)) employer must provide the permanent employee access to the ((agency's)) employer's internal lay-off list. If the ((agency)) employer agrees to return the employee to a position, the employee must notify the ((agency)) employer of his/her intent to return to a permanent position at least fourteen (14) calendar days in advance of return unless the employee and ((agency)) employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

#### WSR 05-09-116

##### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed April 20, 2005, 10:53 a.m.]

##### Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-19-135 What happens to a permanent Washington management service (WMS) employee who promotes, transfers or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.



Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new section addresses reversion rights for an employee who moves from a Washington management service position to a Washington general service position.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding reversion rights for state employees. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

#### NEW SECTION

**WAC 357-19-125 What happens to a permanent Washington management service (WMS) employee who promotes, transfers or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period?** A permanent Washington management service (WMS) employee who promotes, transfers, or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period has reversion rights in accordance with WAC 357-58-375.

**WSR 05-09-117  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:54 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal changes this WAC to exclude paid holidays from being counted towards the FMLA eligibility requirement.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding leave for state employees. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

#### AMENDATORY SECTION (Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05)

**WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?** In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours during the previous twelve-month period. (~~(Paid time off such as vacation)~~) Vacation leave, sick leave, (~~(holidays,)~~) the personal holiday, compensatory time off, or shared leave is not counted towards the one thousand two hundred fifty (1,250) hour eligibility requirements.

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.

PROPOSED

**WSR 05-09-118**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:55 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-01-360 Washington general service (WGS) and 357-01-365 Washington management service (WMS).

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed sections define the terms "Washington general service" and "Washington management service" for Title 357 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding definitions for Title 357 WAC. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

**NEW SECTION**

**WAC 357-01-360 Washington general service (WGS).** The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which are not exempt under RCW 41.06.070 and which do not meet the definition of manager found in RCW 41.06.022.

**NEW SECTION**

**WAC 357-01-365 Washington management service (WMS).** The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

**WSR 05-09-119**

**PROPOSED RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 20, 2005, 10:56 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-01-301 Separation.

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adds the word "state" to the definition of "separation."

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding definitions for Title 357 WAC. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005

Eva N. Santos

Director

**AMENDATORY SECTION** (Amending WSR 05-08-134, filed 4/6/05, effective 7/1/05)

**WAC 357-01-301 Separation.** Separation from state employment for nondisciplinary purposes.

**WSR 05-09-120**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
[Filed April 20, 2005, 10:57 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Repealing WAC 357-31-001 What definitions apply to this chapter of the civil service rules?; and new sections WAC 357-01-022 Anniversary date (higher education), 357-01-023 Anniversary date (general government), 357-01-348 Unbroken service date (general government), 357-01-202 Minor/dependent child, 357-01-072 Child, 357-01-172 Family members, 357-01-182 Household members, 357-01-227 Parent, 357-01-228 Parent-in-law, 357-01-138 Emergency health condition, 357-01-174 Full-time employee, and 357-01-229 Part-time employee.

Hearing Location(s): Department of Personnel, Joan B. Darin Conference Room, 521 Capitol Way South, Olympia, WA, on May 24, 2005, at 10:00 a.m.

Date of Intended Adoption: May 24, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT," fax (360) 586-4694, by May 18, 2005.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 18, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal removes the definitions that were adopted under WAC 357-31-001 and moves them into chapter 357-01 WAC, Definitions.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding definitions for Title 357 WAC. This proposal implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

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

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

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

April 19, 2005  
Eva N. Santos  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 357-31-001

What definitions apply to this chapter of the civil service rules?

**NEW SECTION**

**WAC 357-01-022 Anniversary date (higher education).** For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee promotes, demotes, or transfers to another higher education employer.

**NEW SECTION**

**WAC 357-01-023 Anniversary date (general government).** For employees of general government agencies, anniversary date is the unbroken service date plus prior state service minus leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost and for computing the rate of vacation leave accrual beginning with the fifth (5th) year of total state employment.

**NEW SECTION**

**WAC 357-01-348 Unbroken service date (general government).** The date a general government employee began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth (4th) year of continuous service. The unbroken service date is adjusted by leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345.

**NEW SECTION**

**WAC 357-01-202 Minor/dependent child.** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is:

PROPOSED

- Under eighteen (18) years of age, or
- Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

Persons who are *in loco parentis* are those with day-to-day responsibilities to care for and financially support a child.

#### NEW SECTION

**WAC 357-01-072 Child.** A biological, adopted, or foster child, or a stepchild.

#### NEW SECTION

**WAC 357-01-172 Family members.** Individuals considered to be members of the family are parent, step-parent, sister, brother, parent-in-law, spouse, grandparent, grandchild, minor/dependent child, and child.

#### NEW SECTION

**WAC 357-01-182 Household members.** Persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. The term does not include persons sharing the same house when the living style is primarily that of a dormitory or commune.

#### NEW SECTION

**WAC 357-01-227 Parent.** A biological parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a child. A person who had day-to-day responsibilities to care for and financially support the employee when he or she was a child is considered to have stood *in loco parentis* to the employee.

#### NEW SECTION

**WAC 357-01-228 Parent-in-law.** A biological parent of an employee's spouse or an individual who stood *in loco parentis* to an employee's spouse when the employee's spouse was a child. A person who had day-to-day responsibilities to care for and financially support the employee's spouse when he or she was a child is considered to have stood *in loco parentis* to the employee's spouse.

#### NEW SECTION

**WAC 357-01-138 Emergency health condition.** A sudden, generally unexpected occurrence or set of circumstances related to a person's health, which requires immediate action and is typically short-term in nature.

#### NEW SECTION

**WAC 357-01-174 Full-time employee.** An employee who is scheduled to work:

- Forty (40) hours in one (1) workweek;
- Eighty (80) hours over two (2) workweeks; or
- For law enforcement positions, one hundred sixty hours (160) in the twenty-eight-day work period.

#### NEW SECTION

**WAC 357-01-229 Part-time employee.** An employee who is scheduled to work less than that required for a full-time employee.

WSR 05-09-122

PROPOSED RULES

### UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. P-041344—Filed April 20, 2005, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-056.

Title of Rule and Other Identifying Information: This rule-making proposal would amend WAC 480-75-240 Annual pipeline safety fee methodology and 480-93-240 Annual pipeline safety fee methodology, to change the current pipeline safety fee methodology for allocating pipeline safety program costs to regulated pipeline companies.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on June 15, 2005, at 9:30 a.m.

Date of Intended Adoption: June 15, 2005.

Submit Written Comments to: Carole J. Washburn, Executive Secretary, P.O. Box 47250, Olympia, WA 98504, e-mail records@wutc.wa.gov, please include Docket No. P-041344 in your communication, fax (360) 586-1150, by May 20, 2005.

Assistance for Persons with Disabilities: Contact Mary De Young by Monday, June 13, 2005, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal changes the method by which pipeline safety fees are allocated to regulated pipeline companies. The effect will be that some companies may pay more than under the current rule and others may pay less. The rule does not change the overall amount of fee collection.

Affected WACs: WAC 480-75-240 and 480-93-240, Annual pipeline safety fee methodology.

Reasons Supporting Proposal: The proposal is an attempt to improve the fairness and uniformity of the pipeline safety fees application by shifting to a methodology that reflects more of the relative effort expended directly on each regulated pipeline company.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, 81.04.160, 80.24.060, and 81.24.090.

Statute Being Implemented: RCW 80.24.060 and 81.24.090.

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: The proposal would carry an effective date that would apply the new pipeline fee methodology for the first

time to the 2007 fiscal year fees (for the period commencing July 1, 2006).

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Tim Sweeney, Team Leader, 1300 Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1118; Implementation and Enforcement: Carole J. Washburn, Executive Secretary, 1300 Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes to the pipeline fee methodology rules will not result in or impose an increase in costs. Because there will not be an increase in costs resulting from the proposed rule changes, an SBEIS is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

April 20, 2005

Carole J. Washburn  
Executive Secretary

**AMENDATORY SECTION** (Amending Docket No. UG-010522, General Order No. R-497, filed 1/4/02, effective 2/4/02)

**WAC 480-75-240 Annual pipeline safety fee methodology.** (1) Every hazardous liquid pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter ~~(, beginning July 1, 2001)~~.

(a) The total of pipeline safety fees will be calculated to recover the costs of the legislatively authorized workload represented by current appropriations, less the amount received in ~~((federal funds))~~ total base grants through the Federal Department of Transportation ~~((s Hazardous Liquids Pipeline Safety Program base grant))~~. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in (a) of this subsection will be ~~((divided between intrastate hazardous liquid pipeline companies and interstate hazardous liquid pipeline companies based on two components))~~ calculated in two parts:

(i) ~~((The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year which will be determined annually. Standard inspections are~~

~~conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.~~

~~((ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distribution of these costs between interstate and intrastate hazardous liquid pipeline companies will be based on miles of pipeline operated within Washington state.~~

(b)) The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each company's share of the total of all pipeline miles within Washington as reported by the companies in their annual reports to the commission.

((ii) After deducting the commission's annual overhead charge, the remainder of the commission's annual pipeline safety program allotment will be allocated among companies in proportion to each company's share of the program staff hours that are directly assigned to particular companies. The commission will determine each company's share by dividing the total hours directly assigned to the company during the two preceding fiscal years (as reflected in the program's time-keeping system) by the total of directly assigned hours for all companies over the same period.

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocation of ~~((program costs between interstate and intrastate hazardous liquid companies and the specific calculation of each company's pipeline fee))~~ the commission's annual overhead charge to the program based on the relative number of pipeline miles and the allocation of the remaining appropriation in proportion to the relative hours directly assigned to each company.

(3) ~~((By April 1 of each year every hazardous liquids pipeline company subject to this section must file an annual report as prescribed by the commission that is necessary to establish the annual pipeline safety fee.))~~ By June 1 of each year the commission staff will mail to each company ~~((subject to this section))~~ an ~~((annual))~~ invoice ~~((showing an estimate of the quarterly amounts)).~~

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 81.24.010 the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition shall state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

AMENDATORY SECTION (Amending Docket No. UG-010522, General Order No. R-497, filed 1/4/02, effective 2/4/02)

**WAC 480-93-240 Annual pipeline safety fee methodology.** (1) Every gas company and every interstate gas pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter (~~(, beginning July 1, 2001)~~).

(a) The total of pipeline safety fees will be calculated to recover the costs of the legislatively authorized workload represented by current appropriations, less the amount received in ~~((federal funds))~~ total base grants through the Federal Department of Transportation ~~((s Natural Gas Pipeline Safety Program base grant))~~. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in ~~((subsection))~~ (a) of this subsection will be ~~((divided between gas companies and interstate gas pipeline companies based on two components))~~ calculated in two parts:

(i) ~~((The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year, which will be determined annually. Standard inspections are conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.~~

~~((ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distribution of these costs between gas companies and interstate gas pipeline companies will be based on miles of transmission lines as defined in WAC 480-93-005(18) and miles of main as defined in WAC 480-93-005(12) operated within Washington state.))~~ The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each company's share of the total of all pipeline miles within Washington as reported by the companies in their annual reports to the commission.

(ii) After deducting the commission's annual overhead charge, the remainder of the commission's annual pipeline safety program allotment will be allocated among companies in proportion to each company's share of the program staff hours that are directly assigned to particular companies. The commission will determine each company's share by dividing the total hours directly assigned to the company during the two preceding fiscal years (as reflected in the program's time-keeping system) by the total of directly assigned hours for all companies over the same period.

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocation of ~~((program costs between gas companies and interstate gas pipeline companies, and the specific calculation of each company's pipeline safety fee))~~ the commission's annual overhead charge to the program based on the relative number of pipeline miles and the allocation of the remaining appropriation in proportion to the relative hours directly assigned to each company.

~~((3) ((By April 1 of each year every gas company and every interstate gas pipeline company subject to this section must file an annual report as prescribed by the commission that is necessary to establish the annual pipeline safety fee.)) By June 1 of each year the commission staff will mail to each company ((subject to this section)) an ((annual)) invoice ((showing an estimate of the quarterly amounts)).~~

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 80.24.010, the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition must state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

WSR 05-09-124

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 02-17—Filed April 20, 2005, 11:01 a.m.]

Continuance of WSR 05-05-094.

Preproposal statement of inquiry was filed as WSR 02-23-065.

Title of Rule and Other Identifying Information: Chapter 173-505 WAC, Instream resources protection and water resources program.

Date of Intended Adoption: August 1, 2005.

Submit Written Comments to: Stephen Hirschey, 3190 160th Avenue S.E., Bellevue, WA 98008, e-mail shir461@ecy.wa.gov, fax (425) 649-7098, phone (425) 649-7066, by May 13, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To extend the public comment period to May 13, 2005.

April 19, 2005

Polly Zehm

Deputy Director

PROPOSED

**WSR 05-09-125**  
**PROPOSED RULES**  
**BOARD OF TAX APPEALS**

[Filed April 20, 2005, 11:18 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-21-035.

Title of Rule and Other Identifying Information: Chapter 456-09 WAC, Formal hearings—Practice and procedure; and chapter 456-10 WAC, Informal hearings—Practice and procedure.

Hearing Location(s): Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504, on May 25, 2005, at 1:00 p.m.

Date of Intended Adoption: June 21, 2005.

Submit Written Comments to: Anne Solwick, 910 5th Avenue S.E., Olympia, WA 98504, e-mail [annes@bta.state.wa.us](mailto:annes@bta.state.wa.us), fax (360) 586-9020, by May 25, 2005.

Assistance for Persons with Disabilities: Contact Jeanette Nelson by 12 p.m., May 24, 2005, (360) 753-5446.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 82.03.170 provides that all proceedings before the Board of Tax Appeals be conducted in accordance with rules of practice and procedure prescribed by the board. Chapters 456-09 and 456-10 WAC embody those rules for formal and informal proceedings respectively.

The proposed revisions provide more precise guidance in some instances, clarify procedures in other instances, and include new provisions designed to facilitate the orderly and economical resolution of disputes between taxpayers and the taxing authorities.

Reasons Supporting Proposal: To facilitate practice before the board.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: Chapter 82.03 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Anne N. Solwick, 910 5th Avenue S.E., Olympia, WA 98504, (360) 753-5446.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes do not impose any new performance requirement or administrative burden on any small business not already required.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.

April 20, 2005  
 Anne N. Solwick  
 Executive Director

**INTRODUCTION**

**NEW SECTION**

**WAC 456-09-001 Purpose and application of chapter.** (1) This chapter concerns administrative matters of the board of tax appeals (board) and explains how adjudicative proceedings are conducted before the board in accordance

with the Administrative Procedure Act, chapter 34.05 RCW. This chapter augments but does not supplant the provisions of chapter 82.03 RCW.

(2) The rules of practice and procedure contained in this chapter govern the conduct of formal hearings before the board and will be construed to secure the just, speedy, and economical determination of every action.

(3) To the extent these rules of practice and procedure differ from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250 and found in chapter 10-08 WAC, these rules shall prevail.

(4) Where procedures are not covered by this chapter and chapter 10-08 WAC, the board may, upon its own motion or upon written application by any party, refer to and apply any rule provided for in the superior court civil rules.

**AMENDATORY SECTION** (Amending WSR 94-07-044, filed 3/10/94, effective 4/10/94)

**WAC 456-09-010 Distinction between formal((s)) and informal hearing((—Distinction)) and converting an appeal.** ~~((All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.~~

~~Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03-180).))~~

(1) In all appeals over which the board has jurisdiction, a party ((taking)) making an appeal may elect, with its notice of appeal, either a formal or informal hearing ((pursuant to RCW 82.03.140)). Formal hearings are conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW, and the rules of practice and procedure of this chapter. Informal hearings are conducted pursuant to chapter 456-10 WAC. Failure to elect a formal or informal hearing at the time of ((filing)) submitting the notice of appeal shall result in the proceeding being conducted as informal.

(a) A formal decision of the board is subject to judicial review pursuant to RCW 34.05.570. Judicial review is limited to the record made of the proceedings before the board. The record made of the proceedings includes a verbatim account of the hearings together with the evidence, pleadings, and documents submitted to the board by the parties. In appeals from a decision of a board of equalization, the record includes the decision of that board together with the evidence submitted thereto.

(b) Decisions entered in an informal appeal are not subject to judicial review as authorized under the Administrative Procedure Act, chapter 34.05 RCW.

(c) Aggrieved parties may have avenues of further appeal allowed by law which are not pertinent to the statutory authority granted to the board and are not discussed herein.

(2) The appeal may be converted from a formal to an informal proceeding as provided below.

(a) The respondent, as a party to an appeal pursuant to RCW 84.08.130 (appeal from a decision by a board of equalization) may, within twenty calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of intention that the hearing be a formal hearing.

(b) In appeals under RCW 82.03.190, the department of revenue may, within thirty calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of its intention that the hearing be a formal hearing.

(c) In appeals under RCW 82.03.130 (1)(e), the department of revenue may, within ten calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of its intention that the hearing be a formal hearing.

(d) At any time up to thirty days prior to the date of the hearing, the parties may submit to the clerk of the board a notice signed by all parties of intention to convert the proceedings to either a formal or informal hearing.

**AMENDATORY SECTION** (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

**WAC 456-09-110 Definitions.** As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, (~~administrative law judge,~~) or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW and this chapter.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

(8) "Party" means any person who in a proceeding before the board is an appellant, respondent, or an intervenor as allowed in WAC 456-09-340.

(9) "To submit" means to present or to deliver. Submissions to the board may be delivered personally, by mail, by commercial delivery service, or by fax or electronic transmission as provided in these rules. As used herein, the terms "to submit" and "to file" are used interchangeably.

(10) "To file" means to present or to deliver. Filings with the board may be delivered personally, by mail, by commercial delivery service, or by fax or electronic transmission as provided in these rules. As used herein, the terms "to file" and "to submit" are used interchangeably.

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-120** (~~Formal rules—Procedure governed,~~) **Organization and office.** (~~These rules shall govern all practice and procedure for formal hearings before the board.~~) The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915. The phone number of the board office is 360-753-5446; its fax number is 360-586-9020; its electronic mail address is [bta@bta.state.wa.us](mailto:bta@bta.state.wa.us). Information about the board is available at its web site at <http://bta.state.wa.us>.

**AMENDATORY SECTION** (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

**WAC 456-09-130** (~~Organization and office,~~) **Quorum.** (~~The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.~~)

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915.) Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall not become final until approved by a majority of the board in accordance with WAC 456-09-925 and 456-09-930.

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-140** (~~Quorum,~~) **Meetings of the board.** (~~Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules~~)



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~~and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall not become final until approved by a majority of the board in accordance with WAC 456-09-940 or 456-09-950.)~~  
Regular public meetings of the board will be held at its principal office or such other place as the board designates at 9:00 a.m. on the second Thursday of each month.

AMENDATORY SECTION (Amending Order 91-01, filed 3/15/91, effective 4/15/91)

**WAC 456-09-210 Appearance and practice before the board**~~((Who may appear))~~. Practice before the board in formal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation; ~~((and))~~
- (4) County assessors or their duly authorized representatives;
- (5) Certified public accountants licensed in Washington;  
and
- (6) Other persons permitted by law.

NEW SECTION

**WAC 456-09-215 Notice of appearance by representatives.** Persons who represent parties in their appeal before the board must submit a notice of appearance to the other parties and an original and three copies to the board. The notice must include the name of the parties, the docket number if known, the representative's name, address, phone number, fax number, and e-mail address.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-220 Rules of professional conduct.** All persons appearing in proceedings before the board, whether on their own behalf or in a representative capacity, shall conform to the rules of professional conduct (RPC) required of attorneys before the courts of Washington. ~~((If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.))~~

NEW SECTION

**WAC 456-09-300 Commencing the appeal.** (1) Persons wishing to make an appeal must submit to the board an original notice of appeal and a copy of the order or determination that is being appealed. The board will transmit a copy of the notice of appeal and a copy of the order or determina-

tion that is being appealed to the respondent(s) within thirty days of its receipt by the board.

(2) The board will acknowledge to the appellant in writing receipt of a notice of appeal.

AMENDATORY SECTION (Amending WSR 98-22-039, filed 10/29/98, effective 11/29/98)

**WAC 456-09-310. Contents of notice of appeal**~~((Forms—Contents))~~. (1) For all appeals, an appellant ~~((may file))~~ must submit to the board a notice of appeal ~~((using forms provided by the board.~~

~~((2) In the alternative, an appellant may file a notice of appeal))~~ that ~~((shall))~~ substantially contains the following:

(a) ~~((A caption in the following form:~~

BEFORE THE BOARD OF TAX APPEALS	
STATE OF WASHINGTON	
Appellant:	Name of county in which property is located (if applicable)
-	Docket No. ....
+	NOTICE OF APPEAL
Re:	Re: (Type of tax, e.g., excise, property)
Respondent:	
.....	

~~In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.~~

~~((b) Numbered paragraphs stating:~~

~~((i))~~ Appellant's name, mailing address, telephone number, and that of the representative, if any.

~~((ii))~~ (b) Name of the respondent together with respondent's mailing address.

When the respondent is a government agency or agencies, the board may add respondents in order to ensure that all necessary persons are a party to the appeal.

~~((c))~~ The date of the order or determination from which the appeal is taken together with a copy of the order, decision, or application appealed from.

~~((iii))~~ (d) The nature of the tax~~((, and: (A)))~~.

~~((i))~~ In excise tax cases, the amount of the tax in controversy and the period covered thereby;

~~((B))~~ (ii) In property tax cases, ((a legal description or)) the parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant; and

~~((C))~~ (iii) In property tax exemption cases, ((a legal description and/or)) the parcel number of the property under appeal, the year(s) for which the exemption is at issue, the basis under which exempt status should be granted or denied, and the use of the property.

~~((iv))~~ (e) Specification of the issue to be decided by the board.

~~((v))~~ A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the

appellant relies to sustain each contention (~~(, and the issue to be adjudicated in the proceeding).~~)

~~((+))~~ (g) A notice of intention that the hearing be held pursuant to the Administrative Procedure Act.

~~((+))~~ (h) The relief sought.

~~((e) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.)~~

(i) The signature of the appellant or the appellant's representative.

(2) The board may, upon motion of a party or upon its own motion, require a more complete statement of the claim or defense or any matter stated in any notice of appeal.

AMENDATORY SECTION (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

WAC 456-09-315 Deadlines for submitting the notice of appeal (~~(—Timeliness of filing)~~). (1) The jurisdiction of the board to hear an appeal is limited to those appeals submitted within the deadlines stated in this section. Any appeal to the board shall be ~~((filed))~~ submitted within the time required by the statute governing the respective agency or proceeding involved. All time periods set forth below are expressed in calendar days including, but not limited to the following:

~~((1))~~ (a) Appeals taken pursuant to RCW 82.03.190, thirty days from the mailing of the determination.

~~((2))~~ (b) Appeals from a county board of equalization pursuant to RCW 84.08.130, thirty days from the mailing of the decision.

~~((3))~~ (c) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, thirty days from the mailing of the determination.

~~((4))~~ (d) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapters 84.12 and 84.16 RCW, thirty days from the mailing of the order.

~~((5))~~ (e) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, fifteen days after the mailing of the certification.

~~((6))~~ (f) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210, thirty days from the mailing of the notification.

~~((7))~~ (g) Appeals from urban redevelopment property tax apportionment district proposals established by govern-

mental ordinances pursuant to RCW 39.88.060, thirty days from the mailing of the ordinance.

~~((8))~~ (h) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065, thirty days after the publication of the rate.

~~((9))~~ (i) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091, on or before the sixtieth day after the date of final adoption.

~~((10))~~ (j) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850, thirty days from the mailing of the determination.

(2) If the last date for submitting the notice of appeal falls upon a Saturday, Sunday or legal holiday, the submission shall be considered timely if performed on the next business day.

(3) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

AMENDATORY SECTION (Amending WSR 98-22-039, filed 10/29/98, effective 11/29/98)

WAC 456-09-325 Date (~~(of filing—Filing via facsimile machine or electronic mail transmission))~~ and manner of submitting the notice of appeal. (1) The date of ~~((filing of))~~ submitting a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is ~~((to be))~~ hand delivered. The board's date stamp placed thereon shall be evidence of the date of receipt. If ~~((the filing of))~~ the notice of appeal is ~~((by mail))~~ mailed, the postmark will control and shall be evidence of the date of ~~((filing))~~ submission.

(2) All documents may be ~~((filed))~~ submitted with the board via ~~((facsimile))~~ fax machine or electronic mail transmission. However, ~~((filing))~~ the submission will not be deemed complete and the board will not acknowledge receipt of the notice of appeal as provided in WAC 456-09-325 unless the following procedures are ~~((strictly))~~ observed:

(a) ~~((A facsimile))~~ Documents received by fax machine or electronic mail ~~((document))~~ will ~~((only))~~ be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's ~~((facsimile))~~ fax machine or computer shall be evidence of the date and time of receipt of transmission.

(b) The original notice of appeal must be ~~((filed with))~~ mailed and postmarked or otherwise submitted to the board ~~((within ten business days from))~~ on or before the date of fax or electronic transmission.

(c) All fax or electronic transmissions are sent at the risk of the sender.

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/1/95)

WAC 456-09-330 (~~(Acknowledgement of)~~ Amendments to notice of appeal. (~~(The board will acknowledge receipt of a notice of appeal.)~~) A notice of appeal may be

amended as a matter of right within thirty days from the date the notice of appeal was received by the board. Thereafter, a party may amend the notice of appeal upon agreement in writing by the adverse party or when granted by the board. Motions to amend the notice of appeal shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. Motions to amend must comply with WAC 456-09-555 and 456-09-345.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

WAC 456-09-335 ((Computation of time.)) Response. ((In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.)) The respondent may submit an original and three copies of a response to the notice of appeal with the board at least ten business days prior to hearing, unless otherwise ordered by the board, together with proof of service pursuant to WAC 456-09-345.

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 456-09-340 ((Jurisdiction—Issue raised by board—Procedure.)) Intervention. ((1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.)) (1) Any person or agency whose interest may be substantially affected by an appeal may petition the board to be granted status as an intervenor in the appeal.

(2) In determining whether a petitioner qualifies as an intervenor, the presiding officer shall apply the rules of the superior courts of this state.

(3) If the petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the petition;

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(4) The presiding officer may timely grant or deny each petition and specify conditions, if any.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

WAC 456-09-345 ((Amendments to notice of appeal.)) Service of papers on parties and proof of service. ((Except as provided in WAC 456-09-705 a notice of appeal may be amended as a matter of right until thirty days after filing have elapsed:

Thereafter any amendments can only be made after approval of the board. Amendments shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. The board may, upon motion of a party or upon its own motion, require a more complete statement of the nature of the claim or defense or any matter stated in any pleading.)) (1) All notices, pleadings, exhibits, correspondence specific to an appeal, and other papers submitted to the board shall be served upon all counsel and representatives of record and to unrepresented parties or upon their agents designated by them or by law.

(a) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by fax and same-day mailing of copies; or by commercial delivery company.

(b) Service by mail shall be regarded as completed upon deposit in the United States mail, as evidenced by the postmark, properly stamped and addressed. Service by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission and deposit on the same day in United States mail. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(2) Where proof of service is required by statute or rule, receipt of the papers by the board, together with one of the following, shall constitute proof of service:

(a) An acknowledgment of service.

(b) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Transmitting a copy thereof by fax, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iii) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial delivery company.

**((DISCOVERY AND SUBPOENA)) PREHEARING AND HEARING PROCEDURE**

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-510 ((Prehearing procedures—Discovery—)) Limitation on discovery.** (1) Insofar as applicable and not in conflict with this chapter, the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the state of Washington shall be used. Such statutes and rules shall include but shall not be limited to those rules pertaining to discovery of evidence by parties to civil actions.

(2) The board may limit discovery upon motion by any party.

(3) The board may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 37 of the superior court civil rules. The board may condition use of discovery on a showing of necessity and unavailability of other means. In exercising such discretion, the board will consider the criteria set forth in RCW 34.05.446.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-520 Subpoena((—Issuance)).** Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446. ~~((Every subpoena shall identify the party causing its issuance. Subpoenas may be issued by the board or by an attorney of record. The person issuing shall sign the subpoena. Parties desiring subpoenas to be signed by the board shall make a showing of relevance and reasonable scope of the testimony or evidence sought and shall prepare the subpoenas for issuance, send them to the board's Olympia office for signature and, upon return, shall make arrangements for service.))~~ Parties wishing to issue a subpoena must comply with the rules in WAC 10-08-120.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-530 ((Subpoena—Form.)) Settlement conference.** ~~((Every subpoena shall name the board of tax appeals 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.))~~ (1) At any time prior to hearing, the board may, upon its own motion or upon written application by a party, order a settlement conference. The conference shall be scheduled with not less than fourteen days' notice to each party at a time and place fixed by the board and conducted in a form and manner prescribed by the board with notice to the parties.

(2) In the event the appeal does not settle, hearing on the matter shall be set. The presiding officer of the hearing will not be the person who conducts the settlement conference.

**AMENDATORY SECTION** (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

**WAC 456-09-540 ((Subpoena—Service.)) Prehearing conference.** ~~((Service of subpoenas shall be made by delivering a copy of the subpoena to such person and tendering on demand, where entitled to make a demand, the fees for one day's attendance and the mileage allowed by law. All costs, which include the cost of producing records, shall be paid by the party requesting issuance of the subpoena. A subpoena may be served by any suitable person at least eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at his or her abode. Proof of service shall be made when service is made by a person other than an officer authorized to serve process.))~~ (1) The board, upon its own motion or upon request of a party, may conduct a prehearing conference or conferences to consider:

(a) Simplification of issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;

(d) Limitations on the number and consolidation of the examination of witnesses;

(e) Procedural matters;

(f) Dates by which the parties must provide documentary evidence to the board and to other parties;

(g) The method for identifying exhibits and other attachments to briefs, motions, and other pleadings;

(h) The number of copies of documentary evidence, briefs, motions and other pleadings to be submitted to the board; and

(i) Such other matters as may aid in the disposition or settlement of the proceeding.

(2) Prehearing conferences may be held by teleconference or at a time and place specified by the presiding officer.

(3) Following the prehearing conference, the board shall issue an order reciting the action taken at the conference, and the agreements made by the parties concerning all of the matters considered. The order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(4) Documentary evidence not submitted in accordance with the prehearing conference order may not be received in evidence in the absence of a clear showing that the offering party had good cause for the failure to comply with the order.

(5) Nothing in this rule shall be construed to limit the right of the parties to attempt settlement at any time.

**NEW SECTION**

**WAC 456-09-545 Summary judgment.** A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Motions for summary judgment must comply with WAC 456-09-555.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-550** (~~(Subpoena—Proof of service.)~~) **Time in which evidence, briefs, and replies must be submitted.** (~~(Proof of service and the required return affidavit shall be filed with the board.)~~) In the absence of a prehearing order, evidence, briefs, and other documents must be submitted to the board within the times stated below.

(1) Documentary evidence which is to be introduced at hearing and briefs, if any, shall be submitted to the board together with proof of service pursuant to WAC 456-09-345 at least ten business days prior to hearing. Each page of documentary evidence shall indicate whether it is submitted by the appellant or respondent and shall be numbered. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-09-750.

(2) An original and three copies of reply briefs, if any, shall be submitted to the board together with proof of service pursuant to WAC 456-09-345 at least five calendar days prior to hearing.

(3) Documentary evidence submitted to a board of equalization and forwarded to this board is excepted from the requirements of this provision.

#### NEW SECTION

**WAC 456-09-552 Amicus.** (1) Any person whose interest may be substantially affected by a proceeding before the board may by motion request status as an amicus in the case. The motion must comply with WAC 456-09-555 and 456-09-345.

(2) The motion requesting amicus status must include a statement of the following:

(a) Applicant's interest, or the interest of the person or group represented by applicant, in the proceeding before the board;

(b) Applicant's familiarity with the issues involved in the proceeding before the board and with the scope of the arguments presented or to be presented by the parties;

(c) Specific issues to which the amicus curiae brief will be directed; and

(d) Applicant's reason for believing that additional argument is necessary on these specific issues.

(3) The brief of amicus curiae may be filed with the motion but must be filed no later than the time set for the filing of the brief for the party whose position the amicus supports.

(4) The board, on its own motion and with notice to the parties, may request a brief of amicus curiae from any person deemed to be substantially affected by a proceeding before the board.

#### NEW SECTION

**WAC 456-09-555 Motions.** (1) Any application for an order or ruling or a request for relief from any provision of this chapter is a motion. Every motion, unless made during hearing, shall be in writing and shall include the following:

(a) A statement of the relief or order sought;

(b) The reason for the relief or order;

(c) A statement that the moving party has made a good faith effort to confer with the other party to resolve the subject matter of the motion;

(d) The amount of time needed for argument;

(e) Whether court reporting services are requested; and

(f) Shall include proof of service pursuant to WAC 456-09-345.

(2) All motions shall be properly captioned and signed by the party or their representative.

(3) At the discretion of the board, the hearing on motion may be by teleconference or in person.

(4) A response to the motion shall be submitted to the board together with proof of service pursuant to WAC 456-09-345 within ten business days following the date of service of the motion.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-560** (~~(Subpoena—Quash or modification.)~~) **Postponement, continuance, and extensions of time.** (~~(If the subpoena issued is unreasonable or requires evidence not relevant to any matter in issue, the board may quash or modify the subpoena. The person to whom the subpoena was issued must bring a motion to quash or modify at or before the time specified in the subpoena for compliance and upon notice to the party for whom the subpoena was issued.)~~) (1) Postponements, continuances, and extensions of time may be ordered by the board on its own motion or may be granted on timely request of any party, with notice to all other parties.

(2) A request for a postponement, continuance, or extension of time may be oral or written. The party requesting the postponement, continuance, or extension of time must consult with the other party prior to making the request. If the other party is opposed, the request for continuance must be in writing and comply with WAC 456-09-555. The board shall promptly schedule a conference to hear argument and to rule on the request. Requests for continuance will not be granted absent a showing of good cause.

(3) This section shall not extend any applicable time for appeal to this board.

#### NEW SECTION

**WAC 456-09-565 Teleconference proceeding.** (1) At the discretion of the board, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing, prehearing, or settlement conference may be conducted by telephone, television, or other electronic means. Each party in the proceeding must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) The board may require documentary evidence to be submitted sufficiently in advance of the proceeding.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-570** (~~(Subpoena—Geographical scope.)~~) **Notice of hearing.** (~~(Attendance of witnesses and~~

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production of evidence may be required from any place in the state of Washington at any designated place of hearing.) (1) Notice of a hearing will be mailed to all parties and to all persons having submitted written petitions to intervene not less than twenty calendar days before the hearing date unless a different period is required by law. The notice shall include the information specified in RCW 34.05.434 and if the hearing is to be conducted by teleconference call the notice shall so state.

(2) The notice shall state that if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed and that there will be no cost to the party or witness. The notice shall also state that persons with disabilities may request reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

(3) Defects in notice may be waived if the waiver is knowing and voluntary.

#### NEW SECTION

**WAC 456-09-575 Notice of hearing to limited-English speaking parties.** (1) When an agency is notified or otherwise made aware that a limited-English-speaking person is a party, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, either:

(a) Shall be written in the primary language of the party; or

(b) Shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and responding to the notice.

(2) For purposes of this chapter, the term "limited-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language. The term has the same meaning as "non-English-speaking person" as defined in RCW 2.43.020.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-740 Testimony under oath**(~~Interpreters~~). (1) All testimony to be considered by the board shall be sworn, and each person shall swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth, or according to the provisions of chapter 5.28 RCW ((5.28.020 through 5.28.060)).

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the ~~(agency conducting the proceedings)~~ board, in the English language, to the best of the interpreter's skill and judgment.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-742** (~~Hearings Reporting Recording~~) **Recording devices.** (1) All hearings shall be officially recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment of others shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-745 Failure to attend**(~~Default or dismissal Setting aside~~) **and hearing on the record.** (1) When a party to these proceedings has, after notice, failed to attend a hearing, a motion for default or dismissal may be sought by any party to the proceedings or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

((2)) Within ten business days after service of the default order or dismissal under ~~((subsection (1) of))~~ this section, the party against whom the order was entered may ~~((file))~~ submit to the board together with proof of service pursuant to WAC 456-09-345 a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

(2) Upon stipulation by both parties, an appeal may be submitted to the board on the record and the attendance of a party may be excused. However, the board in its discretion may require attendance for argument.

**AMENDATORY SECTION** (Amending Order 89-02, filed 5/2/89)

**WAC 456-09-750 Dismissal, stipulation, and withdrawal of actions.** Any action may be dismissed by the board~~((:))~~ for any of the following reasons.

(1) When all parties so stipulate~~((:))~~, Stipulations on the value of property shall contain the parcel number, assessment year, the agreed upon value of the subject property, and a brief statement supporting the agreed upon value.

(2) As a matter of right when the appellant requests in writing to withdraw the appeal prior to the scheduled hearing.

(3) Upon motion of the appellant at the hearing prior to the presentation of the respondent's case~~((:(3)))~~.

(4) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board~~((:(4)))~~.

(5) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

~~WAC 456-09-755 ((Waiver of parties' appearance,))~~  
Rules of evidence and admissibility criteria. ((Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.)) (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board may exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) If not inconsistent with subsection (1) of this section, the board may refer to, but shall not be bound by, the Washington rules of evidence.

(4) Documentary evidence may be submitted in the form of copies or excerpts, or by incorporation by reference.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

~~WAC 456-09-765 Official notice((—Matters of law)).~~  
 ((The board may 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; decisions of the state courts; acts of the legislature, resolutions, records, journals, and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders, and notices filed with the code reviser.~~

(3) ~~Counties and cities. Ordinances and resolutions enacted by cities, counties, or other municipal subdivisions of the state of Washington.~~

(4) ~~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.~~

(5) ~~Agency organization. The department, commission, or board organization, administration, officers, personnel, official publications, and practitioners before its bar.~~) (1) The board may take official notice of the following:

(a) Any judicially cognizable facts;

(b) Any matter of public record;

(c) Technical or scientific facts within the agency's specialized knowledge; and

(d) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(2) If any decision is stated to rest in whole or in part upon official notice of a fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by petition for review if such notice is taken in an initial decision pursuant to WAC 456-09-930 or by a petition for reconsideration if notice of such fact is taken in a final decision pursuant to WAC 456-09-955. Such controversy shall concisely and clearly set forth the sources, authority, and other data relied upon to show the existence or nonexistence of the fact assumed or denied in the decision.

(3) A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

~~WAC 456-09-910 Assistance to board.~~ (1) The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130((2)) (1)(b) (appeals from a county board of equalization) from the staff of the department of revenue as provided by RCW 82.03.160. The board will notify the parties of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue.

(2) Any evidence from the department of revenue concerning assistance requested under this section shall only be presented in open hearing after notice to all parties.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

~~WAC 456-09-915 Presentation of posthearing evidence.~~ Unless requested by the board, no posthearing evidence will be accepted unless such evidence could not reasonably have been anticipated or discovered prior to hearing. The board may request that the parties submit posthearing briefing or proposed findings of fact and conclusions of law.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

~~WAC 456-09-920 ((Proposed findings and conclusions—Submission.))~~ Initial or final decision. ((At the discretion of the board, parties may file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law shall be filed within the time period set by the board.)) Every decision, whether initial or final, shall:

(1) Be correctly captioned as to the name of the board and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(6) Contain an initial or final decision disposing of all contested issues; and

(7) Contain a statement describing the available post-hearing remedies.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-925 Initial decision.** (1) An initial decision shall be prepared when:

~~((1))~~ (a) An appeal has been heard by only one member of the board;

~~((2))~~ (b) An appeal has been heard by only two members of the board at a time when there is no vacancy on the board and the two members cannot agree on a conclusion;

~~((3))~~ (c) An appeal has been heard by a hearing officer; or

~~((4))~~ (d) The board shall otherwise elect to do so.

(2) If a petition for review as provided in WAC 456-09-930 is not submitted to the board within twenty calendar days of the date of mailing of the initial decision, the initial decision shall be deemed the final decision of the board unless the decision specifies otherwise.

**AMENDATORY SECTION** (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

**WAC 456-09-930 (~~Initial or final decision~~) Petition for review of an initial decision, replies, and disposition.** (~~Every decision, whether initial or final, shall:~~

~~(1) Be correctly captioned as to the name of the board and name of the proceeding;~~

~~(2) Designate all parties and representatives participating in the proceeding;~~

~~(3) Include a concise statement of the nature and background of the proceeding;~~

~~(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;~~

~~(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;~~

~~(6) Contain an initial or final decision disposing of all contested issues;~~

~~(7) Contain a statement describing the available post-hearing remedies;)~~ (1) Any party to an adjudicative proceeding may make a petition for review of an initial decision.

(2) The petition for review shall be made, by mail or otherwise, with the board within twenty calendar days of the date of mailing of the initial decision unless the decision specifies otherwise together with proof of service pursuant to WAC 456-09-345.

(3) The petition for review shall specify the portions of the initial decision to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition.

(4) Any party may make a reply to a petition for review. The reply shall be made, by mail or otherwise, with the board together with proof of service pursuant to WAC 456-09-345 within ten business days of the date of the letter acknowledging receipt by the board of the petition for review.

(5) The disposition may be in the form of a written order denying the petition and adopting the initial decision as the final decision, granting the petition and issuing a final decision, or granting the petition and setting the matter for further

hearing. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which review was sought, within such time and on such terms as may be prescribed.

**AMENDATORY SECTION** (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

**WAC 456-09-955 Petition for reconsideration of a final decision.** (1) After a final decision has been issued, any party may ~~(file)~~ submit a petition for reconsideration with the board as provided by RCW 34.05.470. Such petition must be made, by mail or otherwise, within ten business days from the mailing of the final decision, and shall state the specific grounds upon which relief is requested. The petition for reconsideration shall be ~~(filed with)~~ submitted to the board and served upon all parties and representatives of record in compliance with WAC 456-09-345. The board may require ~~(that)~~ or a party may at its own option, within ten business days of the date of the letter acknowledging receipt by the board of the petition for reconsideration, submit to the board a response (be made and served in the same manner) together with proof of service pursuant to WAC 456-09-345. (The board may deny the petition, modify its decision, or reopen the hearing.)

(2) The petition shall be deemed denied if, within twenty calendar days from the date the petition is received by the board, the board does not either ~~(-1))~~ dispose of the petition; or ~~((2) serve)~~ provide the parties with a written notice specifying the date by which it will act on the petition.

(3) The disposition shall be in the form of a ~~(decision)~~ written order denying the petition, granting the petition and dissolving or modifying the final decision, or granting the petition and setting the matter for further hearing. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument within such time and on such terms as may be prescribed.

**AMENDATORY SECTION** (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

**WAC 456-09-960 Record on appeal.** (1) When an appeal is taken to superior court from a decision of the board rendered in a formal proceeding, the appealing party is responsible for ordering and paying for the transcript of the testimony from the court reporter.

(2) If a petition for judicial review of a final order is made, by stipulation the parties may agree to shorten the record to be filed with the court. Either party unreasonably refusing to stipulate to such a limitation, including shortening or selecting only portions of a transcript, may be ordered to pay the additional costs involved as allowed in RCW 34.05.566.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 456-09-160

Form and size of documents.



WAC 456-09-170	Docket number.	WAC 456-09-760	Rules of evidence—Admissibility criteria.
WAC 456-09-320	Notice of appeal—Filing and service.	WAC 456-09-770	Official notice—Material facts.
WAC 456-09-350	Notice of appeal—Response.	WAC 456-09-775	Motions—Application—Requirements.
WAC 456-09-355	Parties in exemption appeals.	WAC 456-09-935	Petition for review and replies.
WAC 456-09-365	Conversion of hearing.	WAC 456-09-940	Finality of initial decision.
WAC 456-09-410	Service of papers.	WAC 456-09-945	Final decision following initial decision—Record.
WAC 456-09-420	Method of service.	WAC 456-09-950	Final decision—Precedential decisions.
WAC 456-09-430	Service of papers—When complete.		
WAC 456-09-440	Proof of service—Certificate.		
WAC 456-09-610	Conferences—Two types.		
WAC 456-09-615	Settlement conference—Purpose.		
WAC 456-09-620	Settlement conference—When held.		
WAC 456-09-625	Settlement conference—Agreements.		
WAC 456-09-635	Prehearing conference—When held.		
WAC 456-09-640	Prehearing conference—Documentary evidence.		
WAC 456-09-645	Prehearing conference—Excerpts from documentary evidence.		
WAC 456-09-650	Prehearing conference—Failure to supply prehearing information.		
WAC 456-09-655	Prehearing conference—Agreements.		
WAC 456-09-705	Advance submission of evidence—Delivery to adverse party.		
WAC 456-09-710	Hearing—Setting of time and place.		
WAC 456-09-715	Continuance—Extensions of time.		
WAC 456-09-720	Teleconference proceeding.		
WAC 456-09-725	Briefs.		
WAC 456-09-730	Hearing—Notice of hearing—Time—Contents.		
WAC 456-09-732	Hearing—Notice to limited-English speaking parties.		
WAC 456-09-735	Hearing—Standard and scope of review.		

## INTRODUCTION

### NEW SECTION

**WAC 456-10-001 Purpose and application of chapter.** (1) This chapter explains how informal hearings are conducted before the board of tax appeals (board). Although informal hearings are available to all parties, the informal process is helpful for persons who are not represented by counsel. In the informal process a taxpayer does not need to possess legal expertise in order to pursue an appeal. These rules of practice and procedure will be liberally construed to secure the just, speedy, and economical determination of every action.

(2) Where procedures are not covered by this chapter, the board may, upon its own motion or upon written application by any party, refer to and apply any rule provided for in chapter 456-09 - Formal Hearings—Practice and Procedure, chapter 10-08 Washington Administrative Code (WAC) - Model Rules of Procedure, or the superior court civil rules. This chapter augments but does not supplant the provisions of chapter 82.03 RCW.

(3) The superior court civil rules, rules of professional conduct, the Washington Administrative Code (WAC), and the Revised Code of Washington (RCW) referred to herein are available in public libraries and on-line at various web sites.

**AMENDATORY SECTION** (Amending WSR 94-07-043, filed 3/10/94, effective 4/10/94)

**WAC 456-10-010 Distinction between formal((s)) and informal hearing((—Distinction)) and converting an appeal.** ((All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board of tax appeals decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although tax-

payers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03-180).

In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140. Failure to elect a formal or informal hearing at the time of filing shall result in the proceeding being conducted as informal. (1) A party making an appeal may elect, with its notice of appeal, either a formal or informal hearing. Informal hearings are conducted pursuant to the rules of practice and procedure set forth in this chapter. Formal hearings are conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW, and the rules of practice and procedure of chapter 456-09 WAC. Failure to elect a formal or informal hearing at the time of submitting the notice of appeal shall result in the proceeding being conducted as informal.

(a) A formal decision of the board is subject to judicial review pursuant to RCW 34.05.570. Judicial review is limited to the record made of the proceedings before the board. The record made of the proceedings includes a verbatim account of the hearings together with the evidence, pleadings, and documents submitted to the board by the parties. In appeals from a decision of a board of equalization, the record includes the decision of that board together with the evidence submitted thereto.

(b) Decisions entered in an informal appeal are not subject to judicial review as authorized under the Administrative Procedure Act, chapter 34.05 RCW.

(c) Aggrieved parties may have avenues of further appeal allowed by law which are not pertinent to the statutory authority granted to the board and are not discussed herein.

(2) The appeal may be converted from an informal to a formal proceeding as provided below.

(a) The respondent, as a party to an appeal pursuant to RCW 84.08.130 (appeal from a decision by a board of equalization) may, within twenty calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of intention that the hearing be a formal hearing.

(b) In appeals under RCW 82.03.190, the department of revenue may, within thirty calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of its intention that the hearing be a formal hearing.

(c) In appeals under RCW 82.03.130 (1)(e), the department of revenue may, within ten calendar days from the date of the board's mailing of the acknowledgment of the notice of appeal, submit to the clerk of the board a notice of its intention that the hearing be a formal hearing.

(d) At any time up to thirty days prior to the date of the hearing, the parties may submit to the clerk of the board a notice signed by all parties of intention to convert the proceedings to either a formal or informal hearing.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/1/95)

**WAC 456-10-110 Definitions.** As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, ((administrative law judge,)) or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW and chapter 456-09 WAC.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

(8) "Party" means any person who in a proceeding before the board is an appellant or respondent.

(9) "To submit" means to present or to deliver. Submissions to the board may be delivered personally, by mail, by commercial delivery service, or by fax or electronic transmission as provided in these rules. As used herein, the terms "to submit" and "to file" are used interchangeably.

(10) "To file" means to present or to deliver. Filings with the board may be delivered personally, by mail, by commercial delivery service, or by fax or electronic transmission as provided in these rules. As used herein, the terms "to file" and "to submit" are used interchangeably.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-120 ((Informal rules—Procedure governed.)) Alternative procedures.** ((This chapter shall govern all practice and procedure for informal hearings before the board. Formal proceedings shall be governed by those rules specified in chapter 456-09 WAC.)) The board may, from time to time, offer expedited or abbreviated procedures for certain informal hearings in order to resolve appeals in an economic and efficient manner.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/1/95)

**WAC 456-10-140 Organization and office.** The board consists of three members, one of whom is elected chair.

Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915. The phone number of the board office is 360-753-5446; its fax number is 360-586-9020; its electronic mail address is bta@bta.state.wa.us. Information about the board is available at its web site at http://bta.state.wa.us.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-150 Quorum.** Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall become final in accordance with WAC ~~((456-10-740))~~ 456-10-725 or 456-10-730.

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

**WAC 456-10-160 Meetings of the board.** Regular public meetings of the board will be held at its principal office or such other place as the board designates at ~~((10:00))~~ 9:00 a.m. on the second Thursday of each ~~((March, June, September, and December))~~ month.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-210 Appearance and practice before the board**~~((—Who may appear)).~~ ~~((The right to))~~ Practice before the board in informal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) ~~((Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in the state of Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;~~
- (4)) Public officials in their official capacity;
- ~~((5))~~ (4) Certified public accountants ~~((and licensed public accountants entitled to practice accountancy))~~ licensed in the state of Washington;

~~((6))~~ (5) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;

~~((7))~~ (6) Partners, joint venturers, or trustees representing their respective partnerships, joint venturers, or trusts; and

~~((8))~~ (7) Other persons designated by a taxpayer with approval of the board.

NEW SECTION

**WAC 456-10-215 Notice of appearance by representatives.** Persons who represent parties in their appeal before the board must submit to the board and to the other parties a notice of appearance. The notice must include the name of the parties, the docket number if known, the representative's name, address, phone number, fax number, and electronic mail address.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-220 Rules of professional conduct.** All persons appearing in proceedings before the board, whether on their own behalf or in a representative capacity, shall conform to the rules of professional conduct (RPC) required of attorneys before the courts of Washington. ~~((If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.))~~

NEW SECTION

**WAC 456-10-300 Commencing the appeal.** (1) Persons wishing to make an appeal must submit to the board an original notice of appeal and a copy of the order or determination that is being appealed. The board will transmit a copy of the notice of appeal and a copy of the order or determination that is being appealed to the respondent(s) within thirty days of its receipt by the board.

(2) The board will acknowledge to the appellant in writing receipt of a notice of appeal.

AMENDATORY SECTION (Amending WSR 98-22-040, filed 10/29/98, effective 11/29/98)

**WAC 456-10-310 Contents of notice of appeal**~~((—Forms—Contents)).~~ (1) For ~~((all))~~ informal appeals, an appellant may ~~((file))~~ submit a notice of appeal using forms provided by the board.

(2) In the alternative, an appellant may ~~((file))~~ submit a notice of appeal that ~~((shall))~~ substantially contains the following:

(a) ~~((A caption in the following form:~~

BEFORE THE BOARD OF TAX APPEALS	
STATE OF WASHINGTON	
Appellant,	} Name of county in which property is located (if applicable)
	} Docket No. ....
v.	} NOTICE OF APPEAL
	} Re: (Type of tax, e.g., excise,
Respondent,	} —property)
.....	}

PROPOSED

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

~~(b) Numbered paragraphs stating:~~

~~(i)) Appellant's name, mailing address, telephone number, and that of the representative, if any.~~

~~((ii)) (b) Name of the respondent together with respondent's mailing address.~~

When the respondent is a government agency or agencies, the board may add respondents in order to ensure that all necessary persons are a party to the appeal.

(c) The date of the order or determination from which the appeal is taken, together with a copy of the order, decision, or application appealed from.

~~((iii)) (d) The nature of the tax((and: (A)))~~

(i) In excise tax cases, the amount of the tax in controversy and the period covered thereby;

~~((B)) (ii) In property tax cases, ((a legal description or) the parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant; and~~

~~((C)) (iii) In property tax exemption cases, ((a legal description and/or) the parcel number of the property under appeal, the year(s) for which the exemption is at issue, the basis under which exempt status should be granted or denied, and the use of the property.~~

~~((iv)) (e) Specification of the issue to be decided by the board.~~

(f) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention.

~~((v)) (g) The relief sought.~~

~~((e) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.)~~

(h) The signature of the appellant or the appellant's representative.

(3) The board may, upon motion of a party or upon its own motion, require a more complete statement of the claim or defense or any matter stated in any notice of appeal.

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

WAC 456-10-315 Deadlines for submitting the notice of appeal (~~— Timeliness of filing~~). (1) The jurisdiction of the board to hear an appeal is limited to those appeals submitted within the deadlines stated in this section. Any appeal to the board shall be ~~((filed))~~ submitted within the time required by the statute governing the respective agency or proceeding involved ~~((including, but not limited to the following:~~

~~(4)))~~. All time periods set forth below are expressed in calendar days.

(a) Appeals taken pursuant to RCW 82.03.190, thirty days from the mailing of the determination.

~~((2))~~ (b) Appeals from a county board of equalization pursuant to RCW 84.08.130, thirty days from the mailing of the decision.

~~((3))~~ (c) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, thirty days from the mailing of the determination.

~~((4))~~ (d) Appeals by an assessor or owner of an inter-county public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapters 84.12 and 84.16 RCW, thirty days from the mailing of the order.

~~((5))~~ (e) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, fifteen days after the mailing of the certification.

~~((6))~~ (f) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210, thirty days from the mailing of the notification.

~~((7))~~ (g) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060, thirty days from the mailing of the ordinance.

~~((8))~~ (h) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065, thirty days after the publication of the rate.

~~((9))~~ (i) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091, on or before the sixtieth day after the date of final adoption.

~~((10))~~ (j) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850, thirty days from the mailing of the determination.

(2) If the last date for submitting the notice of appeal falls upon a Saturday, Sunday or legal holiday, the submission shall be considered timely if performed on the next business day.

(3) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

AMENDATORY SECTION (Amending WSR 98-22-040, filed 10/29/98, effective 11/29/98)

WAC 456-10-325 Date ~~((of filing— Filing via facsimile machine or electronic mail transmission))~~ and manner of submitting the notice of appeal. (1) The date of ~~((filing ef))~~ submitting a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is ~~((to be))~~ hand delivered. The board's date stamp placed thereon shall be evidence of the date of receipt. If the ~~((filing of the))~~

PROPOSED

notice of appeal is ~~((by mail))~~ mailed, the postmark will control and shall be evidence of the date of ~~((filing))~~ submission.

(2) All documents may be ~~((filed with))~~ submitted to the board via ~~((facsimile machine))~~ fax or electronic mail transmission. However, ~~((filing))~~ submission will not be deemed complete and the board will not acknowledge receipt of the notice of appeal as provided in WAC 456-10-300 unless the following procedures are ~~((strictly))~~ observed:

(a) ~~((A facsimile machine))~~ Documents received by fax or electronic mail ~~((document))~~ will ~~((only))~~ be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's ~~((facsimile machine))~~ fax or computer shall be evidence of the date and time of receipt of transmission.

(b) The original notice of appeal must be ~~((filed with))~~ mailed and postmarked or otherwise submitted to the board ~~((within ten business days from))~~ on or before the date of fax or electronic transmission.

(c) All fax or electronic transmissions are sent at the risk of the sender.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

WAC 456-10-330 ~~((Acknowledgement of))~~ Amendments to notice of appeal. ~~((The board will acknowledge receipt of a notice of appeal.))~~ A notice of appeal may be amended as a matter of right within thirty days from the date the notice of appeal was received by the board. Thereafter, a party may amend the notice of appeal upon agreement in writing by the other party or when granted by the board. Motions to amend the notice of appeal shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. Motions to amend must comply with WAC 456-10-555 and 456-10-410.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-335 ~~((Computation of time.))~~ Response. ~~((In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.))~~ The respondent may submit a response to the notice of appeal with the board. The response, if any, must be submitted to the board at least ten business days prior to hearing, unless otherwise ordered by the board, together with proof of service pursuant to WAC 456-10-410.

AMENDATORY SECTION (Amending WSR 98-22-040, filed 10/29/98, effective 11/29/98)

WAC 456-10-410 Service of papers on parties and proof of service. ~~((1) Copies of all documents, exhibits, and~~

~~papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented: Provided, That this shall not apply to the notice of appeal.~~

~~(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.~~

~~(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.))~~ (1) All notices, pleadings, exhibits, correspondence specific to an appeal, and other papers submitted to the board shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

(a) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by fax and same-day mailing of copies; or by commercial delivery company.

(b) Service by mail shall be regarded as completed upon deposit in the United States mail, as evidenced by the postmark, properly stamped and addressed. Service by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission and deposit on the same day in the United States mail. Service by commercial delivery shall be regarded as completed upon delivery to the delivery company, properly addressed with charges prepaid.

(2) Proof of service. Where proof of service is required by statute or rule, receipt of the papers by the board, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate served the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Transmitting a copy thereof by fax, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iii) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial delivery company.

## PREHEARING AND HEARING PROCEDURE

### NEW SECTION

WAC 456-10-500 Prehearing conference. The board, upon its own motion or upon request of a party, may conduct a prehearing conference or conferences. Such prehearing conference will be conducted in accordance with the provisions of WAC 456-09-540.

### NEW SECTION

WAC 456-10-501 Limitation on discovery. (1) Insofar as applicable and not in conflict with this chapter, the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the state of Washington shall be used. Such statutes and rules shall include, but shall not be limited

to, those rules pertaining to discovery of evidence by parties to civil actions.

(2) The board may limit discovery upon motion by any party.

(3) The board may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 37 of the superior court civil rules. The board may condition use of discovery on a showing of necessity and unavailability of other means. In exercising such discretion, the board will consider the criteria set forth in RCW 34.05.446.

#### NEW SECTION

**WAC 456-10-503 Summary judgment.** A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Motions for summary judgment must comply with WAC 456-10-510.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

**WAC 456-10-505** (~~(Advance submission of evidence—Delivery to adverse party.)~~) **Time in which evidence, briefs, and replies must be submitted.** In the absence of a prehearing order, evidence, briefs, and other documents must be submitted to the board within the times stated below.

(1) Documentary evidence which is to be introduced at hearing and briefs or other supporting statements shall be submitted to the board together with proof of service pursuant to WAC 456-10-410 at least ten business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-10-555.

(2) (~~Evidence of comparable sales, listed in the notice of appeal, which are subsequently changed, shall conform to this section and will be excepted from the requirements of WAC 456-10-345 (Amendments of notice of appeal).~~)

(3) ~~All correspondence and all subsequent pleadings or papers filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.~~

(4) ~~An acknowledgement of service or certificate of mailing as provided in WAC 456-10-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.)~~ **Reply briefs or other supporting statements, if any, shall be submitted to the board together with proof of service pursuant to WAC 456-10-410 at least five calendar days prior to hearing.**

(3) Documentary evidence submitted to a board of equalization and forwarded to this board is excepted from the requirements of this provision.

#### NEW SECTION

**WAC 456-10-507 Amicus.** (1) Any person whose interest may be substantially affected by a proceeding before the

board may by motion request status as an amicus in the case. The motion must comply with WAC 456-10-510 and 456-10-410.

(2) The motion requesting amicus status must include a statement of the following:

(a) Applicant's interest, or the interest of the person or group represented by applicant, in the proceeding before the board;

(b) Applicant's familiarity with the issues involved in the proceeding before the board and with the scope of the arguments presented or to be presented by the parties;

(c) Specific issues to which the amicus curiae brief will be directed; and

(d) Applicant's reason for believing that additional argument is necessary on these specific issues.

(3) The brief of amicus curiae may be filed with the motion but must be filed no later than the time set for the filing of the brief for the party whose position the amicus supports.

(4) The board, on its own motion and with notice to the parties, may request a brief of amicus curiae from any person deemed to be substantially affected by a proceeding before the board.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

**WAC 456-10-510** (~~(Hearing—Setting of time and place.)~~) **Motions.** (~~(The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.)~~) (1) Any application for an order or ruling or a request for relief from any provision of this chapter is a motion. Every motion, unless made during hearing, shall be in writing and shall include the following:

(a) A statement of the relief or order sought;

(b) The reason for the relief or order;

(c) A statement that the moving party has made a good faith effort to confer with the other party to resolve the subject matter of the motion;

(d) The amount of time needed for argument; and

(e) Shall include proof of service pursuant to WAC 456-10-410.

(2) All motions shall contain the docket number assigned to the appeal by the board and be signed by the party or the representative.

(3) At the discretion of the board, the hearing on motion may be by teleconference or in person.

(4) A response to the motion shall be submitted to the board together with proof of service pursuant to WAC 456-10-410 within ten business days following the date of service of the motion.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-515 Postponement, continuance(—), and extensions of time.** (1) (~~Continuances and extensions of time may be ordered on timely request of any party. The request shall show good cause and shall be served upon all other parties.~~)

(2)) Postponements, continuances, and extensions of time may be ordered by the board on its own motion or may be granted on timely request of any party, with notice to all other parties.

(2) A request for a postponement, continuance, or extension of time may be oral or written. The party requesting the postponement, continuance, or extension of time must consult with the other party prior to making the request. If the other party is opposed, the request for continuance must be in writing and comply with WAC 456-10-510. The board shall promptly schedule a conference to hear argument and to rule on the request. Requests for continuance will not be granted absent a showing of good cause.

(3) This section shall not extend any applicable time for appeal to this board (~~nor extend the time for providing notice of appeal to any named party~~).

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

WAC 456-10-530 (~~Hearing~~) Notice of hearing (~~Time Contents~~). (1) (~~Time~~) Notice of a hearing shall be mailed to all parties not less than twenty calendar days before the hearing date. The twenty-day notice provision may be waived by agreement of all parties.

(2) Contents. The notice shall contain:

(a) The names and mailing addresses of the parties and their representatives, if any;

(b) The docket number and name of the proceeding;

(c) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(d) A statement of the time, place, date, and general nature of the proceeding (e.g., excise, property, etc.);

(e) A statement that the hearing is held pursuant to this chapter and chapter 82.03 RCW;

(f) (~~A statement of the issues or matters asserted and the particular sections of the statutes or rules involved as stated in the notice of appeal and responsive pleading, if any;~~

(g) ~~A statement that a party who fails to attend or participate at a hearing may be held in default in accordance with WAC 456-10-550; and~~

(h)) A statement that, if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed at no cost to the party or witness. The notice shall also state that persons with disabilities may request reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-540 Hearing (~~---~~) procedure. Unless otherwise ordered by the board, hearings will be conducted in accordance with the following format:

(1) Administering of oath;

(2) Appellant's opening statement;

(3) Respondent's opening statement;

(4) Appellant's case in chief:

(a) Direct examination of witness;

(b) Cross-examination by respondent;

(c) (~~Questions by board or presiding officer;~~

(d)) Redirect examination by appellant;

(~~e)) (d) Recross examination;~~

(~~f)) (e) The above procedure is followed for each witness.~~

(5) Respondent's case in chief:

(a) Direct examination of witness;

(b) Cross-examination by appellant;

(c) (~~Questions by board or presiding officer;~~

(d)) Redirect examination by respondent;

(~~e)) (d) Recross examination;~~

(~~f)) (e) The above procedure is followed for each witness.~~

(6) Appellant's closing argument;

(7) Respondent's closing argument;

(8) Appellant's closing rebuttal;

(9) The board may pose questions to the parties, their representatives, and any witness at any time during the hearing.

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

WAC 456-10-545 Testimony under oath (~~Interpreters~~). (1) All testimony to be considered by the board shall be sworn, and each person shall swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth.

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the (~~agency conducting the proceedings~~) board, in the English language, to the best of the interpreter's skill and judgment.

AMENDATORY SECTION (Amending Order 91-02, filed 3/15/91, effective 4/15/91)

WAC 456-10-547 (~~Hearings Reporting Recording~~) Recording devices. (1) All hearings shall be recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-550 Failure to attend (~~Default or dismissal Setting aside~~) and hearing on the record. (1) When a party to these proceedings has, after notice, failed to attend a hearing and has not notified the board and the opposing party of the intention to not attend, a motion for default or

dismissal may be sought by any party to the proceedings, or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

~~((2))~~ Within ten business days after service of the default order or dismissal under subsection (1) of this section, the party against whom the order was entered may ~~((file))~~ submit to the board together with proof of service pursuant to WAC 458-10-410 a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

(2) Upon stipulation by both parties, an appeal may be submitted to the board on the record and attendance of a party may be excused. However, the board in its discretion may require attendance for argument.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-555 Dismissal, stipulations, and withdrawal of actions. Any action may be dismissed by the board ~~((:))~~ for any of the following reasons.

(1) When all parties so stipulate ~~((:))~~.

Stipulations on the value of property shall contain the parcel number, assessment year, the agreed upon value of the subject property, and a brief statement supporting the agreed upon value.

(2) As a matter of right when the appellant requests orally or in writing to withdraw the appeal prior to the scheduled hearing.

(3) Upon motion of the appellant at the hearing prior to the presentation of the respondent's case ~~((:-(3)))~~.

(4) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board ~~((: or-(4)))~~.

(5) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-560 ~~((Waiver of parties' appearance.))~~ Rules of evidence and admissibility criteria. ~~((Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.))~~ (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board may exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) Documentary evidence may be submitted in the form of copies or excerpts.

(4) If not inconsistent with subsection (1) of this section, the board may refer to, but shall not be bound by, the Washington rules of evidence.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-565 ~~((Rules of evidence—Admissibility criteria.))~~ Official notice. ~~((1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board 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. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.~~

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) Documentary evidence may be submitted in the form of copies or excerpts. (1) The board may take official notice of the following:

(a) Any judicially cognizable facts;

(b) Any matter of public record;

(c) Technical or scientific facts within the agency's specialized knowledge; and

(d) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

(2) If any decision is stated to rest in whole or in part upon official notice of a fact to which the parties have not had a prior opportunity to controvert, any party may controvert such fact by exception pursuant to WAC 456-10-730 if such notice is taken in a proposed decision or by a petition for reconsideration if notice of such fact is taken in a final decision pursuant to WAC 456-10-755. Such controversy shall concisely and clearly set forth the sources, authority, and other data relied upon to show the existence or nonexistence of the fact assumed or denied in the decision.

(3) A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-710 Assistance to board. The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130 ~~((2))~~ (1)(b) (appeals from a county board of equalization) from the staff of the department of revenue as provided by RCW 82.03.150. The board will notify the parties of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue. If the department of revenue supplies the requested assistance, the parties will be apprised of any information provided by the department of revenue and will be given an opportunity to respond.



AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

**WAC 456-10-725 Proposed decision.** (1) A proposed decision shall be prepared when:

~~((1))~~ (a) An appeal has been heard by only one member of the board;

~~((2))~~ (b) An appeal has been heard by only two members of the board and the two members cannot agree on a conclusion;

~~((3))~~ (c) An appeal has been heard by a hearing officer; or

~~((4))~~ (d) The board shall otherwise elect to do so.

(2) If an exception as provided in WAC 456-10-730 is not submitted to the board within twenty calendar days of the date of mailing of the proposed decision, the proposed decision shall be deemed the final decision of the board unless the decision specifies otherwise.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

**WAC 456-10-730 Exceptions to proposed decision, replies, and disposition.** (1) ~~((Time for filing:))~~ Any party may make, by mail or otherwise, a written exception with the board within twenty calendar days from the date of mailing of the proposed decision or, upon timely application, within such further time as the board may allow. The statement of exceptions ~~((shall be filed with the board, and a copy))~~ shall be served on all other parties pursuant to WAC 456-10-410.

~~((Contents:))~~ (2) Exceptions shall contain the specific factual and legal grounds upon which the exception is based. No new evidence may be introduced in the written exception; nor may the party or parties raise an argument in the exception that was not raised at the hearing. The party or parties making the exception shall be deemed to have waived all objections or irregularities not specifically set forth. ~~((The statement of exceptions may contain the exceptor's proposed findings of fact and/or conclusions of law addressing the factual and legal issues to which exceptions are being taken.~~

~~((3) Failure of a party to comply with the requirements for exceptions may result in the board issuing a decision adopting the proposed decision as the final decision of the board on the ground that no legally sufficient statement of exceptions had been made:))~~ (3) Any party may make a reply to a written exception. The reply, together with proof of service pursuant to WAC 456-10-410, shall be submitted to the board within ten business days of the date of the letter acknowledging receipt by the board of the written exception.

(4) The disposition may be in the form of a written order denying the exception and adopting the proposed decision as the final decision, granting the exception and issuing a final decision, or granting the exception and setting the matter for further hearing. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

**WAC 456-10-755 Petition for reconsideration of a final decision.** ~~((After))~~ (1) A petition for reconsideration is not available where a proposed decision was first issued.

(2) Where a final decision has been issued and no proposed decision was first issued, any party may ~~((file))~~ submit a petition for reconsideration with the board~~((Such petition must be made, by mail or otherwise,))~~ together with proof of service pursuant to WAC 456-10-410 within ten business days from the mailing of the final decision. ~~((The petition for reconsideration shall be filed with the board and served upon all parties and representatives of record.))~~ The board may require ~~((that a response be made and served in the same manner))~~ or any party may at its own option, within ten business days of the date of the letter acknowledging receipt by the board of the petition for reconsideration, submit to the board a response together with proof of service pursuant to WAC 456-10-410.

(3) The ~~((filing))~~ submitting of a petition for reconsideration shall suspend the final decision until action by the board. The board may deny the petition, modify its decision, or reopen the hearing. ~~((A petition for reconsideration is not available where a proposed decision was first issued.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 456-10-130	Use of formal rules in informal proceedings.
WAC 456-10-170	Form and size of documents.
WAC 456-10-180	Docket number.
WAC 456-10-320	Notice of appeal—Filing and service.
WAC 456-10-340	Jurisdiction—Issue raised by board—Procedure.
WAC 456-10-345	Amendments to notice of appeal.
WAC 456-10-355	Parties in exemption appeals.
WAC 456-10-360	Conversion of hearing.
WAC 456-10-420	Method of service.
WAC 456-10-430	Service of papers—When complete.
WAC 456-10-440	Proof of service—Certificate.
WAC 456-10-525	Briefs.
WAC 456-10-535	Hearing—Standard and scope of review.
WAC 456-10-570	Motions—Application—Requirements.

PROPOSED

WAC 456-10-720	Proposed findings and conclusions—Submission.
WAC 456-10-735	Reply to exceptions.
WAC 456-10-740	Finality of proposed decision.
WAC 456-10-745	Final decision following proposed decision.
WAC 456-10-750	Final decision—Precedential decisions.

Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-2618; and Enforcement: Mindy Schaffner, Executive Director, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-2635.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules 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 proposed rules are procedural rules under RCW 34.05.328 (5)(c) and do not require preparation of a cost benefit analysis.

April 20, 2005  
Mindy L. Schaffner  
Executive Director

**WSR 05-09-126**  
**PROPOSED RULES**  
**HOME CARE**  
**QUALITY AUTHORITY**  
[Filed April 20, 2005, 11:50 a.m.]

**Chapter 257-10 WAC**

**REFERRAL REGISTRY**

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-20-111.

Title of Rule and Other Identifying Information: Referral registry rules, chapter 257-10 WAC.

Hearing Location(s): Lacey Fire Department, District #3, 1231 Franz Street S.E., Lacey, WA 98503, on May 25, 2005, at 2:30 p.m.

Date of Intended Adoption: May 25, 2005.

Submit Written Comments to: HCQA Rules Coordinator, P.O. Box 40940, Olympia, WA 98504, delivery 640 Woodland Square Loop S.E., Lacey, WA 98503, e-mail JMyers@hcqa.wa.gov, fax (360) 407-0304, by 5:00 p.m. on May 24, 2005.

Assistance for Persons with Disabilities: TTY (360) 493-2637.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Home Care Quality Authority has developed rules that pertain to the operation of the referral registry as specified in RCW 74.39A.250. Included in the rule are guidelines for using the registry for individual providers, prospective individual providers and consumer/employers.

Reasons Supporting Proposal: Guidelines describing the registry operations include: Requirements for providers to be listed on the registry, how consumers/employers can request a referral, providers ongoing responsibilities for remaining on the registry, the process for removing a provider from the registry, appeal rights and mandatory reporting requirements.

Statutory Authority for Adoption: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(n).

Statute Being Implemented: RCW 74.39A.250.

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

Name of Proponent: Home Care Quality Authority, governmental.

Name of Agency Personnel Responsible for Drafting: Sherri Wills-Green, Program Manager, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-2520; Implementation: Jackie Myers, Operations Manager, 640

**NEW SECTION**

**WAC 257-10-020 What is the purpose of WAC 257-10-020 through 257-10-420?** The purpose of this chapter is to ensure compliance by the home care quality authority with the provisions of RCW 74.39A.250. The home care quality authority is authorized to adopt rules under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

**NEW SECTION**

**WAC 257-10-040 What definitions apply to WAC 257-10-020 through 257-10-420?** "AAA" refers to the local area agency on aging office.

"ALJ" refers to administrative law judge.

"Authority" means the home care quality authority.

"Consumer" refers to an adult or child with functional or developmental disabilities who qualifies for and uses personal care or respite care paid for through Medicaid or state only funds or their representative.

"DSHS" refers to the department of social and health services.

"Emergency" provider means an individual provider who is employed as a back-up for a regularly scheduled provider who did not show up or who was unable to work due to unexpected circumstances.

"Employer" refers to the consumer.

"HCQA" refers to the home care quality authority.

"Individual provider" means a person, regardless of relationship, including a personal aide working for a consumer under self-directed care, who has a contract with the department of social and health services to provide personal care or respite care services to adults or children with functional or developmental disabilities and is reimbursed for those services through Medicaid or state only funding.

"IP" refers to individual provider.

"Malfeasance" means any unlawful act committed by the individual provider, whether in the course of employment or otherwise.

**"Mandatory reporter"** is an employee of the authority; DSHS; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

**"Misfeasance"** means performance of a workplace duty in an improper manner; including events which jeopardize the health and safety of persons, unresolved pattern of performance, issues related to truth or dishonesty, including failure to report a criminal conviction.

**"OAH"** refers to the office of administrative hearings.

**"Referral registry"** is a data base that is designed to assist consumers with finding individual providers.

**"Respite"** provider means an individual provider who is employed on a prearranged basis to fill in for a routine caregiver.

**"Routine"** provider means an individual provider who is employed on a regularly scheduled basis.

#### NEW SECTION

**WAC 257-10-060 What is the purpose of the referral registry?** The referral registry was designed to increase consumer/employer choice while providing assistance in finding individual providers and prospective individual providers. In addition, the referral registry:

- (1) Takes into account the consumer/employer needs and preferences when identifying potential individual providers;
- (2) Provides for reasonable standards of accountability for individual providers listed through the registry;
- (3) Is voluntary for individual providers and consumers/employers;
- (4) Promotes job opportunities for individual providers and prospective individual providers;
- (5) Provides access to the data base for consumer/employers who want to query a referral independently; and
- (6) Increases a consumer/employer's choice of IPs via an established pool of available individual providers on the registry.

#### NEW SECTION

**WAC 257-10-080 Who is eligible to request a referral from the referral registry?** (1) Consumer/employers who are adults or children with functional or developmental disabilities who qualify for and use personal care or respite care paid for through Medicaid or state only funds.

(2) Persons who are authorized to request a referral on behalf of a consumer including family members, area agency on aging case manager, DSHS social workers and/or a consumer representative.

#### NEW SECTION

**WAC 257-10-100 What is the difference between an individual provider and a prospective individual provider?** An individual provider is someone who has signed a

DSHS contract. A prospective individual provider is someone who is seeking employment with a consumer/employer.

#### NEW SECTION

**WAC 257-10-120 What qualifies individual providers or prospective providers to be included on the referral registry?** The individual provider or prospective individual provider must:

- (1) Satisfactorily complete a Washington state patrol background check according to the disqualifying crimes criteria in chapter 43.43 RCW as specified by DSHS; home and community services, or developmental disabilities or children's administration; and
- (2) Complete an FBI fingerprint-based background check if the person has lived in the state of Washington fewer than three years;
- (3) Not be listed on any long-term care abuse and neglect registry used by DSHS;
- (4) Be eighteen years of age or older;
- (5) Provide picture identification;
- (6) Have a Social Security card or authorization to work in the United States; and
- (7) Comply with requirements listed in WAC 257-10-180.

#### NEW SECTION

**WAC 257-10-140 How does an individual provider or prospective individual provider apply to be listed on the registry?** The individual provider or prospective individual provider must contact their local source of registry operations, request and complete an application packet and meet the qualifications specified in WAC 257-10-120.

#### NEW SECTION

**WAC 257-10-160 Does an individual provider or prospective individual provider have any ongoing responsibilities to stay on the registry?** Yes, the individual provider or prospective individual provider must:

- (1) Contact the referral registry office once a month to verify that the information in the system is accurate and up-to-date; and
- (2) Complete a Washington state patrol criminal history background check every twelve months.

Failure to comply with ongoing responsibilities will result in placing the individual provider in an "inactive" status. The provider will not be referred to a consumer/employer when in "inactive" status.

#### NEW SECTION

**WAC 257-10-180 Are there any training requirements for being listed on the referral registry?** Yes. An individual provider or prospective individual provider must complete the "becoming a professional IP" training prior to being referred to a consumer, with the exception of any person who has already worked as an individual provider for more than three months under DSHS contract. All other

mandatory training requirements established by DSHS are in effect.

#### NEW SECTION

**WAC 257-10-200 Can an individual provider or prospective individual provider be removed from the registry?** Yes. An individual provider or prospective individual provider will be removed from the referral registry for the following reasons:

(1) Failure to meet the qualifications identified in WAC 257-10-120 to 257-10-180.

(2) A determination by the HCQA that the person has committed malfeasance or misfeasance in the performance of his or her duties as an individual provider.

(3) A request is made by the person to be removed from the registry.

(4) DSHS IP contract termination.

#### NEW SECTION

**WAC 257-10-220 What is the procedure for removing an individual provider or prospective individual provider from the registry?** The procedure for removing an individual provider from the referral registry is as follows:

The authority and/or its designee will review all complaints and disqualification information and:

(1) For those complaints that fall under the legal jurisdiction of law enforcement or adult protective services (APS) or child protective services (CPS), an immediate referral shall be made to the appropriate agency.

(a) The HCQA may initiate an emergency proceeding to suspend the individual provider from the registry pending the investigation.

(b) If APS, CPS or law enforcement declines the referral, the complaint will proceed to assessment, recommendation and decision.

(c) If APS, CPS or law enforcement accepts the complaint, then action beyond the emergency adjudicative process will be stayed pending action.

(2) For those complaints not forwarded to APS, CPS or law enforcement, HCQA will conduct an assessment.

(a) Upon assessment, a decision will be made and notification will be sent, in writing to the individual provider.

(b) The individual provider has the right to appeal an adverse decision within twenty-eight days of receiving formal notice.

(c) The appeal must be sent in writing to the office of administrative hearings (OAH) as designated on the formal notice.

(d) The OAH will schedule the hearing and notify interested parties.

(e) An administrative law judge (ALJ) from OAH shall act as presiding officer for the adjudicative proceeding as provided in chapter 34.05 RCW.

(f) The ALJ shall render an initial decision.

(g) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(h) The final order is the final agency action and will be provided to all interested parties and to the individual provider along with information regarding the right to seek judicial review when applicable.

#### NEW SECTION

**WAC 257-10-240 What is the procedure for the denial of an individual provider's application to be listed on the referral registry?** For those individual providers whose application to be listed on the registry results in a reasonable, good faith belief that the person will be unable to appropriately meet the care needs of consumers, the following procedure applies:

(1) An assessment will be conducted, a decision will be made and notification will be sent, in writing to the individual provider.

(2) The individual provider has the right to appeal an adverse decision within twenty-eight days of receiving formal notice.

(3) The appeal must be sent in writing to the office of administrative hearings as designated on the formal notice.

(4) The OAH will schedule the hearing and notify interested parties.

(5) An administrative law judge from OAH shall act as presiding officer for the adjudicative proceeding as provided in chapter 34.05 RCW.

(6) The ALJ shall render an initial decision.

(7) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(8) The final order is the final agency action and will be provided to all interested parties and to the individual provider along with information regarding the right to seek judicial review when applicable.

#### NEW SECTION

**WAC 257-10-260 Who must be notified if a complaint is received about an individual provider?** If, in the course of carrying out its duties, the authority or its designee identifies concerns regarding the services being provided by an individual provider, the authority or its designee must notify the relevant area agency on aging case manager or DSHS social worker regarding such concerns.

#### NEW SECTION

**WAC 257-10-280 Are registry staff considered mandatory reporters?** Any HCQA staff or subcontracted staff working for the authority are considered mandatory reporters.

#### NEW SECTION

**WAC 257-10-300 What is reasonable cause for mandatory reporting?** RCW 74.34.035 outlines reasonable cause for mandatory reporting.

NEW SECTION

**WAC 257-10-320 Does an individual provider have the right to appeal being removed from the registry?** The individual provider or the consumer/employer, to whom the individual provider is providing services, may request a fair hearing to contest removal from the referral registry, as provided in WAC 257-10-220 and chapter 34.05 RCW.

NEW SECTION

**WAC 257-10-340 How does a consumer/employer apply to use the referral registry services?** A consumer/employer must complete the registration process in order to use the referral registry. The registration process must confirm that the consumer/employer is qualified to use personal care or respite care paid for through Medicaid or state only funds.

NEW SECTION

**WAC 257-10-360 How does a consumer/employer obtain a referral list of names?** The consumer/employer completes and submits a request application to the local source of registry operations. The completed application may indicate the days and times an individual provider is needed, the personal care tasks that need to be performed, and any preferences the consumer/employer may have. Upon completion of the application, a registry coordinator will conduct a query which will generate a list of names that best match the consumer/employer's specific criteria. The list will be given to the consumer via mail, or phone, or fax or e-mail within a reasonable time frame.

NEW SECTION

**WAC 257-10-380 Who hires an individual provider?** It is the consumer/employer or consumer representative's responsibility to interview, screen, hire and terminate an individual provider or prospective individual provider.

NEW SECTION

**WAC 257-10-400 If a consumer/employer chooses to hire an individual provider from the referral registry, do they have to gain approval from his/her case manager?** Yes. DSHS or AAA may reject a client's request to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the person will be unable to appropriately meet the consumer's needs.

NEW SECTION

**WAC 257-10-420 How can a consumer/employer obtain emergency or critical personal care back-up referrals?** A consumer/employer must complete an application with the referral registry office. Registry applications can be obtained by contacting the local source of registry operations. Although a consumer/employer must be registered they are not required to have previously used the registry prior to requesting back-up referrals.



**WSR 05-09-033**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 13, 2005, 9:42 a.m.]

Title of Rule and Other Identifying Information: Recreational halibut rules.

**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 Evan Jacoby, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY June 20, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend sport halibut rules for 2005 season.

Reasons Supporting Proposal: Provide recreational fishing opportunity.

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.

April 13, 2005

Evan Jacoby

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 03-24, filed 2/14/03, effective 5/1/03)

**WAC 220-56-255 Halibut—Seasons—Daily and possession limits.** (1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Open May 1 through September 30 (~~(, unless closed earlier by emergency regulation. Minimum size limit 32 inches in length)~~). By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° and east of 124°40'W - Open May ((2)) 1 through September 30 (~~(, unless closed earlier by emergency regulation)~~).

(ii) All other ((open)) waters in Area 2 - Open May ((2)) 1 through September 30, ((unless)) except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

~~((iii) The following waters are closed to halibut fishing: Inside a rectangle defined by the following four corners: 47°19'0"N, 124°53'0"W; 47°19'00"N, 124°48'0"W; 47°16'0"N, 124°53'0"W; 47°16'0"N, 124°48'0"W.))~~

(c) Catch Record Card Areas 3 and ((those waters of Catch Record Card Area)) 4 ((west of the Bonilla Tatoosh line:)) - Open May ((1)) 10 through September 30 ((unless closed by emergency regulation:)), except closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward facing "C" shaped closed area defined as: Beginning at ((48°N, 124°59'W, thence to 48°N, 125°18'W, thence to 48°18'N, 125°18'W, thence to 48°18'N, 124°59'W, thence to 48°11'N, 124°59'W, thence to 48°11'N, 125°11'W, thence to 48°04'N, 125°11'W, thence to 48°04'N, 124°59'W.)) 48°18'N. lat.; 125°18'W. long., thence to 48°18'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 124°59'W. long., thence to 48°11'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 125°11'W. long., thence to 48°04'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 124°59'W. long., thence to 48°00'N. lat.; 125°18'W. long., thence to the point of origin.

(d) Catch Record Card Area ((4 east of the Bonilla Tatoosh line and Catch Record Card Areas)) 5 ((through 13:)) - Open May ((27)) 26 through July ((12--)) 31, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday ((of each week during the open period)).

(e) Catch Record Card Areas 6 through 13 - Open April 14 through June 20, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut. ((The daily limit in Area 1 is the first halibut over 32 inches in length brought aboard the vessel.))

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

**WSR 05-09-040**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 [Filed April 14, 2005, 4:30 p.m.]

Title of Rule and Other Identifying Information: Outfall structures rules.

**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 Evan Jacoby, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY June 20, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Deletes reference to nonexistent [a nonexistent] Washington Administrative Code section.

Reasons Supporting Proposal: Although the agency at one point filed rule proposals including storm water management projects, these rules were never adopted. The reference to such projects in this rule is meaningless.

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: Greg Hueckel, 1111 Washington Street, Olympia, (360) 902-2416; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

April 14, 2005

Evan Jacoby

Rules Coordinator

tial for natural revegetation is adequate, or where other engineering or safety factors preclude them.

(5) Structures containing concrete shall be sufficiently cured prior to contact with water, to avoid leaching.

(6) All piling, lumber, or other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed. The use of wood treated with creosote or pentachlorophenol is not allowed in lakes.

**AMENDATORY SECTION** (Amending Order 94-160, filed 11/14/94, effective 12/15/94)

**WAC 220-110-170 Outfall structures.** Outfall structure projects shall incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. (~~Additional restrictions may apply to outfall structures associated with storm water management projects (see WAC 220-110-225).~~) The following technical provisions shall apply to outfall structure projects:

(1) The outfall structure shall be constructed according to an approved design to prevent the entry of fish, except where fish passage could enhance fish life or habitat.

(2) The watercourse bank and bed at the point of discharge shall be armored to prevent scouring.

(3) Excavation for placement of the structure or armor-ing materials shall be isolated from the wetted perimeter.

(4) Alteration or disturbance of banks and bank vegetation shall be limited to that necessary to construct the project. All disturbed areas shall be protected from erosion within seven days of completion of the project using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. The requirement to plant woody vegetation may be waived for areas where the poten-



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

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ARTICLE 1
Name, Short Title, and Policy

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 1.01 Name of Authority

The name of this Air Pollution Control Authority, declared to be and directed to function as a single county authority with the boundaries of Benton County and activated by the Washington Clean Air Act, Revised Code of Washington (RCW) 70.94 as amended, shall be known as the BENTON CLEAN AIR AUTHORITY, hereinafter referred to as the BCAA, or the Authority.

PERMANENT

**Section 1.02 Short Title**

This regulation of the BCAA shall be known and cited as REGULATION 1.

**Section 1.03 Policy**

A. The BCAA adopts Regulation 1 to control the emissions of air contaminants from all sources within Benton County; to provide for the uniform administration and enforcement of this regulation; and to carry out the requirements and purposes of the U.S. Clean Air Act (42 USC. 7401 *et. seq.*) and the Washington State Clean Air Act (RCW 70.94).

B. It is hereby declared to be the public policy of the BCAA to:

1. Secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population;
2. Secure compliance with the requirements of the federal clean air act;
3. Prevent injury to plant and animal life and to property;
4. Foster the comfort and convenience of its inhabitants;
5. Promote the economic and social development of Benton County; and
6. Facilitate the enjoyment of the natural attractions of Benton County.

C. It is further the intent of Regulation 1 to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.

D. Wherever Regulation 1 constitutes a restatement of the requirements and purposes of RCW 70.94, it is the intent of the BCAA that Regulation 1 be interpreted in the same manner as the statute adopted by the Washington State Legislature. Any deviation from the statute, except where the statute allows BCAA to be more stringent, is intended for purposes of clarity.

**ARTICLE 2**  
**General Provisions**

**ADOPTED: 17-Feb-2005**

**EFFECTIVE: 20-Mar-2005**

**Section 2.01 Establishment of the Board of Directors**

Reserved

**Section 2.02 Powers and Duties of the BCAA**

As per RCW 70.94.141, the BCAA shall be deemed a municipal corporation; have right to perpetual succession; adopt and use a seal; may sue and be sued in the name of the BCAA in all courts and in all proceedings; and, may receive, account for, and disburse funds, employ personnel, and acquire or dispose of any interest in real or personal property within or without the BCAA in the furtherance of its purposes.

**Section 2.03 Powers and Duties of the Board of Directors**

A. The Board of Directors, hereinafter referred to as the Board, shall have all the powers and duties of Section 2.02 and of an activated air pollution control authority under RCW 70.94.081 and 70.94.141.

B. Pursuant to the provisions of RCW 70.94, the Board shall:

1. Establish such procedures and take such action as may be required to implement Regulation 1 consistent with federal, state, and local air pollution laws or regulations;
2. Take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source; and
3. Appoint a Control Officer, in accordance with RCW 70.94.170, competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of Regulation 1 and all ordinances, orders, resolutions, or rules and regulations of the BCAA pertinent to the control and prevention of air pollution in Benton County.

C. The Board shall have the power to:

1. Hold hearings relating to any aspect of, or matter in, the administration of Regulation 1 and in connection therewith, issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath;
2. Adopt, amend and repeal its own ordinances, resolutions, rules, and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, and regulations shall be made after due consideration at a public hearing held in accordance with RCW 42.30;
3. Issue such notices, orders, permits, or determinations as may be necessary to effectuate the purposes of federal, state, or local air pollution laws or regulations and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in chapter 62, Laws of 1970 *ex. sess.*;
4. Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere;
5. Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;
6. Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within its jurisdiction;
7. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of federal, state and local air pollution laws or regulations;
8. Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control;
9. Collect and disseminate information and conduct educational and training programs relating to air pollution;
10. Advise, consult, cooperate and contract with:
  - a. State agencies, departments, and educational institutions;
  - b. Other political subdivisions, other states, interstate or interlocal agencies, and the United States government; and
  - c. Industries, interested persons or groups;
11. Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system.

Nothing in any such consultation shall be construed to relieve any person from compliance with any federal, state, or local law or regulation in force pursuant thereto, or any other provision of law; and

12. Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for carrying out any of the functions any federal, state, or local law or regulation.

#### Section 2.04 Powers and Duties of the Control Officer

A. The Control Officer and duly authorized representatives of the BCAA shall observe and enforce applicable federal, state, and local air pollution laws and regulations and all orders, ordinances, resolutions, or rules and regulations of the BCAA pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.

B. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such staff persons as are necessary to the performance of the duties assigned and to incur necessary expenses within the limitations of the budget.

C. The Control Officer shall maintain appropriate records and submit reports as required by the Board, state agencies, and federal agencies.

D. The Control Officer may engage, at the BCAA's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants that are or may be discharged from any source within Benton County.

E. As authorized under RCW 70.94.200, for the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer and duly authorized representatives of the BCAA shall have the power to enter, at reasonable times, upon any private or public property, excepting non-multiple unit private dwellings housing two (2) families or less. No person shall refuse entry or access to the Control Officer or duly authorized representatives of the BCAA who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection.

F. If the Control Officer or a duly authorized representative of the BCAA during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material that affects or may affect the emission of air contaminants, the Control Officer or a duly authorized representative shall:

1. Notify the owner or operator of the time and place of obtaining a sample so the owner or operator has the opportunity to take a similar sample at the same time and place; and

2. Shall give a receipt to the owner or operator for the sample obtained.

G. The Control Officer shall be empowered by the Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of Regulation 1.

#### Section 2.05 Confidential Information

A. The owner, operator, or agent of the owner or operator submitting any information to the BCAA is responsible for clearly identifying information that is considered proprietary and confidential prior to submittal to the BCAA. Information submitted to the BCAA that has not been identified as confidential at the time of submittal may not be classified as confidential at a later date.

B. Confidential information submitted to the BCAA by an owner, operator, or agent of the owner or operator, shall be stamped or clearly marked in red ink at the time of submittal. Such information shall be handled as confidential, and shall be maintained by the BCAA, to the extent that release of such information may provide unfair economic advantage or compromise processes, products, or formulations to competitors as provided under RCW 70.94.205. Such information shall be released to the public only after:

1. Legal opinion by the BCAA's legal counsel; and

2. Notice to the source of the intent to either release or deny the release of information.

C. Records or other information certified as confidential shall be only for the confidential use of the BCAA as provided in RCW 70.94.205, provided that:

1. The records or other information is related to processes or production and unique to the owner or operator, except ambient air quality data or emission data; or

2. The records or other information is likely to affect adversely the competitive position the source if released to the public or to a competitor.

D. Emissions data furnished to or obtained by the BCAA shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the BCAA.

#### Section 2.06 Violations

A. At least thirty (30) days prior to the commencement of any formal enforcement action under RCW 70.94.430 or RCW 70.94.431 the BCAA shall cause written notice to be served upon the alleged violator or violators. The notice:

1. Shall specify the provision of the federal, state, or local air pollution law or regulation alleged to be violated and the facts alleged to constitute a violation thereof;

2. Shall offer to the alleged violator an opportunity to meet with the BCAA prior to the commencement of a formal enforcement action; and

3. May include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or Control Officer may require that the alleged violator appear before the Board for a hearing.

B. Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.

C. In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

#### Section 2.07 Orders, Notices, Permits, and Determinations - Finalization, Appeals, Stays, and Judicial Review

A. Any order, notice, permit, or determination issued by the Board or Control Officer shall become final upon receipt

unless such order, notice, permit, or determination is appealed.

B. Any order may be appealed exclusively to the PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any notice of appeal filed with the PCHB shall be filed simultaneously with the BCAA.

C. Any notice, permit, or determination may be appealed to the Board, Control Officer, or PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any determination made by the Board as a result of an appeal to the Board may subsequently be appealed to the PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any notice of appeal filed with the PCHB shall be filed simultaneously with the BCAA.

D. A notice of appeal shall contain the following:

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 whose decision is being appealed and the person to whom the decision is directed shall be named as parties;

3. A copy of the order, notice, permit, or determination being appealed, and if the order, notice, permit, or determination was preceded by an application, a copy of the application;

4. A short and plain statement showing the grounds upon which the appealing party considers such order, notice, permit, or determination to be unjust or unlawful;

5. A clear and concise statement of facts upon which an appealing party relies to sustain his or her grounds for appeal;

6. The relief sought, including the specific nature and extent;

7. A signature of the representative of the appealing party or the appealing party that constitutes certification that the signatory has read the notice of appeal; and

8. Any other information or requirements under RCW 43.21B.310 or Washington Administrative Code (WAC) 371-08-340.

E. The Board or Control Officer, in its discretion, may stay the effectiveness of a notice, order, permit, or determination during an appeal to the Board, Control Officer, or PCHB.

F. Upon failure to comply with any final notice, order, permit, or determination of the Board or Control Officer, the attorney for the BCAA, upon request of the Board or Control Officer, may bring an action in Benton County Superior Court to obtain such relief as necessary.

G. After the final decision and order of the PCHB has been received the BCAA and the appellant, any party aggrieved by the decision and order of the PCHB may appeal to Benton County Superior Court within thirty (30) days from the date of receipt of the final decision and order of the PCHB.

H. Nothing in Regulation 1 shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

## Section 2.08 Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, or Mutilation Prohibited

A. No person shall willfully make a false or misleading statement to the Board, Control Officer, or duly authorized representative of the BCAA as to any matter within the jurisdiction of the Board.

B. No person shall reproduce or alter or cause to be reproduced or altered any order, permit, registration certificate, or other paper issued by the BCAA if the purpose of such reproduction or alteration is to evade or violate any provision of federal, state, or local air pollution law or regulation.

C. Any order, permit, or registration certificate required to be obtained by Regulation 1 shall be available on the premises designated on the order, permit, or certificate, unless otherwise authorized by the BCAA.

D. In the event the BCAA requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board or Control Officer.

## Section 2.09 Severability

If any phrase, clause, subsection or section of Regulation 1 is declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board would have enacted Regulation 1 without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of Regulation 1 shall not be affected as a result of said part being held unconstitutional or invalid.

## Section 2.10 Penalties and Penalty Procedures

### A. Criminal Penalties

1. Any person who knowingly violates any of the provisions of RCW 70.94 or any order, permit, regulation, or resolution in force pursuant thereto, is guilty of a gross misdemeanor and upon conviction is subject to punishment by a fine of not more than ten thousand dollars (\$10,000.00), by imprisonment for not more than one (1) year, or by both for each separate violation.

2. Any person who negligently releases into the ambient air any air pollutant, other than in compliance with the terms of an applicable order, permit, or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and upon conviction is subject to punishment by a fine of not more than ten thousand dollars (\$10,000.00), by imprisonment for not more than one (1) year, or by both.

3. Any person who knowingly releases into the ambient air any air pollutant, other than in compliance with the terms of an applicable order, permit, or emission limit, and who knows at the time that the release places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and upon conviction is subject to punishment by a fine of not less than fifty thousand dollars (\$50,000.00), by imprisonment for not more than five (5) years, or by both.

4. Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof, shall be

punished by a fine of not more than five thousand (\$5,000.00) dollars.

**B. Other Penalties**

1. Any person, who violates any of the provisions of RCW 70.94 or any regulation, ordinance, or resolution in force pursuant thereto, may incur a civil penalty in an amount not to exceed that provided by RCW 70.94 for each violation.

2. Any person, who fails to take action as specified by any notice, order, permit, or determination issued pursuant to RCW 70.94 or Regulation 1 is liable for a civil penalty in an amount not to exceed the penalty authorized by RCW 70.94 for each day of continued noncompliance.

3. Each act of commission or omission that procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.

4. In addition to other penalties provided by this section, the following additional penalties may be assessed:

a. Persons who knowingly underreport emissions or other information used to set fees shall be charged a penalty of three (3) times the fee.

b. Registered sources that fail to pay registration fees after the ninety-first (91st) day after the due date

i. Shall be subject to a penalty of three (3) times the annual registration fee as per Section 10.05; and

ii. May be subject to the revocation of the registered source's order or permit.

c. Persons who fail to pay fees or charges as required by Regulation 1 may be subject to formal enforcement actions, including penalties.

**C. Penalty Procedures**

1. Any civil penalty provided in RCW 70.94.430, 70.94.431, or 70.94.435 shall be imposed in writing, by a Notice of Penalty (NOP), either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the BCAA, describing the violation with reasonable particularity.

2. Within thirty (30) days after the NOP is received, the person incurring the penalty may submit an Application for Relief from Penalty (ARP) to the BCAA for the remission or mitigation of the penalty. Upon receipt of the application, the BCAA may remit or mitigate the penalty upon whatever terms the BCAA in its discretion deems proper. The BCAA may ascertain the facts regarding all ARPs in a reasonable manner under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty

3. Any penalty imposed by the BCAA may be appealed to the PCHB as provided in RCW 43.21B.310, if the appeal is filed with the PCHB and served on the BCAA thirty (30) days after the date of receipt by the person penalized in the NOP or thirty (30) days after the date of receipt of the Notice of Disposition of the ARP.

4. A penalty shall become due and payable on the later of:

a. Thirty (30) days after receipt of the notice imposing the penalty;

b. Thirty (30) days after receipt of the Notice of Disposition of the ARP, if such an application is made; or

c. Thirty (30) days after receipt of the notice of decision of the PCHB if the penalty is appealed.

5. If the amount of the civil penalty is not paid to the BCAA within thirty (30) days after it becomes due and payable, the BCAA may use any available method, including Benton County Superior Court, to recover the penalty. In all actions brought in the Benton County Superior Court for recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in ordinary civil action.

6. To secure the penalty incurred under this section, this BCAA shall have a lien on any personal property operated or used in violation RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, which shall be enforced as provided in RCW 60.36.050 and 60.10.023.

7. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first (91st) day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If penalties are appealed, interest shall not begin to accrue until the thirty-first (31st) day following final resolution of the appeal.

8. All penalties recovered under this section by the BCAA are payable to the BCAA treasury and credited to its funds.

**Section 2.11 Other Enforcement Actions**

A. The Board or Control Officer, after notice to such person and an opportunity to comply, may petition the Benton County Superior Court for a restraining order, temporary injunction, permanent injunction, or another appropriate order, as provided in RCW 70.94.425, whenever any person has engaged in, or is about to engage in, acts or practices which constitute, or will constitute, a violation of any provision of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto.

B. The Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from Benton County Superior Court, as provided in RCW 70.94.435.

**ARTICLE 3  
Reserved**

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**ARTICLE 4  
Reserved**

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**ARTICLE 5**  
**Outdoor Burning**

**ADOPTED: 17-Feb-2005**

**EFFECTIVE: 20-Mar-2005**

**Section 5.01 Definitions**

A. Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-425-030.

B. A "burn day" is a day, as determined by the BCAA, during which outdoor burning may take place in areas where open burning is allowed. The length of the burn day shall be defined as the period from 9:00 AM until one hour before sunset. The BCAA shall make daily burn day decisions based on available meteorological information. The daily burn decision shall be provided daily through a burn day message line and/or through the local media.

C. A "person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

D. An "Urban Growth Area" or "UGA" means land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030.

**Section 5.02 Outdoor Burning Requirements**

**A. General Requirements**

1. All outdoor burning shall be subject to the following:

a. The following materials shall not be burned in any outdoor fire: Garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction/demolition debris, metal, or any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned;

b. No outdoor fire may contain material (other than firewood) that has been hauled from inside the UGA to a location outside the UGA;

c. If material is transferred from multiple locations outside the UGA to a single location outside the UGA, a special burning permit shall be obtained before burning the material;

d. No outdoor fire may be ignited:

iii. When the Benton County Fire Marshall has declared a ban on burning due to fire safety; or

iv. During any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode declared under RCW 70.94.715.

e. Any person responsible for outdoor burning that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance, shall immediately extinguish the fire;

f. The use of an outdoor container, such as a "burn barrel", for burning, unless regulated under WAC 173-400-070(1), shall be prohibited throughout in Benton County;

g. A person capable of extinguishing the fire shall attend it at all times, and the fire shall be extinguished before leaving it;

h. No fires are to be within fifty (50) feet of structures; and

i. Permission from a landowner, or owner's designated representative, shall be obtained before starting an outdoor fire.

2. The BCAA shall approve with conditions, or deny, any outdoor burning permits as needed to comply with state and local air pollution rules and regulations. All permits shall include conditions to satisfy the requirements in WAC 173-425-050, and may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. The BCAA may also include conditions to comply with other state and local air pollution rules and regulations pertaining to outdoor burning.

3. Outdoor burning shall not be allowed on any construction or demolition site. However a special burning permit to demolish a structure may be issued for fire fighting instruction fires by fire protection districts.

4. Material, other than firewood, shall not be hauled or transferred from inside the UGA to an area outside the UGA for the purposes of burning.

**B. Inside Urban Growth Areas**

1. Residential and land clearing burning shall be prohibited inside all UGAs of Benton County, which include Kennewick, Richland, West Richland, Prosser, and Benton City.

2. A permit shall not be required to burn tumbleweeds that have been blown by the wind, if such burning can be conducted in accordance with the requirements of Section 5.02(A).

3. Fire fighting instruction fires to fight structural fires by fire protection districts inside UGAs shall require a written special burning permit.

**C. Outside Urban Growth Areas**

1. Residential burning may be conducted without obtaining a permit, if such burning can be conducted in accordance with the requirements of Section 5.02(A) and the following:

a. Before burning, the person responsible for the fire shall contact the BCAA to determine if it is a burn day;

b. Residential burns shall contain only material that was generated at the residence where the burn occurs;

c. The pile shall not be larger than four feet by four feet by three feet (4 ft x 4 ft x 3 ft);

d. Only one pile at a time shall be burned, and each pile shall be extinguished before lighting another; and

e. No outdoor fire shall be permitted within five hundred (500) feet of forest slash.

2. All land clearing burning outside of the UGA shall require a written special burning permit.

3. The BCAA may issue a special burning permit to fire protection districts for fire fighting instruction fires, unless such permits are exempted under Section 5.03(C).

**Section 5.03 Special Burning Permits**

A. A request for special burning permit application for a special burn permit shall be submitted at least five (5) working days before the proposed burning dates. Special burning permits shall be subject to a fee as described in Article 10 and payable at the time of application. Payment of the application fee shall not guarantee the applicant that a special burning permit will be approved.

B. Any special burning permit issued by the BCAA shall specify restrictions and conditions on a case-by-case basis.

C. Special burning permits shall be valid for a period not to exceed one (1) year.

D. A special burning permit shall not be required by fire protection districts for fire fighting instruction fires for training to fight:

1. Structural fires by fire protection districts outside the UGAs provided that written notification shall be filed with the BCAA prior to conducting the training fire as provided in RCW 52.12.150;

2. Aircraft crash rescue fires as provided in RCW 70.94.650(5); or

3. Forest fires as provided in RCW 70.94.650 (1)(b).

#### ARTICLE 6

#### Agricultural Burning

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

##### Section 6.01 Definitions

A. Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-430-030.

B. An "agricultural burn day" is a day, as determined by the BCAA, during which permitted agricultural burning may take place in areas where agricultural burning is allowed. The length of the burn day shall be defined as the period from 9:00 AM until one hour before sunset. The BCAA shall make daily burn day decisions based on available meteorological information. The daily burn decision shall be provided daily through a burn day message line and/or through the local media.

C. "Incidental agricultural burning" is the burning of vegetative debris that is non-essential to the propagation of a crop and is any of the following

1. Orchard prunings;

2. Vegetative debris along fence lines or irrigation or drainage ditches; or

3. Vegetative debris blown by the wind.

D. A "person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

##### Section 6.02 Agricultural Burning Permit

###### A. Agricultural Burning Permit Required

1. All agricultural burning, except for incidental agricultural burning, requires a written agricultural burning permit from the BCAA. Agricultural burning permits shall be subject to a fee as described in Article 10 and payable at the time of application.

2. Agricultural burning shall be allowed only on designated agricultural burn days.

3. It shall be the responsibility of the person conducting agricultural burning to be informed of any additional fire safety rules as determined by the Benton County Fire Marshall.

###### B. Agricultural Burning Permit Not Required

1. Incidental agricultural burning, as defined in Section 6.01(C), shall be allowed without obtaining an agricultural

burning permit from the BCAA and on days that are not agricultural burn days, except:

a. When the Benton County Fire Marshall has declared a ban on burning due to fire safety; or

b. During any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode declared under RCW 70.94.715.

#### ARTICLE 7

#### Solid Fuel Burning Device

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

##### Section 7.01 Definitions

A. Definitions of all terms in this article, unless otherwise defined, are as defined in WAC 173-433-030.

B. A "person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

C. "Solid fuel burning device" means a device that burns wood, coal, or any other nongaseous or non-liquid fuels, and includes any device burning any solid fuel, except those prohibited by Section 7.02(C). This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one (1) million BTU/hr.

D. "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the criteria in WAC 173-433-030(11).

##### Section 7.02 Solid Fuel Burning Device, Prohibitions

A. Within Benton County, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install:

1. Any uncertified solid fuel burning device that does not meet the requirements of WAC 173-433-100(3);

2. Any factory built fireplace that does not meet the 1990 EPA standards for woodstoves or equivalent standard established by the Washington State Building Code Council by rule; or

3. Any non-exempt solid fuel burning device.

B. The use of any solid fuel burning device shall be restricted as per the following:

1. During a first stage impaired air quality conditions, declared under RCW 70.94.715, residences and commercial establishments with an alternate heat source other than the solid fuel burning device, shall not operate the solid fuel burning device, except if the device is:

a. A non-affected pellet stove;

b. An EPA-certified woodstove as per WAC 173-433-030; or

c. A woodstove meeting the Oregon Department of Environmental Quality Phase 2 emissions standards

2. During second stage impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode, declared under RCW 70.94.715, residences and commercial establishments with an alternate heat source other than the solid fuel burning device, shall not operate any solid fuel burning device.

PERMANENT

C. A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

1. Garbage;
2. Treated wood, defined as wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration;
3. Plastic and plastic products;
4. Rubber products;
5. Animal carcasses;
6. Asphaltic products;
7. Waste petroleum products;
8. Paints and chemicals; or
9. Any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire, properly seasoned fuel wood, or coal with sulfur content less than one percent (1.0%) by weight burned in a coal-only heater.

#### ARTICLE 8 Asbestos

**ADOPTED: 17-Feb-2005**

**EFFECTIVE: 20-Mar-2005**

##### Section 8.01 Definitions

A. Definitions of all terms in this article, unless otherwise defined below, are as defined in 40 CFR 61 Subpart M and 40 CFR Part 763 Subpart E.

B. "Demolition" means:

1. The wrecking or taking out of any load-supporting structural members of a facility or residential unit and any related handling operations; or
2. The intentional burning of any facility or residential unit.

C. "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.

D. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function

E. "Owner or Operator" means any person who owns, leases, operates, controls, or supervises the facility or residential unit being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

F. "RACM" is regulated asbestos containing material as defined in 40 CFR 61 Subpart M

G. "Renovation" means:

1. Altering a facility

2. Altering one or more facility components in any way, including the stripping or removal of RACM from a facility component

3. Altering a residential unit

4. Altering one or more residential unit components in any way, including the stripping or removal of RACM from a residential unit component.

H. A "Residential Unit" is defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

##### Section 8.02 CFR Adoption by Reference.

In addition to the provisions of Regulation 1, The BCAA adopts by reference:

A. 40 CFR Part 61 Subpart M "National Emission Standard for Asbestos"; and

B. 40 CFR Part 763 Subpart E "Asbestos Containing Materials in Schools".

##### Section 8.03 General Requirements

A. The owner or operator of a demolition or renovation activity and before the commencement of the demolition or renovation shall thoroughly inspect the affected facility or residential unit where the demolition or renovation operation will occur for the presence of asbestos.

B. All Section 8.02 requirements shall apply to demolition and renovation activities at a facility or residential unit where the combined amount of RACM is:

1. Greater than forty-eight (48) square feet; or
2. Greater than ten (10) linear feet, unless the surface area of the pipe is greater than forty-eight (48) feet.

##### Section 8.04 Notification Required

A. All demolition and renovation activities require written notification to the BCAA before stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03. Such notification shall be subject to a fee as per Article 10 and payable at the time of application.

B. Notification Requirements

1. Demolition. The owner or operator shall submit a Notice of Intent to Remove Asbestos or to Demolish (NOI) form at least ten (10) working days before proceeding with the demolition, regardless of the presence of RACM.

2. Renovation. The owner or operator shall submit an NOI form at least ten (10) working days before proceeding with the renovation.

3. Demolition or Renovation Amendment. The owner or operator amending a previously submitted NOI, as per Section 8.02, shall submit an amended NOI form before proceeding with an activity that requires the amendment.

4. Emergency Renovation Operation. The owner or operator of an emergency renovation operation shall submit an NOI form and an Emergency Waiver Request form before proceeding with the renovation.

5. Alternate Removal Methods. The owner or operator proposing to use alternate removal methods to those in Sec-



tion 8.02 shall submit an NOI form and supporting documentation for the alternate method at least ten (10) working days.

#### **Section 8.05 Additional Requirements, Residential Units**

A. Demolition or renovation activities at a residential unit involving stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03 shall only be performed by:

1. The residential unit owner, if the owner occupies the residential unit; or
2. A certified asbestos abatement contractor.

B. A residential unit owner performing demolition or renovation activities at a residential unit shall participate in an educational program prepared by the BCAA concerning the hazards of asbestos removal. This program may include:

1. Watching an informational video,
2. Agreement to read and understand informational pamphlets, provided by the BCAA, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the BCAA.

#### **Section 8.06 Unexpected Discovery of Asbestos**

In the event of an unexpected discovery of asbestos during a renovation or demolition activity, the owner or operator shall stop work until the requirements of Section 8.02 have been met.

#### **Section 8.07 Emergency Safeguards for the Public in the Case of Suspected Asbestos Spills or Scattering of Suspected Asbestos Material**

A. Until such time as it is determined otherwise, all such cases of spills or scattering of suspected asbestos material, the material shall be considered to be RACM

B. Actions shall be taken immediately to contain the material and shall include, but are not limited to:

1. Treat the area with proper precautions associated with RACM;
2. Regulate the area in which the spill or scattering occurred by preventing entry of unprotected and/or unauthorized persons;
3. Posting signage indicating the potential danger;
4. Locking or barring doors in buildings, if applicable; and
5. If the spill or scattering of the RACM may pose an imminent threat to human health, safety, or to the environment, the spill shall be reported to the Benton County Emergency Response Center ("911"), the Washington State Department of Ecology, and the BCAA.

### **ARTICLE 9 Source Registration**

**ADOPTED: 17-Feb-2005**

**EFFECTIVE: 20-Mar-2005**

#### **Section 9.01 Source Registration Required**

The BCAA regulates the sources of air contaminants in Benton County under the authority of RCW 70.94.151. Any source under Section 9.04, whether publicly or privately owned, shall register with the BCAA unless exempted under Section 9.06 of this Article.

#### **Section 9.02 Source Registration Program Purpose and Components**

A. Program purpose. The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

B. Program components. The components of the registration program consist of:

1. Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter RCW 70.94.

2. On-site inspections necessary to verify compliance with registration requirements.

3. Data storage and retrieval systems necessary for support of the registration program.

4. Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.

5. Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.

6. Clerical and other office support in direct furtherance of the registration program.

7. Administrative support provided in directly carrying out the registration program.

#### **Section 9.03 Registered Source General Requirements**

A. General. Any person operating or responsible for the operation of an air contaminant source in Benton County for which registration and reporting are required shall register the source emission unit with the BCAA. The owner or operator shall make reports containing information as may be required by the BCAA concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

B. Registration form. Registration information shall be provided on forms supplied by the BCAA and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless the BCAA determines that certain emission units may be combined into process streams for purposes of registration and reporting.

C. Signatory responsibility. The owner, operator, or their designated management representative shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying the BCAA of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

D. Operational and maintenance plan. Owners or operators of registered sources within Benton County shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to the BCAA upon request.

E. Report of closure. A report of closure shall be filed with the BCAA within ninety (90) days after operations producing emissions permanently cease at any applicable source under this section.

F. Report of change of ownership. A new owner or operator shall report to the BCAA within ninety (90) days of any change of ownership or change in operator.

#### Section 9.04 Source Registration Source List

The following sources shall register with the BCAA:

A. Any source classification listed below:

1. Abrasive blasting operation (WAC 173-460), except portable blasting operations operating at a construction site, or at a site for less than thirty (30) days in any running twelve (12) month period and operations that are inside a building and any associated air pollution control equipment that exhausts inside of the building;
2. Adhesive manufacturing operations;
3. Agricultural chemical operations or soil amendment operations - including manufacturing, mixing, packaging, concentrators, and/or other activities;
4. Agricultural drying and dehydrating operations;
5. Asphalt and asphalt products production operations;
6. Brick and clay manufacturing operations - including tiles and ceramics;
7. Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;
8. Chemical manufacturing operations;
9. Coffee roasting operations;
10. Composting operations - including commercial, industrial and municipal, but exempting residential composting activities;
11. Concrete product manufacturing operations;
12. Concrete manufacturing operations, ready mix and premix;
13. Crematoria - including human and animal crematoria;
14. Dry cleaning operations using solvents emitting VOCs or toxic air pollutants;
15. Flexible polyurethane foam, polyester resin, and styrene production operations;
16. Flexible vinyl and urethane coating and printing operations;
17. Gasoline dispensing facilities, bulk gasoline loading terminals, or bulk gasoline plants;

18. Grain handling facilities - including seed, animal feed, legume, and flour processing operations;
  19. Hay cubing and pelletizer operations;
  20. Hazardous waste treatment and disposal facilities;
  21. Ink manufacturers;
  22. Insulation and insulation fiber manufacturing;
  23. Landfills, active and inactive - including covers, gas collections systems or flares;
  24. Materials handling and transfer facilities that generate particulate matter - including pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;
  25. Metal casting facilities and foundries, ferrous and nonferrous;
  26. Metal plating and anodizing operations;
  27. Metallic and nonmetallic mineral processing plants - including rock crushing, sand, and gravel mixing operations;
  28. Metallurgical and mineralogical processing operations;
  29. Mills - including lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
  30. Mills - including grain, seed, feed, flour production, and related activities;
  31. Mills - including cabinet works, casket works, furniture, wood by-products, and other wood product manufacturing operations;
  32. Natural gas transmission and distribution;
  33. Paper manufacturing operations, except kraft and sulfite pulp mills;
  34. Petroleum refineries;
  35. Pharmaceutical production operations;
  36. Plastics and fiberglass fabrication - including gelcoat, polyester resin, or vinyl ester coating operations;
  37. Refuse systems - including landfills with gas collection systems and/or flares, hazardous waste treatment, storage, and disposal facilities; and wastewater treatment plants other than private and publicly owned treatment works;
  38. Rendering facilities;
  39. Semi-conductor manufacturing;
  40. Soil and ground water remediation projects;
  41. Surface coating operations - including automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;
  42. Surface coating manufacturers;
  43. Synthetic fiber production operations;
  44. Synthetic organic chemical manufacturing;
  45. Tire recapping operations;
  46. Wastewater treatment plants - including private and publicly owned treatment works with a rated capacity of more than 1 million gallons per day;
- B. Any source that owns or operates any of the following equipment:
1. Boilers, all gas fired boilers above ten (10) million BTU/hr input;
  2. Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;
  3. Chemical evaporators or concentrators;
  4. Flares utilized to combust any gaseous material;

5. Fuel burning equipment - including, but not limited to boilers, building and process heating units (external combustion) with per unit heat inputs of equal to or greater than any of the following:

- a. 500,000 BTU/hr using coal or other solid fuels with a sulfur content of 0.5% or less;
  - b. 500,000 BTU/hr using waste or used oil meeting specifications in RCW 70.94.610;
  - c. 1,000,000 BTU/hr using kerosene, fuel oil, or any other liquid fuel, except used or waste oil;
  - d. 4,000,000 BTU/hr using gaseous fuels;
  - e. 400,000 BTU/hr using wood, wood waste, or paper.
6. Graphic art systems - including lithographic and screen printing operations;

7. Incinerators and combustion units

- a. Commercial and industrial solid waste incineration units, defined as per WAC 173-400-050(4);
- b. Small municipal waste combustion units, defined as per WAC 173-400-050(5)
- c. Wood waste incinerators;
- d. Any other solid, liquid, or gaseous waste incinerators;
8. Stationary internal combustion engines rated at 500 horsepower or greater - including standby and backup operations

9. Organic vapor collection systems within commercial or industrial facilities;

10. Ovens/furnaces, kilns and curing, burnout - including, but not limited to, ovens/furnaces that heat clean automotive parts, paint hooks, electric motors, etc.;

11. Degreasing and solvent cleaners, not subject to 40 CFR 63 Subpart T - including vapor, cold, open top, and conveyor cleaners;

12. Sterilizing operations - including ethylene oxide (EtO) and hydrogen peroxide;

13. Storage tanks for organic liquids within commercial or industrial facilities with capacities of twenty thousand (20,000) gallons or greater;

14. Utilities consisting of a combination of electric and natural gas.

C. Any source that has a potential to emit any pollutant equal to or greater than the following:

1. 5.0 tons/yr of carbon monoxide (CO);
2. 2.0 tons/yr of nitrogen oxides (NO<sub>x</sub>);
3. 2.0 tons/yr of sulfur dioxide (SO<sub>2</sub>);
4. 1.25 tons/yr of particulate matter (PM or TSP);
5. 0.75 tons/yr of fine particulate matter (PM<sub>10</sub>);
6. 2.0 tons/yr of volatile organic compounds (VOC);
7. 0.005 tons/yr of lead.

D. Any source subject to a federally-enforceable emission limit under a Synthetic Minor Order.

E. Any source that is required to report periodically to demonstrate non-applicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.

F. Any category of stationary source subject to a new source performance standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters).

G. Any source subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part

61, other than Subpart M (National Emission Standard for Asbestos).

H. Any source subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technology (MACT) standard) under 40 CFR Part 63.

I. Any source, stationary source or emission unit with an emission rate defined as "significant" under WAC 173-400-112 or 173-400-113, as applicable.

J. Any source that has a potential to emit toxic air pollutants as defined in WAC 173-460-020, which exceeds any small quantity emission rates under WAC 173-460-080 (2)(e).

K. Any other source determined to be registrable by the BCAA.

### Section 9.05 Registered Source Classification

A. Gasoline Facilities.

1. Gasoline dispensing facilities (gas stations) using Stage I or Stage II vapor recovery systems, as defined in WAC 173-491-020(9)

2. Bulk gasoline plants, as defined in WAC 173-491-020(2)

3. Gasoline loading terminals, as defined in WAC 173-491-02(10)

B. Class 1. Facilities and sources whose actual annual emissions are less than the following shall be classified as Class 1 sources:

1. 20 tons/yr of carbon monoxide (CO);
2. 8 tons/yr of nitrogen oxides (NO<sub>x</sub>);
3. 8 tons/yr of sulfur dioxide (SO<sub>2</sub>);
4. 5 tons/yr of total suspended particulate (TSP);
5. 3 tons/yr of fine particulate matter (PM<sub>10</sub>);
6. 8 tons/yr of volatile organic compounds (VOC)
7. 240 pounds/yr of lead
8. 1,200 pounds/yr of fluorides
9. 2,800 pounds/yr of sulfuric acid mist
10. 2 tons/yr of hydrogen sulfide (H<sub>2</sub>S)
11. 2 tons/yr of total reduced sulfur, including H<sub>2</sub>S

C. Class 1 Toxic Source. Toxic air pollutants are those listed in WAC 173-460-150 and 173-460-160. Facilities and sources whose actual emissions are less than the following shall be classified as Class 1 Toxic Sources:

1. One (1.0) ton/yr of a single toxic air pollutant; or
2. Two and one-half (2.5) tons/yr of a combination of toxic air pollutants shall be classified as Class 1 Toxic Sources.

D. Class 2. Sources whose actual annual emissions are greater than that listed in Section 9.03(B), but less than one hundred (100) tons/yr of CO, NO<sub>x</sub>, SO<sub>2</sub>, TSP, PM<sub>10</sub>, VOCs, or lead, shall be classified as Class 2 Sources.

E. Class 2 Toxic Source. Toxic air pollutants are those listed in WAC 173-460-150 and 173-460-160. Sources whose actual emissions are greater than that listed in Section 9.03(C), but less than ten (10) tons/yr of any single toxic air pollutant or less than twenty-five (25) tons/yr of a combination of toxic air pollutants, shall be classified as Class 2 Toxic Sources:

F. Synthetic Minor Source. Sources that have requested and received a federally enforceable emissions limit to limit

the total potential-to-emit of the facility to less than one hundred (100) tons/yr of any criteria pollutant, ten (10) tons/yr of any single hazardous air pollutant, or twenty-five (25) tons/yr of any combination of hazardous air pollutants are synthetic minor sources.

#### Section 9.06 Registered Source, Exemptions

Unless listed in Section 9.04, the following sources shall be exempt from registering with the BCAA:

A. Any source that has a potential to emit any pollutant less than the following:

1. 5.0 tons/yr of carbon monoxide;
2. 2.0 tons/yr of nitrogen oxides;
3. 2.0 tons/yr of sulfur dioxide;
4. 1.25 tons/yr of particulate matter;
5. 0.75 tons/yr of fine particulate matter (PM<sub>10</sub>);
6. 2.0 tons/yr of volatile organic compounds; or
7. 0.005 tons/yr of lead.

B. Any grain warehouse or grain elevator that meets the requirements of RCW 70.94.151(3) or WAC 173-400-102(5)

C. Any source that is a major source as defined under Section 112 of the Federal Clean Air Act, RCW 70.94.030(17), or WAC 173-401-200.

D. Any other source determined to be non-registrable by the Board or Control Officer.

### ARTICLE 10 Fees and Charges

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

#### Section 10.01 Fees and Charges Required

A. Unless otherwise provided, any fee assessed by the BCAA shall be paid within thirty (30) days of assessment. Failure to pay a fee may result in the commencement of a formal enforcement action.

B. Upon approval by the Board as part of the annual budget process, fees may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.

#### Section 10.02 Fees Otherwise Provided

All fees and charges provided for in this Article shall be in addition to fees otherwise provided for or required to be paid by Regulation 1, provided the Control Officer shall waive payment of any fee or service charge hereby required if such fee duplicates a fee charged or required to be paid by another Article of Regulation 1.

#### Section 10.03 Fee Waiver, Indigence

Except for fees required under Section 10.09, the Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver due to Indigence Request Form supplied by the BCAA.

#### Section 10.04 General Administrative Fees

A. Administrative fees shall be due and payable at the time service is rendered, unless otherwise specified by BCAA.

1. A fee of fifteen cents (\$0.15) per page shall be charged for photocopies.

2. A fee of twenty dollars (\$20.00) per hour shall be charged for research time for requests covering more than one-hour of staff time.

3. A fee of ten dollars (\$10.00) shall be charged per copy of audio or video materials.

4. The actual cost of postage or shipping shall be charged for all material requested to be mailed.

B. For other administrative services requested and performed by BCAA staff persons that are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the BCAA for time and materials expended in providing the service.

#### Section 10.05 Registered Source Fees

A. The BCAA shall charge an annual registration fee pursuant to RCW 70.94.151 for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board shall review the registration program on an annual basis.

B. All air contaminant sources required by Section 9.04 or 9.05 to be registered are subject to the following fees:

1. Class 1 and Class 1 Toxic sources shall pay an annual registration fee of:

a. A base fee of two hundred dollars (\$200.00);

b. Ten dollars (\$10.00) per ton of criteria pollutant emitted;

c. One hundred dollars (\$100.00) per ton of toxic air pollutant emitted; and

d. Fifteen (\$15.00) dollars per emission point.

2. Class 2, Class 2 Toxic, and Synthetic Minor sources shall pay an annual registration fee of:

a. A base fee of six hundred dollars (\$600.00);

b. Ten dollars (\$10.00) per ton of criteria pollutant emitted;

c. One hundred dollars (\$100.00) per ton of toxic air pollutant emitted; and

d. Fifteen (\$15.00) dollars per emission point.

3. Gasoline facilities shall pay an annual registration fee of:

a. Gasoline Loading Terminals: one thousand dollars (\$1,000.00) plus ten dollars (\$10.00) per ton of pollutant emitted;

b. Bulk Gasoline Plants: four hundred dollars (\$400.00) plus ten dollars (\$10.00) per ton of pollutant emitted; and

c. Gasoline Dispensing Facilities:

i. Throughput of less than five hundred thousand (500,000) gallons/yr, the fee shall be one hundred fifty dollars (\$150.00);

ii. Throughput of five hundred thousand (500,000) gallons/yr, but less than 1.5 million gallons/yr, the fee shall be four hundred fifty dollars (\$450.00); and

iii. Throughput greater than 1.5 million gallons/yr, the fee shall be \$900.00.

d. Once classified, a gasoline dispensing facility shall remain in a higher throughput classification for a period of two (2) consecutive years before reassignment to a lower classification.

**C. Fee Payment**

1. **Fee Payment.** The annual registration fee shall be due and payable on February 28 of each year, unless otherwise specified in writing to the source by the BCAA.

2. **Late Payment of Fees.** A late fee shall be charged to a source for late payment of all or part of its annual registration fee at the following rates:

a. Ten percent (10%) of the annual registration fee for payment received up to the thirtieth (30th) day past the due date;

b. Fifteen percent (15%) of the annual registration fee for payment received between the thirty-first (31st) day and the sixtieth (60th) day past the due date; and

c. Twenty-five percent (25%) of the annual registration fee for payment received between the sixty-first day (61st) and the ninetieth (90th) day past the due date.

d. Failure to pay all or part of an annual registration fee after the ninety-first (91st) day past the due date may result in the commencement of a formal enforcement action.

3. **Transfer in Ownership.** Transfer in ownership of a source shall not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.

**Section 10.06 Fees for Application for Notice of Construction (NOC) and Application for Notice of Intent to Install and Operate a Temporary Source (NIO)**

A. **NOC or NIO Application Filing Fee.** An application filing fee shall be due and payable at the time of filing the NOC or NIO application. The filing fee is non-refundable.

1. **Permanent stationary source.** The filing fee shall be one hundred fifty dollars (\$150.00)

2. **Temporary or portable source.** The filing fee shall be four hundred dollars (\$400.00).

3. **Relocation of a temporary or portable or source.** The filing fee shall be two hundred dollars (\$200.00) and shall be charged each time the source relocates within the boundaries of Benton County.

B. **NOC or NIO Engineering Examination and Inspection Fee.** An examination and inspection fee shall be charged according to Table 10-1. The engineering and inspection fee shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.

C. **Additional Fees.** Additional fees may be charged according to Table 10-2. The additional fees shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.

D. Fee amounts in Table 10-1 and 10-2 listed as "Actual" are based upon the BCAA's actual cost to complete a review or task and shall be determined using the actual or direct hours expended completing the specific review or task and the corresponding hourly rate of each BCAA staff person directly involved. The following provisions shall apply:

1. Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each BCAA staff person directly involved in completing the specific task;

2. Time accrued shall be accounted to the nearest fifteen (15) minutes;

3. Current BCAA staff person salary and overhead rates shall be used when calculating fees; and,

4. The bill issued for any fee based on the BCAA's actual cost shall indicate the total hours expended and the hourly cost rates that were used to determine the fee.

E. If an NOC or NIO applicability determination fee is received by the BCAA and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee shall be waived.

F. Any NOC or NIO application received by the BCAA without the accompanying fee shall be rejected and returned to sender. Such action shall not constitute a determination of completeness or incompleteness as per WAC 173-400-110.

**Section 10.07 State Environmental Policy Act (SEPA) Fees**

A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to WAC 197-11 is required, in association with an NOC or a NIO, the applicant shall pay a review fee of the greater of:

1. One-hundred dollars (\$100.00), due and payable at the time of submittal; or

2. Actual costs to complete the review or task and shall be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each BCAA staff person directly involved. Actual costs shall be billed by the BCAA to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued

B. Additional fees may be charged according to Table 10-2. The additional fees shall be due and payable at the time of filing, unless otherwise specified to the applicant by the BCAA.

**Section 10.08 Asbestos Fees**

A. Any fee required under Table 10-3 for asbestos projects shall be due and payable at the time of filing, unless otherwise specified to the applicant by the BCAA.

B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

Table 10-1: NOC or NIO Engineering Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
<b>Fuel Burning Equipment with or without Air Pollution Equipment (million BTU/hr)</b>		<b>Gasoline Dispensing Facilities</b>	
5 or less .....	\$200	Stage I .....	\$300
Greater than 5 to 10 .....	\$250	Stage II .....	\$300
Greater than 10 to 30 .....	\$350	Stage I and II Combined .....	\$500
		Toxics review for gasoline facility .....	\$1,500

PERMANENT

PERMANENT

CATEGORY	FEE	CATEGORY	FEE
Greater than 30 to 50 .....	\$450		
Greater than 50 to 100 .....	\$650	Spray Painting (per booth) .....	\$300
Greater than 100 to 250 .....	\$1,400		
Greater than 250 to 500 .....	\$2,500	Dry Cleaner (per machine) .....	\$300
Greater than 500 .....	\$3,500		
Fuel change or new fuel .....	1/2 new installation fee	Coffee Roaster .....	\$500
<b>Process Equipment, Air Pollution Control Device, and/or Uncontrolled Process Discharge (ft<sup>3</sup>/min)</b>		<b>Asphalt Plant, Cement Plant, or Rock Crushing Plant (Non-Temporary) .....</b>	
50 or less .....	\$300		\$1,000
Greater than 50 to 5,000 .....	\$400	Soil Thermal Desorption Unit	
Greater than 5,000 to 20,000 .....	\$500	Initial .....	\$2,000
Greater than 20,000 to 50,000 .....	\$600	Relocation of Unit .....	\$700
Greater than 50,000 to 100,000 .....	\$700		
Greater than 100,000 to 250,000 .....	\$1,000	Odor Source .....	\$350
Greater than 250,000 to 500,000 .....	\$2,000	Composting Facility .....	Actual
Greater than 500,000 .....	\$4,000	Landfill Gas System .....	Actual
<b>Refuse Burning Equip (tons/day)</b>		Soil and Groundwater Remediation .....	Actual
5 or less .....	\$1,000	All other sources not listed	
Greater than 5 to 12 .....	\$2,000	.....	greater of \$500 or Actual
Greater than 12 to 250 .....	\$6,000		
Greater than 250 .....	\$12,000		
<b>Other Incinerators (pounds/hr)</b>			
100 or less .....	\$150		
Greater than 100 to 200 .....	\$300		
Greater than 200 to 500 .....	\$600		
Greater than 500 to 1000 .....	\$1,200		
Greater than 1000 .....	\$1,500		
<b>Storage Tanks (gal)</b>			
10,000 or less .....	\$300		
Greater than 10,000 to 40,000 .....	\$500		
Greater than 40,000 .....	\$1,000		

Table 10-2: Additional Fees

CATEGORY	FEES	CATEGORY	FEES
Public Noticing .....	Actual	Variance Request .....	Actual
Publishing of Public Notices .....	Actual	Alternative Opacity Limits Review .....	Actual
Public Hearings .....	Actual	Inspection of Source that began Construction/Operation without Approval/Permit .....	greater of \$500 or Actual
<b>Air Toxics Screening as per WAC 173-460</b>			
Review of source supplied ASIL .....	\$300	Synthetic Minor Determination .....	Actual
Review of source supplied risk analysis .....	\$1000		
BCAA conducted screening analysis .....	Actual	Major Source, Major Modification, or PSD Thresholds .....	Actual
NOC/NIO Application Assistance .....	Actual	Emission Units subject to NSPS or NESHAP (except residential woodstoves, heaters, asbestos renovation or demolition and PCE dry cleaning) .....	Actual
NOC/NIO Applicability Determination .....	Actual		
NOC-CEM or Alternate Monitoring Device Installed .....	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants .....	Actual

CATEGORY	FEE	CATEGORY	FEE
SEPA Threshold Determination (lead agency) . . . . .	Actual	Each CEM or Alternate Monitoring Device . . . . .	Actual
Environmental Impact Statement Review . . . . .	Actual	Each Source Test Required in NOC . . . . .	Actual
NOC Order of Approval Modification . . . . .	lesser of 1/2 NOC/NIO fee or \$350	Opacity/Gain Loading Correlation . . . . .	Actual
RACT/BACT/MACT/BART/LAER Determination . . . . .	Actual	Bubble Application . . . . .	Actual
Emission Offset Analysis . . . . .	Actual	Netting Analysis . . . . .	Actual
Emission Reduction Credit (ERC) Application . . . . .	Actual		

Table 10-3: Asbestos Fees

Asbestos Projects at Residential Units	
Activity	Fee
Demolition	\$10.00
Renovation: Any amount in lin. ft or ft <sup>2</sup>	\$10.00
Demolition or Renovation Amendment	\$25.00
Emergency Renovation Operation	\$50.00
Alternate Removal Methods	Two (2) times renovation fee

Asbestos Projects at Facilities		Fee
Activity		
Demolition		\$10.00
Renovation:	10 to 259 lin. ft or 48 to 159 ft <sup>2</sup>	\$125.00
	260 to 999 lin. ft or 160 to 4,999 ft <sup>2</sup>	\$250.00
	1,000 to 9,999 lin. ft or 5,000 to 49,999 ft <sup>2</sup>	\$500.00
	Over 10,000 lin. ft or Over 50,000 ft <sup>2</sup>	\$1,500.00
Annual Renovation		\$1,500.00
Demolition or Renovation Amendment		\$50.00
Emergency Renovation Operation		Two (2) times renovation fee
Alternate Removal Methods		Two (2) times renovation fee

**Section 10.09 Title 5 Air Operating Permit Fees**

All eligible sources under WAC 173-401 shall be subject to the annual fees described in this section.

**A. Permanent annual fee determination and certification**

**1. Fee Determination**

a. Fee Determination. The BCAA shall develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover all permit administration costs. The BCAA shall also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule shall differentiate as separate line items the BCAA's and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in Section 10.08 (A)(3)(a).

b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.

i. Permit Administration. Permit administration costs are those incurred by BCAA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

(A) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(B) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(C) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, per-

mit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(D) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(E) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(F) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(G) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(H) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(I) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(J) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(K) Training for permit administration and enforcement;

(L) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(M) Required fiscal audits, periodic performance audits, and reporting activities;

(N) Tracking of time, revenues and expenditures, and accounting activities;

(O) Administering the permit program including the costs of clerical support, supervision, and management;

(P) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the federal clean air act; and

(Q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

ii. Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6 (2)(b).

c. Workload Analysis.

i. The BCAA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08 (A)(1)(b)(i).

ii. Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08 (A)(1)(b)(ii).

d. Budget Development. The BCAA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The BCAA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08 (A)(3)(a). The BCAA shall publish a final budget for the following calendar year on or before June 30.

e. Allocation Methodology.

i. Permit Administration Costs. The BCAA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered model based upon:

(A) the number of sources under its jurisdiction;

(B) the complexity of the sources under its jurisdiction, and

(C) the size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.

ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the BCAA, based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.

f. Fee Schedule. The BCAA shall issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with Section 10.08 (A)(4).

2. Fee Collection - Ecology and BCAA.

a. Collection from Sources. The BCAA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The BCAA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.

ii. Ecology Development and Oversight Costs. The BCAA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.

b. Dedicated Account.

i. All receipts from fees collected by the BCAA, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the dedicated accounts of



its treasury. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.

ii. All receipts from fees collected by BCAA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the air operating permit account created under RCW 70.94.015. Expenditures from the air operating permit account may be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.

### 3. Accountability

a. **Public Participation During Fee Determination Process.** The BCAA shall provide for public participation in the fee determination process described under 10.08 (A)(1), which provision shall include but not be limited to the following:

i. The BCAA shall provide opportunity for public review of and comment on:

- (A) each annual workload analysis;
- (B) each annual budget; and
- (C) each annual fee schedule

ii. The BCAA shall submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.

iii. The BCAA shall make available for public inspection and to those requesting opportunity for review copies of its draft:

- (A) annual workload analysis on or before March 31.
- (B) annual budget on or before May 31.
- (C) annual fee schedule on or before December 31.

iv. The BCAA shall provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty-day period for comment shall run from the date of publication of notice in the Permit Register as provided in Section 10.08 (A)(3)(a)(ii).

b. **Tracking of Revenues, Time and Expenditures.**

i. **Revenues.** The BCAA shall track revenues on a source-specific basis.

ii. **Time and Expenditures.** The BCAA shall track time and expenditures on the basis of functional categories as follows:

- (A) application review and permit issuance;
- (B) permit modification;
- (C) permit maintenance;
- (D) compliance and enforcement;
- (E) business assistance;
- (F) regulation and guidance development;
- (G) management and training;
- (H) technical support.

iii. **Use of Information Obtained from Tracking Revenues, Time and Expenditures.** The BCAA shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.08 (A)(1)(d).

iv. The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

c. **Periodic Fiscal Audits, Reports and Performance Audits.** A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evaluate Ecology's and the BCAA's operating permit program administration, as follows:

i. **Fiscal Audits.** The BCAA shall contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.

ii. **Annual Routine Performance Audits.** The BCAA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to Section 10.08 (A)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the BCAA's audits.

iii. **Annual Random Individual Permit Review.** One permit issued by the BCAA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the BCAA's review.

iv. **Periodic Extensive Performance Audits.** The BCAA shall be subject to extensive performance audits every five years. In addition, the BCAA may be subject to an extensive performance audit more frequently under the conditions of Section 10.08 (A)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this BCAA.

v. **Finding of Inadequate Administration or Need for Further Evaluation.** If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the BCAA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in Section 10.08 (A)(3)(c)(iv).

vi. **Annual Reports.** The BCAA shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The BCAA shall submit its report to its Board and to Ecology.

### 4. Administrative Dispute Resolution.

a. **Preliminary Statement of Source Data.** The BCAA shall provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the BCAA intends to base its allocation determination under Section 10.08 (A)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08

(A)(4)(b) regarding the accuracy of the data contained therein.

b. **Petition for Review of Statement.** A permit program source or other individual under the jurisdiction of the BCAA, as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08 (A)(4)(a). Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom the BCAA may direct inquiries regarding the request. Upon receipt of such a petition, the BCAA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the BCAA's response.

c. **Final Source Data Statement.** The BCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the BCAA will base its allocation determination under Section 10.08 (A)(1) along with an invoice reflecting the fee billed to that source on or before December 31 of each year.

#### 5. Fee Payment and Penalties

a. **Fee Payment.** Each permit program source shall pay a fee in the amount reflected in the invoice issued under Section 10.08 (A)(4)(c). Such fee shall be due on or before February 28 of each year.

b. **Late Payment of Fees.** BCAA shall charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:

vii. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;

viii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and

ix. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.

c. **Failure to Pay Fees.** The BCAA shall charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.

d. **Other Penalties.** The penalties authorized in Section 10.08 (A)(5)(b) and (c), are additional to and in no way prejudice the BCAA's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.

e. **Facility Closure.** Sources that permanently cease operations shall be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid shall be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

f. **Transfer in Ownership.** Transfer in ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.

#### 6. Development and Oversight Remittance by Local Authorities to Ecology

a. Ecology will provide to the BCAA a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The BCAA shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

#### Section 10.10 Special Burning Permit Fees

A. An application fee of fifty dollars (\$50.00) is due and payable at the time of submittal of a request for special burning permit. The application fee is non-refundable.

B. An additional fee for inspection and oversight costs shall be charged for each submittal of a request for special burning permit. The additional fee shall be calculated based upon the volume of the material to be burned. The additional fee shall not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to WAC 173-425.

C. The additional fee shall be due and payable within thirty (30) days of issuance of the special burning permit. Special burning permit fees shall be due within thirty (30) days of issuance of the special burning permit.

D. A late fee of twenty-five dollars (\$25.00) may be charged for special burning permit fees that have not been paid within thirty (30) days of issuance of the special burning permit. Failure to pay said fee within sixty (60) days of the issuance of the special burning permit may result in the commencement of a formal enforcement action.

#### Section 10.11 Agricultural Burning Permit Fees

A. An application fee for an agricultural burning permit shall be due and payable at the time of submittal of the application. Refunds may be issued by the BCAA for acres not burned under each permit.

B. Upon approval of any agricultural burning permit application, the BCAA shall charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted to be burned. A portion of this fee shall go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the shall go to the

BCAA for local administration and implementation of the program.

C. The local portion of the agricultural burning permit fee shall be seventy-five cents (\$0.75) per acre.

D. The minimum permit fee shall be no less than twenty-five dollars (\$25.00).

**ACRONYMS AND ABBREVIATIONS**

ACM	..	Asbestos Containing Material
ARP	..	Application for Relief from Penalty
BACT	..	Best Available Control Technology
BART	..	Best Available Retrofit Technology
BCAA	..	Benton Clean Air Authority
Board	..	Benton Clean Air Authority Board of Directors
BTU	..	British Thermal Unit (unit of measure)
CEM	..	Continuous Emission Monitoring
CFR	..	U.S. Code of Federal Regulations
Ecology	..	Washington State Department of Ecology
ERC	..	Emission Recovery Credit
LAER	..	Lowest Achievable Emission Rate
MACT	..	Maximum Achievable Control Technology
NESHAP	..	National Emission Standards for Hazardous Air Pollutants
NOC	..	Notice of Construction
NIO	..	Notice of Intent to Install and Operate a Temporary Source
NOI	..	Notice of Intent to Demolish or Remove Asbestos
NOP	..	Notice of Penalty
NSPS	..	New Source Performance Standard
PCHB	..	Washington State Pollution Control Hearings Board
PSD	..	Prevention of Significant Deterioration
RACM	..	Regulated Asbestos Containing Material
RACT	..	Reasonably Available Control Technology
RCW	..	Revised Code of Washington
SEPA	..	State Environmental Policy Act
USC	..	United States Code
WAC	..	Washington Administrative Code

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 05-08-136**

**PERMANENT RULES**

**DEPARTMENT OF PERSONNEL**

[Filed April 6, 2005, 9:39 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules address definitions that apply to chapter 357-31 WAC, Holidays and leave; holidays and sick leave.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-01-249 on December 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-31-010, as a result of discussions with stakeholders it was determined that the language be changed in this section to address general government employees in subsection (1) and higher education employees in subsection (2).

WAC 357-31-130 [(1)](e), as a result of discussions with stakeholders, reference to WAC 357-31-295, 357-31-300, and 357-31-305 has been added.

WAC 357-31-130 (2)(b), as a result of discussions with stakeholders it was determined that reference to WAC 357-31-255 be 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 32, 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 0, Repealed 0.

Date Adopted: January 26, 2005.

Eva Santos  
Director

**Chapter 357-31 WAC**

**Holidays and Leave**

**NEW SECTION**

**WAC 357-31-001 What definitions apply to this chapter of the civil service rules? The following definitions apply to chapter 357-31 WAC:**

(1) **Anniversary date (Higher Education):** For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee

PERMANENT

receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee promotes, demotes, or transfers to another higher education employer.

(2) **Anniversary date (General Government):** For employees of general government agencies, anniversary date is the unbroken service date plus prior state service minus leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost and for computing the rate of vacation leave accrual beginning with the fifth (5th) year of total state employment.

(3) **Unbroken service date (General Government):** The date a general government employee began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth (4th) year of continuous service. The unbroken service date is adjusted by leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345.

(4) **Minor/dependent child:** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is:

- Under eighteen (18) years of age, or
- Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

Persons who are *in loco parentis* are those with day-to-day responsibilities to care for and financially support a child.

(5) **Child:** A biological, adopted, or foster child, or a stepchild.

(6) **Family members:** Individuals considered to be members of the family are parent, step-parent, sister, brother, parent-in-law, spouse, grandparent, grandchild, minor/dependent child, and child.

(7) **Household members:** Persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. The term does not include persons sharing the same house when the living style is primarily that of a dormitory or commune.

(8) **Parent:** A biological parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a child. A person who had day-to-day responsibilities to care for and financially support the employee when he or she was a child is considered to have stood *in loco parentis* to the employee.

(9) **Parent-in-law:** A biological parent of an employee's spouse or an individual who stood *in loco parentis* to an employee's spouse when the employee's spouse was a child. A person who had day-to-day responsibilities to care for and financially support the employee's spouse when he or she was a child is considered to have stood *in loco parentis* to the employee's spouse.

(10) **Emergency health condition:** A sudden, generally unexpected occurrence or set of circumstances related to a person's health, which requires immediate action and is typically short-term in nature.

(11) **Full-time employee:** An employee who is scheduled to work:

- Forty (40) hours in one (1) workweek;
- Eighty (80) hours over two (2) workweeks; or
- For law enforcement positions, one hundred sixty hours (160) in the twenty-eight-day work period.

(12) **Part-time employee:** An employee who is scheduled to work less than that required for a full-time employee.

#### NEW SECTION

**WAC 357-31-005 What legal holidays are designated by statute?** The following are legal holidays, which are established by RCW 1.16.050:

- (1) The first day of January (New Year's Day);
- (2) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (3) The third Monday of February (Presidents' Day);
- (4) The last Monday of May (Memorial Day);
- (5) The fourth day of July (Independence Day);
- (6) The first Monday in September (Labor Day);
- (7) The eleventh day of November (Veterans Day);
- (8) The fourth Thursday of November (Thanksgiving Day);
- (9) The day immediately following Thanksgiving Day; and
- (10) The twenty-fifth day of December (Christmas Day).

Higher education employers may designate other days to be observed in place of the above holidays. Holiday schedules for higher education employers may be determined on a calendar or fiscal year basis. When a higher education employer establishes a modified schedule, paid holidays must be granted based on the modified schedule.

#### NEW SECTION

**WAC 357-31-010 Which employees qualify for holiday compensation?** (1) Full-time employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty (80) non-overtime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020.

(5) Part-time higher education employees who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

NEW SECTION

**WAC 357-31-015 How many hours are general government employees compensated for on a holiday?** When a holiday designated under WAC 357-31-005 falls on a general government employee's scheduled work day:

(1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on that day.

(2) Part-time employees are entitled to the number of paid hours on a holiday on a pro rata basis in accordance with WAC 357-31-020 (General Government pro-rata)

NEW SECTION

**WAC 357-31-020 For general government part-time employees, how is holiday compensation pro rated?** Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours.

NEW SECTION

**WAC 357-31-025 How many hours are higher education employees compensated for on a holiday?** When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight (8) hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight (8) hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

NEW SECTION

**WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off?** When a holiday (as identified in WAC 357-31-005) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

(1) For a full-time employee who is eligible for holiday compensation, the employer may:

(a) Designate the prior or the following work day as the holiday;

(b) Provide the employee with equivalent paid time off; or

(c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the employee request an alternate day off within the same pay period as the holiday.

(2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC 357-31-020.

(3) For a part-time higher education employee who is eligible for holiday compensation, the employee is entitled to

the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.

NEW SECTION

**WAC 357-31-035 How is an employee who works on a holiday compensated?** Time worked on a holiday must be compensated as provided in WAC 357-28-200.

NEW SECTION

**WAC 357-31-040 What happens when a holiday as identified in WAC 357-31-005 falls on Saturday or Sunday?** When a holiday falls on Saturday, the preceding Friday is observed as the nonworking or legal holiday. When a holiday falls on Sunday, the following Monday is observed as the nonworking or legal holiday.

NEW SECTION

**WAC 357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday?** Employees who resign or are dismissed or separated before a holiday do not qualify for holidays occurring after the effective date of resignation, dismissal or separation.

NEW SECTION

**WAC 357-31-050 How is an employee's holiday determined when an employee works a night shift schedule which begins on one calendar day and ends on the next?** For employees working a shift which begins on one calendar day and ends on the next, the twenty-four (24) hour period during which the holiday occurs must be determined by the employer to start either at the start of the shift that begins on the legal or observed holiday, or at the start of the shift that precedes the legal or observed holiday.

NEW SECTION

**WAC 357-31-055 When does an employee qualify for a personal holiday?** Employees are entitled to one (1) paid personal holiday per calendar year in addition to those specified in WAC 357-31-005 if the employee is scheduled to be, or has been, continuously employed by the State of Washington for at least four (4) months.

An employee who is scheduled to work less than six (6) continuous months over a period covering two (2) calendar years only receives one (1) personal holiday during this period.

NEW SECTION

**WAC 357-31-060 How many hours are general government employees compensated for when taking a personal holiday?** (1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on the day they select as their personal holiday.

(2) Part-time employees are entitled to the number of paid hours for a personal holiday on a pro rata basis in accordance with WAC 357-31-020.

#### NEW SECTION

**WAC 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday?** (1) Full-time employees receive eight (8) hours of regular holiday pay on a personal holiday. Any differences between the scheduled shift for the day and eight (8) hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full time schedule.

#### NEW SECTION

**WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?**

(1) An employer must approve the use of a personal holiday as long as:

(a) The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

(b) The employee has requested the personal holiday in accordance with the employer's leave procedures; and

(c) The employee's absence does not interfere with the operational needs of the employer.

(2) At any time, an employer must allow an employee to use part or all of the personal holiday for either of the following reasons:

(a) To care for a child with a health condition that requires treatment or supervision.

(b) To care for a spouse, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency health condition.

#### NEW SECTION

**WAC 357-31-075 Within what timeframe must the personal holiday be taken?** The personal holiday must be used within the calendar year.

#### NEW SECTION

**WAC 357-31-080 What happens if an employee requests to use his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request?** If before the end of the calendar year the employee requests the use of his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request, the employee is entitled to carry over the personal holiday to the next calendar year.

#### NEW SECTION

**WAC 357-31-090 Can an employee request to donate or use part of a personal holiday?** An employee is only

allowed to use part of a personal holiday in these two circumstances:

(1) When donating a portion of the personal holiday to the shared leave program as provided in WAC 357-31-425(3), or

(2) When using a portion of the personal holiday to provide care as provided in WAC 357-31-070(2).

Any portion of the personal holiday that remains and is not used for the purposes specified in WAC 357-31-070(2) must be taken by the employee in one absence not to exceed the work shift on the day of the absence.

#### NEW SECTION

**WAC 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours?** An employee who has donated his/her personal holiday for purposes of shared leave and then has a portion of the personal holiday returned to him/her during the same calendar or fiscal year may use the remaining hours. If the hours are returned during a different calendar or fiscal year, the employee cannot use the remaining hours.

#### NEW SECTION

**WAC 357-31-100 Must an employer have a policy for requesting and approving leave?** Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies, or for an emergency health condition as provided in WAC 357-31-200(2).

#### NEW SECTION

**WAC 357-31-105 How will an unauthorized absence be treated?** Unauthorized absence must be treated as unauthorized leave without pay and may be grounds for separation under the provisions of WAC 357-46-210 or discipline under chapter 357-40 WAC.

#### NEW SECTION

**WAC 357-31-110 What happens to an employee's accrued leave when the employee changes employers?** Unused sick and vacation leave credits of employees who change state employers without a break in service, as defined in WAC 357-01-145, transfer with the employee to the new employer.

#### NEW SECTION

**WAC 357-31-115 How many hours of sick leave does an employee earn each month?** (1) Full-time employees earn eight (8) hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment.

#### NEW SECTION

**WAC 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty (80) non-overtime hours in a month do not earn a monthly accrual of sick leave.

(2) Full-time and part-time higher education employees who have more than ten (10) working days of leave without pay in a month do not earn a monthly accrual of sick leave.

#### NEW SECTION

**WAC 357-31-125 For general government part-time employees, how is leave accrual pro rated?** Vacation and sick leave accruals for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment.

#### NEW SECTION

**WAC 357-31-130 When can an employee use accrued sick leave?** The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) Because of and during illness, disability, or injury that has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) To care for a minor/dependent child with a health condition requiring treatment or supervision.

(d) To care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or emergency health condition.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300, and 357-31-305.

(f) For personal health care appointments.

(g) For family members' health care appointments when the presence of the employee is required if arranged in advance with the employing official or designee.

(h) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee/employee's spouse who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five (5) days of accumulated sick leave each occurrence. Employers may approve more than five (5) days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, child, grandchild, grandparent or parent.

(2) Employers **may** allow the use of accrued sick leave under the following conditions:

(a) For condolence or bereavement.

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255.

#### NEW SECTION

**WAC 357-31-135 When and how does an employee request the use of sick leave?** All requests for sick leave must be made as specified in the employer's leave policy.

#### NEW SECTION

**WAC 357-31-140 May an employee use sick leave before it is accrued?** An employee is not entitled to use sick leave in advance of its accrual.

#### NEW SECTION

**WAC 357-31-145 When an employee is on vacation leave and a condition listed in WAC 357-31-130(1) arises, can the employee use sick leave in place of vacation leave?** When a condition listed in WAC 357-31-130(1) arises while the employee is on vacation leave, the employer may allow the employee to use accrued sick leave in place of vacation leave. The employee must request the use of accrued sick leave in place of vacation leave according to the employer's leave policy.

#### NEW SECTION

**WAC 357-31-150 Can an employee be paid for accrued sick leave?** In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty (480) hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty (480) hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five (25) percent and is based on the employee's current salary.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated, and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five (25) percent or the employer may deposit equivalent funds in a medical expense plan as provided in WAC 357-31-330. Compensation must be based on the employee's salary at the time of separation. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

**NEW SECTION**

**WAC 357-31-155 Does an employee who separates for any reason other than retirement or death get paid for accrued sick leave?** Employees who separate for any reason other than retirement or death are **not** paid for their accrued sick leave.

**NEW SECTION**

**WAC 357-31-160 When a former employee is re-employed, is sick leave restored?** Former employees who are re-employed within five (5) years of their separation from service must be restored unused sick leave credits, if any, to which they were entitled at the time of separation. The employee may use the restored balance in accordance with WAC 357-31-130.

If the employee was retired from government service before being re-employed, when the employee subsequently retires again or dies, only that unused sick leave accrued since the date of reemployment minus that taken within the same period may be compensated per the conversion provisions of WAC 357-31-150.

**WSR 05-09-003  
PERMANENT RULES  
DEPARTMENT OF HEALTH  
(Board of Physical Therapy)**

[Filed April 7, 2005, 8:15 a.m., effective May 8, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule allows any licensed physical therapist to place their credential in an inactive status while they are not practicing or delivering physical therapy services. The rule allows practitioners to maintain licenses without being penalized through late fees or the requirement to retake and pass the national examination.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-350 Inactive credential and 246-915-990 PT fees and renewal.

Statutory Authority for Adoption: RCW 18.74.073.

Adopted under notice filed as WSR 05-03-008 on January 6, 2005.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47867, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.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 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 15, 2005.

Sam Stockton, PT, Chair  
Board of Physical Therapy

**NEW SECTION**

**WAC 246-915-350 Inactive credential.** (1) A physical therapist may obtain an inactive credential. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) Practitioners with an inactive credential for three years or less who wish to return to active status must meet the requirements of chapter 246-12 WAC, Part 4.

(3) Practitioners with an inactive credential for more than three years, who have been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Submit verification of active practice from any other United States jurisdiction; and

(b) Meet the requirements of chapter 246-12 WAC, Part 4.

(4) Practitioners with an inactive credential for more than three years, who have not been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Successfully pass the examination as provided in RCW 18.74.035. The board may waive reexamination if the practitioner presents evidence of continuing competency satisfactory to the board; and

(b) Must meet the requirements of chapter 246-12 WAC, Part 2.

**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.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$100.00
License renewal	65.00
Late renewal penalty	50.00
<u>Inactive license renewal</u>	<u>35.00</u>
<u>Expired inactive license reissuance</u>	<u>50.00</u>
Expired license reissuance	50.00
Duplicate license	15.00
Certification	25.00

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**WSR 05-09-004****PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed April 7, 2005, 8:16 a.m., effective May 8, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To correct internal cross-reference errors in several sections of chapter 246-260 WAC, Water recreation facilities.

Citation of Existing Rules Affected by this Order: Amending WAC 246-260-031, 246-260-041, 246-260-061, 246-260-091, 246-260-131, and 246-260-171.

Statutory Authority for Adoption: RCW 70.90.120.

Adopted under notice filed as WSR 05-03-057 on January 11, 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 6, 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 6, Repealed 0.

Date Adopted: April 6, 2005.

Mary C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-031 General design, construction, and equipment for all WRF pool facilities.** (See additional design and construction requirements for swimming pools in WAC 246-260-041, for spa pools in WAC 246-260-051 and 246-260-061, for wading pools in WAC 246-260-071, for spray pools in WAC 246-260-081 and for specialty design conditions in WAC 246-260-091. See chapter 246-262 WAC for specific requirements for water park type features.)

(1) **Location:** Owners shall locate pools to minimize surface drainage and other potential sources of pollution from entering the pool.

(2) **Materials:** Owners shall use only structure and equipment materials that are nontoxic, durable, inert, and easily cleanable.

(3) **Walking surfaces:** Owners shall design and maintain walking surfaces:

(a) Sloping away from the pool or pools;

(b) Sloping a minimum of one-fourth inch per foot to drain;

(c) Having a nonslip finish;

(d) Not having an abrupt change in height of greater than one-half inch, a gap no greater than one-half inch in width, or a crumbling surface presenting a potential tripping hazard;

(e) Equipped with sufficient drains to prevent standing water; and

(f) Of easily cleanable, impervious finishes.

(4) **Barriers for new construction and remodeling:**

(a) Owners shall provide barriers to prevent unauthorized persons from gaining access to pools. Spray pool facilities without standing water are exempt from barrier requirements of this section.

(b) Barriers at limited use pools must be at least sixty inches high.

(c) Barriers at general use pools must be at least seventy-two inches high.

(d) Barriers, including windows, (see figures 031.1 and 031.2) may not:

(i) Allow passage of a four-inch diameter sphere; or

(ii) Have spaces between vertical members greater than a width of one and three-quarter inches if the distance between the tops of horizontal members are spaced less than forty-five inches apart.

(e) Solid barriers may not have indentations or protrusions, other than normal construction tolerances and masonry joints.

(f) Barriers must have self-closing, self-latching gates or doors that provide either:

(i) A mechanism that uses a continuously locked latch, coded lock or other equivalent access control system that always requires a key or code to enter pool area. If the latch is less than sixty inches from the ground, the barrier must have an eighteen-inch radius of solid material around the latch (see figure 031.2) to preclude a child on the outside of the barrier from reaching through the gate or barrier and opening the latch and entering the pool; or

(ii) A latch height of sixty inches or more from the ground.

(g) Restricted area service entrances are exempt from door or gate requirements provided that no public access is available.

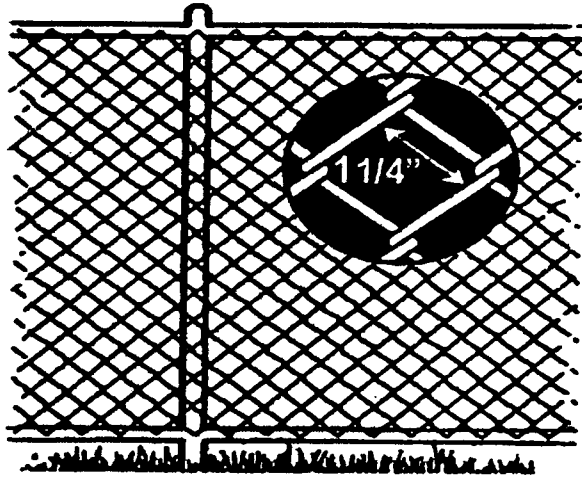
(h) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use. Facility gates shall be closed and locked during nonuse periods.

(i) Barrier heights are measured on the side outside the pool enclosure area. Owners shall ensure that surrounding ground levels, structures, or landscaping do not reduce the effective height of the barrier.

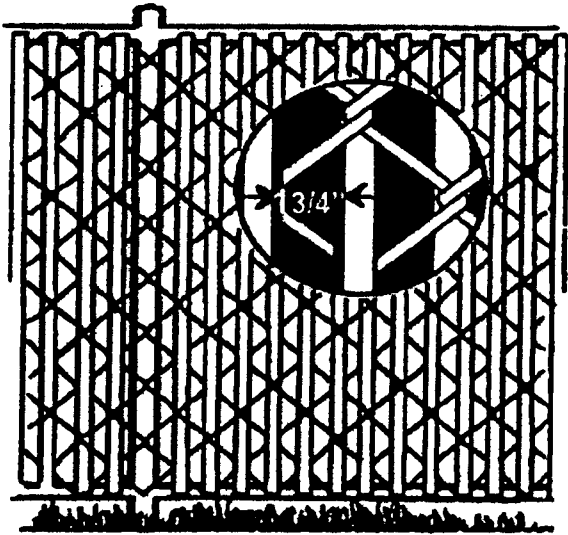
**Figure 031.1**  
Barrier Construction Detail

**(a). For a Chain Link Fence:**

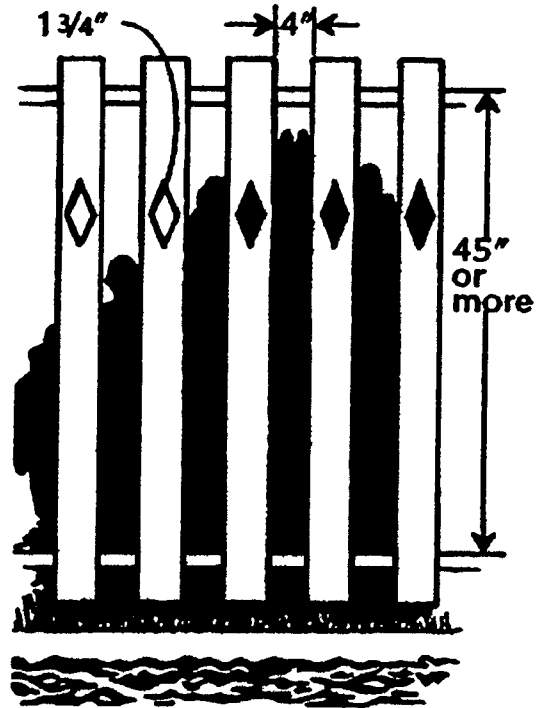
The mesh size shall not exceed 1 1/3 inches square.



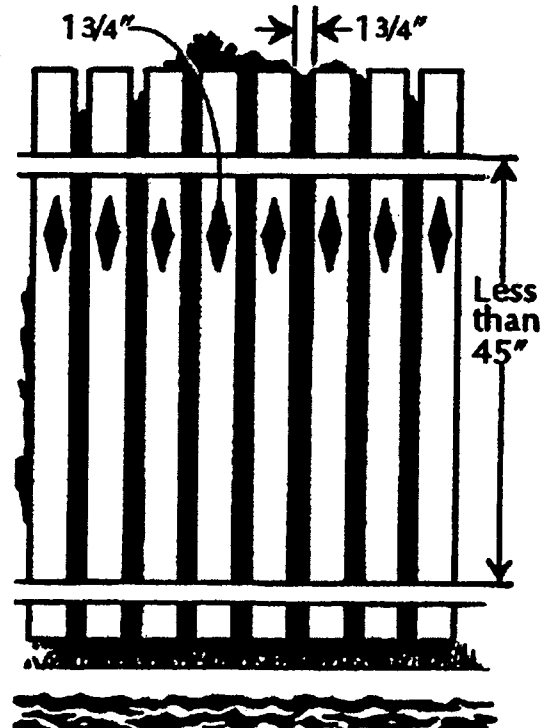
**(b). When chain link exceeds 1 1/4 inches square, provide slats to reduce mesh openings to no more than 1 3/4 inches.**



**(c). Vertical Spacing:** If tops of horizontal members are greater than 45 inches apart, vertical spacing shall not exceed 4 inches.

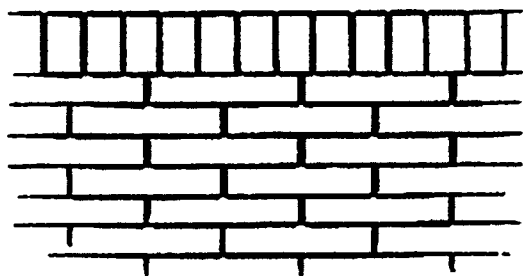


**(d). Vertical Spacing:** If tops of horizontal members are less than 45 inches apart, vertical spacing shall not exceed 1 3/4 inches.

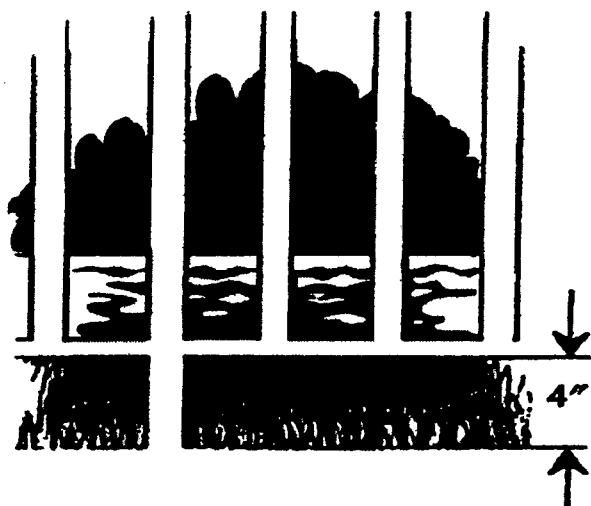


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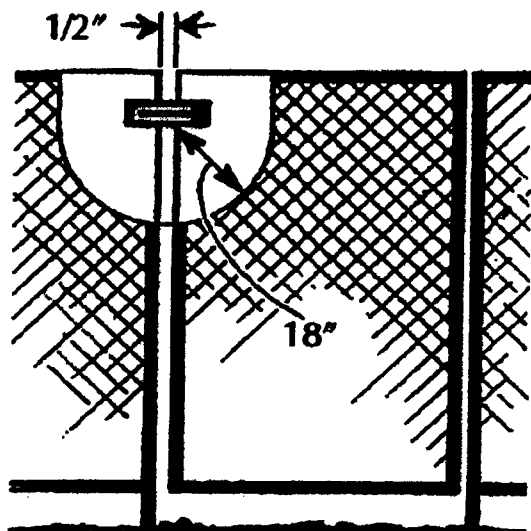
(e) **Solid Barrier:** No indentations or protrusions shall be present, other than normal ((~~e~~onstruction)) construction tolerances and masonry joints.



(f) **Maximum Clearance** shall not exceed 4 inches above grade.



**Figure 031.2 Gate and Latch Detail:** When latch height is less than 60 inches from the ground, a continuously locked lock must be provided with an 18 inch radius of protection around the latch.



(5) **Barriers for existing facilities:** Before June 1, 2008, owners shall provide barriers for all pools conforming with subsection (4) of this section. Barrier modifications made prior to the compliance deadlines shall meet the requirements in subsection (4) of this section, at the time the modifications are made.

(6) **Pool surface:** Owners shall ensure pool surfaces are constructed and maintained to:

- (a) Have white or light color finish;
- (b) Not cause cutting, pinching, puncturing, entanglement, or abrasion hazard under casual contact; and
- (c) Conform to ANSI/NSPI-1 2003 Standards for Public Swimming Pools or ANSI Standard NSPI-@-1999, American National Standard for Public Spas.

(7) **Inlets:** Owners shall provide pool inlets that are:

- (a) Submerged;
- (b) Located to produce uniform water and chemical circulation throughout the pool; and
- (c) Located on the bottom of swimming and wading pools over twenty-five hundred square feet and spa pools greater than ten thousand gallons.

(8) **Outlets:**

- (a) Owners shall provide pool outlets with:
  - (i) Overflow and main drain grating systems each designed to carry one hundred percent of the total recirculation filter flow;
  - (ii) Main drain piping systems designed to carry one hundred percent or more of total recirculation filter flow when a single pump is used or fifty percent or more of total recirculation filter flow when multiple pumps are used; and
  - (iii) Valving on main drain piping designed to provide required flow.
- (b) Owners shall ensure that overflow outlets maintain a minimum of sixty percent of filter recirculation flow at all times.

(c) Overflow outlets must consist of an overflow channel on the perimeter of swimming pools twenty-five hundred square feet or more and spa pools ten thousand gallons or more, to promote uniform circulation and skimming action of the upper water layer with:

- (i) A design preventing all matter entering the channel from returning to the pool;
- (ii) Dimensions minimizing the hazard for bathers, such as catching arms or feet;
- (iii) One one-hundredth of a foot slope per foot or more. However, adequate hydraulic justification from a designer to ensure the overflow system will meet (c)(v) of this subsection may be provided as an alternative;
- (iv) Drains sufficiently spaced and sized to collect and remove overflow water to return line and filter, where applicable; and
- (v) Size sufficient to carry one hundred percent of the recirculation flow plus the surge flow without flooding the overflow channel.

(d) Overflow outlets must consist of skimmers or overflow channels for pools less than twenty-five hundred square feet, or for spas under 10,000 gallons.

(i) Weirs provided in skimmers must have a normal operation flow rate of three to five gpm per inch of weir;

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(ii) Skimmer equipment must be recessed in the pool wall so no part protrudes beyond the plane of the wall into the pool;

(iii) Skimmers must be equipped with a device, such as an equalizer line, to prevent air lock in the recirculation suction line. If equalizer lines are used, they must be protected with grates listed by IAPMO or UL;

(iv) Skimmers must be equipped with a removable and cleanable screen designed to trap large solids;

(v) Skimmers shall operate continuously with a minimum displacement rate of fifteen gallons per bather in swimming pools, twenty gallons in spa pools, and seven gallons in wading pools.

(e) Main drains in all pools must:

(i) Be located at swimming and wading pool low points;

(ii) Consist of two or more main drains for any pumped water recirculating system designed;

(A) Piping must be manifolded to assure the water pumps from both main drains simultaneously so that no single drain could be the sole source of suction;

(B) Drains must be spaced at least three feet apart or as far as practical in small spa pools. If a pool uses more than two main drains with a pump, the design must distribute flow so that no single drain could be the primary source of suction;

(C) Piping must be designed so velocity in piping assuming one hundred percent of the pump recirculation flow does not exceed six fps up to the main drain outlet box.

(iii) Have grates on drains with maximum flow of one and one-half feet per second or net outlet area four times or greater than the discharge pipe;

(iv) Have openings that prevent a sphere greater than one-half inch in diameter passing;

(v) Have mechanically fastened grates designed to withstand the force of users;

(vi) Have the total open area of grates sized to prevent a suction or entrapment hazard dangerous to user; and

(vii) For spa pools, have a design listed by IAPMO or UL to aid in preventing hair entrapment, if the main drains are located on vertical walls of the spas.

(9) **Pumps:** Owners shall provide and maintain recirculation pumps with adequate capacity to provide design flows for the entire operating and backwash cycles of the filter.

(10) **Strainers:** Owners shall provide hair and lint strainers for pumps that precede filters.

(11) **Pool appurtenances:**

(a) Owners shall ensure pools have:

(i) Handholds when the pool deck is greater than twelve inches above the water surface;

(ii) Stairs leading into spa pools;

(iii) Step risers on the exterior of the spa pool shall conform with UBC requirements for risers with nonslip tread finishes, when spas are elevated off the pool floor; and

(iv) Stairs, ladders, or stepholes for access at the shallow end of swimming pools.

(b) Owners shall ensure that stairs, when provided, meet the following construction requirements:

(i) Nonslip tread finish;

(ii) Contrasting color stair tread edges;

(iii) Placement recessed into the side of pools specifically designed for lap or competitive swimming;

(iv) Handrail having leading edges less than eighteen inches beyond and less than eight inches inside (horizontally) the vertical plane of the bottom riser;

(v) Each riser tread shall have a minimum unobstructed, tread depth of ten inches and minimum surface area each of two hundred forty inches;

(vi) Uniform riser heights of seven and one-half inches or less on general use swim pools fifteen hundred square feet or more and spa pools greater than forty feet in perimeter, except the bottom riser may be less than the uniform height; and

(vii) Uniform riser heights of ten inches or less for all other pools, except the bottom riser may be plus or minus two inches of the uniform height.

(c) Ladders or stepholes at swimming pools shall be:

(i) Spaced at a minimum of one for every seventy-five feet of swimming pool perimeter deeper than four feet;

(ii) Provided at both sides of the deep end of swim pools over thirty feet in width; and

(iii) Equipped with handrails.

(12) **Valves:** Owners shall provide valves to allow isolation and maintenance of equipment.

(13) **Balancing tanks:** Owners shall provide balancing tanks for pools designed with overflow channels. Balancing tanks must be of adequate size to prevent air lock in the pump suction line and have sufficient capacity to prevent flooding of the overflow channel.

(14) **Equipment and chemical storage rooms:** Owners shall provide enclosed, locked, lighted, vented rooms for mechanical equipment, with floors sloped to a floor drain and minimum access area three feet wide around equipment. Owners shall provide a separate chemical storage area or room that conforms to manufacturer's requirements for each chemical used in the pool area.

(15) **Make-up water:** Owners shall ensure an adequate supply of make-up water with associated piping, for each pool:

(a) Sufficient to replace daily pool losses;

(b) From a supply conforming to chapter 246-290 WAC;

(c) Without cross connections; and

(d) If using a pool fill spout, the spout may not project greater than one inch into the space above the water surface and shall be shielded so as not to create a deck hazard.

(16) **Filters:**

(a) Owners shall equip pools with filtration equipment:

(i) Meeting the applicable standards of NSF (for commercial application) or equivalent;

(ii) With a rate of flow indicator and gauge(s) for monitoring backpressure on filter;

(iii) With a means of discharging filter backwash to waste with a sight glass in a manner not creating a cross connection or a public nuisance;

(iv) With a means to release air entering the filter tank for pressure filters.

(b) If cartridge filters are used, owners shall always possess an extra set of cartridges and may not use cartridge filters with bypass valves.

(17) **Disinfection equipment:**

(a) Owners shall provide disinfection equipment:

- (i) Providing a continuous and effective disinfectant residual;
- (ii) Using a disinfectant with an easily monitored residual;
- (iii) Having a design feed rate providing effective disinfection levels for peak demand conditions; and
- (iv) Conforming to NSF standard((s)) 50 if disinfection chemical is other than gas chlorine.
- (b) If disinfection equipment has adjustable output rate chemical feed of liquid solutions, the equipment shall:
  - (i) Feed under positive pressure in the recirculation system;
  - (ii) Provide a means for dosage adjustment; and
  - (iii) If the disinfection equipment is above pool water surface level, have provisions to prevent disinfectant solution siphoning when equipment is turned off.
- (c) Solid tablets or granules may not be placed in skimmer basket.
- (d) Rooms holding chlorine gas equipment must:
  - (i) Be above ground level;
  - (ii) Be constructed so all openings or partitions with adjoining rooms are sealed;
  - (iii) Be located with consideration of prevailing winds to dissipate leaked chlorine away from the pool facility;
  - (iv) Have door(s) opening only outward to the out-of-doors; and
  - (v) Have a sign on the door exterior reading **DANGER CHLORINE** in large enough letters to be read twenty-five feet away.
- (e) Chlorine rooms must have mechanical exhausting ventilation that includes:
  - (i) Air inlets located as far as possible from fan intakes to promote good air circulation patterns;
  - (ii) A minimum of one air change per minute in the chlorine room when fan is operating;
  - (iii) A remote switch outside the room or a door-activated switch to turn on fan before entering;
  - (iv) Suction for fan near the floor;
  - (v) Exhaust vents located to prevent chlorine contaminated air from being drawn into supply air; and
  - (vi) Screened chlorinator vents.
- (f) Gas chlorine systems must:
  - (i) Be vacuum injection type, with vacuum-actuated cylinder regulators;
  - (ii) Provide integral backflow and antisiphon protection at the injector;
  - (iii) Have taring (net weight of cylinder gas) scales for determining chlorine weight; and
  - (iv) Have a means for automatic shutoff when water flow is interrupted.
- (g) A self-contained breathing apparatus designed for use in chlorine atmospheres caused by chlorine leaks must be available in an area accessible to the operator outside the chlorine room. The apparatus must be maintained in accordance with department of labor and industry standards. If procedures are established for immediate evacuation and the owner has a written agreement with emergency service fire districts or other approved organizations within the area for promptly responding to chlorine leaks, then breathing protection is not required at the pool facility.

- (h) Chlorine gas cylinders must:
  - (i) Be stored only in designated chlorine rooms;
  - (ii) Have an approved valve-stem cylinder wrench on the valve stem to shut the system down in an emergency event;
  - (iii) Be properly secured to prevent tipping;
  - (iv) Be tagged to indicate cylinders are empty or full; and
  - (v) Not exceed one hundred fifty pounds tare weight per cylinder.
- (i) Owners shall ensure that chemical disinfectants are not hand-fed into pools actively in use. *Exception*, chemical disinfectants may be hand-fed on an emergency basis if no users are in the pool and the pool is tested to meet water quality standards before reentry.
- (j) If ozone is provided as a supplemental disinfection process:
  - (i) When ozone is produced by corona discharge method, the area where the ozone is produced shall meet the requirements of (e) of this subsection, unless field tests demonstrate no hazardous off-gassing of product;
  - (ii) When ozone is produced by ultraviolet light, it may be allowed in the mechanical room provided there are no levels of off-gassing exceeding 0.05 ppm;
  - (iii) Provide an ozone detector and alarm with corona discharge ozone generators;
  - (iv) Provide sufficient contact chambers to prevent excess levels of ozone from entering the pool water; and
  - (v) Testing equipment must be provided to monitor levels in the water and the atmosphere immediately above the water and the room where the ozone is produced.
- (k) If copper or copper/silver is provided as a supplemental disinfection process:
  - (i) The output rate and method of controlling process levels into the pool facility must be provided;
  - (ii) The system shall not have a detrimental effect on maintaining proper turnover rates for the pool; and
  - (iii) Testing equipment provided to monitor levels of copper and silver in the pool water.
- (18) **Chemical feeding equipment for pH control:** Owners shall provide chemical feed equipment for pH control, with a means of automatic shutoff if water flow is interrupted, for:
  - (a) Swimming pools fifty thousand gallons or greater;
  - (b) Spa pools ten thousand gallons or greater; and
  - (c) All pools treated with caustic soda or carbon dioxide.
- (19) **Ventilation:** Owners shall provide adequate ventilation (in conformance with ASHRAE standards for pools and decks) to maintain air quality and to prevent moisture buildup in indoor areas. Design considerations must include maintaining negative pressure in the pool and deck area; providing adequate total airflow for acceptable air distribution; and preventing short-circuiting of fresh air return to exhaust.
- (20) **Locker room and dressing rooms:**
  - (a) Owners shall provide general use pool facilities with locker rooms and dressing rooms having:
    - (i) Separate facilities for each gender constructed to block line of sight into locker rooms;
    - (ii) Water impervious nonslip floors properly sloped to drains to prevent standing water;
    - (iii) Easily cleanable walls, lockers, and benches (if provided);

(iv) Junctions between walls and floors covered for ease of cleaning; and

(v) Properly anchored lockers, (if provided), to prevent tipping.

(b) Owners shall provide limited use pool facilities with locker or dressing rooms meeting the requirements of (a) of this subsection if the pool facilities are located more than one-quarter mile from any served living units.

(c) Owners shall provide general use recirculating spray pool facilities with locker or dressing rooms meeting the requirements of (a) of this subsection if the pool facilities are located indoors.

**(21) Restrooms, shower rooms, and plumbing fixtures:**

(a) Owners shall provide general use pool facilities with restroom and shower room facilities having plumbing fixture types and numbers as described in Table ((031.4)) 031.3 of this section (swim and wading pool bathing loads and spa bather capacity are additive for determining total bather load). The pool facility design shall provide users easy access to restroom and shower facilities with minimum nonuser cross traffic.

(b) Owners shall provide general use pool facilities with:

(i) Hose bibs with vacuum breakers around pool decks at a maximum spacing of one hundred fifty feet; accessible to each locker room; and within equipment room at facilities fifteen hundred square feet or more;

(ii) A janitor's sink at indoor facilities with a pool of fifteen hundred square feet or more; and

(iii) An operable drinking fountain conforming to ASA requirements at facilities with a pool fifteen hundred square feet or more.

(c) Owners shall provide limited use pool facilities with:

(i) Restroom and shower room facilities having plumbing fixture types and numbers as described in Table 031.3 of this section, if bathing load exceeds eighty persons;

(ii) Restroom and shower room facilities having plumbing fixture types and numbers as described in Table 031.4 of this section, if bathing load is eighty persons or less;

(iii) Hose bibs around pool decks at a maximum spacing of one hundred fifty feet;

(iv) A hose bib accessible to each locker room; and

(v) A hose bib within each equipment room at facilities with a pool of fifteen hundred square feet or more.

**Table 031.3**

Restroom Minimum Requirements\* for General Use Pools  
(Includes swimming, spa, and wading pools\*\*)

Amount of Fixtures Required for Occupancy Load by Sex		
TYPE OF FIXTURES	MALE	FEMALE
Toilets up to 120	1/60	1/40
From 121-360	1/80	1/60
Over 360 add	1/150	1/100
Urinal up to 120	1/60	N/A
From 121-360	1/80	N/A
From 360 add	1/150	N/A
Showers up to 120	1/40	1/40
From 121-360	1/60	1/60
Over 360 add	1/100	1/100
Sinks up to 200	1/100	1/100
From 201-400	1/200	1/200
Over 400 add	1/400	1/400
Diaper changing station	1	1

\* If sufficient supporting documentation is provided, restroom fixture numbers may be adjusted between the genders based on proposed use of the facility. (E.g., if the designer has experience and justification based on similar type facilities indicating that providing one additional shower for the women and one less for men would provide a sufficient number of fixtures to meet demands, this may be allowed.)

\*\* If a general use spa or wading pool is the only pool at the facility, then a minimum of only one toilet, shower, and sink is required for each gender.

**Table 031.4**

Restroom Minimum Requirements for Limited Use Pools  
(Includes swimming, spa, and wading pools.)

POOLS WITH:	TOILETS	SHOWERS	SINKS	DRESSING ROOMS	DIAPER CHANGING STATION
Living units*within 100 feet and less than three stories	-	-	-	-	-
Living units > 100 feet but < 500 feet and less than 3 stories	1	1**	1	-	1
Living units within 1/4 mile and/or with three or more stories	1	1	1	-	1
Living units greater than 1/4 mile	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)	1(M) 1(F)

\* "Living units" means all the units the facility serves.

\*\* A shower is required only if a spa is present.

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(d) Owners shall provide general use recirculating spray pool facilities with:

(i) Separate restroom facilities for each sex containing at least one toilet and handwashing sink;

(ii) Hose bibs around pool decks at a maximum spacing of one hundred fifty feet; and

(iii) Additional plumbing fixtures, if indoors, conforming to the requirements for general use pools described in Table ((031.1) 031.3 of this section.

(e) Owners shall provide limited use recirculating spray pool facilities with:

(i) Hose bibs around pool decks at a maximum spacing of one hundred fifty feet; and

(ii) A restroom facility containing at least one toilet and one handwashing sink, if living units served are farther than one hundred feet away from the main pool.

(f) Restroom facilities must be located convenient to, and no further than one hundred feet away from, the main pool. They must have flush toilets provided with toilet tissue in dispensers and handwashing sinks including:

(i) Hot and cold or tempered water delivered through a mixing faucet with a maximum temperature of one hundred twenty degrees Fahrenheit;

(ii) Single service soap in a nonglass dispenser;

(iii) Single service towels or electric hand dryer; and

(iv) A minimum running water cycle of at least ten seconds if the faucets have self-closing valves.

(g) Shower facilities must be located convenient to, and no more than one hundred feet away from, the main pool. The facilities must have:

(i) A design allowing a full-body shower in the nude;

(ii) A design providing an enclosure confining water to the shower area;

(iii) Non-slip floor impervious to water with sufficient drains to prevent water from standing within the shower areas;

(iv) Running water delivered at a temperature between ninety degrees and one hundred twenty degrees Fahrenheit;

(v) Single service soap in a nonglass dispenser; and

(vi) Wall surfaces impervious to water up to shower head height.

(h) If owners limit the number of bathers within their facility and post and enforce the maximum bather load, owners may base the number of required plumbing fixtures on the posted maximum bather load.

(i) Owners shall dispose of all wastewater in a manner approved by the local health officer.

(22) **Diaper changing stations:** Owners shall provide a diaper changing station, including a handwashing sink conforming to the requirements in subsection (21)(f) of this section, accessible to all bathers, if children in diapers are allowed in the pool facility and the facility is:

(a) A general use pool facility; or

(b) A limited use pool facility located more than one hundred feet away from living units served.

(23) **Lighting:** Owners shall design and maintain pool facility lighting to a minimum level as described in Table 031.5. Sufficient overhead and underwater lighting shall be maintained to clearly see the bottom of the pool at all times

pool is in use. Owners shall provide protective shielding for all lighting fixtures above walking surfaces and pool areas.

**Table 031.5\***

Minimum Lighting Level Required at Water Recreation Facilities.

Location	Minimum Lighting Level
Indoor pool surface	30 foot candles
Outdoor pool surface*	10 foot candles
Pool Decks	10 foot candles
Locker rooms and mechanical rooms	20 foot candles

\* Outdoor pool facilities, which are used in daylight hours only (before dusk) are not required to meet this standard.

(24) **Flow-through pools:** Flow-through pools may qualify for exceptions to recirculation if:

(a) Water supply is sufficient to provide the same turn-over period specified for recirculation pools;

(b) The source water supply meets acceptable quality requirements and is subject to a disinfection method as described under WAC 246-260-111(3);

(c) The introduction of fresh treated pool water is accomplished by the same type of inlet and outlet design required for recirculation pools; and

(d) The pool water quality complies with WAC 246-260-111.

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-041 Swimming pool design, construction, and equipment.** For more general design, and construction requirements that pertain to all pools, see WAC 246-260-031.

(1) **Location.** Owners shall ensure pump houses, planters, balconies, landscape features, trees, and structures are located fifteen feet or more horizontally away from any swimming pool, or provide barriers or other means to prevent diving or ready access to a pool from the structures. These structures do not include:

(a) Building walkways above the second story;

(b) Inaccessible roofs eight feet or more in height; or

(c) Any barriers provided to prevent unauthorized pool access (e.g., fencing).

(2) **Walking deck surfaces.** Owners shall design and maintain walking deck surfaces as follows:

(a) For pools less than fifteen hundred square feet, walking deck surfaces must be at least four feet wide around the entire perimeter of pools;

(b) For pools less than fifteen hundred square feet, walking deck surfaces must be at least:

(i) Six feet wide at the shallow end of a variable-depth pool; and

(ii) Six feet wide on a minimum of twenty-five percent of the deck space of free form pools.

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(c) For pools fifteen hundred square feet or larger, walking deck surfaces must be at least six feet wide:

- (i) Around the entire perimeter of outdoor pools;
- (ii) On fifty percent of the perimeter of indoor pools; and
- (iii) The remaining fifty percent perimeter of the indoor pool must be a minimum of four feet wide.

(d) For pools fifteen hundred square feet or more, walking deck surfaces must be at least sixteen square feet per bather. To determine maximum bather load see subsection (10) of this section. If the owner provides maximum facility occupancy loading less than that of subsection (10) of this section, and the occupancy limit is posted and enforced, that loading may be used in lieu of the maximum bather load figure as described under subsection (10) of this section; and

(e) General use pools may not have sand and grass areas within the pool enclosure unless these areas are separated to prevent direct access from the pool area and the facility provides a means for cleansing bather's feet before reentering the pool and deck area.

**(3) Pool general floor and wall dimensional design.**

(a) Owners shall ensure pool dimensional designs for floors and walls provide for safety, circulation and quality of water;

(b) Pool floors must have uniform slopes with:

(i) A maximum slope of a one-foot drop in twelve feet of run at pool depths to five or less in pools fifteen hundred square feet or more; and

(ii) Floor slopes not intruding into the area designated as the diving envelope.

(c) Pool sidewalls may not curve or intrude into the pool beyond the vertical more than twelve inches at three and one-half feet and eighteen inches at a depth of five feet. The radius of curvature of wall-floor junctions may not exceed the maximum radius designated in Table ((041.2)) 041.1 of this section for depths over five feet. Vertical means walls not greater than eleven degrees from plumb:

**Table 041.1**

**Maximum Radius Coving or Pool Intrusion Dimensions Between Pool Floor and Wall\***

POOL DEPTH	3'	3'6"	5'	Greater than 5'
MINIMUM SIDEWALL DEPTH (Springline)	2'2"	2'6"	3'6"	At 3'6"
MAXIMUM RADIUS OF CURVATURE	10"	12"	1'6"	**Maximum radius equals pool depth minus the vertical wall depth

\*Note: For pool depths falling between the depths listed, values can be interpolated.  
 For pool depths less than three feet and greater than five feet, values shall be extrapolated.  
 Radius of coving shall not intrude into pool within diving envelope.

(d) Pool configuration must have a transitional radius from wall to floor where floor slopes join walls so that:

- (i) The center of the radius not less than the minimum vertical depth specified under Table ((041.2)) 041.1 of this section below the water surface level;
- (ii) The arc of the radius is tangent to the wall; and
- (iii) The maximum radius of coving, or any intrusion into the pool wall/floor interface, is determined by subtracting the vertical wall depth from the total pool depth.

(4) **Ledges.** In new construction or alterations to existing construction, ledges are prohibited in swimming pool sidewalls, except as specified in WAC 246-260-091(3).

(5) **Specific design requirements for pools furnishing areas for diving.** Owners shall ensure areas designated for diving activities include a diving envelope meeting minimum requirements in:

(a) D-8.01, Table 1, APHA Public Pool Regulations, 1981, if the pool user would enter from the deck level twelve inches or less from water surface level.

(b) CNCA standard configuration in areas where user would enter from the deck level over twelve inches from water level, or has a platform or diving board provided at a height of less than one-half meter (twenty inches). This requirement is based on a standard described under CNCA publication *Swimming Pools: A Guide to Their Planning, Design, and Operation* 1987, Fourth Edition. Human Kinetics Publisher, Inc., Champaign, Illinois, Figure 8.1; or

(c) Dimensions for Diving Facilities, FINA facility rules, 2000-2001, if the pool user enters from the diving board or platform at a height of twenty inches (one-half meter) or greater from water surface level.

**(6) Pool appurtenances.**

(a) If a swimming pool contains diving boards and/or diving platforms, owners shall ensure that the boards and platforms:

- (i) Are installed according to manufacturer's instructions;
- (ii) Have slip-resistant tread surfaces;
- (iii) Have steps and ladders leading to diving boards with handrails; and
- (iv) Are protected with guardrails and one intermediate rail, both extending at least to the water edge when one meter or more above the water.

(b) Owners shall ensure starting blocks:

- (i) Are firmly secured when in use; and
- (ii) If water depth is less than nine feet, starting blocks must be removed or covered with protective equipment unless used by competitive swimmers trained in proper use of starting blocks.

(c) Owners shall ensure that water slides conform with requirements of chapter 246-262 WAC.

(7) **Turnover.** Owners of swimming pools shall design and maintain water treatment recirculation rates to completely turn over the entire pool water volume of pool in six hours or less.

(8) **Pool depth markings.** Owners shall provide water depth markings in feet:

(a) Located on the pool vertical wall at or above the water level so as to be easily readable from the water, in numbers at least two inches high. If overflow channels do not

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allow for placement of vertical wall markings above the water level, they are not required;

(b) Located on the horizontal surface of pool coping or deck of pools within eighteen inches of the water's edge, easily readable while standing on the deck facing the water, in numbers at least four inches high;

(c) Placed at the maximum and minimum water depths and at all points of slope change;

(d) Spaced at increments of water depth of two feet or less;

(e) Spaced along sides of pools at horizontal intervals of twenty-five feet or less;

(f) Arranged uniformly on both sides and ends of pool;

(g) Placed on all major deviations in shape;

(h) Applied in a contrasting color; and

(i) Made of slip-resistant material on decks.

**(9) Safety line or marking line.**

(a) Owners shall provide either safety float lines or marking lines separating areas where the pool bottom breaks from a uniform slope in the shallow area leading to deeper water. Neither float lines or marking lines are required in pools with uniform floor slopes not exceeding one foot of slope for every twelve feet of horizontal floor length.

(b) Safety float lines, when used, must:

(i) Be kept in place at all times, except when the pool is used for a specific purpose such as lap swimming or competitive use;

(ii) Be placed one foot toward the shallow end away from the break point line;

(iii) Be strung tightly allowing bathers to hold onto the line for support;

(iv) Provide floats on the line at a minimum distance of every four feet; and

(v) Have a receptacle for receiving the safety line either recessed into the wall or constructed so as not to constitute a safety hazard when the safety line is removed.

(c) Marking lines, when used, must:

(i) Be placed on pool sides and bottoms at the break point line; and

(ii) Be of a contrasting color to the background color of the pool sidewalls and floor.

(d) In pools with uniform slopes not exceeding one foot of drop in twelve feet of run from the shallow end to the deep end, a safety float line or marking line is not required.

**(10) Bather load.** Owners shall ensure maximum number of bathers in the pool facility at any one time do not exceed a number determined by the formula noted under Table 041.2.

**Table 041.2**

Swimming Pool Maximum Bathing Load\*

Type of pool	Value A (**SF Shallow (5 ft. or less))	Value B (SF Deep (> 5 ft.))	Maximum bather load Value A + B
Indoor	SF/25	SF/30	
Outdoor	SF/15	SF/30	

\* This formula will be used in determining certain features of pools as noted elsewhere in these rules and regulations.

\*\* SF means square feet of surface area.

**(11) Emergency equipment.** Owners shall provide first aid and have emergency equipment readily available at swimming pool facilities during operating hours, including:

(a) A telephone within the facility for general use pools;

(b) A telephone accessible within one minute for limited use pool facilities;

(c) A suitable area to accommodate persons requiring first-aid treatment;

(d) A standard 16-unit first-aid kit (see Appendix C, Table); and

(e) A blanket reserved for emergency use.

(f) For facilities with lifeguards:

(i) A rescue tube or rescue buoy at each pool lifeguard station; and

(ii) A backboard with means to secure a victim to a board and immobilize head, neck, and back.

(g) For pool facilities without lifeguards:

(i) A reaching pole at least twelve feet long with a double crook life hook;

(ii) A reaching pole at least twelve feet long for every fifteen hundred square feet of pool surface area; and

(iii) A throwing buoy, throw-rope bag, or other similar device with a rope the width of the pool or fifty feet long, whichever is less, for reaching and retrieving a victim.

(h) No later than June 1, 2008, owners of existing pools with single main drains shall install emergency equipment to shut off all pumps hooked to the recirculation lines for the pools. This emergency equipment must be placed within twenty feet of the pool and marked with an emergency shut-off sign. The shutoff switch must include an audible alarm which can be heard by those in the area, or have an alarm that goes to a point where staff is always present during the periods the pool is open.

(i) Pools providing dual main drains meeting the requirements of this section, or other acceptable methods of providing equivalent protection to the emergency shutoff switch, are exempt from this requirement.

(ii) The owner shall check the shutoff switch at least twice annually to determine it is properly operating.

(iii) The department will develop a guidance document to aid owners and designers in potential options to the emergency shutoff switch and audible alarm.

**(12) Foot baths.** Foot baths at water recreation facilities are prohibited. This does not preclude the construction and use of foot showers, if the area is well drained.

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-061 Special design and construction provisions for hotels and motels (transient accommodations) serving fewer than fifteen living units and for spas in individual hotel/motel rooms.** (1) Owners are exempt from the requirements for design, construction, and equipment in WAC 246-260-031 and 246-260-051 for spa pools at limited use facilities serving less than fifteen living units, except for requirements listed in this section. Owners shall also ensure that chemicals are stored in a manner to minimize safety risks.

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(2) The requirements in WAC 246-260-031 (1), (2), (3), (4), (5), (6), (8)(b), (d)(iii), (d)(v), (e), (9), (10), (15), (16), (17), and Table ((031.2)) 031.4 apply to prefabricated spa pools at limited use facilities serving less than fifteen living units.

(3) The requirements in WAC 246-260-051 (2)(b), (d), (e), (4), (5)(b), (c), and (e) apply to prefabricated spa pools at limited use facilities serving less than fifteen living units.

(4) Spa pools that are drained, cleaned and refilled between patron use in individual hotel/motel rooms are exempt from these requirements. Spas that are not drained, cleaned and refilled between use shall at least:

(a) Conform with WAC 246-260-031(4) on barriers beyond the room itself, such that the guest room plus any associated lanai or deck may be considered an enclosure unit.

(b) Conform with WAC 246-260-031(17) on disinfection equipment and conform with water quality requirements of WAC 246-260-111 for disinfection and pH.

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-091 Specialty design features.** (1) Owners providing special features shall ensure the features meet the requirements of this section.

(2) **Benches.** A single bench or seat that is recessed from the general wall of the swimming pool may be built into the shallow area of the pool, if it meets the following conditions. The bench: (See figure 091.1.)

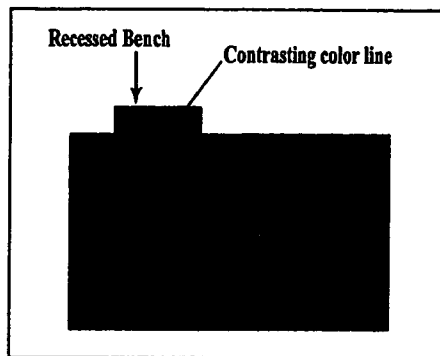
(a) May not be located in an area that is used for lap swimming;

(b) May not exceed twenty percent of the length of the side it is located on or five percent of the perimeter of a free form pool;

(c) Must have a minimum two-inch or wider durable continuous line of a contrasting color on the top and side of the bench edge, so as to be readily visible to persons standing on the deck and persons swimming in the water; and

(d) The area of the deck above the bench must be labeled in nonslip lettering at least four inches high: "NO DIVING."

figure 091.1



(3) **Ledges.** In general use swimming pools, a single ledge may be built into the deep end of the pool, if:

(a) The ledge construction conforms with FINA facilities rules, 2001-2002, Swimming Pools, FR2.4.2;

(b) The ledge is in a contrasting color from the rest of the pool for easy visibility.

(4) **Waterfalls.** A waterfall feature may be built at swim pool or spa pool facilities if the following conditions are met:

(a) If located in or adjacent to shallow swimming pool water levels, it must be set back from the edge of the pool a distance specified in Table 091.2; exceptions may be made for lifeguarded pools;

(b) If located at, or adjacent to, deep swimming pool water levels, it will be considered a diving platform and the adjacent pool area must conform to diving envelope design specified in WAC 246-260-041((3))(5);

(c) Minimum walkway areas required in other sections of this chapter must be maintained around pools;

(d) Water in waterfalls that commingles with pool water must meet water quality and treatment requirements specified in other sections of this chapter and any additional disinfection required by the department or local health officer to address anticipated increased demands and aerosolization of disinfectant;

(e) Flows may not create turbulence that might create a safety hazard or reduce visibility in the pool; and

(f) Waterfalls that flow from pool sidewalls may not exceed five percent of the total pool perimeter.

**Table 091.2**

**Set-Back Requirements for Special Water Features in Pools at Shallow Swimming Pool Water Levels\***

Height of Feature Above Pool Water Level	Type of Special Feature		
	Waterfall	Rockery	Planting
12 inches or less	Feature may spill directly to pool from sidewall	Setback of 4 feet or more from pool edge; except at pools that are continuously lifeguarded. Five percent of deck perimeter may have feature provided up to pool edge.	Setback of 4 feet or more from pool edge.
Greater than 12 inches and less than 30 inches	Setback of 8 feet or more from pool edge.		
Greater than or equal to 30 inches	Setback of 15 feet or more from pool edge.		

\* Guarded pool setbacks shall be established in a preconstruction design conference with the owner, designer and health department.

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(5) **Rockeries.** A decorative rock feature may be built at a swim pool or spa pool facility, if the following conditions are met:

(a) If located adjacent to shallow swimming pool water, it must be set back from the edge of the pool a distance specified in Table 091.2; exceptions may be made for lifeguarded pools;

(b) If located at or adjacent to deep swimming pool water levels, it will be considered a diving platform and the adjacent pool area must conform to diving envelope design specified in WAC 246-260-041(((3)))~~(5)~~;

(c) The design has a nonslip surface without sharp or cutting edges in any areas that provide a potential foothold, stepping or standing access; and

(d) It slopes to drain water away from the pool.

(6) **Play toy equipment.** Play toy equipment may be built at pool facilities provided the following conditions are met:

(a) Can only be used in lifeguarded pools;

(b) It must comply with the requirements of chapter 246-262 WAC;

(c) Its design conforms to ASTM standard F1292 including establishing fall zones;

(d) Surfaces must be easily cleanable;

(e) It must be operated in accordance with a written plan of operation developed by the owner, addressing placement of the toy, protection from falls, entrapment, entanglement of bathers from each other, and visibility of users to lifeguards; and

(7) **Special use pools.** At least thirty days prior to development of final plans and specifications, owners shall submit proposals at a preliminary design conference for pools designed for special use purposes (e.g., scuba training, kayaking, portable rental spas, sensory deprivation tanks, public promotions at sports fields, county fairs, and any special events using portable pools) to the department or local health officer for review and approval. The department or local health officer has flexibility in applying portions of this chapter or additional requirements necessary to assure health and safety for users of these special use pools.

(8) **Ballet rails.**

(a) Owners may install ballet-type rails on pools having uses limited to exercise and training;

(b) Owners may install ballet-type rail on general or limited use pools, if:

(i) The rail is inset into the wall to preclude any obstructions in the pool; and

(ii) The rail is removable and covers are provided and used to maintain a flush surface in general use pools.

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-131 Operation of water recreation facilities.** (1) **Operation plan.** Owners shall ensure proper operation to protect the public health, safety, and water quality by establishing standard practices and developing a written operations manual addressing each of the following:

(a) Physical pool facility components and signage;

(b) Personnel;

(c) Users and spectators, including pool rules;

(d) Emergency response provisions;

(e) Diving during supervised swimming instruction into water depths recognized as adequate by the organization certifying the activity, such as ARC; and

(f) Environmental conditions.

(2) **Physical components.** Owners shall check each WRF's physical components routinely to ensure:

(a) Barrier protection, emergency equipment and structural facilities are properly maintained.

(b) Water does not pond on walking surfaces;

(c) Common articles provided for patrons, such as towels, bathing suits, bathing caps, etc., are sanitized before reuse;

(d) Sanitation items including toilet tissue, handwashing soap and single use towels or equivalent are maintained at facilities;

(e) Treatment of the water recreation pool facility occurs continuously at turnover rates required by this chapter twenty-four hours a day during periods of use;

(f) Swimming, spa, wading and spray pools shall be equipped with drain covers that are properly maintained, intact and secured to protect against entrapment.

(g) Extra filter cartridge provided for each cartridge filter.

(3) **Food service.** If food service is provided and allowed, the owner shall:

(a) Ensure food and beverage sale and consumption areas at general use pools are separated from pool and deck enclosure areas;

(b) Prohibit food and beverage in pool water at limited use pools and maintain a minimum four-foot clear area between pool edge and any tables and chairs provided for food service;

(c) Prohibit use of glass in pool facility and provide trash containers; and

(d) Prohibit the sale or consumption of alcohol at general use pools.

(4) **Spa and recirculating spray pool reservoir cleaning.** Owners shall routinely drain, clean and refill spa and recirculation spray pools at a minimum frequency specified by the following formula.

Spa or spray pool reservoir volume in gallons/3/average number of users per day = Number of days between draining, cleaning and refilling.

(5) **Signage for user rules.**

(a) Owners shall provide and maintain signage specifying user rules and safety information required by this section in a conspicuous place in the pool area with easily readable lettering at least three-eighths of an inch high. All swimming, spa and wading pool facilities must have signs stating pool rules:

(i) Prohibiting use by anyone running or participating in horseplay;

(ii) Prohibiting use by anyone under the influence of alcohol or drugs;

(iii) Prohibiting use by anyone with a communicable disease or anyone who has been ill with vomiting or diarrhea within the last two weeks;

(iv) Prohibiting anyone from bringing food or drink into the pool water;

(v) Requiring everyone to have a cleansing shower before entering the pool;

(vi) Requiring anyone in diapers to wear protective covering to prevent contamination;

(vii) Requiring diapers to be changed at designated diaper change areas;

(viii) Warning patrons that anyone refusing to obey the pool rules is subject to removal from the premises;

(ix) Directing patrons to the location of the nearest telephone and first-aid kit for emergency use;

(x) Advising patrons that anyone with seizure, heart, or circulatory problems should swim with a buddy; and

(xi) Where diving boards are used, provide signs for proper use.

(b) All swimming, spa, and wading pool facilities where lifeguards or attendants are not present shall have signs stating additional pool rules that:

(i) If a child twelve years of age or less is using the pool, a responsible adult eighteen years of age or older must accompany the child and be at the pool or pool deck at all times the child uses the facility; and

(ii) If an individual between thirteen years of age and seventeen years of age is using the pool, at least one other person must be at the pool facility.

(c) All spa pool facilities must have signs stating additional pool rules:

(i) Cautioning that children under the age of six should not use a spa pool;

(ii) Cautioning that persons suffering from heart disease, diabetes, or high blood pressure should consult a physician before using a spa pool;

(iii) Cautioning that women who are or might be pregnant seek physician's advice regarding using a spa pool;

(iv) Cautioning everyone to limit the stay in the spa pool to fifteen minutes at any one session; and

(v) Posting the maximum bather capacity of each spa pool.

(d) All spray pool facilities must have signs stating pool rules as specified in (a)(i), (ii), (iii), (iv), (v), (vi), and (viii) of this subsection.

#### **(6) Required personnel.**

(a) Owners shall ensure appropriate personnel specified in this subsection provide monitoring at pool facilities.

(b) General use swimming pool facilities shall have lifeguards present at all times pools are in use; except:

(i) If swim or dive teams are facility users, the owner may allow substitution of a qualified coach properly credentialed by the sponsoring organization furnishing the swim or dive coach; and

(ii) Owners may substitute persons with Master Scuba Diver Trainer or Master Scuba Diver Instructor certification through PADI or SCUBA instructor, assistant instructor or divemaster through NAUI or other department-approved training in lieu of lifeguards for SCUBA training.

(iii) PADI or NAUI certified scuba instructing staff shall maintain the following conditions:

(A) Limit number of persons training to ten persons per instructor.

(B) Ensure all persons being instructed are monitored at all times while in the pool to ensure thirty-second response time can be provided.

(iv) Private club swimming pool facilities must have lifeguards present at all times persons sixteen years of age and younger are using the pool facilities, except:

(A) Attendants or shallow water lifeguards may supervise persons thirteen through sixteen years of age when these users are restricted to a pool depth less than or equal to five feet; and

(B) Attendants or shallow water lifeguards may supervise all persons sixteen years of age and under if the entire pool depth is less than four and one-half feet.

(c) If a spa or wading pool is in same enclosure as a swimming pool, all pools are subject to the most stringent monitoring personnel requirements applicable for any pool in the enclosure unless barriers that conform to WAC 246-260-031(4) restrict access between pools.

(d) The use of spas or wading pools not requiring lifeguards or attendants is subject to the following conditions:

(i) If the pool is used by children twelve years of age or under, a responsible adult eighteen years of age or older must accompany the children and be at the pool or pool deck at all times the children use the facility;

(ii) If the pool is used by persons seventeen years of age or under, a minimum of two people must be at the pool facility at all times the pool is in use;

(iii) The owner shall post the requirements of this subsection to assure the responsible person is notified of conditions for use of the facility.

(e) Limited use pool facilities must have an equivalent or greater level of supervision as specified for private clubs in (b)(iv) of this subsection during any times when activities are provided that put the pools into the category of general use pools.

(f) At limited use pool facilities, if alcohol is sold within the pool facility, the owner must provide a lifeguard or attendant at the pool area.

(g) All pool facilities must have a water treatment operator.

#### **(7) Personnel duties and equipment.**

(a) Owners shall ensure personnel are present at each WRF who perform duties specified in this subsection.

(b) Lifeguards, shallow water lifeguards and swim coaches shall guard assigned pool users and provide a rescue response time of thirty seconds or less.

(c) Attendants, if provided at pools not requiring lifeguards, shall oversee pool use by the bathers and provide supervision and elementary rescues such as reaching assists to bathers in need. This does not mean the person is qualified or trained to make swimming rescues.

(d) Owners shall notify responsible persons on the conditions for facility use at pools not requiring lifeguards and for which no lifeguards or attendants are present. A responsible person means a person having responsibility for overseeing users seventeen years of age or under including, but not limited to, a person:

(i) Renting an apartment, hotel, motel, RV camp, etc.; or

(ii) Who is an owner or member of a condominium, homeowner's association, fraternity, equity ownership facil-

ity, mobile home park, sorority, or private club with a pool facility.

(e) Water treatment operators shall assure the water treatment components of each WRF are functioning to protect health, safety and water quality.

(f) Owners shall ensure that lifeguards, shallow water lifeguards, swim coaches, and attendants:

- (i) Wear a distinguishing suit/uniform, or emblem; and
- (ii) Carry a whistle or equivalent signaling device.

**(8) Personnel training.**

(a) Owners shall ensure that pool personnel required by subsection ~~((5))~~ (6) of this section have skills necessary for their duties, obtained by training and certification specified in Table 131.1 in Appendix B, or equivalent.

(b) Owners shall keep a copy at the WRF of each currently valid certification required for pool personnel.

(c) Owners shall ensure safety-monitoring personnel obtain continuing education needed to maintain lifeguarding skills and maintain valid certifications required by this subsection.

(d) If SCUBA or kayaking lessons are conducted at a pool, owners shall ensure that personnel monitoring these activities are trained to recognize special hazards associated with these activities.

**(9) Emergency response plan.**

(a) Owners shall prepare and implement emergency response plans specified in this subsection.

(b) In pool facilities where lifeguards, shallow water lifeguards, or swimming coaches are required by subsections ~~((5))~~ (6) and ~~((6))~~ (7) of this section:

(i) Sufficient qualified personnel must be present and appropriately located to provide a rescue response time of thirty seconds or less for all pool users;

(ii) The number and qualifications of personnel present must be based on factors dealing with pool depth, line of sight, bather load, potential emergency procedures, and personnel rotation;

(iii) Emergency response drills must be held two or more times each year to test whether thirty-second response time can be met; and

(iv) A record of each response drill must be kept at the WRF for three or more years.

(c) In pool facilities where lifeguards are not present, in accordance with subsection ~~((5))~~ (6)(c) and (e) of this section, owners shall adopt rules, provide enforcement of conditions for pool use and notify users when first using facility and at least annually thereafter that conditions for use include:

(i) If a child twelve years of age or less is using the pool, a responsible adult eighteen years of age or older shall accompany the child and be at the pool or pool deck at all times the child uses the facility; and

(ii) If anyone seventeen years of age or less is using the pool, a minimum of two people shall be at the pool facility.

(d) Emergency equipment specified in WAC 246-260-041, 246-260-051, and 246-260-071 must be readily available during WRF operating hours.

(e) In facilities where chlorine gas is used:

(i) WRF personnel shall conduct annual emergency drills; and

(ii) The plan shall identify the location of accessible chlorine cylinder repair kits.

(f) Operators shall ensure that lifeguards, shallow water lifeguards, and swim coaches receive ongoing training of emergency response skills.

(10) **Environmental conditions.** Owners shall monitor various environmental conditions affecting the facility or potentially affecting the health and safety of users. Owners shall close the WRF or take other appropriate action in response to adverse environmental factors, (e.g., electrical storms, fog, wind, and visibility problems) to ensure that the health and safety of users are protected.

(11) **Closure.** Owners shall close the facility when the facility presents an unhealthful, unsafe, or unsanitary condition. These conditions include lack of compliance with the water quality or an operation requirement in this section or in WAC 246-260-111.

**AMENDATORY SECTION** (Amending WSR 04-18-096, filed 9/1/04, effective 10/31/04)

**WAC 246-260-171 Compliance.** (1) Except as provided in subsections (2), (4), and (5) of this section, existing water recreation facilities with approved plans prior to October 31, 2004, that do not fully comply with the design, construction, and equipment requirements in WAC 246-260-031, 246-260-041, 246-260-051, 246-260-061, 246-260-071, and 246-260-081 may be continued in use.

(2) Owners of all facilities shall comply with the operational requirements in WAC 246-260-101 through 246-260-151.

(3) Owners of facilities designed and constructed after the effective date of these regulations shall comply with all applicable sections of the design, construction and equipment requirements in WAC 246-260-021 through 246-260-091.

(4) Facilities constructed prior to the effective date of these regulations shall comply with the barrier protection requirements in WAC 246-260-031 (4) and (5) and the emergency equipment requirements established in WAC 246-260-041 (11)~~((g))~~(h); 246-260-071(7); and 246-260-081(4) by the compliance deadlines specified in the regulations. Barrier modifications or emergency shutoff switches made prior to the compliance deadlines shall meet the requirements in WAC 246-260-031 (4) and (5); and WAC 246-260-041 (11)~~((g))~~(h); 246-260-071(7); and 246-260-081(4) at the time the modifications are made.

(5) When owners are modifying the physical plant of their facilities, they are required to upgrade the area of the physical plant being modified to conform to current requirements. For example, when owners having pool facilities with single main drains are changing or modifying their main drains they shall modify the main drains in compliance with the current requirements. This includes, but is not limited to:

(a) Resurfacing of pools that involves alteration of the drains; or

(b) Changes to the main drain outlet sump or its recirculation piping.

## WSR 05-09-005

## PERMANENT RULES

## DEPARTMENT OF AGRICULTURE

[Filed April 7, 2005, 8:45 a.m., effective August 15, 2005]

Effective Date of Rule: August 15, 2005.

Purpose: This rule-making order amends WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas, by changing the boundaries of the existing area under quarantine for apple maggot to (1) add a portion of Yakima County; and (2) remove a portion of the existing area under quarantine in Kittitas County. In addition, this order amends WAC 16-470-103 Definitions, by eliminating the requirement that once an orchard is designated as "threatened with infestation" from apple maggot or plum curculio it must remain that way for two harvest seasons.

Citation of Existing Rules Affected by this Order: Amending WAC 16-470-103 and 16-470-105.

Statutory Authority for Adoption: Chapters 17.24 and 34.05 RCW.

Adopted under notice filed as WSR 05-05-099 on February 16, 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 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: April 7, 2005.

Valoria H. Loveland  
Director

**AMENDATORY SECTION** (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

**WAC 16-470-103 Definitions.** The following definitions shall apply to WAC 16-470-101 through 16-470-130:

(1) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(2) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of an orchard or other production site, including any portion of an orchard outside or beyond the one-half mile area. Orchards or production sites in a quarantined area, which are not surveyed by a plant protection organization, are considered to be threatened with infestation. An orchard or other production site will be removed from threatened with infestation status, if control measures are performed at the detection site, and survey by the department shows no further detection(s) within the one-half mile area around the orchard or other production site throughout the subsequent full grow-

ing season. (~~Once an orchard or other production site meets the criteria for threatened with infestation status, it must remain in that status through at least two harvest seasons.~~)

**AMENDATORY SECTION** (Amending WSR 04-09-027, filed 4/13/04, effective 8/16/04)

**WAC 16-470-105 Area under order for apple maggot—Pest free area—Quarantine areas.** (1) A pest free area for apple maggot is declared for the following portions of Washington state:

(a) Counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Stevens, Walla Walla, and Whitman(~~and Yakima~~)).

(b) The portion of Kittitas County designated as follows: Beginning at the ~~((northwest corner of Wanapum Dam and Huntzinger Road; south along Huntzinger Road to the Yakima County line; east to the Columbia River; north along the Columbia River to the Wanapum Dam; and west))~~ point where Interstate Highway No. 90 crosses longitude 120°31' W; thence southerly to the Kittitas - Yakima County line; thence easterly along said county line to the Columbia River; thence northerly along said Columbia River to Interstate Highway No. 90; thence westerly along Interstate Highway No. 90 to the point of beginning.

(c) The portions of Yakima County east of longitude 120°48' W.

(2) A quarantine for apple maggot is declared for the following portions of Washington state:

(a) Counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skagit, Skamania, Thurston, Wahkiakum, and Whatcom.

(b) The counties of Kittitas ((County)) and Yakima, except for the areas designated in subsection (1)(b) and (c) of this section.

(3) A quarantine for apple maggot is declared for all states or foreign countries where apple maggot is established. The area under quarantine includes, but is not limited to, the states of Idaho, Oregon, Utah, and California, and, in the eastern United States, all states and districts east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where apple maggot is established.

## WSR 05-09-009

## PERMANENT RULES

## DEPARTMENT OF

## FISH AND WILDLIFE

[Order 05-52—Filed April 7, 2005, 1:04 p.m., effective May 8, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend marine protected areas rules; adopt Seattle City Parks Marine Preserves.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-100.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-01-233 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 6, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 7, 2005.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-20-100 General provisions—Marine protected areas.** (1) It is unlawful to fish for or possess fish, shellfish, or wildlife taken from any conservation area defined in chapter 220-16 WAC.

(2) The following marine preserves are closed to the taking of fish, shellfish, and wildlife as indicated:

(a) The Admiralty Head Marine Preserve is closed to the taking of fish and wildlife, and closed to the taking of shellfish except sea cucumbers and sea urchins.

(b) The Colvos Passage Marine Preserve is closed to the taking of shellfish and wildlife, closed to all commercial harvest of fish, and closed to recreational harvest of fish except it is lawful to take salmon for personal use by trolling, defined as fishing from a vessel under power and in gear making forward progress.

(c) The San Juan Island Marine Preserve is closed to the taking of shellfish except it is lawful to take crab from Parks Bay, and closed to the taking of food fish other than salmon except it is lawful to take herring.

(d) The Titlow Beach Marine Preserve is closed to the taking of shellfish and wildlife, closed to the commercial harvest of all fish, and closed to the recreational harvest of all fish except that it is lawful to take salmon if taken with artificial lures from shore or from a nonmotorized vessel.

(e) The Zee's Reef Marine Preserve is closed to the taking of shellfish and wildlife, closed to the commercial harvest of all fish, and closed to the recreational harvest of all fish except that it is lawful to take salmon with fly fishing gear as defined in WAC 220-56-210.

(f) The Seattle city park Marine Preserves (Golden Gardens, Carkeek, Lincoln, Discovery, Emma Schmitz, and Richey Viewpoint) are closed to removal of organisms from the intertidal areas, except that finfish may be harvested using hook and line gear, provided it is lawful under other WDFW

fishing regulations. Any organism except finfish taken by hook and line in the intertidal area must be placed unharmed in the location it was found. Removal of organisms of unclassified marine invertebrates in numbers less than the daily limits is an infraction. All other penalties for larger numbers removed apply.

#### **NEW SECTION**

**WAC 220-16-820 Golden Gardens Marine Preserve.** "Golden Gardens Marine Preserve" is defined as those tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Golden Gardens city park, bounded on the southwest by a line projected northwest from a sign at the walkway entrance to the beach, and on the northeast by a line projected due west from 122°24'07.2" W, 47°41'51.8" N.

#### **NEW SECTION**

**WAC 220-16-830 Carkeek Park Marine Preserve.** "Carkeek Park Marine Preserve" is defined as two sections of tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Carkeek city park, with a southern section bounded on the south by a line projected perpendicular to the beach from 122°22'49.0" W, 47°42'31.7" N and bounded on the north by a line projected northwest from 122°22'47.41" W, 47°42'43.51" N, and with a northern section bounded on the south by a line projected due west from a point 300 yards north of 122°22'47.41" W, 47°42'43.51" N and bounded on the north by a line projected due west from a point 500 yards north of 122°22'47.41" W, 47°42'43.51" N.

#### **NEW SECTION**

**WAC 220-16-840 Lincoln Park Marine Preserve.** "Lincoln Park Marine Preserve" is defined as those tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Lincoln city park, bounded on the south by a line projected due west from 122°23'40.4" W, 47°31'33.1" N, and bounded on the north by a line projected due west from 122°24'05.0" W, 47°31'49.8" N.

#### **NEW SECTION**

**WAC 220-16-850 Discovery Park Marine Preserve.** "Discovery Park Marine Preserve" is defined as two sections of tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Discovery city park, with a southern section located south of West Point bounded on the southeast by a line projected west-southwest from 122°25'31.7" W, 47°39'26.8" N and bounded on the northeast by a line projected west-southwest from the sign posted at the sidewalk entrance to the beach, and with a northern section bounded on the southwest by a line projected northwest from 122°25'20.7" W, 47°40'3.3" N and bounded on the northeast by a line projected northwest from 122°25'4.2" W, 47°40'11.1" N.

PERMANENT

NEW SECTION

**WAC 220-16-860 Emma Schmitz Marine Preserve.** "Emma Schmitz Marine Preserve" is defined as those tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Emma Schmitz city park, bounded on the south by a line projected along the north edge of SW Oregon Street and bounded on the north by a line projected west-southwest from the high tide line at 122°24'26.5" W, 47°33'53.5" N.

NEW SECTION

**WAC 220-16-870 Richey Viewpoint Marine Preserve.** "Richey Viewpoint Marine Preserve" is defined as those tidelands owned by the city of Seattle and the water column above those tidelands down to 4.5 feet below MLLW at Richey Viewpoint city park, bounded on the southeast by a line projected due west from 122°24'49.0" W, 47°34'20.2" N, and bounded on the northwest by a line projected southwest from 122°25'8.8" W, 47°34'30.0" N.

WSR 05-09-013

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

(Filed April 8, 2005, 7:55 a.m., effective May 9, 2005)

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments were made to sections within the Washington Mint Commission's Marketing Order, chapter 16-540 WAC. During past legislative sessions, significant amendments were made to the commission's enabling statute, chapter 15.65 RCW. These statutory changes prompted the amendments to chapter 16-540 WAC. The changes achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-540-030 and 16-540-070; and amending WAC 16-540-010, 16-540-020, 16-540-040, and 16-540-060.

Statutory Authority for Adoption: RCW 15.65.047 and chapter 34.05 RCW.

Adopted under notice filed as WSR 04-20-099 on October 5, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 4, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 2, Amended 4, Repealed 2.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 4, Repealed 2.

Date Adopted: April 8, 2005.

Valoria H. Loveland  
Director

NEW SECTION

**WAC 16-540-005 Marketing order for Washington mint—Policy statement.** (1) The marketing of mint within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its mint be properly promoted by:

(a) Enabling producers of mint to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the mint they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of mint within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the mint industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that mint be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's mint.

(b) Increase the sale and use of Washington state's mint in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's mint.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's mint and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of mint produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state mint commodity board exists primarily for the benefit of the people of the state of Washington and its economy and, with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to mint under the provisions of this marketing order.

NEW SECTION

**WAC 16-540-006 Marketing order purposes.** This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency of mint in Washington state. The Washington state mint commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To enable producers of mint plants to help themselves develop improved production methods and/or pro-



grams for the control of disease, insects, and weeds associated with mint plant culture and to provide for the dissemination of information to affected producers.

(2) To carry out the purposes of the order the board shall provide for a program in one or more of the following areas:

(a) Provide for aid in research in the production of mint plants and the distilling of mint oil by producers and to expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(b) Provide for collection and dissemination of information pertaining to mint.

**AMENDATORY SECTION** (Amending Article I, filed 12/20/66, effective 2/1/67)

**WAC 16-540-010 Definitions (~~of terms~~).** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his/her 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~~) Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any (~~person~~) individual, firm, (~~association or~~) corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by him/her. "Affected handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Producer-handler" means any person who acts both as a producer and as a handler with respect to mint oil. A producer-handler shall be deemed to be a producer with respect

to the mint plants and/or oil which he/she produces, and a handler with respect to the mint oil which he/she handles, including those produced by himself/herself.

(9) "Mint oil" means essential oil that is distilled from any variety of mint plant.

(10) "Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under (~~the provisions of Article II of this order~~) WAC 16-540-020.

(11) "Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Affected area" means (~~that portion of~~) the state of Washington (~~located east of the summit of the Cascade Mountains~~).

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one pound of mint oil as distilled from mint plants grown by an affected producer.

**AMENDATORY SECTION** (Amending Article II, filed 12/20/66, effective 2/1/67)

**WAC 16-540-020 The mint commodity 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 eight members. Seven members shall be affected producers appointed or elected as provided in this (~~article~~) marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the (~~department and the public~~) director. The position representing the director shall be a voting member.

(i) Director-appointed affected producer positions on the board shall be designated as position 1, position 2, position 6, and position 7.

(ii) Elected affected producer positions on the board shall be designated as position 3, position 4, and position 5.

(iii) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(b) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into two representative districts as follows:

(i) District I shall have four board members, being positions 1, 2, 3 and 4 and shall include the counties of Kittitas, Yakima and Benton.

(ii) District II shall have three board members, being positions 5, 6 and 7 and shall include all other counties (~~east of the Cascade Mountains~~) located in the state of Washington.

(3) **Board membership qualifications.**

(a) The affected producer members of the board (~~shall~~) must be practical producers of mint plants in the district in and for which they are nominated and appointed or elected and each shall be a citizen(~~(s)~~) and resident(~~(s)~~) of the state of Washington, over the age of (~~twenty-five~~) eighteen years(~~(-~~

~~each of whom is and has~~). Each affected producer board member must be and have been actually engaged in producing mint plants within the state of Washington for a period of five years and has during that time derived a substantial portion of his/her income therefrom and ((who)) is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The qualifications of members of the board must continue during their term of office.

**(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 appointed or elected each year.

~~(b) ((Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director position eight.~~

~~(e))~~ The term of office for the initial board members shall be as follows:

Positions one and two - one year

Positions three, four and eight - two years

Positions five, six and seven - three years

~~((No))~~ (c) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, six and seven shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

**(5) Nomination ~~((and election))~~ of elected or director-appointed board members.**

(a) For the purpose of nominating candidates for appointment or election to board membership the director shall call separate meetings of affected producers.

(b) Each year the director shall call ~~((for))~~ a nomination meeting((s)) for both elected and director-appointed affected producer board members in those districts whose board members' term ~~((is))~~ are about to expire. ~~((Such))~~ The meeting((s)) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(c) Notice of ~~((every such))~~ a nomination meeting shall be published in a newspaper((s)) of general circulation within the affected district not less than ten days in advance of the date of ~~((such))~~ the meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district according to the list maintained by the ~~((director pursuant to RCW 15.65.200 of the act))~~ board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(e) Any qualified affected producer may be nominated orally for membership on the board at ~~((such))~~ the nomination meeting((s)). Nominations may also be made within five days after ~~((any such))~~ the nomination meeting by written petition filed with the director signed by not less than five affected producers.

(f) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

**(6) Election or advisory vote of board members.**

~~((Members of the board shall be elected by secret mail ballot within the month of June))~~ An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer shall be entitled to one vote.

~~((b))~~ Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. ((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) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of ~~((such))~~ the election or advisory vote. Not less than ten days prior to every election or advisory vote 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))~~ board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(e) Nonreceipt of a ballot by an affected producer shall not invalidate the election or advisory vote of any board member.

**(7) Vacancies ~~((prior to election))~~.**

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(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 receive not to exceed twenty dollars for each day in actual attendance on or traveling to and from meetings of the board or on special assignment for the board, together with subsistence and traveling expense at the rate allowed by law to state employees: Provided, That the method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the board in advance of the incurrence of such expenses by~~

any board member)) may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(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 "mint board 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, collections, receipts, deposits, withdrawals, disbursements, 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))~~ commission. 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. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan,

its commodity-related education and training plan, and its budget.

(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 for the operation of the board, subject to the provisions of chapter 34.04 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 work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(p) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(q) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(r) To enter into contract or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of mint.

(s) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(t) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(u) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of mint including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(v) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(w) To maintain a list of the names and addresses of persons who handle mint within the affected area and data on the amount and value of the mint handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of all affected persons who produce mint and the amount, by unit, of mint produced during the past three years pursuant to RCW 15.65.295.

(y) To maintain a list of all persons who handle mint and the amount of mint handled by each person during the past three years pursuant to RCW 15.65.295.

(z) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(aa) 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 and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change to the meeting schedule shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(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 through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver ((thereof by each)) from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

**AMENDATORY SECTION** (Amending Order 5091, filed 1/24/96, effective 2/24/96)

**WAC 16-540-040 Assessments and collections. (1) Assessments.**

(a) The fixed annual assessment on all varieties of mint oil subject to this marketing order shall be five cents per pound of oil as weighed by first purchaser.

(b) First purchasers shall collect assessments at time of payment for oil, from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board. Producers and producer-handlers, who ship their oil direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of ~~((the))~~ this order during or with respect to any season or year may be refunded on a pro rata basis at the close of ~~((such))~~ the 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))~~ the 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))~~ the 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))~~ this 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))~~ the 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))~~ unpaid assessment to defray the cost of enforcing the collecting of ~~((the same))~~ it. In the event of failure of ~~((such))~~ a person or persons to pay any ~~((such))~~ due and payable assessment or other ~~((such))~~ sum, the board may bring a civil action against ~~((such))~~ the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent ~~((thereon))~~, and ~~((such))~~ the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**AMENDATORY SECTION** (Amending Article VI; filed 12/20/66, effective 2/1/67)

**WAC 16-540-060 Termination of the order.** ~~((The order shall be terminated if the director finds that fifty one percent by numbers and fifty one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.))~~ Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-540-030	Marketing order purposes.
WAC 16-540-070	Effective time.

**WSR 05-09-020  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed April 12, 2005, 12:13 p.m., effective June 1, 2005]

Effective Date of Rule: June 1, 2005.

**Purpose:** Amending WAC 388-418-0011 What is a six-month report, and do I have to complete one in order to keep getting benefits?, to reflect department policy regarding who must complete a six-month report for cash, Basic Food, and medical programs and actions the department takes when someone completes the report late.

Amending WAC 388-418-0020 How does the department determine the date a change affects my benefits?, to reflect department policy regarding how the department determines the date a change impacts someone's benefits for cash, Basic Food, or medical programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0011 and 388-418-0020.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Adopted under notice filed as WSR 05-06-088 on March 1, 2005.

**Changes Other than Editing from Proposed to Adopted Version:** The department changed subsection (4) of proposed WAC 388-418-0020. The change was to reflect department policy regarding changes reported during a certification period for medical programs. Changes in income during a certification period do not affect pregnancy medical or children's medical assistance.

The change described above was to allow for continuous eligibility for children's medical and family medical as directed by the governor.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 2, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's Own Initiative:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted Using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 2, Repealed 0.

Date Adopted: April 8, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

**WAC 388-418-0011 What is a six-month report, and do I have to complete one in order to keep getting benefits?** (1) A six-month report is a form the department sends you to confirm your current circumstances. We use the information you provide us through this report to determine if you are still eligible for benefits and calculate your monthly benefits.

(2) If you receive benefits from any of the following programs, you must complete a six-month report:

(a) Cash assistance unless you receive **only** refugee cash assistance as described under WAC 388-400-0030;

(b) Family-related medical; or

(c) ~~((Children's medical; or~~

~~(d)))~~ Basic Food unless you meet one of the following conditions:

(i) Your assistance unit has a certification period of six months or less. If you have a certification period of six months or less, you must complete a recertification under WAC 388-434-0010 in order to keep getting Basic Food benefits; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) If you must complete a six-month report, we send you the report with the most current information we have on your case. You can choose to complete the report in one of the following ways:

(a) **Complete and return the form to the department.** For us to consider your six-month report complete, you must take all of the steps below:

(i) Complete the report form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the report;

(iii) Provide proof of any changes you report;

(iv) If you receive ~~((children's or))~~ family medical benefits, provide proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the report. This is the tenth day of the sixth month of your review or certification period.

(b) **Complete the six-month report over the phone.** For us to consider your six-month report complete, you must take all of the steps below:

(i) Contact us at the phone number we provide on the report form, telling us about changes in your circumstances we ask about;

(ii) Provide proof of any changes you report. We may be able to verify some information over the phone;

(iii) If you receive ~~((children's or))~~ family medical benefits, provide proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the report. This is the tenth day of the sixth month of your review or certification period.

(4) If your benefits change because of the information in your six-month report, ~~((we determine the date the change takes effect as described under WAC 388-418-0020))~~ the change takes effect in the seventh month of your certification or review period even if this does not provide you ten days notice before we change your benefits.

(5) If you do not complete your required six-month report, your benefits end at the end of the sixth month of your review or certification period.

(6) Late reports. If you complete the report after the end of the sixth month of your certification or review period, we process the report as described below based on when we receive the report:

(a) Reports completed by the last day of the month after the month the report was due: We determine your eligibility

for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the report.

(b) Reports completed after the last day of the month after the month the report was due: We treat this report as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

**AMENDATORY SECTION** (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

**WAC 388-418-0020 How does the department determine the date a change affects my benefits?** (1) Unless otherwise specified, the rules in this chapter refer to cash, medical assistance, and Basic Food benefits.

(2) If you report a change that happened between the date you applied for benefits and the date we interview you under WAC 388-452-0005, we take this change into consideration when we process your application for benefits.

(3) If we learn about a change in your circumstances from another person, agency, or by matching with any number of systems, we determine the impact this change has on your benefits. We may request additional information under WAC 388-490-0005 or update your benefits based on this information.

(4) For programs other than pregnancy medical and children's medical, if you report a change in your income that we expect to continue at least a month beyond the month when you reported the change, we recalculate the income we estimated under WAC 388-450-0215 based on this change. Changes in income during a certification period do not affect pregnancy medical or children's medical assistance.

~~((4))~~ (5) When a change causes an increase in benefits, you must provide proof of the change before we adjust your benefits.

(a) If you give us the proof within ten days from the date we requested it, we increase your benefits starting the month after the month you reported the change.

(b) If you give us the proof more than ten days after the date we requested it, we increase your benefits starting the month after the month we got the proof.

(c) If you are eligible for more benefits and we have already sent you benefits for that month, we provide you the additional benefits within ten days of the day we got the proof.

~~((5))~~ (6) When a change causes a decrease in benefits, we reduce your benefit amount without asking for proof.

(a) If you report ~~((the))~~ a change within the time limits in WAC 388-418-0007, and you are not reporting this as part of a six-month report, we decrease your benefits starting the first month following the advance notice period. The advance notice period:

(i) Begins on the day we send you a letter about the change, and

(ii) Is determined according to the rules in WAC 388-458-0025.

(b) If you do not report a change you must tell us about under WAC 388-418-0005, or you report a change later than we require under WAC 388-418-0007, we determine your eligibility as if you had reported this on time. If you received

more benefits than you should, we set up an overpayment as described under chapter 388-410 WAC.

~~((6))~~ (7) If we are not sure how the change will affect your benefits, we send you a letter as described in WAC 388-458-0020 requesting information from you.

(a) We give you ten days to provide the information. If you need more time, you can ask for it.

(b) If you do not give us the information in time, we will stop your benefits after giving you advance notice, if required, as described in WAC 388-458-0030.

~~((7))~~ (8) Within ten days of the day we learn about a change, we send advance notice according to the rules in chapter 388-458 WAC and take necessary action to provide you the correct ~~((the))~~ benefits. If you request a hearing about a proposed decrease in benefits before the effective date or within the notice period as described in WAC 388-458-0040, we wait to take action on the change.

~~((8))~~ (9) If you disagree with a decision we made to change your benefits, you may request a fair hearing under chapter 388-02 WAC. The fair hearing rules in chapter 388-02 WAC do not apply for a "mass change." A mass change is when we change the rules that impact all recipients and applicants.

~~((9))~~ (10) When you request a hearing and get continued benefits:

(a) We keep giving you the same benefits you got before the advance notice of reduction until the earliest of the following events occur:

(i) For Basic Food only, your certification period expires;

(ii) The end of the month the fair hearing decision is mailed;

(iii) You state in writing that you do not want continued benefits;

(iv) You withdraw your fair hearing request in writing; or

(v) You abandon your fair hearing request; or

(vi) An administrative law judge issues a written order that ends continued benefits prior to the fair hearing.

(b) We establish an overpayment claim according to the rules in chapter 388-410 WAC when the hearing decision agrees with the action we took.

~~((10))~~ (11) Some changes have a specific effective date as follows:

(a) When cash assistance benefits increase because a person is added to your assistance unit, we use the effective date rules for applications in WAC 388-406-0055.

(b) When cash assistance benefits increase because you start paying shelter costs, we use the date the change occurred.

(c) When a change in law or regulation changes the benefit amount, we use the date specified by the law or regulation.

(d) When institutional medical assistance participation changes, we calculate the new participation amount beginning with the month your income or allowable expense changes.

**WSR 05-09-021**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed April 12, 2005, 12:16 p.m., effective June 1, 2005]

Effective Date of Rule: June 1, 2005.

Purpose: Amend WAC 388-418-0005 How will I know what changes I must report?, to reflect department policy regarding what changes clients must report and update the language of the rule to meet requirements of RCW 44.04.280.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 44.04.280.

Adopted under notice filed as WSR 05-06-089 on March 1, 2005.

Changes Other than Editing from Proposed to Adopted Version: Changes were made to subsections (2), (5), (6), (7), and (8) of the proposed rules.

Changes to subsections (2), (5), and (8) were to clarify that clients only needed to report someone moving out of the home if the person moving is a family member.

A change to subsection (5) and addition of a new subsection (6) was to remove the \$100 income-reporting requirement for children's medical.

A change to proposed subsection (7) was to remove the requirement for persons to report someone moving out of the home for pregnancy medical.

Subsections (6), (7), and (8) of the proposed rule were renumbered as subsections (7), (8), and (9).

The changes from the proposed rule are to clarify reporting requirements for medical programs and to allow for continuous eligibility for children's medical and family medical as directed by the governor.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 8, 2005.

Andy Fernando, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-21-026, filed 10/13/04, effective 11/13/04)

**WAC 388-418-0005 How will I know what changes I must report?** You must report changes to the department

based on the kinds of assistance you receive. The set of changes you must report for people in your assistance unit under chapter 388-408 WAC is based on the benefits you receive that require you to report the most changes. It is the first program that you receive benefits from in the list below.

For example:

If you receive Long Term Care and Basic Food benefits, you tell us about changes based on the Long Term Care requirements because it is the first program in the list below you receive benefits from.

(1) If you receive Long Term Care benefits such as Basic, Basic Plus, Chore, Community Protection, COPEs, nursing home, Hospice, or Medically Needy Waiver, you must tell us if you have a change of:

- (a) Address;
- (b) Marital status;
- (c) Living arrangement;
- (d) Income;
- (e) Resources;
- (f) Medical expenses; and

(g) If we allow you expenses for your spouse or dependents, you must report changes in their income or shelter cost.

(2) If you receive medical benefits based on age, blindness, or disability (SSI-related medical), or ADATSA benefits, you need to tell us if:

- (a) You move;
- (b) ((Someone)) A family member moves into or out of your home;

(c) Your resources change; or

(d) Your income changes. This includes the income of you, your spouse or your child living with you.

(3) If you receive Basic Food and all adults in your assistance unit are elderly persons or ((disabled)) individuals with disabilities and have no earned income, you need to tell us if:

- (a) You move;
- (b) You start getting money from a new source;
- (c) Your income changes by more than fifty dollars;
- (d) Your liquid resources, such as your cash on hand or bank accounts, are more than two thousand dollars; or
- (e) Someone moves into or out of your home.

(4) If you receive cash benefits, you need to tell us if:

- (a) You move;
- (b) Someone moves out of your home;
- (c) Your total gross monthly income goes over the:
  - (i) Payment standard under WAC 388-478-0030 if you receive general assistance ((or ADATSA benefits)); or
  - (ii) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;
- (d) You have liquid resources more than four thousand dollars; or

(e) You have a change in employment. Tell us if you:

- (i) Get a job or change employers;
- (ii) Change from part-time to full-time or full-time to part-time;
- (iii) Have a change in your hourly wage rate or salary; or
- (iv) Stop working.

(5) If you receive ((Children's Medical or)) Family Medical benefits, you need to tell us if:

- (a) You move;

(b) ~~((Someone))~~ A family member moves out of your home; or

(c) If your income goes up or down by one hundred dollars or more a month and you expect this income change will continue for at least two months.

(6) If you receive Children's Medical benefits, you need to tell us if:

(a) You move; or

(b) A family member moves out of the house.

(7) If you receive Basic Food benefits, you need to tell us if:

(a) You move; ~~((or))~~

(b) Your total gross monthly income is more than the gross monthly income limit under WAC 388-478-0060; or

(c) Anyone who receives food benefits in your assistance unit must meet work requirements under WAC 388-444-0030 and their hours at work go below twenty hours per week.

~~((7))~~ (8) If you receive Pregnancy Medical benefits, you need to tell us if:

(a) You move; or

(b) ~~((Someone moves out of the home; or~~

~~(e)))~~ You ~~((have a change in your pregnancy))~~ are no longer pregnant.

~~((8))~~ (9) If you receive other medical benefits, you need to tell us if:

(a) You move; or

(b) ~~((Someone))~~ A family member moves out of the home.

the review of existing regulations to improve the efficiency of Title 284 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 284-54-750.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150, and 48.85.030.

Adopted under notice filed as WSR 05-03-111 on January 19, 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 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: April 12, 2005.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 97-19-007, filed 9/4/97, effective 10/5/97)

**WAC 284-54-750 Standards for education of licensees soliciting long-term care contracts.** (1) Every issuer shall annually certify to the commissioner that each resident and nonresident licensee involved in the transaction of long-term care insurance has completed an approved ~~((six-hour))~~ LTC special education course ~~((on either long-term care or long-term care and long-term care partnership))~~ every two years in accordance with WAC ~~((284-17-220(2)(b)(i)))~~ 284-17-258. Applications may only be accepted if the licensee involved in the transaction meets all of the requirements of WAC ~~((284-17-220(2)(b)(i)))~~ 284-17-258.

(2) Beginning with the calendar year 1998, issuers shall file a copy of the following certification report with the commissioner on or before March 31 of each year:

Annual Filing of Compliance with the  
Long-Term Care and Long-Term Care Partnership  
Education Requirements of WAC ~~((284-17-220(2)(b)(i)))~~ 284-17-258

To be filed with the commissioner on or before March 31 of each year

For the period of January 1 to December 31 of \_\_\_\_\_ (Year)

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Insurance Policies Offered:

Long-Term Care \_\_\_\_\_

Long-Term Care Partnership \_\_\_\_\_

Both \_\_\_\_\_

PERMANENT

**WSR 05-09-022  
PERMANENT RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2005-01—Filed April 12, 2005, 12:47 p.m., effective May 13, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule making will correct incorrect references in WAC 284-54-750 to chapter 284-17 WAC that resulted from recent amendments to that chapter. This rule making will also further the commissioner's commitment to



I hereby certify that all (~~our affiliated licenses~~) appointed agents involved in the transaction of each long-term care or long-term care partnership policy we issue in Washington have fulfilled the requirements of WAC (~~(284-17-220-(2)(b)(i))~~) 284-17-258. I certify that to the best of my knowledge, we did not accept or process any applications that involved the participation of a licensee who was not in compliance with WAC (~~(284-17-220-(2)(b)(i))~~) 284-17-258.

Signature of Officer:

Date:

Name and Title of Officer:

Prepared by:

Phone Number:

Phone Number:

*Return Certification Form to:*

*Education Manager  
Office of the Insurance Commissioner  
P.O. Box 40257  
Olympia, WA 98504-0257  
Fax 360-586-2019*

**WSR 05-09-036  
PERMANENT RULES  
DEPARTMENT OF LICENSING**

[Filed April 14, 2005, 11:36 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: To implement HB 2657 which passed in the 2004 legislative session and that changes the training topics and increases the number of training hours in the preexisting requirements for security guards under chapter 18.170 RCW, Security guards.

Citation of Existing Rules Affected by this Order: Amending chapter 308-18 WAC.

Statutory Authority for Adoption: Chapter 18.170 RCW.

Adopted under notice filed as WSR 05-06-004 on February 18, 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 1, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 2, 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 1, 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 1, Amended 2, Repealed 0.

Date Adopted: April 14, 2005.

Andrea C. Archer  
Assistant Director

AMENDATORY SECTION (Amending WSR 97-17-050, filed 8/15/97, effective 9/15/97)

**WAC 308-18-020 Organization.** The principal location of the private security guard licensing program is at 405 Black Lake Boulevard S.W., Olympia, Washington 98504. The department of licensing administers the Washington private security guard license law, chapter 18.170 RCW. Submissions and requests for information regarding private security guard company licenses, private security guard licenses, and armed private security guard licenses may be sent in writing to the Private Security Guard Program, Department of Licensing, P.O. Box ((9045)) 9649, Olympia, Washington 98507-((9045)) 9649.

AMENDATORY SECTION (Amending WSR 02-24-026, filed 11/27/02, effective 1/1/03)

**WAC 308-18-240 Required records.** The minimum records the principal of a private security guard company shall be required to keep are:

- (1) Preassignment and postassignment training and testing records for each private security guard.
- (2) Private security guard temporary registration card ledger showing the department-supplied registration number, applicant's name, date of issue, date of expiration and date card was forwarded to the director.
- (3) The company principal shall maintain proof of annual shooting requirements for each armed security guard employed by the security guard company in the armed security guard's training files or employee's files.

These records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

PERMANENT

## PART D

PREASSIGNMENT AND POSTASSIGNMENT  
TRAINING AND EXAMINATION REQUIREMENTS

AMENDATORY SECTION (Amending WSR 97-17-050, filed 8/15/97, effective 9/15/97)

**WAC 308-18-300 Minimum preassignment training and testing requirements.** ((1) The preassignment training required by RCW 18.170.100, shall include as a minimum:

- (a) ~~Basic security:~~
  - (i) ~~Role of the security officer.~~
  - (ii) ~~Typical assignments and tasks.~~
  - (iii) ~~Observation.~~
  - (iv) ~~Patrol.~~
  - (v) ~~Proper actions.~~
- (b) ~~Legal powers and limitations:~~
  - (i) ~~Citizens arrest.~~
  - (ii) ~~Authority to detain, question, or search a private citizen.~~
  - (iii) ~~Authority to search or seize private property.~~
  - (iv) ~~Use of force.~~
  - (v) ~~Relationship with law enforcement.~~
  - (vi) ~~Avoiding liability.~~
- (c) ~~Emergency response:~~
  - (i) ~~How to contact police, fire, and medical response services.~~
  - (ii) ~~How to define what is or is not an emergency situation:~~
    - (iii) ~~Response to fires.~~
    - (iv) ~~Response to medical emergencies.~~
    - (v) ~~Response to criminal acts.~~
    - (vi) ~~Assisting emergency services personnel.~~
    - (vii) ~~Bomb threats.~~
- (d) ~~Safety and accident prevention:~~
  - (i) ~~Observation and reporting of unsafe conditions.~~
  - (ii) ~~Accident hazards.~~
  - (iii) ~~Fire hazards.~~
  - (iv) ~~Hazardous materials.~~
  - (v) ~~Safety rules and regulations.~~
  - (vi) ~~Accident reporting.~~
- (e) ~~Report writing:~~
  - (i) ~~Why write a report.~~
  - (ii) ~~Elements of a report.~~
  - (iii) ~~Proper times, names, and location descriptions.~~
  - (iv) ~~Giving physical descriptions.~~
  - (v) ~~Fact versus opinion or assumption.~~
  - (vi) ~~Penmanship.~~
  - (vii) ~~Changes to a report.~~
  - (viii) ~~Reports as legal documents.~~
- (f) ~~Public relations:~~
  - (i) ~~Public relations skills.~~
  - (ii) ~~Principles of good communication.~~
  - (iii) ~~Proper telephone procedure.~~
  - (iv) ~~Listening.~~
  - (v) ~~Avoiding confrontation.~~
  - (vi) ~~Dealing with the media.~~

(2) The minimum time each private security guard candidate must spend in preassignment training is at least four hours. The time spent on each required topic may vary pro-

viding the time for all required topics totals four hours and the four hours is devoted solely to the topics designated.

(3) All private security guard applicants, after receiving preassignment training and prior to receiving their license, must successfully complete a test designed to demonstrate their understanding and retention of the information learned in the training course. This test shall consist of a minimum of thirty multiple choice questions based on the training topics outlined above. Test results must be verified and signed by a certified trainer. All applicants must answer all questions correctly on the private security guard preassignment training test. Questions incorrectly answered initially must be reviewed to insure the applicant's understanding and then initiated by both the applicant and the certified trainer verifying knowledge of the correct answer(s).) (1) Except as provided under RCW 18.170.100 (1)(b)(ii), beginning July 1, 2005, all security guards licensed on or after July 1, 2005, must complete at least eight hours of preassignment training. Four hours of the preassignment training classroom and/or on-the-job training shall be in subjects determined by the security guard company principal developed to fit the specific type of duty required by the post. The additional four hours of the preassignment training classroom instruction shall be in the following listed subjects and shall be the contents of the preassignment exam developed by the department:

(a) Basic principles.

(i) Basic role of the security guard;

(ii) Washington state licensing laws;

(iii) Observation;

(iv) Proper actions, reactions;

(v) Homeland security - terrorism and surveillance.

(b) Legal powers and limitations.

(i) Citizens arrest;

(ii) Authority to detain, question, or search a private citizen;

(iii) Authority to search or seize private property;

(iv) Use of force;

(v) Avoiding liability.

(c) Emergency response.

(i) How to define what is or is not an emergency situation;

(ii) Response to fires;

(iii) Response to medical emergencies;

(iv) Response to criminal acts;

(v) Bomb threats.

(d) Safety and accident prevention.

(i) Hazardous materials including MSDS;

(ii) Accident reporting.

(e) Report writing.

Elements and characteristics of a report.

(2) All private security guard applicants, after receiving preassignment training and prior to receiving their license or temporary registration card, must successfully complete an exam designed and provided by the department to demonstrate understanding and retention of the information learned in the training course on the subjects listed in WAC 308-18-300. The exam shall consist of multiple choice questions. All applicants must answer all questions correctly on the preassignment training exam or questions incorrectly answered must be reviewed to ensure the applicant's understanding and

then initialed by both the applicant and the trainer verifying knowledge of the correct answer(s).

#### **NEW SECTION**

**WAC 308-18-305 Minimum postassignment and on-the-job training requirements and training topics.** (1) Beginning July 1, 2005, all security guards must complete at least eight hours of postassignment or on-the-job training.

(a) Security guards licensed on or after July 1, 2005, are required to complete four hours of postassignment training within the first six months of employment and the remaining four hours completed within the following six months.

(b) Security guards licensed prior to July 1, 2005, are required to complete four hours of postassignment training by December 31, 2005, and the remaining four hours must be completed by July 1, 2006.

(c) Beginning January 1, 2006, the number of required postassignment training hours must be increased by one hour every year until January 1, 2012. The number of postassignment training hours required of a security guard is the number required on the date the security guard is initially licensed by the department. The additional hours of training must be completed within eighteen months after the date a security guard is hired.

(2) The topic areas that must be used for postassignment training are as follows and may also include the subject topics listed under WAC 308-18-300:

- (a) **Basic role of private security guards.**
  - (i) Security awareness;
  - (ii) Private security guards and the criminal justice system;
  - (iii) Information sharing;
  - (iv) Crime and loss prevention.
- (b) **Legal aspects of private security.**
  - (i) Evidence and evidence handling;
  - (ii) Use of force;
  - (iii) Court testimony;
  - (iv) Incident scene preservation;
  - (v) Equal employment opportunity (EEO) and diversity;
  - (vi) State and local laws.
- (c) **Security officer conduct.**
  - (i) Ethics;
  - (ii) Honesty;
  - (iii) Professional image.
- (d) **Observation and incident reporting.**
  - (i) Observation techniques;
  - (ii) Note taking;
  - (iii) Report writing.
- (e) **Principles of communications.**
  - (i) Interpersonal skills;
  - (ii) Verbal communication skills;
  - (iii) Building relationships with law enforcement;
  - (iv) Customer services and public relations;
  - (v) Workplace violence.
- (f) **Principles of access control.**
  - (i) Enter and exit control procedures;
  - (ii) Electronic security systems.
- (g) **Principles of safeguarding information.**
  - Proprietary and confidential.

- (h) **Emergency response procedures.**
  - Critical incident response (e.g., natural disasters, accidents, human caused events).
  - (i) **Evacuation processes.**
  - (j) **Life safety awareness.**
    - (i) Safety hazards in the workplace/surroundings;
    - (ii) Emergency equipment placement;
    - (iii) Fire prevention skills;
    - (iv) Hazardous materials;
    - (v) Occupational safety and health requirements (e.g., OSHA related training, bloodborne pathogens, etc.).
  - (k) **Job assignment and postorders.**
    - (i) Assignments and tasks;
    - (ii) Patrol.
- (3) The required postassignment training records must be attested to by a licensed certified trainer and retained by the company. The postassignment training records must include the following information:
  - (a) Security guard name and signature;
  - (b) Training topics covered;
  - (c) Number of training hours received;
  - (d) Date training was completed;
  - (e) Certified trainer attesting to the training.
- (4) Electronic records and signatures are permitted. The postassignment training records are not required to be submitted to the department, but must be available upon request from the company for three years.

#### **WSR 05-09-045**

#### **PERMANENT RULES**

#### **HORSE RACING COMMISSION**

[Filed April 18, 2005, 11:20 a.m., effective May 19, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-36-200 Provisional owner's license, to define, in rule, a provisional owner, to designate who is authorized to issue a provisional owner's license, to designate the minimum information required for a provisional owner's license; and to require a provisional owner to complete the application process.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-200 Provisional owner's license.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-05-048 on February 14, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 14, 2005.

R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 91-03-033, filed 1/9/91, effective 1/22/91)

**WAC 260-36-200 Provisional owner's license.** A provisional owner's license is intended to allow an individual to enter a horse in Washington races for a period of time not to exceed fourteen days. The ((stewards)) commission or its designee may issue a provisional owner's license for a period of fourteen days based on an application completed by ((the)) a trainer representing the owner and payment of all license ((fees)), fingerprint and labor and industries fees ((due, provided that the trainer signs a statement that he or she is authorized on behalf of the owner to execute the application and that the trainer is familiar with the truth of the contents of the application)). The trainer shall provide the commission, at a minimum, the name, address, telephone number and date of birth of the owner. The provisional owner shall have fourteen calendar days from the date the license is issued to send to the commission a completed application, signed by the owner, and if directed, a set of fingerprints.

**WSR 05-09-046**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH**

(Board of Physical Therapy)

[Filed April 18, 2005, 11:40 a.m., effective May 19, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Board of Physical Therapy is repealing WAC 246-915-150 and 246-915-170 because these sections are redundant to language in WAC 246-915-140 and 246-915-160.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-915-150 and 246-915-170.

Statutory Authority for Adoption: Chapter 18.74 RCW.

Adopted under notice filed as WSR 04-20-052 on October 1, 2004.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47867, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.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 2.

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 2.

Date Adopted: April 12, 2005.

Sam Stockton, PT, Chair  
Board of Physical Therapy  
by Kris Waidely

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 246-915-150 Physical therapist assistant and physical therapy aide supervision ratio.
- WAC 246-915-170 Special requirements for physical therapist assistant utilization.

**WSR 05-09-059**

**PERMANENT RULES**

**DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Filed April 19, 2005, 11:51 a.m., effective May 20, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Record index, WAC 296-06-170, this rule making will repeal WAC 296-06-170 because it is inconsistent with RCW 42.17.260(5). The entire chapter 296-06 WAC, Public records, including this repealed rule, is now being revised and promulgated as part of a separate rule-making process (preproposal was filed as WSR 04-23-079 on November 16, 2004).

Citation of Existing Rules Affected by this Order: Repealing WAC 296-06-170.

Statutory Authority for Adoption: RCW 42.17.260(5).

Adopted under notice filed as WSR 04-22-084 on November 2, 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 1.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

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ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 19, 2005.

Judy Schurke  
Acting Director

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-06-170                      Records index.

**WSR 05-09-062**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 19, 2005, 11:57 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: Medical aid rules—Conversion factors and maximum daily fees, WAC 296-20-135, 296-23-220, and 296-23-230, updates regarding rate setting for most professional health care services for injured workers.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 05-05-064 on February 15, 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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: April 19, 2005.

Judy Schurke  
Acting Director

### AMENDATORY SECTION (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS services** have a conversion factor of (~~(\$50.63)~~) \$52.23. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.84)~~) \$2.90 per minute, which is equivalent to (~~(\$42.15)~~) \$43.50 per 15 minutes. The base units and payment policies can be found in the fee schedules.

### AMENDATORY SECTION (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$104.12)~~) \$107.45 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 04-09-100, filed 4/20/04, effective 7/1/04)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee

maximums, the provider's usual and customary charge, or (~~(\$104.12)~~) \$107.45 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

## WSR 05-09-063

### PERMANENT RULES

### DEPARTMENT OF

### LABOR AND INDUSTRIES

[Filed April 19, 2005, 12:01 p.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: The purpose of the rule change is to:

(1) Eliminate the reference to a "grace period" for deleted healthcare common procedure codes (HCPCS) and current procedural terminology (CPT™) codes. The effect of this change is that providers will have to begin using new codes that replace the deleted codes when they become effective.

(2) Redefine the state fund and self-insurer claim numbering system. The effect of this change is to correctly define the claim numbers as they are currently being used.

(3) Describe an alternative method for notifying interested persons of changes in the fee schedules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 296-20-010.

Statutory Authority for Adoption: RCW 51.04.020.

Adopted under notice filed as WSR 05-05-065 on February 15, 2005.

Changes Other than Editing from Proposed to Adopted Version: A paragraph was added to the rule to describe an alternative method for interested persons to receive advance notice of changes to the fee schedules.

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: April 19, 2005.

Judy Schurke  
Acting Director

**AMENDATORY SECTION** (Amending WSR 03-21-069, filed 10/14/03, effective 12/1/03)

**WAC 296-20-010 General information.** (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries  
Health Services Analysis  
Interested Person's Mailing List for the Fee Schedules  
P.O. Box 44322  
Olympia, WA 98504-4322

As an alternative, interested persons may subscribe to the L&I medical provider news listserv. To subscribe, go to the department's website at [www.lni.wa.gov](http://www.lni.wa.gov) and click on the link "Provider billing & payment." Look for the icon that says "Get E-mail Updates" and click on it.

The department or self-insurer will require the current version of the federal Health Care Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

~~((The department and self-insurer will allow a "grace period" in which codes deleted each year may be submitted for payment. This grace period will start on January 1 of each year and the length of time will be determined by department policy.))~~

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the

inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents  
United States Government Printing Office  
Washington, DC 20402  
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association  
Chicago, Illinois 60601  
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do

not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send provider bills by type (UB-92) to: Department of Labor and Industries, P.O. Box 44266, Olympia, Washington 98504-4266.

Adjustments, Home Nursing, Retraining, Job Modification, and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 98504-4267.

Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 98504-4268.

HCFA-1500 to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers or a letter and five digits preceded by a letter other than "S," "T," or "W."

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers or a letter and five digits preceded by an "S," "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

## WSR 05-09-087

## PERMANENT RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 19, 2005, 3:56 p.m., effective June 1, 2005]

Effective Date of Rule: June 1, 2005.

Purpose: WAC 388-450-0195 Utility allowances for Basic Food programs, is amended to meet federal criteria regarding eligibility for the limited utility allowance (LUA) for the food stamp program, administered as the Washington Basic Food program. The United States Code of Federal Regulations, 7 C.F.R. 273.9 (d)(6)(iii)(A), defines the specific criteria necessary for LUA eligibility. The existing rule is amended to be in compliance with the referenced C.F.R. governing food stamp utility allowances. Additional amendments are made to improve clarity regarding qualifying utility expenses.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0195.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-06-085 on March 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 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 12, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-23-025, filed 11/8/04, effective 12/9/04)

**WAC 388-450-0195 Utility allowances for Basic Food programs.** (1) For Basic Food, "utilities" include the following:

- (a) Heating (~~(and cooking))~~ or cooling fuel;
- (b) (~~(Cooling and))~~ Electricity or gas;
- (c) Water (~~(and))~~ or sewer;
- (d) Well or septic tank installation/maintenance;
- (~~e~~) Garbage ((and))/trash collection; and
- (~~(e) Basic))~~ (f) Telephone service.

(2) The department uses the amounts below if you have utility costs separate from your rent or mortgage payment. We add your utility allowance to your rent or mortgage pay-



ment to determine your total shelter costs. We use total shelter costs to determine your Basic Food benefits.

(a) If you have heating or cooling costs, you get a standard utility allowance (SUA) that depends on your assistance unit's size.

Assistance Unit (AU) Size	Utility Allowance
1	\$278
2	\$287
3	\$295
4	\$304
5	\$312
6 or more	\$321

(b) If your AU does not qualify for the SUA and you have any two utility costs (~~other than telephone costs~~) listed above, you get a limited utility allowance (LUA) of two hundred twenty-two dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of thirty-seven dollars.

**WSR 05-09-094**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed April 20, 2005, 7:57 a.m., effective May 21, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-623 WAC, Commission Merchant—Licensing fees, proof of payment, cargo manifests and registration of acreage commitments, by:

- (1) Increasing the license fees for commission merchants, dealers, brokers, cash buyers, and agents;
- (2) Clarifying selected portions of chapter 20.01 RCW related to licensing requirements; and
- (3) Rewriting the entire chapter to increase its clarity and readability.

Citation of Existing Rules Affected by this Order: Amending WAC 16-623-001, 16-623-010, 16-623-020, 16-623-030, 16-623-040, 16-623-050, and 16-623-060.

Statutory Authority for Adoption: Chapters 20.01 and 34.05 RCW, chapter 25, Laws of 2003 1st sp.s. (ESSB 5404).

Adopted under notice filed as WSR 05-06-112 on March 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 2, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 7, Repealed 0.

Date Adopted: April 20, 2005.

Valoria H. Loveland  
Director

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-001 What is the purpose((r)) of this chapter?** The ~~((department of agriculture has written))~~ purpose of this chapter is to implement ~~((r))~~ and clarify selected portions of chapter 20.01 RCW. This ~~((administrative rule))~~ chapter addresses four topics.

(1) Licensing fees and requirements for commission merchants, dealers, brokers, cash buyers or agents.

(2) Recordkeeping and proof of payment requirements for licensees.

(3) Cargo manifests ~~((of earge))~~ and shipping documents that accompany hay and straw during transportation.

(4) Rules governing the registration of processor acreage commitments made ~~((by processors))~~ to producers of annual crops.

NEW SECTION

**WAC 16-623-005 What definitions are important to this chapter?** In addition to the definitions listed in RCW 20.01.010, the following definitions are important to understanding this chapter:

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or their designee.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-010 ~~((License fees, expirations, renewals and late renewal penalties.))~~ What requirements apply to licenses for commission merchants, dealers, brokers, cash buyers and agents?** (1) The following table summarizes the license fee ~~((to act as a))~~ requirements for commission merchants, dealers, brokers, cash buyers, or agents ~~((is))~~:

<del>((LICENSE CLASS</del>	FEE
<del>Commission merchant</del>	\$357
<del>Dealer</del>	\$357
<del>Limited dealer</del>	\$198
<del>Broker</del>	\$249
<del>Cash buyer</del>	\$ 79
<del>Agent</del>	\$ 28
<del>Additional licenses (see subsection (2) of this section)</del>	\$ 25))

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<u>License Class</u>	<u>License Fee</u>	<u>Annual Expiration Date</u>	<u>Annual Renewal Date</u>	<u>Penalty Amount for Not Renewing Before January 1</u>
<u>Commission merchant</u>	<u>\$450.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Dealer</u>	<u>\$450.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Limited dealer</u>	<u>\$250.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Broker</u>	<u>\$300.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Cash buyer</u>	<u>\$100.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Agent</u>	<u>\$50.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Additional license per class</u>	<u>\$25.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>

(2) A licensee can be licensed in more than one class for an additional fee of twenty-five dollars per class. The principal license must be in the class requiring the greatest fee and all requirements must be met for each class in which a license is being requested.

(3) All ~~((licenses expire December 31st of each year))~~ fees and penalties must be paid before the department issues a license.

(4) ~~((License renewals must be renewed before January 1st of each year.))~~ Applications for licenses are considered incomplete unless an effective bond or other acceptable form of security is also filed with the director.

(5) ~~((Licenses not renewed by January 1st will be assessed a penalty of twenty five percent of the total fees. Fees and penalties must be paid before the licenses will be issued.))~~ Licenses may be obtained by contacting the department's commission merchants program at 360-902-1854 or e-mail at: [commerch@agr.wa.gov](mailto:commerch@agr.wa.gov). Application forms, bond forms, and forms for securities in lieu of a surety bond are available on the department's website at: <http://www.agr.wa.gov/Inspection/CommissionMerchants/default.htm>.

**NEW SECTION**

**WAC 16-623-015 What securities are acceptable in lieu of a surety bond?** An applicant or licensee may file an assignment of savings or irrevocable letter of credit with the director in lieu of a surety bond. These instruments are subject to the same requirements and provisions as bonds stated in RCW 20.01.210, 20.01.211, and 20.01.212.

**AMENDATORY SECTION** (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-020 What are the recordkeeping ~~((and proof of payment.))~~ requirements for commission merchants, dealers and cash buyers?** ~~((1))~~ Every commission merchant, dealer, and cash buyer ~~((taking))~~ who takes possession of or ~~((purchasing))~~ purchases agricultural products must ~~((make and))~~ keep ~~((for three years))~~ accurate records ~~((showing the following:~~

- ~~((a))~~ The name and address of the consignor.
- ~~((b))~~ The date received.
- ~~((c))~~ The quality and quantity delivered by the consignor and where applicable the dockage, tare, grade, size, net weight or quantity.
- ~~((d))~~ An itemized statement of the charges to be paid by the consignor, dealer or cash buyer to be paid by the consignor in connection with the sale.
- ~~((e))~~ These records must be made available to the director and the consignor or their authorized representatives.
- ~~((2))~~ In addition to subsection (1) of this section, the commission merchant's records must include:
  - ~~((a))~~ An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold and proof of payments received on behalf of the consignor.
  - ~~((b))~~ The terms of payment to the producer.
  - ~~((c))~~ The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchaser or if the purchaser has any financial interest in the business of the commission merchant. The business interest may be direct or indirect such as holders of the other's corporate stock, as a copartner or as a lender or borrower of money. The interest must be noted in the records following the name of the purchaser.
  - ~~((d))~~ A lot number or identifying mark for each consignment which will appear on all sales tags and other records showing the price for which the agricultural products actually sold.
  - ~~((e))~~ If there is a pooling arrangement, the consignor must have agreed in writing to the pooling arrangement before the commission merchant may handle the agricultural product.
  - ~~((f))~~ In cases where a pooling arrangement is in place, the requirements of subsections (1)(c) and (d) and (2)(b) and (d) of this section apply.
  - ~~((g))~~ Keep and make available to the director or consignor or their representative claims filed by the commission merchant against any person for overcharges or damages resulting from the injury or deterioration of agricultural products.
- ~~((3))~~ In addition to subsection (1) of this section, dealers and cash buyers must include:
  - ~~((a))~~ Terms of the sale.

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~~(b) Name and address of the purchaser. The name and address of the purchaser may be deleted from the record furnished to the consignor.~~

(4) Commission merchants will furnish consignors with proof of payment. Proof of payment will be a listing of payments received by the commission merchant on behalf of any consignor whether through an individual accounting or pool arrangement)). The recordkeeping requirements for:

(1) Commission merchants are specified in RCW 20.01.370;

(2) Dealers and cash buyers are specified in RCW 20.01.380; and

(3) Brokers are specified in RCW 20.01.400.

**AMENDATORY SECTION** (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-030** ~~Is a cargo manifest ((of cargo for)) required for transporting hay and straw((—Forms and exceptions))?~~ (1) All commission merchants, dealers, their employees or licensed agents ((transporting hay or straw on equipment owned or under their control)) must have a copy of the cargo manifest ((of cargo)) with each load when transporting hay or straw on equipment owned or under their control.

~~(2) ((The manifest must be on a form prescribed by the director. The form is available from the department. Exceptions to the manifest form are outlined in subsections (3) and (4) of this section. The form, as a minimum, will state the following:~~

~~(a) Purchaser's name and address.~~

~~(b) Hauler's name and address.~~

~~(c) Business or person the products were received from and their address.~~

~~(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity.~~

~~(e) Terms of the settlement.~~

~~(f) Date.~~

~~(3) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by the Washington public utilities and transportation commission, or interstate commerce commission.~~

~~(4) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use other shipping documents that have been reviewed and authorized by the department of agriculture. The alternate shipping documents must be authorized by the department prior to their use.)) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by either the Washington public utilities and transportation commission or interstate commerce commission instead of the department form described in subsection (5) of this section.~~

(3) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use shipping documents other than the department form described in subsection (5) of this section if they have been reviewed and authorized by the department before their use.

(4) Unless the exceptions in subsections (2) and (3) of this section apply, the manifest must be on a form prescribed by the director which is available from the department.

(5) At a minimum, the form requires the following information:

(a) Purchaser's name and address;

(b) Hauler's name and address;

(c) Business or person the products were received from and their address;

(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity;

(e) Terms of the settlement;

(f) Date;

(g) Signature of the licensee or their agent; and

(h) Signature of the consignor or their authorized representative.

**AMENDATORY SECTION** (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-040** ~~How must a processor's plant capacity ((reporting)) be reported? ((When reporting plant capacity as provided for under))~~ (1) According to RCW 20.01.510, a processor must report the daily total capacity in tons, cases or other legal and customary measure for:

(a) Each crop ((for)); and

(b) All plants that process any Washington agricultural product.

(2) For each processing plant reported, the report must include the:

(a) Name((:));

(b) Site address((:));

(c) Business address; and

(d) Name of the person(s) who may receive legal service ((for each processing plant reported)).

**AMENDATORY SECTION** (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

**WAC 16-623-050** ~~What notification requirements apply to grower-processor ((notification of)) commitments ((by processor(s)))?~~ (1) ((Any)) (a) Within ten days after a commitment with a processor is made, a grower ((may)) must notify the director that ((he has)) they have an oral commitment ((with a processor)) for a specified amount of product ((within ten days after the commitment was made)).

(b) The grower's notification ((will)) to the director must be in writing and sent by certified mail to the Washington State Department of Agriculture, c/o the Commission Merchants Program, P.O. Box 42591, Olympia, Washington 98504-2591.

(2) ((When the director receives the notification, he shall notify the processor within five days)) Once the grower's notification is received, the director has five days to notify the processor by certified mail.

(3) Regardless of whether or not the processor confirms the director's notice, the processor ((with)) must simultaneously notify the director and ((the)) grower, by certified mail, within ten days ((by certified mail)) of receipt of the director's notice ((whether or not he confirms the notice)).

(4) The processor may accept all, none, or any portion of the acreage and/or tonnage stated in the notice.

(5) Once the oral commitment is confirmed for all or for a portion of the acreage and/or tonnage, the processor is committed to receive the acreage or tonnage specified.

(6) If the contract is ~~((that))~~ the processor's standard contract and the terms of the contract, price or other conditions later offered to the grower are unacceptable to the grower, then the agreement is not binding upon the processor.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-060 ~~((Basis for establishing))~~ How are contract volumes~~((r))~~ established? ~~((In))~~ For contracts ~~((for the purchase of))~~ purchasing the production of a specific number of acres, the:

(1) Amount contracted for will be based on the crop yield for the comparable area for the most recent five-year average~~((The))~~; and

(2) Crop yield will be determined by using data from the USDA's National Agricultural Statistics Service.

PERMANENT

**WSR 05-09-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-62—Filed April 8, 2005, 10:50 a.m., effective April 11, 2005]

Effective Date of Rule: April 11, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 232-28-61900M; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.240.

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: Washington Department of Fish and Wildlife personnel are continuing a three-year bio-telemetry study on habitat use and behavior of tiger muskie in Newman Lake. Prohibiting harvest of tiger muskie from April 11 through May 15, 2005, will facilitate FDA compliance with regulations for fish that are anesthetized during capture and tagging activities scheduled for the week of April 11. 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: April 8, 2005.

Evan Jacoby  
 for Jeff Koenings  
 Director

**NEW SECTION**

**WAC 232-28-61900M Exceptions to statewide rules—Newman Lake (Spokane Co.)** Notwithstanding the provisions of WAC 232-28-619, effective April 11 through May 15, 2005, it is unlawful to fish for or possess Tiger Muskie in those waters of Newman Lake.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective May 16, 2005:

**WAC 232-28-61900M** Exceptions to statewide rules—Newman Lake (Spokane Co.)

**WSR 05-09-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed April 12, 2005, 12:10 p.m., effective April 13, 2005]

Effective Date of Rule: April 13, 2005.

Purpose: The purpose of these rules is to eliminate the direct payment to recipients for employment/day program services and return the funding for administering these programs to the counties.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 388-825-060, 388-825-064, 388-825-070, 388-825-075, 388-825-076, 388-825-077, 388-825-078, 388-825-085, 388-825-086, 388-825-087, 388-825-090 and 388-825-095; and amending WAC 388-825-055, 388-825-103, 388-850-035, and 388-850-045.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120 [71A.12.120], 71A.14.040.

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: These rules are necessary to increase federal funding under Title XIX of the Social Security Act. 42 C.F.R. 447.10(d) and Section 1902 (a)(32) of the Social Security Act prohibit the state from claiming federal financial participation (FFP) for payments directly to a recipient of Title XIX Medicaid. By returning this funding to the counties, who will pay the provider rather than the recipient directly, the state is able to claim FFP for these expenditures.

The second filing of these emergency rules is necessary to extend the existing emergency rules filed as WSR 05-01-123 while the department completes the regular rule-making process. The CR-102 proposed rule-making notice was filed as WSR 05-05-084 and the public hearing was held on March 22, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, Repealed 12; 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 4, Repealed 12.

Date Adopted: April 8, 2005.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-850-035 Services—Developmental disabilities.** (1) A county may purchase and provide services listed under chapter 71A.14 RCW.

~~((a))~~ (2) The department shall pay a county for department authorized services provided to an eligible developmentally disabled person.

~~((b)) DD eligible persons who receive funding from DDD directly for employment or day program services shall pay the county or a county contracted provider for services.~~

(2)) (3) A county may purchase or provide authorized services. Authorized services may include, but are not limited to:

- (a) Early childhood intervention services;
- (b) Employment services;
- (c) Community access services;
- (d) Residential services;
- (e) Individual evaluation;
- (f) Program evaluation;
- (g) County planning and administration; and
- (h) Consultation and staff development(, and
- ~~(i) Oversight of the DDD money sent directly to the DDD eligible person).~~

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-850-045 Funding formula—Developmental disabilities.** (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties shall be based on the following criteria:

(a) Each county shall receive a base amount of funds. The amount shall be based on the prior biennial allocation, including any funds from budget provisos from the prior biennium, and subject to the availability of state and federal funds;

(b) The distribution of any additional funds provided by the legislature or other sources shall be based on a distribution formula which best meets the needs of the population to be served as follows:

(i) On a basis which takes into consideration minimum grant amounts, requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, and the general population of the county, and special education enrollment as well as the population eligible for county-funded developmental disabilities services;

(ii) On a basis that takes into consideration the population numbers of minority groups residing within the county;

(iii) A biennial adjustment shall be made after these factors are considered; and

(iv) Counties not receiving any portion of additional funds pursuant to this formula shall not have their base allocation reduced due to application of this formula.

(c) Funding appropriated through legislative proviso, including vendor rate increases, shall be distributed to the population directed by the legislature utilizing a formula as directed by the legislature or using a formula specific to that population or distributed to identified people;

(d) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.

(3)((a)) A county may utilize seven or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than seven percent for county administration with approval of the division director. A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.

~~((b)) A county may receive funds for oversight of employment/day program services purchased by DDD clients with money sent directly to the client based on the following conditions:~~

~~(i) The oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving funds directly if the recipient:~~

~~(A) Was born between September 1, 1979 and August 31, 1981; and~~

~~(B) Received a county or county contracted service between July 1, 2001 and June 30, 2002; and~~

~~(C) Continues to receive a county or county contracted service.~~

~~(ii) Oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving funds directly if the recipient:~~

~~(A) Was born prior to September 1, 1979; and~~

~~(B) Was authorized by DDD and the county for employment/day program services for December, 2002; and~~

~~(C) Continues to receive a county or county contracted service.~~

~~(iii) The oversight funds for recipients described below shall equal up to seven percent of the amount of the funds received directly by the recipient, if the recipient:~~

~~(A) Was born between September 1, 1979 and August 31, 1981; and~~

~~(B) Received no county or county contracted service prior to July 1, 2002; and~~

~~(C) Received or will receive a county or county contracted service between July 1, 2002 and June 30, 2003; and~~

~~(D) Continues to receive a county or county contracted service.))~~

(4) The department may withhold five or less percent of allocated funds for new programs, for statewide priority programs, and for emergency needs.

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-825-055 Authorization of services.** (1) The division's field services section shall be responsible for authorizing services agreed to by the person/family including, but not limited to:

- (a) Placement to and from residential habilitation centers;
- (b) Community residential services;
- (c) Family support services;
- (d) Nonresidential programs; and
- (e) Employment/day programs ~~((when the person receives the funding directly from DDD to pay for the services, subject to the eligibility requirements in WAC 388-825-060 and the restrictions in WAC 388-825-065. Allowable employment/day program services are listed in WAC 388-850-035)).~~

(2) The division's authorization of state funded services shall be based on the services and funding available.

- (a) Persons must meet the programmatic and financial eligibility requirements for the specific services;
  - (b) Funding for state paid services is available in the state operating budget; and
  - (c) SSP funding is not available to the client.
- (3) The division will include the following persons when determining authorized services:

- (a) The person;
- (b) The person's parent or guardian and may include:
  - (i) The person's advocate; or
  - (ii) Other responsible parties.
- (4) Per RCW 71A.16.010 the division shall offer adults the choice of admittance to a residential habilitation center if all of the following conditions exist:
  - (a) An RHC vacancy is available;
  - (b) Funding, specifically designated for this purpose in the state operating budget, is available for alternative community support services;
  - (c) The person or their family is requesting residential services;
  - (d) The person meets ICF/MR or nursing facility eligibility for the available RHC vacancy;
  - (e) The person is the most in need of residential services as determined by DDD after reviewing all persons determined eligible for ICF/MR or nursing facility level of care. DDD will make this selection based on the following criteria:
    - (i) The person is age eighteen or older;
    - (ii) The person's/family's health and safety is in jeopardy due to the lack of necessary residential support and supervision:

(A) Priority is given to eligible persons/families currently without necessary residential supports;

(B) Other eligible persons will be considered based on their risk of losing residential supports due to unstable or deteriorating circumstances.

(f) The person's alternative DDD funded community support services would cost seventy percent or more of the average RHC rate, assuming a minimum household size of three persons.

(5) If RHC capacity is not being used for permanent residents, the division will make these vacancies available for respite care or any other services the department determines are needed and allowable within the rules governing the use of federal funds.

(a) Admission of a child or adolescent to an RHC for respite care requires the written approval of the division director or designee.

(b) Respite care exceeding thirty days in a calendar year is subject to subsection (6) of this section.

(6) The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee if the admission is not a choice provided under subsection (4) of this section.

(a) Children twelve years of age and younger shall not be admitted to an RHC.

(b) Admission of an adolescent to an RHC can only occur if:

- (i) DDD determines that foster placement services cannot meet the emergency needs of the child/family; and
- (ii) A voluntary placement plan is in place with DDD with the goal of community placement or family reunification; and
- (iii) Progress towards placement planning is reported to the division director at least every ninety days.

(7) The division shall authorize county-funded services only when the service is included in a department contract ~~((and the person is not receiving funding directly from DDD for employment/day program services)) and:~~

- (a) The person is at least twenty-one years of age and is no longer attending school; or
- (b) The person is age twenty and graduates prior to his/her July or August twenty-first birthday; or
- (c) The child is two years of age or younger and eligible for early intervention services.

(8) The department shall require a person to participate in defraying the cost of services provided when mandated by state or federal regulation or statute.

**AMENDATORY SECTION** (Amending WSR 04-15-093, filed 7/16/04, effective 8/16/04)

**WAC 388-825-103 When will I receive written notice of decisions made by DDD?** You will receive written notice from DDD of the following decisions:

- (1) The denial or termination of eligibility under WAC 388-825-030 and 388-825-035;
- (2) The authorization, denial, reduction, or termination of services ~~((or funds paid directly to you set forth in WAC 388-825-055))~~ or the payment of SSP set forth in chapter 388-827 WAC that are authorized by DDD;
- (3) The admission or readmission to, or discharge from a residential habilitation center.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-825-060      What are the eligibility requirements for persons who receive funds directly for employment/day programs?
- WAC 388-825-064      What are the restrictions on the use of the funds paid directly to persons for employment/day programs?
- WAC 388-825-070      What happens if I do not spend the funds paid directly to me for employment/day programs as specified in WAC 388-825-064?
- WAC 388-825-075      How much money will I receive?
- WAC 388-825-076      How often will I receive a direct payment check for my employment/day program services?
- WAC 388-825-077      Who will the warrant/check be sent to?
- WAC 388-825-078      How will the warrant/check be sent?
- WAC 388-825-085      What is a representative payee?
- WAC 388-825-086      Who can be a representative payee for my DDD direct payment funds for employment/day program services?
- WAC 388-825-087      What are the responsibilities of a representative payee?
- WAC 388-825-090      When will DDD recover direct payment funds sent to me for employment/day program services?
- WAC 388-825-095      Who is liable for repayment of an overpayment?

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900P; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to allow staff to set nets and stock fish for the April 23, 2005, fishing activities and ensure a successful family fish-in event. 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: April 12, 2005.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 232-28-61900P Exceptions to statewide rules—Long's Pond (Thurston Co.)** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 22, through 8:00 a.m. April 23, 2005, it is unlawful to fish in those waters of Long's Pond.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. April 23, 2005:

- WAC 232-28-61900P      Exceptions to statewide rules—Long's Pond (Thurston Co.)

**WSR 05-09-024  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-64—Filed April 12, 2005, 2:37 p.m., effective April 22, 2005, 12:01 a.m.]

Effective Date of Rule: April 22, 2005, 12:01 a.m.  
Purpose: Amend personal use fishing rules.

EMERGENCY



**WSR 05-09-025**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-65—Filed April 12, 2005, 2:38 p.m., effective April 16, 2005,  
 12:01 a.m.]

Effective Date of Rule: April 16, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to implement federal rules on halibut seasons. The adoption of state rules is required to provide consistency to state and federal rules regarding halibut fishing. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 11, 2005.

J. P. Koenings  
 Director  
 by Larry Peck

**NEW SECTION**

**WAC 220-56-25500S Halibut—Seasons—Daily and possession limits.** (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open May 1 until further notice. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° N., and east of 124°40' W. - Open May 1 until further notice.

(ii) All other waters in Area 2 - Open May 1 until further notice, except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

(c) Catch Record Card Areas 3 and 4 - Open May 10 until further notice, except closed to fishing for halibut 12:01 a.m. of each Sunday through 11:59 p.m. of each Monday. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18'N., 125°18'W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(d) Catch Record Card Area 5 - Open May 26 through July 31, 2005, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Areas 6 through 11 and Catch Record Card Area 13 - Open April 14 through June 20, except closed 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

**WSR 05-09-026**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-66—Filed April 12, 2005, 2:39 p.m., effective April 12, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000V and 220-56-38000H; and amending WAC 220-56-350 and 220-56-380.

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: Recent surveys indicate a significant decrease in the oyster population and limited clam population that will not permit this beach to open for either oyster or clam harvest in 2005. These rules are interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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: April 11, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-56-35000W Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Scenic Beach State Park: CLOSED.
- (2) Dosewallips State Park: Open until further notice.
- (3) Point Whitney Tidelands: Open through April 15.
- (4) Rendsland Creek: CLOSED.
- (5) West Dewatto (DNR 44-A): Open through April 15.

**NEW SECTION**

**WAC 220-56-38000I Oysters—Areas and seasons** Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to take, dig for and possess oysters taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Scenic Beach State Park: CLOSED
- (2) Dosewallips State Park: Open until further notice.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-56-35000W [35000V] Clams other than razor clams—Areas and seasons. (05-26)
- WAC 220-56-38000I [38000H] Oysters—Areas and seasons. (04-319)

**WSR 05-09-027  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 05-67—Filed April 12, 2005, 2:40 p.m., effective April 12, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.240.

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: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational shrimp fishery in Puget Sound is closed until May 1 when new permanent rules take effect. The fishery will then open by permanent rule on May 7. In addition, the Port Townsend Shrimp District closure is necessary as insufficient spot shrimp are available to conduct a fishery. Sufficient numbers of nonspot shrimp are available within the boundaries defined that will provide shrimping opportunity without impacting depressed spot shrimp populations. 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: April 12, 2005.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-56-32500W Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, through 6:59 a.m. May 7, 2005, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 5-13 including the Shrimp Districts, and Marine Area 4 east of the Bonilla-Tatoosh line.

2) Effective 7:00 a.m. May 7, 2005, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Port Townsend Shrimp District, except as provided for in this section:

(a) Open on Saturdays and Wednesdays only, from 7:00 a.m. to 3:00 p.m., south of a line from Kala Point to Walan Point.

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(b) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.

**WSR 05-09-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-63—Filed April 14, 2005, 1:33 p.m., effective May 6, 2005, 12:01 a.m.]

Effective Date of Rule: May 6, 2005, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency regulation is necessary to assure a safe and successful Safety Day Event. Several thousand fish will be placed into netted areas along the west end of the lake, near the boat ramp two days prior to the event to acclimate them before the event. On the day of the event preregistered juveniles will be allowed to fish in these netted areas. Closing the fishery will also allow the nets to be set and retrieved without conflicts with anglers. 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: April 13, 2005.

J. P. Koenings  
 Director  
 by Larry Peck

**NEW SECTION**

**WAC 232-28-61900N Exceptions to statewide rules—Kress Lake (Cowlitz Co.)** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. May 6 through 6:00 p.m. May 8, 2005, it is unlawful to fish in those

waters of Kress Lake, except open to fishing 8:00 a.m. to 3:00 p.m. May 8, 2005 in the netted area to juvenile anglers participating in the Safety Day Event.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. May 8, 2005:

WAC 232-28-61900N Exceptions to statewide rules—Kress Lake

**WSR 05-09-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-68—Filed April 14, 2005, 4:29 p.m., effective April 14, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2005 state/tribal Strait of Juan de Fuca shrimp harvest management plan requires adoption of harvest seasons and the prohibition on night time fishing contained in this emergency rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 14, 2005.

J. P. Koenings  
 Director  
 by Larry Peck

**NEW SECTION**

**WAC 220-52-05100K Puget Sound shrimp beam trawl fishery—Season.** Notwithstanding the provisions of

WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp beam trawl gear: Crustacean Management Region 3 outside of the shrimp districts will open at 6:00 a.m. on April 16, 2005, until further notice.

(2) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

### WSR 05-09-067

#### EMERGENCY RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 05-69—Filed April 19, 2005, 2:55 p.m., effective May 1, 2005]

Effective Date of Rule: May 1, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Washington Department of Fish and Wildlife and Kalispel Tribe personnel are beginning a one-year biotelemetry study on habitat use and behavior of northern pike in the Pend Oreille River. Prohibiting harvest of northern pike from May 1 through June 10, 2005, will facilitate FDA compliance with regulations for fish that are anesthetized during capture and tagging activities scheduled for the weeks of May 1 and May 8. 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: April 18, 2005.

J. P. Koenings  
Director  
by Larry Peck

### NEW SECTION

**WAC 232-28-61900Q Exceptions to statewide rules—Pend Oreille River (Pend Oreille Co.)** Notwithstanding the provisions of WAC 232-28-619, effective May 1, 2005 through June 10, 2005, it is unlawful to fish for or possess northern pike in those waters of the Pend Oreille River.

### REPEALER

WAC 232-28-61900Q Exceptions to statewide rules—Pend Oreille River (Pend Oreille Co.)

### WSR 05-09-068

#### EMERGENCY RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 05-70—Filed April 19, 2005, 2:57 p.m., effective April 23, 2005, 12:01 a.m.]

Effective Date of Rule: April 23, 2005, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000J; and amending WAC 220-56-360.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington Department of Health has certified clams from these beaches to be safe for human consumption.

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: April 18, 2005.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-56-36000J Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

(1) Effective 12:01 a.m. April 23 through 11:59 a.m. April 25, 2005, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. each day.

(2) Effective 12:01 a.m. April 23 through 11:59 a.m. April 25, 2005, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County) and that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 a.m. to 11:59 a.m. each day.

(3) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 25, 2005:

WAC 220-56-36000J Razor clams—Areas and seasons.

**WSR 05-09-096  
EMERGENCY RULES  
HORSE RACING COMMISSION**

[Filed April 20, 2005, 9:16 a.m., effective April 20, 2005]

Effective Date of Rule: Immediately.

Purpose: To adopt, on an emergency basis, a new section in chapter 260-70 WAC to prevent persons from administering to racehorses any bicarbonate or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a racehorse on race day.

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 new section addresses substances that can be administered to a racehorse on race day, and is needed 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 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 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 14, 2005.

R. M. Leichner  
Executive Secretary

**NEW SECTION**

**WAC 260-70-675 Bicarbonate testing.** No bicarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse shall be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

The official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may at their discretion and at any time order the collection of test samples from any horses present either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes. Test samples shall be drawn prior to the race in which the horse is entered.

Test samples shall not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum or plasma total carbon dioxide level exceeding this value shall constitute a violation of this rule. Penalties shall be assessed as a Class 4 violation as provided in WAC 260-84-110.

When taking samples for bicarbonate testing or total carbon dioxide levels, split samples shall be permitted under the following conditions:

If an owner or trainer wants a split sample taken, the owner or trainer must have on file with the official veterinarian a signed bicarbonate split sample test authorization. Failure of the owner or trainer to have such an authorization filed with the official veterinarian shall constitute a waiver of all rights to have a split sample taken for testing.

EMERGENCY

If a split sample is taken, it shall be shipped at the same time the test sample is shipped and will be shipped to the testing facility identified by the owner or trainer. The owner or trainer authorizing a split sample shall be responsible for the cost of shipping and testing.

**WSR 05-09-097**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-71—Filed April 20, 2005, 10:33 a.m., effective April 21, 2005, 12:01 a.m.]

Effective Date of Rule: April 21, 2005, 12:01 a.m.

Purpose: Amend personal use fishing 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: Closes the sport fishery in concurrent waters consistent with the closure of the mainstem Columbia River. Bonneville Dam counts are less than expected and there is uncertainty at this time about what the upriver spring chinook run will be. Sport fisheries are being closed to be conservative if the upriver run size falls far short of the preseason forecast. 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: April 19, 2005.

J. P. Koenings  
Director

**NEW SECTION**

**WAC 232-28-61900R Exceptions to statewide rules—Deep River (Wahkiakum Co.)** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 21, 2005 until further notice, it is unlawful to fish for or pos-

sess salmon those waters of Deep River (Wahkiakum County) downstream of the Highway 4 Bridge.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 21, 2005:

WAC 232-28-61900F	Exceptions to statewide rules—Columbia River. (05-41)
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**WSR 05-09-098**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 05-72—Filed April 20, 2005, 10:33 a.m., effective April 20, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000A.

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: Closes the spring season for the select area fisheries until further notice. Bonneville Dam counts are less than expected and there is uncertainty at this time about what the upriver spring chinook run will be. Fisheries are being adjusted to be conservative if the upriver run size falls far short of the preseason forecast. 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. Conforms Washington and Oregon rules. There is insufficient time to promulgate permanent regulations. This rule is consistent with actions of the Columbia River compact of April 19, 2005, conforms Washington and Oregon state 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: April 19, 2005.

J. P. Koenings  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000A      Columbia River seasons  
below Bonneville. (05-59)

EMERGENCY





**WSR 05-09-010**  
**NOTICE OF PUBLIC MEETINGS**  
**STATE BOARD OF EDUCATION**  
 [Memorandum—April 6, 2005]

**Revision to the May State Board Meeting Location and Dates**

Following are changes to the dates and location of State Board of Education scheduled May meeting (in bold/italics).  
**May 11-12, 2005, Phoenix Inn Suites, 415 Capitol Way North, Olympia, WA 98501-1024, (360) 570-0555.**

**WSR 05-09-012**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Medical Quality Assurance Commission)  
 [Memorandum—April 7, 2005]

**WASHINGTON STATE**  
**MEDICAL QUALITY ASSURANCE COMMISSION**  
**2005 MEETING DATES**

**NOTICE OF CHANGE**

DATES		COMMENTS
May 20	Holiday Inn Select One South Grady Way Renton, WA 98055 (425) 226-7700	Regular meeting Start time 8:00 a.m.

**WSR 05-09-014**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**  
 [Memorandum—April 6, 2005]

**Special Board Meeting**

The board of trustees of Bates Technical College will meet in special session on April 9, 2005, from 9:30 a.m. to approximately 4:00 p.m. in the President's Conference Room, 1101 South Yakima Avenue, Tacoma, for the purpose of the board retreat.

**WSR 05-09-015**  
**NOTICE OF PUBLIC MEETINGS**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
 [Memorandum—April 8, 2005]

**NOTICE OF CHANGE IN PUBLIC**  
**OPEN MEETING DATE**  
**(Set for Tuesday, May 24, 2005, 9:30 a.m.)**

Due to schedule conflicts, the Washington Utilities and Transportation Commission will cancel its regular meeting of Wednesday, May 25, 2005, and reschedule it to Tuesday, May 24, 2005, beginning at 9:30 a.m., in the Commission's

Main Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA.  
 In all other aspects the notice filed on October 27, 2004, remains in effect.

**WSR 05-09-029**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed April 12, 2005, 2:45 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-12 MAA.  
 Subject: Prescription drug program: Maximum allowable cost update.

Effective Date: April 1, 2005.

Document Description: **Effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program: (1) New additions to the maximum allowable cost (MAC) list; (2) adjustments to existing MACs; and (3) deletions from the MAC list.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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).

April 7, 2005  
 Barbara L. Salmon  
 for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-09-030**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed April 12, 2005, 2:46 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-17 MAA.  
 Subject: Physician-related services: Corrections and updates.

Effective Date: April 1, 2005.

Document Description: **Unless otherwise specified, effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) will:

- Discontinue coverage for certain CPT codes;
- Clarify policy on certain injectable drugs and miscellaneous procedures;
- Update the prior authorization (PA) grid;

MISC.

- Update the policy on portable X-rays (CPT codes R0070 and R0075);
- Update the list of services billable by podiatrists and orthopedic surgeons;
- Update the policy on immunization administration;
- Expand coverage for blepharoplasties;
- Discontinue coverage for certain HCPCS codes;
- Update place of service grid;
- Clarify policy on billing for contrast materials;
- Clarify policy on drug administration;
- Clarify policy on billing for ventilator management codes;
- Clarify billing policy for DDD physicals;
- Clarify coverage policy for tuberculosis treatment services provided by nonprofessionals;
- Cover additional podiatry codes as listed in this memorandum; and
- Cover PET scans with PA.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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).

April 6, 2005  
 Barbara L. Salmon  
 for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-09-031**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**  
 [Memorandum—April 12, 2005]

Following is a schedule of meetings of the Washington State Human Rights Commission for 2005.

With the exception of conference calls, the usual format for the meetings is a public forum on Thursday evenings from 7:00 p.m. to 9:00 p.m. (for meetings that have Thursdays noted) and a regular business meeting beginning at 9:00 a.m. on Friday. All meetings are held in accessible locations.

Conference calls start at 10 a.m. originating out of Olympia. Individuals can participate in commission meetings held by conference call by coming to the Commission's Headquarters Office, 711 South Capitol Way, Suite 402, Olympia, WA.

If you have questions or need additional information, please contact Tanya Calahan at (360) 753-4876 or [tcalahan@hum.wa.gov](mailto:tcalahan@hum.wa.gov).

DATES	LOCATION
January 28 (Friday)	SeaTac
February 25 (Friday)	SeaTac
March 17-18 (Thursday and Friday)	Olympia
April 29 (Thursday and Friday)	SeaTac

May 19-20 (Thursday and Friday)	Spokane
June 23-24 (Thursday and Friday)	Silverdale
July 21-22 (Friday)	SeaTac
August 26 (Friday)	Olympia (conference call)
September 22 (Thursday)	Moses Lake
September 23 (Friday)	Pasco
October 27-28 (Thursday and Friday)	Vancouver
November 18 (Friday)	SeaTac
December 16 (Friday)	Olympia (conference call)

Adopted in open meeting by the Washington State Human Rights Commission, March 18, 2005.

**WSR 05-09-034**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY COLLEGES**  
**OF SPOKANE**  
 [Memorandum—April 13, 2005]

Revised Schedule of Meetings for 2005

Pursuant to RCW 42.30.075, please accept for filing the following revised schedule of meetings for the board of trustees of Washington State Community College District 17 for calendar year 2005. **Please note the location for the May 17, 2005, meeting has been changed.**

Should you have questions regarding this memo, or the schedule, please contact Christine Pearl, Executive Assistant to the Chancellor/CEO and Liaison to the Board of Trustees, at (509) 434-5006.

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

Date	Location	Address
May 17, 2005 (3rd Tuesday)	IEL	Institute for Extended Learning The Lodge 3305 West Fort George Wright Drive Spokane, 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
December 20, 2005 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA

**WSR 05-09-043**

**NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—April 18, 2005]

**BOARD OF TRUSTEES  
SPECIAL MEETING**

**April 19, 2005  
9:00 a.m.**

**Showalter Hall, Room 201**

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

**WSR 05-09-066**

**NOTICE OF PUBLIC MEETINGS  
WASHINGTON STATE LOTTERY**

(Lottery Commission)

[Memorandum—April 19, 2005]

**AMENDED WASHINGTON'S LOTTERY  
MAY COMMISSION MEETING**

The 10:00 a.m. meeting has been changed to 9:00 a.m. The meeting is still being held at the Red Lion at the Park, West 303 North River Drive, Spokane, WA 98201.

**WSR 05-09-069**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:37 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-15 MAA.  
Subject: Early and periodic screening, diagnosis, and treatment (EPSDT): Policy clarifications and technical corrections.

Effective Date: [No information supplied by agency.]

Document Description: **Effective for dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) will implement the following:

- New guidelines for appropriate use of administration codes for immunizations;
- Clearer instructions to health departments billing for immunizations and administration; and
- Technical corrections to the immunization ta [no further information supplied by agency].

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

April 7, 2005

Barbara L. Salmon  
for Ann Myers, Manager  
Rules and Publications Section

**WSR 05-09-070**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:38 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-16 MAA.  
Subject: Dental program (adults/children): Billing policy for oral and maxillofacial surgery.

Effective Date: April 1, 2005.

Document Description: **Effective for claims with dates of service on and after April 1, 2005**, the Medical Assistance Administration (MAA) will implement new policy according to WAC 388-535-1070 for dental providers who bill MAA for providing oral and maxillofacial surgery to MAA-eligible clients. MAA is updating the current *Dental Program (Adult/Children) Billing Instructions* to reflect these changes.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, Department of Social and Health Services, Medical Assis-

MISC.

tance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to web site <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).

April 7, 2005  
Barbara L. Salmon  
for Ann Myers, Manager  
Rules and Publications Section

#### WSR 05-09-072

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed April 19, 2005, 3:40 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-18 MAA.  
Subject: Prescription drug program: Prior authorization and expedited prior authorization changes.

Effective Date: May 2, 2005.

Document Description: **Effective the week of May 2, 2005, and after**, the Medical Assistance Administration (MAA) will implement the following changes to MAA's prescription drug program:

- Expedited prior authorization (EPA) additions; and
- Prior authorization changes.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

April 7, 2005  
Barbara L. Salmon  
for Ann Myers, Manager  
Rules and Publications Section

#### WSR 05-09-073

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed April 19, 2005, 3:41 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-19 MAA.  
Subject: Chemical-using pregnant (CUP) women program: Changes to WAC and billing instructions.  
Effective Date: May 1, 2005.

Document Description: **Effective for dates of service on and after May 1, 2005**, the Medical Assistance Administration (MAA) is implementing policy changes for the chemical using pregnant (CUP) women program, consistent with the changes to chapter 388-533 WAC.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

Barbara L. Salmon  
for Ann Myers, Manager  
Rules and Publications Section

#### WSR 05-09-074

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed April 19, 2005, 3:42 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-20 MAA.  
Subject: Prescription drug program: Maximum allowable cost update.

Effective Date: May 1, 2005.

Document Description: **Effective for dates of service on and after May 1, 2005**, the Medical Assistance Administration (MAA) will implement the following changes to the prescription drug program:

1. New additions to the maximum allowable cost (MAC) list;
2. Adjustments to existing MACs; and
3. Deletions from the MAC list.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

April 8, 2005  
Barbara L. Salmon  
for Ann Myers, Manager  
Rules and Publications Section

MISC.

**WSR 05-09-075**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:43 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-22 MAA.  
 Subject: Ambulatory surgery centers: Rescission of Numbered Memorandum 04-93 MAA, and ambulatory surgery centers fee schedule updates.

Effective Date: January 1, 2005.

Document Description: **Retroactive to dates of service on and after January 1, 2005**, the Medical Assistance Administration (MAA) is rescinding Numbered Memorandum 04-93 MAA and correcting certain current procedural terminology (CPT⇒) and healthcare comment procedure coding system (HCPCS) procedure codes in the ambulatory surgery center's fee schedule.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

April 7, 2005

Barbara L. Salmon  
 for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-09-076**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:44 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 05-23 MAA.  
 Subject: Clarification for billing outpatient services and additional procedures using place of service 22.

Effective Date: Retroactive to January 4, 2005.

Document Description: This memorandum clarifies when clinics can bill the Medical Assistance Administration (MAA) using place of service 22. In addition, **retroactive to dates of service on and after January 4, 2005**, clinics may bill for early and periodic screening, diagnosis, and treatment (EPSDT) services and ante partum care using place of service 22 in certain instances.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Office of Rules and Publications, 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 web site <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).

April 12, 2005

Barbara L. Salmon  
 for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-09-077**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:45 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Billing Instructions.

Subject: Enteral nutrition.

Effective Date: May 2005.

Document Description: These are billing instructions for enteral nutrition providers to use when billing for services rendered to medical assistance clients. Included in this document are definitions, provider requirements, client eligibility, coverage information, prior authorization criteria, modifiers, product list/classification, reimbursement, fee schedule, billing instructions, and claim form instructions and samples.

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 web site <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Billing Instructions"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [salmobl@dshs.wa.gov](mailto:salmobl@dshs.wa.gov).

April 14, 2005

Barbara L. Salmon  
 for Ann Myers, Manager  
 Rules and Publications Section

**WSR 05-09-078**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 19, 2005, 3:46 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: DCS SEO Handbook Chapter 3 Revision.

Subject: Paternity.

Effective Date: April 12, 2005.

Document Description: Existing DCS SEO Handbook Chapter 3, Paternity, is revised to include related DCS paternity policy into the chapter.

To receive a copy of the interpretive or policy statement, contact Susan Reams, Division of Child Support, Mailstop

MISC.

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.

April 12, 2005  
Susan Reams

**WSR 05-09-089**  
**ATTORNEY GENERAL'S OFFICE**

[Filed April 19, 2005, 3:58 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by May 11, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-04-04 Request by Joseph Zarelli**  
**State Senator, 18th District**

Please provide an opinion regarding the degree of specificity required for a resolution to satisfy RCW 20A.530.020(2) with respect to (1) the terms of the debt financing measure, (2) the projects or buildings to be constructed or remodeled, and (3) any other specifics you determine are relevant in regard to the building of school facilities.

**WSR 05-09-090**

**ATTORNEY GENERAL'S OFFICE**

[Filed April 19, 2005, 4:00 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by May 11, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-04-02 Request by:**  
**Shirley Hankins**  
**State Representative, 8th District**  
**Tom Campbell, State Representative,**  
**2nd District**

**1. Must a candidate who chooses to run as an independent, third party member, or who expresses no party affiliation still fulfill the requirements set forth in RCW 29A.20.110?**

**2. If a party holds a nominating convention and designates a preferred candidate, does that in any way preclude a candidate from filing as a candidate of the same party?**

**WSR 05-09-091**

**ATTORNEY GENERAL'S OFFICE**

[Filed April 19, 2005, 4:01 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION**  
**WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in

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the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by May 11, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-04-03 Request by:**  
**Joseph Zarelli, State Senator, 18th District**  
**Don Benton, State Senator, 17th District**

**Is the Department of Revenue correct in their approach to collecting B&O tax from mortgage brokers on what is categorized as interest income by the Department of Housing and Urban Development (HUD)?**

### WSR 05-09-123

#### DEPARTMENT OF ECOLOGY

[Filed April 20, 2005, 11:01 a.m.]

#### NOTICE OF A FINAL STATEWIDE GENERAL PERMIT FOR BIOSOLIDS MANAGEMENT

Notice is hereby given that the Washington State Department of Ecology is issuing a new statewide *General Permit for Biosolids Management* (general permit) to replace the existing general permit. Mailing address and the main reception phone number for the Department of Ecology are: P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6000. The physical address is: 300 Desmond Drive S.E., Lacey, WA 98503.

The department was granted the authority to develop and implement a state biosolids program under chapter 70.95J RCW. The program is required to at least meet the requirements of applicable federal rules and the Federal Clean Water Act as it existed on February 4, 1987. The regulatory structure for the state biosolids program is contained in chapter 173-308 WAC, Biosolids management. The process described in chapter 173-226 WAC was used for the issuance of this general permit. The standards for biosolids management in chapter 173-308 WAC along with appropriate best management practices were used to establish the conditions

in the general permit which are intended to protect public health and the environment.

This permit is the primary regulatory mechanism for approving the final use or disposal of biosolids in areas under the jurisdiction of the state of Washington. This permit applies to *all treatment works treating domestic sewage* that prepare biosolids for beneficial use, apply biosolids to the land, transfer biosolids to or from another facility, or dispose of biosolids in a municipal solid waste landfill. The majority of affected facilities are publicly owned wastewater treatment plants, privately owned wastewater treatment plants that treat only domestic sewage, and similar state and federal facilities (military bases, prisons, parks, etc.). Other types of facilities include but may not be limited to private composting facilities that treat biosolids as a feedstock, beneficial use facilities as defined by the state biosolids rule, and central septage management facilities (some public and private facilities which accept mostly septage from more than one pumper source). In some cases facilities in this latter group may secure permits from local jurisdictional health departments and, consequently, may not need to obtain coverage under the state permit program.

This permit has statewide applicability, including federal facilities, but does not apply to activities which occur on or to facilities which are located on tribal lands. If biosolids are generated or treated on tribal lands and subsequently transported to state or federal lands, then this permit may be applicable for activities that occur outside of tribal lands.

Three hundred twenty-four facilities have indicated that they will apply for coverage under the new general permit after it becomes effective. A list of these facilities can be found at <http://www.ecy.wa.gov/programs/swfa/biosolids/pdf/noifacilities.pdf>. In addition, it is estimated that up to seventy-five additional facilities will either need to apply for coverage under a new general permit or seek to be covered under an individual permit.

Each facility seeking coverage under a new general permit will need to submit (or provide evidence the document/information has previously been submitted) a permit application package that includes at least the following: A completed *Application for Coverage*, basic facility information including name, contacts, location, and relevant jurisdictions, information on any other environmental permits, a vicinity map of the facility, a vicinity map of any associated treatment or storage facilities, a treatment facility schematic, information on the mass of biosolids produced and managed, confirmation that State Environmental Policy Act requirements have been met, confirmation that public notice requirements have been met, land application plans if required, biosolids monitoring data if required, a biosolids sampling plan if required, a contingency plan for "exceptional quality" biosolids if required, a temporary disposal plan if required, a spill response/prevention plan if required, any other information the applicant deems helpful or that is required by the department, and a signature by an appropriate official.

Coverage under the general permit will be provided in two phases: (1) Provisional approval, and (2) final approval. "Provisional" approval is obtained for any facility submitting a Notice of Intent and a complete Application for Coverage as provided for in the rules. "Final" approval may be granted

after department review of the original permit application and operating practices. Coverage will be approved for those facilities that submit complete and correct applications for coverage and that propose and implement practices in compliance with the conditions of the permit, state rules, and consistent with good management practices. The permit (and rule) provides for the possibility of imposing additional or more stringent standards as a condition of final approval of coverage, on a case-by-case basis.

Notice of the draft permit was issued in the state register and published in several regional newspapers across the state on March 2, 2005. In addition, a news release on the draft permit was issued on March 7, 2005. A public comment period of thirty-seven days was allowed. Two public hearings were held. Several comments were received during the public comment period. A responsiveness summary to the comments received has been prepared. The comments resulted in several changes to the draft general permit that are found in the final general permit. A brief summary of the changes made follows:

1) Added a definition of "accredited laboratory" to Section 2. Rationale: Necessary for clarification purposes. 2) Added language in Subsection 4.2 regarding a requirement for facilities who export their biosolids outside the jurisdiction of the state to provide some documentation that the importing facility is in compliance with their applicable local, state, or federal requirements. The requirement now applies to biosolids exported to facilities located out-of-state, out-of-country, or tribal lands. Rationale: Necessary for clarification purposes. 3) Added language in Subsection 5.5.2.2 stipulating that copies of public notice announcements must be sent to persons on the "interested parties" at the time of or before the public comment period commences. Rationale: Necessary for clarification purposes. 4) Deleted Subsection 5.5.2.4 that required a facility make a "reasonable" effort to contact all "adjacent" property owners for sites where application of Class B biosolids is proposed for application. Rationale: a) Site- and facility-specific conditions should dictate the specific means of public notice; b) the state biosolids rule and SEPA rules already provide several means by which public notice can be conducted; and c) the department already maintains an option to require public notice be conducted in a certain manner under Subsection 5.5.2.1(2). 5) Added language in Subsection 8.2.4 regarding options for allowing a reduction in sampling after two years. The new language states that this allowance exists even if the requirement is an "additional and more stringent requirement" issued as part of final coverage unless the condition specifically states that there will be no reduction allowed. Rationale: Necessary for clarification purposes. 6) Added language in Subsection 8.3 regarding requirements for using an accredited laboratory for required biosolids analyses. The new language clarifies the requirement by stating that the use of an ecology-accredited laboratory is only required for required analyses and only for such analyses when an accreditation program exists. Rationale: Necessary for clarification purposes. 7) Removed "exceptional quality" from the title for Table 8.4. Rationale: Necessary for clarification purposes. 8) Changed language in Subsection 9.8(2) to require that the department be notified of any spills of biosolids dur-

ing transportation as soon as possible, but not more than three days after the spill occurs. Rationale: Necessary for improved reporting of spills that occur. 9) Changed the time-frame for reporting noncompliance from a maximum of thirty days to a maximum of five days in Subsection 9.19.4. Rationale: Necessary to ensure prompt reporting of noncompliance by permittees. 10) Changed Section 13 (septage management) to require that the same site access and site management restrictions apply to septage managed as such regardless of whether it is alkaline-stabilized prior to application or directly applied without alkaline-stabilization. Rationale: Deemed necessary to protect public health. 11) Changed language in Subsection 13.5.1, Bullet #2, clarifying the requirements for testing pH for alkaline-stabilized septage. The new language makes it clear that a pH of twelve or greater must be verified prior to the commencement of the minimum thirty-minute stabilization period during which the pH must remain at a pH of twelve or greater. Rationale: Necessary for clarification purposes. 12) Clarified language in Subsection 13.6 about the applicability of Equation 13.1 to state that it applies to all septage managed as such and that a derivative of Equation 13.1 can be used to back-calculate the application rate when applying a dewatered septage product. Provided a reference for guidance on performing the derivative equation. Rationale: Necessary for clarification purposes and to provide additional guidance. 13) Inserted language in Subsection 16.1 providing for the establishment of a maximum permit fee of \$500.00 for biosolids incineration facilities. Rationale: Biosolids incineration facilities should pay a permit fee, but this fee should be limited.

The terms and conditions of this permit may be appealed. Any appeal must be filed with the Pollution Control Hearings Board and served on the department within thirty days. The basic process for an appeal is outlined in RCW 43.21B.310. Other rules and laws may also govern your appeal.

The permit will become effective thirty days from this notice (June 3, 2005).

For additional information you may contact Daniel Thompson, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6108, e-mail [dtho461@ecy.wa.gov](mailto:dtho461@ecy.wa.gov), or go to the biosolids general permit webpage at <http://www.ecy.wa.gov/programs/swfa/biosolids/draftgenpermit.html>. At this webpage you can find several documents, including the final general permit and the responsiveness summary. You may also obtain documents at the mailing address listed above.



**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-218-035	NEW	05-07-150	16-239-0813	REP-P	05-07-120	16-303-200	AMD-P	05-08-142
16-218-040	NEW-P	05-04-111	16-239-090	REP-P	05-07-120	16-303-210	PREP	05-05-050
16-218-040	NEW	05-07-150	16-239-0901	REP-P	05-07-120	16-303-210	AMD-P	05-08-142
16-229-010	AMD	05-05-036	16-239-0902	REP-P	05-07-120	16-303-250	PREP	05-05-050
16-230-860	PREP-W	05-06-097	16-239-0903	REP-P	05-07-120	16-303-250	AMD-P	05-08-142
16-237-195	AMD	05-07-080	16-239-0904	REP-P	05-07-120	16-303-310	PREP	05-05-050
16-239	PREP	05-04-078	16-239-0905	REP-P	05-07-120	16-303-310	AMD-P	05-08-142
16-239-010	REP-P	05-07-120	16-239-0906	REP-P	05-07-120	16-303-320	PREP	05-05-050
16-239-020	REP-P	05-07-120	16-239-0907	REP-P	05-07-120	16-303-320	AMD-P	05-08-142
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16-319-003	REP	05-05-051	16-414-070	REP-X	05-07-154	16-529-010	AMD	05-08-010
16-319-004	REP	05-05-051	16-414-080	REP-X	05-07-154	16-529-030	AMD	05-08-010
16-319-006	REP	05-05-051	16-414-085	AMD-X	05-07-154	16-529-040	AMD	05-08-010
16-319-007	REP	05-05-051	16-414-086	NEW-X	05-07-154	16-529-050	AMD	05-08-010
16-319-041	AMD	05-05-051	16-414-090	AMD-X	05-07-154	16-529-060	AMD	05-08-010
16-350-035	AMD	05-03-042	16-414-095	REP-X	05-07-154	16-529-070	AMD	05-08-010
16-390	PREP	05-04-077	16-414-100	REP-X	05-07-154	16-529-080	AMD	05-08-010
16-390-020	AMD-P	05-07-155	16-414-105	NEW-X	05-07-154	16-529-100	AMD	05-08-010
16-390-030	AMD-P	05-07-155	16-414-107	NEW-X	05-07-154	16-529-110	AMD	05-08-010
16-390-150	AMD-P	05-07-155	16-414-108	NEW-X	05-07-154	16-529-120	AMD	05-08-010
16-390-220	AMD-P	05-07-155	16-414-110	AMD-X	05-07-154	16-529-130	REP	05-08-010
16-401	PREP	05-06-110	16-414-120	AMD-X	05-07-154	16-529-150	AMD	05-08-010
16-401-027	AMD-P	05-09-092	16-414-125	NEW-X	05-07-154	16-529-160	AMD	05-08-010
16-401-032	AMD-P	05-09-092	16-414-130	REP-X	05-07-154	16-529-190	AMD	05-08-010
16-401-041	AMD-P	05-09-092	16-414-145	NEW-X	05-07-154	16-529-200	AMD	05-08-010
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16-404-010	REP-X	05-06-100	16-445-001	REP-X	05-06-101	16-532	PREP	05-04-073
16-404-020	REP-X	05-06-100	16-445-015	NEW-X	05-06-101	16-532-010	AMD-P	05-07-114
16-404-030	REP-X	05-06-100	16-445-025	NEW-X	05-06-101	16-532-010	AMD-W	05-08-079
16-404-040	REP-X	05-06-100	16-445-040	AMD-X	05-06-101	16-532-010	AMD-P	05-08-103
16-404-050	REP-X	05-06-100	16-445-045	NEW-X	05-06-101	16-532-020	AMD-P	05-07-114
16-404-060	REP-X	05-06-100	16-445-050	REP-X	05-06-101	16-532-020	AMD-W	05-08-079
16-404-070	REP-X	05-06-100	16-445-060	AMD-X	05-06-101	16-532-020	AMD-P	05-08-103
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16-406-005	NEW-X	05-07-153	16-445-080	REP-X	05-06-101	16-532-040	AMD-W	05-08-079
16-406-010	NEW-X	05-07-153	16-445-090	REP-X	05-06-101	16-532-040	AMD-P	05-08-103
16-406-012	NEW-X	05-07-153	16-448-130	REP-X	05-06-099	16-532-065	REP-P	05-07-114
16-406-015	NEW-X	05-07-153	16-448-135	REP-X	05-06-099	16-532-065	REP-W	05-08-079
16-406-020	AMD-X	05-07-153	16-448-140	REP-X	05-06-099	16-532-065	REP-P	05-08-103
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16-406-030	AMD-X	05-07-153	16-448-150	REP-X	05-06-099	16-532-103	NEW-W	05-08-081
16-406-040	REP-X	05-07-153	16-448-155	REP-X	05-06-099	16-532-103	NEW-P	05-08-104
16-406-050	REP-X	05-07-153	16-448-160	REP-X	05-06-099	16-532-105	NEW-P	05-07-113
16-406-060	AMD-X	05-07-153	16-448-165	REP-X	05-06-099	16-532-105	NEW-W	05-08-081
16-409-005	NEW-X	05-06-102	16-448-170	REP-X	05-06-099	16-532-105	NEW-P	05-08-104
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16-409-020	AMD-X	05-06-102	16-448-180	REP-X	05-06-099	16-532-110	AMD-W	05-08-080
16-409-022	NEW-X	05-06-102	16-448-185	REP-X	05-06-099	16-532-110	AMD-P	05-08-102
16-409-024	NEW-X	05-06-102	16-448-190	REP-X	05-06-099	16-532-115	NEW-P	05-07-112
16-409-026	NEW-X	05-06-102	16-448-195	REP-X	05-06-099	16-532-115	NEW-W	05-08-080
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16-409-035	AMD-X	05-06-102	16-448-200	REP-X	05-06-099	16-540-005	NEW	05-09-013
16-409-060	REP-X	05-06-102	16-470-103	AMD-P	05-05-099	16-540-006	NEW	05-09-013
16-409-065	AMD-X	05-06-102	16-470-103	AMD	05-09-005	16-540-010	AMD	05-09-013
16-409-070	AMD-X	05-06-102	16-470-105	AMD-P	05-05-099	16-540-010	AMD	05-09-013
16-409-075	AMD-X	05-06-102	16-470-105	AMD	05-09-005	16-540-020	AMD	05-09-013
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16-414-010	AMD-X	05-07-154	16-470-910	PREP	05-06-109	16-540-070	REP	05-09-013
16-414-011	NEW-X	05-07-154	16-470-911	PREP	05-06-109	16-561-005	NEW-W	05-07-111
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16-414-014	NEW-X	05-07-154	16-470-912	AMD-P	05-09-093	16-561-020	AMD-W	05-07-111
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16-414-040	REP-X	05-07-154	16-470-921	PREP	05-06-109	16-623-005	NEW-P	05-06-112
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16-623-015	NEW	05-09-094	67-25-080	REP	05-08-097	67-25-412	AMD	05-08-097
16-623-020	AMD-P	05-06-112	67-25-085	REP-P	05-03-116	67-25-416	AMD-P	05-03-116
16-623-020	AMD	05-09-094	67-25-085	REP	05-08-097	67-25-416	AMD	05-08-097
16-623-030	AMD-P	05-06-112	67-25-090	REP-P	05-03-116	67-25-418	AMD-P	05-03-116
16-623-030	AMD	05-09-094	67-25-090	REP	05-08-097	67-25-418	AMD	05-08-097
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16-623-040	AMD	05-09-094	67-25-095	REP	05-08-097	67-25-432	AMD	05-08-097
16-623-050	AMD-P	05-06-112	67-25-100	REP-P	05-03-116	67-25-436	AMD-P	05-03-116
16-623-050	AMD	05-09-094	67-25-100	REP	05-08-097	67-25-436	AMD	05-08-097
16-623-060	AMD-P	05-06-112	67-25-110	REP-P	05-03-116	67-25-440	AMD-P	05-03-116
16-623-060	AMD	05-09-094	67-25-110	REP	05-08-097	67-25-440	AMD	05-08-097
16-662-100	AMD-X	05-06-111	67-25-255	AMD-P	05-03-116	67-25-444	AMD-P	05-03-116
16-662-105	AMD-X	05-06-111	67-25-255	AMD	05-08-097	67-25-444	AMD	05-08-097
16-662-110	AMD-X	05-06-111	67-25-257	AMD-P	05-03-116	67-25-446	AMD-P	05-03-116
16-662-115	AMD-X	05-06-111	67-25-257	AMD	05-08-097	67-25-446	AMD	05-08-097
16-662-120	NEW-X	05-06-111	67-25-260	AMD-P	05-03-116	67-25-448	AMD-P	05-03-116
16-662-125	NEW-X	05-06-111	67-25-260	AMD	05-08-097	67-25-448	AMD	05-08-097
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16-730-010	NEW-E	05-03-032	67-25-270	AMD	05-08-097	67-25-452	AMD	05-08-097
16-730-015	NEW-E	05-03-032	67-25-275	AMD-P	05-03-116	67-25-460	AMD-P	05-03-116
16-730-020	NEW-E	05-03-032	67-25-275	AMD	05-08-097	67-25-460	AMD	05-08-097
16-730-025	NEW-E	05-03-032	67-25-280	AMD-P	05-03-116	67-25-470	REP-P	05-03-116
16-730-030	NEW-E	05-03-032	67-25-280	AMD	05-08-097	67-25-470	REP	05-08-097
16-730-035	NEW-E	05-03-032	67-25-284	AMD-P	05-03-116	67-25-480	REP-P	05-03-116
16-730-040	NEW-E	05-03-032	67-25-284	AMD	05-08-097	67-25-480	REP	05-08-097
16-730-045	NEW-E	05-03-032	67-25-288	REP-P	05-03-116	67-25-540	AMD-P	05-03-116
16-730-050	NEW-E	05-03-032	67-25-288	REP	05-08-097	67-25-540	AMD	05-08-097
16-750-005	AMD-W	05-09-048	67-25-300	REP-P	05-03-116	67-25-545	AMD-P	05-03-116
51-11-1437	AMD-W	05-06-056	67-25-300	REP	05-08-097	67-25-545	AMD	05-08-097
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51-54-0400	NEW-E	05-06-046	67-25-326	REP-P	05-03-116	67-25-560	REP-P	05-03-116
51-54-0800	NEW-E	05-06-046	67-25-326	REP	05-08-097	67-25-560	REP	05-08-097
67-25-005	AMD-P	05-03-116	67-25-350	AMD-P	05-03-116	67-25-570	AMD-P	05-03-116
67-25-005	AMD	05-08-097	67-25-350	AMD	05-08-097	67-25-570	AMD	05-08-097
67-25-010	AMD-P	05-03-116	67-25-360	AMD-P	05-03-116	67-25-590	AMD-P	05-03-116
67-25-010	AMD	05-08-097	67-25-360	AMD	05-08-097	67-25-590	AMD	05-08-097
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67-25-020	AMD-P	05-03-116	67-25-384	AMD-P	05-03-116	82-60-020	RECOD	05-04-072
67-25-020	AMD	05-08-097	67-25-384	AMD	05-08-097	82-60-030	RECOD	05-04-072
67-25-025	AMD-P	05-03-116	67-25-388	AMD-P	05-03-116	82-60-031	RECOD	05-04-072
67-25-025	AMD	05-08-097	67-25-388	AMD	05-08-097	82-60-032	RECOD	05-04-072
67-25-030	AMD-P	05-03-116	67-25-390	AMD-P	05-03-116	82-60-033	RECOD	05-04-072
67-25-030	AMD	05-08-097	67-25-390	AMD	05-08-097	82-60-034	RECOD	05-04-072
67-25-050	AMD-P	05-03-116	67-25-394	AMD-P	05-03-116	82-60-035	RECOD	05-04-072
67-25-050	AMD	05-08-097	67-25-394	AMD	05-08-097	82-60-036	RECOD	05-04-072
67-25-055	AMD-P	05-03-116	67-25-395	REP-P	05-03-116	82-60-037	RECOD	05-04-072
67-25-055	AMD	05-08-097	67-25-395	REP	05-08-097	82-60-038	RECOD	05-04-072
67-25-056	AMD-P	05-03-116	67-25-396	AMD-P	05-03-116	82-60-039	NEW	05-04-072
67-25-056	AMD	05-08-097	67-25-396	AMD	05-08-097	82-60-040	RECOD	05-04-072
67-25-060	AMD-P	05-03-116	67-25-398	AMD-P	05-03-116	82-60-050	RECOD	05-04-072
67-25-060	AMD	05-08-097	67-25-398	AMD	05-08-097	82-60-060	RECOD	05-04-072
67-25-065	NEW-P	05-03-116	67-25-399	AMD-P	05-03-116	82-60-070	RECOD	05-04-072
67-25-065	NEW	05-08-097	67-25-399	AMD	05-08-097	82-60-080	RECOD	05-04-072
67-25-070	AMD-P	05-03-116	67-25-400	AMD-P	05-03-116	82-60-100	RECOD	05-04-072
67-25-070	AMD	05-08-097	67-25-400	AMD	05-08-097	82-60-200	RECOD	05-04-072
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106-72-015	AMD	05-05-057	132H-136-030	AMD-P	05-09-064	132Z-115-190	AMD	05-06-003
106-72-025	AMD	05-05-057	132H-136-035	REP-P	05-09-064	132Z-115-200	AMD	05-06-003
106-72-130	AMD	05-05-057	132H-136-040	REP-P	05-09-064	132Z-115-240	NEW	05-06-003
106-72-150	REP	05-05-057	132H-140-010	AMD-P	05-04-061	132Z-133-010	AMD	05-06-003
106-72-200	REP	05-05-057	132H-140-010	AMD	05-07-069	132Z-134-010	AMD	05-06-003
106-72-220	REP	05-05-057	132H-140-020	AMD-P	05-04-061	132Z-276-030	AMD	05-06-003
106-72-400	AMD	05-05-057	132H-140-020	AMD	05-07-069	132Z-276-070	AMD	05-06-003
106-72-410	REP	05-05-057	132H-140-025	NEW-P	05-04-061	132Z-276-120	AMD	05-06-003
106-72-420	REP	05-05-057	132H-140-025	NEW	05-07-069	136-01-030	AMD-P	05-04-052
106-72-430	REP	05-05-057	132H-140-030	AMD-P	05-04-061	136-28-010	AMD-P	05-07-022
106-72-440	REP	05-05-057	132H-140-030	AMD	05-07-069	136-28-020	AMD-P	05-07-022
106-72-450	REP	05-05-057	132H-140-050	AMD-P	05-04-061	136-28-030	AMD-P	05-07-022
106-72-460	REP	05-05-057	132H-140-050	AMD	05-07-069	136-167-040	AMD-E	05-04-051
106-72-470	REP	05-05-057	132H-140-065	AMD-P	05-04-061	137-59-010	NEW-W	05-05-071
106-72-480	REP	05-05-057	132H-140-065	AMD	05-07-069	137-59-020	NEW-W	05-05-071
106-72-490	REP	05-05-057	132H-142-010	NEW-P	05-04-061	137-59-030	NEW-W	05-05-071
106-72-500	REP	05-05-057	132H-142-010	NEW	05-07-069	137-59-040	NEW-W	05-05-071
106-72-510	REP	05-05-057	132H-142-015	NEW-P	05-04-061	137-59-050	NEW-W	05-05-071
106-72-520	REP	05-05-057	132H-142-015	NEW	05-07-069	137-59-060	NEW-W	05-05-071
106-72-530	REP	05-05-057	132H-142-020	NEW-P	05-04-061	137-59-070	NEW-W	05-05-071
106-72-540	REP	05-05-057	132H-142-020	NEW	05-07-069	137-59-080	NEW-W	05-05-071
106-72-550	REP	05-05-057	132H-142-030	NEW-P	05-04-061	137-70-040	AMD-E	05-05-074
106-72-560	REP	05-05-057	132H-142-030	NEW	05-07-069	139-02-020	AMD-P	05-03-025
106-72-570	REP	05-05-057	132H-142-040	NEW-P	05-04-061	139-02-030	AMD-P	05-03-025
106-72-580	REP	05-05-057	132H-142-040	NEW	05-07-069	139-02-050	AMD-P	05-03-025
106-72-590	REP	05-05-057	132H-142-050	NEW-P	05-04-061	139-02-060	REP-P	05-03-025
106-72-600	REP	05-05-057	132H-142-050	NEW	05-07-069	139-02-070	AMD-P	05-03-025
106-72-610	REP	05-05-057	132H-142-060	NEW-P	05-04-061	139-02-080	AMD-P	05-03-025
131	PREP	05-05-018	132H-142-060	NEW	05-07-069	139-02-090	AMD-P	05-03-025
131	PREP	05-05-019	132H-142-070	NEW-P	05-04-061	139-02-100	REP-P	05-03-025
131-28-026	AMD-P	05-09-018	132H-142-070	NEW	05-07-069	139-02-110	AMD-P	05-03-025
132A-156	PREP	05-07-015	132H-142-080	NEW-P	05-04-061	139-02-120	NEW-P	05-03-025
132A-350-015	PREP	05-07-015	132H-142-080	NEW	05-07-069	139-02-130	NEW-P	05-03-025
132C-120-015	AMD-P	05-06-029	132P-33-100	PREP	05-07-110	139-03-010	AMD-P	05-03-024
132C-120-030	REP-P	05-06-029	132Z-104-010	AMD	05-06-003	139-03-010	AMD	05-07-049
132C-120-040	AMD-P	05-06-029	132Z-108-040	AMD	05-06-003	139-03-020	AMD-P	05-03-024
132C-120-050	AMD-P	05-06-029	132Z-112-010	AMD	05-06-003	139-03-020	AMD	05-07-049
132C-120-060	AMD-P	05-06-029	132Z-112-020	AMD	05-06-003	139-03-040	REP-P	05-03-024
132C-120-065	AMD-P	05-06-029	132Z-112-030	AMD	05-06-003	139-03-040	REP	05-07-049
132C-120-071	NEW-P	05-06-029	132Z-112-040	AMD	05-06-003	139-03-045	NEW-P	05-03-024
132C-120-076	NEW-P	05-06-029	132Z-112-050	AMD	05-06-003	139-03-045	NEW	05-07-049
132C-120-100	AMD-P	05-06-029	132Z-112-060	NEW	05-06-003	139-03-050	REP-P	05-03-024
132C-120-110	AMD-P	05-06-029	132Z-112-070	NEW	05-06-003	139-03-050	REP	05-07-049
132C-120-115	AMD-P	05-06-029	132Z-112-080	NEW	05-06-003	139-03-060	REP-P	05-03-024
132C-120-120	AMD-P	05-06-029	132Z-112-090	NEW	05-06-003	139-03-060	REP	05-07-049
132C-120-125	AMD-P	05-06-029	132Z-112-100	NEW	05-06-003	139-03-075	NEW-P	05-03-024
132C-120-130	AMD-P	05-06-029	132Z-112-110	NEW	05-06-003	139-03-075	NEW	05-07-049
132C-120-135	AMD-P	05-06-029	132Z-112-120	NEW	05-06-003	139-05-200	PREP	05-05-012
132C-120-140	AMD-P	05-06-029	132Z-115-005	NEW	05-06-003	139-05-210	PREP	05-05-012
132C-120-145	AMD-P	05-06-029	132Z-115-010	AMD	05-06-003	139-05-220	PREP	05-05-012
132C-120-150	AMD-P	05-06-029	132Z-115-020	AMD	05-06-003	139-05-230	PREP	05-05-012
132C-120-150	AMD-P	05-06-029	132Z-115-050	AMD	05-06-003	139-05-240	PREP	05-05-012
132C-120-210	AMD-P	05-06-029	132Z-115-060	AMD	05-06-003	139-05-242	PREP	05-05-012
132C-120-215	AMD-P	05-06-029	132Z-115-080	AMD	05-06-003	139-05-250	PREP	05-05-012
132C-120-220	AMD-P	05-06-029	132Z-115-090	AMD	05-06-003	139-10-235	PREP	05-05-013
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132C-120-230	AMD-P	05-06-029	132Z-115-110	AMD	05-06-003	139-10-530	PREP	05-05-014
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132H-136	PREP	05-05-096	132Z-115-130	AMD	05-06-003	139-10-540	PREP	05-05-015
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173-322-010	AMD	05-07-104	173-503-090	AMD-P	05-04-108	180-46-030	REP	05-08-013
173-322-020	AMD	05-07-104	173-503-100	AMD-P	05-04-108	180-46-035	REP-P	05-04-017
173-322-030	AMD	05-07-104	173-503-110	NEW-P	05-04-108	180-46-035	REP	05-08-013
173-322-040	AMD	05-07-104	173-503-120	NEW-P	05-04-108	180-46-040	REP-P	05-04-017
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173-322-080	AMD	05-07-104	173-503A	PREP	05-05-076	180-46-050	REP-P	05-04-017
173-322-090	AMD	05-07-104	173-505	AMD-C	05-09-124	180-46-050	REP	05-08-013
173-322-100	AMD	05-07-104	173-505-010	NEW-P	05-05-094	180-46-055	AMD-P	05-04-017
173-322-110	AMD	05-07-104	173-505-020	NEW-P	05-05-094	180-46-055	AMD	05-08-013
173-322-120	AMD	05-07-104	173-505-030	NEW-P	05-05-094	180-46-065	REP-P	05-04-017
173-322-130	NEW	05-07-104	173-505-040	NEW-P	05-05-094	180-46-065	REP	05-08-013
173-350-100	AMD-S	05-03-018	173-505-050	NEW-P	05-05-094	180-51-035	AMD-E	05-08-011
173-400-030	AMD	05-03-033	173-505-060	NEW-P	05-05-094	180-51-035	AMD-P	05-08-012
173-400-035	AMD-W	05-09-051	173-505-070	NEW-P	05-05-094	180-55-005	AMD-P	05-04-075
173-400-040	AMD	05-03-033	173-505-080	NEW-P	05-05-094	180-55-005	AMD	05-08-015
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173-400-075	AMD	05-03-033	173-505-120	NEW-P	05-05-094	180-55-017	NEW	05-08-015
173-400-099	AMD	05-03-033	173-505-130	NEW-P	05-05-094	180-55-034	REP	05-04-016
173-400-100	AMD	05-03-033	173-505-140	NEW-P	05-05-094	180-78A-100	AMD	05-04-056
173-400-102	AMD	05-03-033	173-505-150	NEW-P	05-05-094	180-78A-100	AMD-P	05-08-037
173-400-104	AMD	05-03-033	173-505-160	NEW-P	05-05-094	180-78A-100	AMD-E	05-08-049
173-400-105	AMD	05-03-033	173-505-170	NEW-P	05-05-094	180-78A-319	AMD-P	05-08-038
173-400-107	AMD-W	05-09-051	173-505-180	NEW-P	05-05-094	180-78A-505	AMD-P	05-08-039
173-400-110	AMD	05-03-033	173-525	PREP	05-06-113	180-78A-535	AMD-P	05-08-040
173-400-112	AMD	05-03-033	173-526	PREP	05-06-114	180-78A-535	AMD-E	05-08-048
173-400-113	AMD	05-03-033	173-527	PREP	05-06-115	180-79A-011	AMD-P	05-08-043
173-400-115	AMD	05-03-033	173-528	PREP	05-06-116	180-79A-030	AMD	05-04-055
173-400-116	AMD	05-03-033	173-546-010	NEW-P	05-06-117	180-79A-123	AMD-P	05-08-042
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173-400-120	AMD	05-03-033	173-546-040	NEW-P	05-06-117	180-79A-130	AMD-E	05-08-052
173-400-131	AMD	05-03-033	173-546-050	NEW-P	05-06-117	180-79A-145	AMD-P	05-08-041
173-400-136	AMD	05-03-033	173-546-060	NEW-P	05-06-117	180-79A-145	AMD-E	05-08-050
173-400-141	REP	05-03-033	173-546-070	NEW-P	05-06-117	180-79A-250	AMD-P	05-08-036
173-400-151	AMD	05-03-033	173-546-080	NEW-P	05-06-117	180-79A-250	AMD-E	05-08-053
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173-400-175	NEW	05-03-033	173-546-100	NEW-P	05-06-117	180-82-105	AMD-P	05-04-015
173-400-200	AMD	05-03-033	173-546-110	NEW-P	05-06-117	180-82-105	AMD-W	05-08-069
173-400-560	NEW	05-03-033	173-546-120	NEW-P	05-06-117	180-85-025	AMD-P	05-08-047
173-400-700	NEW	05-03-033	173-546-130	NEW-P	05-06-117	180-85-033	AMD-P	05-08-046
173-400-710	NEW	05-03-033	173-546-140	NEW-P	05-06-117	180-85-034	NEW-P	05-08-044
173-400-720	NEW	05-03-033	173-546-150	NEW-P	05-06-117	180-85-075	AMD-P	05-08-045
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173-400-740	NEW	05-03-033	180-20-101	AMD-P	05-04-018	182-08-120	AMD-W	05-02-060
173-400-750	NEW	05-03-033	180-20-101	AMD	05-08-014	182-16-040	AMD-W	05-02-060
173-415	PREP	05-08-141	180-46-005	AMD-P	05-04-017	182-16-040	PREP	05-07-158
173-481	PREP	05-08-141	180-46-005	AMD	05-08-013	182-16-050	AMD-W	05-02-060
173-503	PREP-W	05-05-075	180-46-009	NEW-P	05-04-017	182-16-050	PREP	05-07-158
173-503-020	AMD-P	05-04-108	180-46-009	NEW	05-08-013	192-32-010	REP-X	05-07-143
173-503-025	NEW-P	05-04-108	180-46-010	REP-P	05-04-017	192-32-035	REP-X	05-07-143
173-503-051	NEW-P	05-04-108	180-46-010	REP	05-08-013	192-32-050	REP-X	05-07-143
173-503-060	AMD-P	05-04-108	180-46-015	REP-P	05-04-017	192-32-085	REP-X	05-07-143
173-503-071	NEW-P	05-04-108	180-46-015	REP	05-08-013	192-32-095	REP-X	05-07-143
173-503-073	NEW-P	05-04-108	180-46-020	AMD-P	05-04-017	192-32-100	REP-X	05-07-143
173-503-074	NEW-P	05-04-108	180-46-020	AMD	05-08-013	192-32-115	REP-X	05-07-143
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192- 35-020	NEW	05-02-094	199- 08-460	NEW	05-07-045	212- 17-285	AMD-P	05-07-102
192- 35-030	NEW	05-02-094	199- 08-465	NEW	05-07-045	212- 17-290	AMD-P	05-07-102
192- 35-040	NEW	05-02-094	199- 08-470	NEW	05-07-045	212- 17-295	AMD-P	05-07-102
192- 35-050	NEW	05-02-094	199- 08-475	NEW	05-07-045	212- 17-300	AMD-P	05-07-102
192- 35-060	NEW	05-02-094	199- 08-480	NEW	05-07-045	212- 17-310	AMD-P	05-07-102
192- 35-070	NEW	05-02-094	199- 08-485	NEW	05-07-045	212- 17-317	AMD-P	05-07-102
192- 35-080	NEW	05-02-094	199- 08-490	NEW	05-07-045	212- 17-335	AMD-P	05-07-102
192- 35-090	NEW	05-02-094	199- 08-495	NEW	05-07-045	212- 17-342	NEW-P	05-07-102
192- 35-100	NEW	05-02-094	199- 08-500	NEW	05-07-045	212- 17-345	AMD-P	05-07-102
192- 35-110	NEW	05-02-094	199- 08-505	NEW	05-07-045	212- 17-350	AMD-P	05-07-102
192- 35-120	NEW	05-02-094	199- 08-510	NEW	05-07-045	212- 17-352	AMD-P	05-07-102
192-110-015	AMD-E	05-03-011	199- 08-515	NEW	05-07-045	212- 17-355	AMD-P	05-07-102
192-110-017	NEW-E	05-03-011	199- 08-520	NEW	05-07-045	212- 17-360	AMD-P	05-07-102
192-150-112	NEW-P	05-07-144	199- 08-525	NEW	05-07-045	212- 17-365	NEW-P	05-07-102
192-150-113	NEW-P	05-07-144	199- 08-535	NEW-W	05-07-079	212- 17-370	NEW-P	05-07-102
192-170-060	NEW-E	05-03-011	199- 08-540	NEW	05-07-045	212- 17-375	NEW-P	05-07-102
192-170-060	NEW-P	05-07-144	199- 08-545	NEW	05-07-045	212- 17-380	NEW-P	05-07-102
192-180-013	NEW-E	05-03-011	199- 08-550	NEW	05-07-045	212- 17-385	NEW-P	05-07-102
192-180-014	NEW-P	05-07-144	199- 08-555	NEW	05-07-045	212- 17-390	NEW-P	05-07-102
192-300-050	AMD-E	05-03-011	199- 08-565	NEW	05-07-045	212- 17-395	NEW-P	05-07-102
192-310-030	AMD-E	05-03-011	199- 08-570	NEW	05-07-045	212- 17-400	NEW-P	05-07-102
192-320-005	NEW-E	05-03-011	199- 08-580	NEW	05-07-045	212- 17-405	NEW-P	05-07-102
192-320-010	NEW-E	05-03-011	204- 41	PREP	05-08-115	212- 17-410	NEW-P	05-07-102
192-320-020	NEW-E	05-03-011	204- 50	PREP	05-08-116	212- 17-415	NEW-P	05-07-102
196- 25-002	AMD-P	05-07-142	208-680A-040	AMD	05-03-038	212- 17-420	NEW-P	05-07-102
196- 25-040	AMD-P	05-07-142	208-680E-025	NEW	05-03-038	212- 17-425	NEW-P	05-07-102
199- 08-300	NEW	05-07-045	208-680F-020	AMD	05-03-038	212- 17-430	NEW-P	05-07-102
199- 08-305	NEW	05-07-045	208-680G-050	AMD	05-03-037	212- 17-435	NEW-P	05-07-102
199- 08-310	NEW	05-07-045	212- 17-025	AMD-P	05-07-102	212- 17-440	NEW-P	05-07-102
199- 08-315	NEW	05-07-045	212- 17-030	AMD-P	05-07-102	212- 17-445	NEW-P	05-07-102
199- 08-320	NEW	05-07-045	212- 17-032	NEW-P	05-07-102	212- 17-450	NEW-P	05-07-102
199- 08-325	NEW	05-07-045	212- 17-035	AMD-P	05-07-102	212- 17-455	NEW-P	05-07-102
199- 08-330	NEW	05-07-045	212- 17-040	AMD-P	05-07-102	212- 17-460	NEW-P	05-07-102
199- 08-335	NEW	05-07-045	212- 17-042	NEW-P	05-07-102	212- 17-465	NEW-P	05-07-102
199- 08-340	NEW	05-07-045	212- 17-050	AMD-P	05-07-102	212- 17-470	NEW-P	05-07-102
199- 08-345	NEW	05-07-045	212- 17-055	AMD-P	05-07-102	212- 17-475	NEW-P	05-07-102
199- 08-350	NEW	05-07-045	212- 17-060	AMD-P	05-07-102	212- 17-480	NEW-P	05-07-102
199- 08-355	NEW	05-07-045	212- 17-070	AMD-P	05-07-102	212- 17-485	NEW-P	05-07-102
199- 08-360	NEW	05-07-045	212- 17-085	AMD-P	05-07-102	212- 17-490	NEW-P	05-07-102
199- 08-365	NEW	05-07-045	212- 17-125	AMD-P	05-07-102	212- 17-495	NEW-P	05-07-102
199- 08-370	NEW	05-07-045	212- 17-170	AMD-P	05-07-102	212- 17-500	NEW-P	05-07-102
199- 08-375	NEW	05-07-045	212- 17-185	AMD-P	05-07-102	212- 17-505	NEW-P	05-07-102
199- 08-380	NEW	05-07-045	212- 17-198	AMD-P	05-07-102	212- 17-510	NEW-P	05-07-102
199- 08-385	NEW	05-07-045	212- 17-21503	AMD-P	05-07-102	212- 17-515	NEW-P	05-07-102
199- 08-390	NEW	05-07-045	212- 17-21505	AMD-P	05-07-102	212- 17-900	AMD-P	05-07-102
199- 08-395	NEW	05-07-045	212- 17-21507	AMD-P	05-07-102	212- 80	PREP	05-07-101
199- 08-400	NEW	05-07-045	212- 17-21509	AMD-P	05-07-102	212- 80-001	AMD	05-05-006
199- 08-405	NEW-W	05-07-079	212- 17-21511	AMD-P	05-07-102	212- 80-005	AMD	05-05-006
199- 08-410	NEW-W	05-07-079	212- 17-21513	AMD-P	05-07-102	212- 80-010	AMD	05-05-006
199- 08-415	NEW-W	05-07-079	212- 17-21515	AMD-P	05-07-102	212- 80-015	AMD	05-05-006
199- 08-420	NEW-W	05-07-079	212- 17-21517	AMD-P	05-07-102	212- 80-018	NEW	05-05-006
199- 08-425	NEW	05-07-045	212- 17-21519	AMD-P	05-07-102	212- 80-023	RECOD	05-05-006
199- 08-426	NEW-W	05-07-079	212- 17-220	AMD-P	05-07-102	212- 80-025	AMD	05-05-006
199- 08-427	NEW-W	05-07-079	212- 17-230	AMD-P	05-07-102	212- 80-025	DECOD	05-05-006
199- 08-428	NEW-W	05-07-079	212- 17-235	AMD-P	05-07-102	212- 80-028	RECOD	05-05-006
199- 08-429	NEW-W	05-07-079	212- 17-250	AMD-P	05-07-102	212- 80-030	AMD	05-05-006
199- 08-430	NEW	05-07-045	212- 17-255	AMD-P	05-07-102	212- 80-030	DECOD	05-05-006
199- 08-435	NEW	05-07-045	212- 17-260	AMD-P	05-07-102	212- 80-033	RECOD	05-05-006
199- 08-440	NEW	05-07-045	212- 17-265	REP-P	05-07-102	212- 80-035	AMD	05-05-006
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212- 80-040	DECOD	05-05-006	212- 80-230	NEW	05-05-006	220- 52-04600A	REP-E	05-07-060
212- 80-043	RECOD	05-05-006	212- 80-235	NEW	05-05-006	220- 52-04600B	NEW-E	05-07-060
212- 80-045	AMD	05-05-006	212- 80-240	NEW	05-05-006	220- 52-04600R	REP-E	05-03-063
212- 80-045	DECOD	05-05-006	212- 80-245	NEW	05-05-006	220- 52-04600T	REP-E	05-04-065
212- 80-048	NEW	05-05-006	212- 80-250	NEW	05-05-006	220- 52-04600W	REP-E	05-02-048
212- 80-050	AMD	05-05-006	212- 80-255	NEW	05-05-006	220- 52-04600X	NEW-E	05-03-063
212- 80-050	DECOD	05-05-006	212- 80-260	NEW	05-05-006	220- 52-04600X	REP-E	05-05-041
212- 80-053	RECOD	05-05-006	212- 80-265	NEW	05-05-006	220- 52-04600Y	NEW-E	05-04-065
212- 80-055	AMD	05-05-006	220- 16-820	NEW	05-09-009	220- 52-04600Z	NEW-E	05-05-041
212- 80-055	DECOD	05-05-006	220- 16-830	NEW	05-09-009	220- 52-04600Z	REP-E	05-06-034
212- 80-058	RECOD	05-05-006	220- 16-840	NEW	05-09-009	220- 52-05100K	NEW-E	05-09-039
212- 80-060	AMD	05-05-006	220- 16-850	NEW	05-09-009	220- 52-07100L	NEW-E	05-05-040
212- 80-060	DECOD	05-05-006	220- 16-860	NEW	05-09-009	220- 52-07100L	REP-E	05-06-009
212- 80-063	RECOD	05-05-006	220- 16-870	NEW	05-09-009	220- 52-07100M	NEW-E	05-06-009
212- 80-065	AMD	05-05-006	220- 20-010	AMD-P	05-03-117	220- 52-07100M	REP-E	05-07-010
212- 80-065	DECOD	05-05-006	220- 20-010	AMD	05-08-056	220- 52-07100N	NEW-E	05-07-010
212- 80-068	RECOD	05-05-006	220- 20-05100A	REP-E	05-03-013	220- 52-07100N	REP-E	05-07-062
212- 80-070	AMD	05-05-006	220- 20-05100B	NEW-E	05-03-013	220- 52-07100P	NEW-E	05-07-062
212- 80-070	DECOD	05-05-006	220- 20-05100B	REP-E	05-03-013	220- 52-07100P	REP-E	05-07-083
212- 80-073	RECOD	05-05-006	220- 20-100	AMD	05-09-009	220- 52-07100Q	NEW-E	05-07-083
212- 80-075	AMD	05-05-006	220- 32-05100G	REP-E	05-04-068	220- 52-07100Q	REP-E	05-07-083
212- 80-075	DECOD	05-05-006	220- 32-05100H	NEW-E	05-03-061	220- 52-07300Q	REP-E	05-03-068
212- 80-078	RECOD	05-05-006	220- 32-05100H	REP-E	05-03-061	220- 52-07300R	NEW-E	05-03-068
212- 80-080	AMD	05-05-006	220- 32-05100H	REP-E	05-04-068	220- 52-07300R	REP-E	05-05-039
212- 80-080	DECOD	05-05-006	220- 32-05100I	NEW-E	05-04-068	220- 52-07300S	NEW-E	05-05-039
212- 80-083	RECOD	05-05-006	220- 32-05100I	REP-E	05-04-068	220- 52-07300S	REP-E	05-07-009
212- 80-085	AMD	05-05-006	220- 32-05100I	REP-E	05-07-084	220- 52-07300T	NEW-E	05-07-009
212- 80-085	DECOD	05-05-006	220- 32-05100J	NEW-E	05-07-084	220- 52-07300T	REP-E	05-07-103
212- 80-088	RECOD	05-05-006	220- 33-01000A	NEW-E	05-08-073	220- 56-115	AMD	05-05-035
212- 80-090	AMD	05-05-006	220- 33-01000A	REP-E	05-09-098	220- 56-118	AMD	05-05-035
212- 80-090	DECOD	05-05-006	220- 33-01000S	NEW-E	05-05-091	220- 56-128	AMD	05-05-035
212- 80-093	RECOD	05-05-006	220- 33-01000S	REP-E	05-06-010	220- 56-129	AMD	05-05-035
212- 80-095	AMD	05-05-006	220- 33-01000T	NEW-E	05-06-010	220- 56-130	AMD	05-05-035
212- 80-095	DECOD	05-05-006	220- 33-01000T	REP-E	05-06-072	220- 56-156	AMD	05-05-046
212- 80-098	RECOD	05-05-006	220- 33-01000U	NEW-E	05-06-072	220- 56-25000H	NEW-E	05-06-008
212- 80-100	DECOD	05-05-006	220- 33-01000U	REP-E	05-07-005	220- 56-255	AMD-X	05-09-033
212- 80-103	RECOD	05-05-006	220- 33-01000V	NEW-E	05-07-005	220- 56-25500S	NEW-E	05-09-025
212- 80-105	AMD	05-05-006	220- 33-01000V	REP-E	05-07-026	220- 56-27000W	REP-E	05-06-043
212- 80-105	DECOD	05-05-006	220- 33-01000W	NEW-E	05-07-026	220- 56-27000X	NEW-E	05-06-043
212- 80-108	RECOD	05-05-006	220- 33-01000W	REP-E	05-07-043	220- 56-27000X	REP-E	05-06-043
212- 80-110	AMD	05-05-006	220- 33-01000X	NEW-E	05-07-043	220- 56-282	AMD	05-05-035
212- 80-110	DECOD	05-05-006	220- 33-01000X	REP-E	05-07-082	220- 56-28200G	REP-E	05-08-071
212- 80-113	RECOD	05-05-006	220- 33-01000Y	NEW-E	05-07-082	220- 56-28200H	NEW-E	05-06-006
212- 80-115	AMD	05-05-006	220- 33-01000Y	REP-E	05-08-021	220- 56-28200I	NEW-E	05-08-071
212- 80-115	DECOD	05-05-006	220- 33-01000Z	NEW-E	05-08-021	220- 56-28200I	REP-E	05-08-071
212- 80-118	RECOD	05-05-006	220- 33-01000Z	REP-E	05-08-073	220- 56-310	AMD	05-05-035
212- 80-120	AMD	05-05-006	220- 33-04000W	REP-E	05-06-042	220- 56-310	AMD-P	05-07-042
212- 80-120	DECOD	05-05-006	220- 33-04000X	NEW-E	05-06-042	220- 56-312	AMD-P	05-07-042
212- 80-123	RECOD	05-05-006	220- 33-04000X	REP-E	05-06-042	220- 56-315	AMD	05-05-035
212- 80-125	AMD	05-05-006	220- 44-05000D	REP-E	05-08-055	220- 56-315	AMD-P	05-07-042
212- 80-125	DECOD	05-05-006	220- 44-05000E	NEW-E	05-08-055	220- 56-320	AMD	05-05-035
212- 80-128	RECOD	05-05-006	220- 48-01500V	NEW-E	05-05-090	220- 56-325	AMD	05-05-035
212- 80-130	AMD	05-05-006	220- 52-030	AMD	05-05-027	220- 56-32500W	NEW-E	05-09-027
212- 80-130	DECOD	05-05-006	220- 52-04000F	REP-E	05-03-039	220- 56-326	AMD	05-05-035
212- 80-135	AMD	05-05-006	220- 52-04000H	NEW-E	05-03-039	220- 56-330	AMD	05-05-035
212- 80-135	DECOD	05-05-006	220- 52-04000H	REP-E	05-06-034	220- 56-330	AMD-P	05-07-042
212- 80-200	RECOD	05-05-006	220- 52-04000I	NEW-E	05-04-065	220- 56-33000Q	REP-E	05-07-149
212- 80-205	RECOD	05-05-006	220- 52-04000I	REP-E	05-04-065	220- 56-33000R	NEW-E	05-07-008
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212- 80-215	NEW	05-05-006	220- 52-04000J	REP-E	05-07-060	220- 56-33000S	NEW-E	05-07-149

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220- 56-35000V	NEW-E	05-06-007	222- 22-060	AMD-S	05-08-085	232- 28-61900F	NEW-E	05-07-077
220- 56-35000W	NEW-E	05-09-026	222- 22-070	AMD-P	05-06-096	232- 28-61900F	REP-E	05-07-077
220- 56-35000W	REP-E	05-09-026	222- 22-070	AMD-S	05-08-085	232- 28-61900F	REP-E	05-09-097
220- 56-36000E	NEW-E	05-02-047	222- 22-080	AMD-S	05-08-085	232- 28-61900G	NEW-E	05-07-061
220- 56-36000E	REP-E	05-02-047	222- 22-090	AMD-P	05-06-096	232- 28-61900H	NEW-E	05-07-078
220- 56-36000F	NEW-E	05-04-064	222- 22-090	AMD-S	05-08-085	232- 28-61900H	REP-E	05-07-078
220- 56-36000F	REP-E	05-04-064	222- 23-020	AMD-P	05-06-096	232- 28-61900I	NEW-E	05-07-148
220- 56-36000G	NEW-E	05-06-071	222- 23-025	AMD-P	05-06-096	232- 28-61900I	REP-E	05-07-148
220- 56-36000G	REP-E	05-06-071	222- 24-010	AMD-P	05-06-096	232- 28-61900J	NEW-E	05-08-071
220- 56-36000H	NEW-E	05-08-006	222- 24-051	AMD-P	05-06-096	232- 28-61900J	REP-E	05-08-071
220- 56-36000H	REP-E	05-08-006	222- 30-020	AMD-P	05-06-096	232- 28-61900K	NEW-E	05-08-072
220- 56-36000I	NEW-E	05-08-119	222- 30-021	AMD-P	05-06-096	232- 28-61900K	REP-E	05-08-072
220- 56-36000I	REP-E	05-08-119	222- 30-022	AMD-P	05-06-096	232- 28-61900L	NEW-E	05-08-074
220- 56-36000J	NEW-E	05-09-068	222- 30-023	AMD-P	05-06-096	232- 28-61900L	REP-E	05-08-074
220- 56-36000J	REP-E	05-09-068	222- 30-025	AMD-P	05-06-096	232- 28-61900M	NEW-E	05-09-016
220- 56-380	AMD	05-05-035	222- 30-050	AMD-P	05-06-096	232- 28-61900M	REP-E	05-09-016
220- 56-38000H	REP-E	05-09-026	222- 30-110	AMD-P	05-06-096	232- 28-61900N	NEW-E	05-09-037
220- 56-38000I	NEW-E	05-09-026	222- 34-010	AMD-P	05-06-096	232- 28-61900N	REP-E	05-09-037
220- 69-236	AMD	05-05-035	222- 34-020	AMD-P	05-06-096	232- 28-61900P	NEW-E	05-09-024
220- 69-26401	AMD	05-05-026	230- 02-205	AMD-W	05-09-052	232- 28-61900P	REP-E	05-09-024
220- 76-015	AMD-P	05-09-023	230- 02-505	AMD-P	05-09-065	232- 28-61900Q	NEW-E	05-09-067
220- 76-015	AMD-W	05-09-041	230- 04-142	AMD-P	05-07-118	232- 28-61900Q	REP-E	05-09-067
220- 76-015	AMD-P	05-09-042	230- 04-255	AMD-P	05-07-115	232- 28-61900R	NEW-E	05-09-097
220- 88C-030	AMD-P	05-03-117	230- 04-270	AMD-P	05-07-117	232- 28-61900Y	REP-E	05-03-062
220- 88C-030	AMD	05-08-056	230- 08-130	AMD-P	05-07-119	232-288-61900E	NEW-E	05-05-089
220- 88C-040	AMD-P	05-03-117	230- 08-140	AMD-P	05-07-119	232-288-61900E	REP-E	05-05-089
220- 88C-040	AMD	05-08-056	230- 08-150	AMD-P	05-07-119	236- 22-010	AMD	05-04-072
220- 88C-050	AMD-P	05-03-117	230- 08-160	AMD-P	05-07-119	236- 22-010	DECOD	05-04-072
220- 88C-050	AMD	05-08-056	230- 08-165	AMD-P	05-07-119	236- 22-020	AMD	05-04-072
220- 95-110	AMD-P	05-09-011	230- 12-305	AMD-P	05-07-119	236- 22-020	DECOD	05-04-072
220-110-170	AMD-X	05-09-040	230- 12-310	AMD-P	05-07-119	236- 22-030	AMD	05-04-072
222	AMD-S	05-04-007	230- 20-115	AMD-P	05-03-115	236- 22-030	DECOD	05-04-072
222- 08-160	AMD-S	05-08-085	230- 20-115	AMD	05-07-106	236- 22-031	AMD	05-04-072
222- 10-030	AMD-P	05-06-096	230- 20-335	AMD-P	05-03-114	236- 22-031	DECOD	05-04-072
222- 10-040	AMD-P	05-06-096	230- 20-335	AMD	05-07-107	236- 22-032	DECOD	05-04-072
222- 12-010	AMD-S	05-08-085	230- 30-033	AMD-W	05-08-105	236- 22-033	DECOD	05-04-072
222- 12-040	AMD-P	05-06-096	232- 12-021	AMD	05-02-046	236- 22-034	AMD	05-04-072
222- 12-045	AMD-P	05-06-096	232- 12-129	AMD	05-05-008	236- 22-034	DECOD	05-04-072
222- 12-046	AMD-P	05-06-096	232- 12-619	AMD	05-05-035	236- 22-035	DECOD	05-04-072
222- 12-046	AMD-S	05-08-085	232- 28-248	AMD	05-02-046	236- 22-036	AMD	05-04-072
222- 12-080	AMD-P	05-06-096	232- 28-248	AMD-P	05-06-108	236- 22-036	DECOD	05-04-072
222- 12-090	AMD-P	05-06-096	232- 28-266	AMD-P	05-06-108	236- 22-037	AMD	05-04-072
222- 12-090	AMD-S	05-08-085	232- 28-271	AMD	05-02-046	236- 22-037	DECOD	05-04-072
222- 16-010	AMD-P	05-06-096	232- 28-273	AMD-P	05-06-108	236- 22-038	AMD	05-04-072
222- 16-010	AMD-S	05-08-085	232- 28-282	AMD-P	05-06-108	236- 22-038	DECOD	05-04-072
222- 16-030	AMD-P	05-06-096	232- 28-284	NEW	05-02-046	236- 22-040	DECOD	05-04-072
222- 16-031	AMD-P	05-06-096	232- 28-291	AMD	05-02-046	236- 22-050	AMD	05-04-072
222- 16-050	AMD-P	05-06-096	232- 28-333	AMD	05-02-046	236- 22-050	DECOD	05-04-072
222- 16-070	AMD-P	05-06-096	232- 28-333	AMD-P	05-06-108	236- 22-060	AMD	05-04-072
222- 16-080	AMD-P	05-06-096	232- 28-335	AMD-P	05-06-108	236- 22-060	DECOD	05-04-072
222- 20-010	AMD-P	05-06-096	232- 28-337	AMD-P	05-06-108	236- 22-070	AMD	05-04-072
222- 20-020	AMD-P	05-06-096	232- 28-341	AMD-P	05-06-108	236- 22-070	DECOD	05-04-072
222- 20-040	AMD-P	05-06-096	232- 28-351	AMD-P	05-06-106	236- 22-080	AMD	05-04-072
222- 20-050	AMD-P	05-06-096	232- 28-352	AMD-P	05-06-107	236- 22-080	DECOD	05-04-072
222- 20-060	AMD-P	05-06-096	232- 28-619	AMD	05-03-005	236- 22-100	AMD	05-04-072
222- 20-075	NEW-P	05-06-096	232- 28-619	AMD	05-05-035	236- 22-100	DECOD	05-04-072
222- 21-030	AMD-P	05-06-096	232- 28-61900B	NEW-E	05-03-062	236- 22-200	AMD	05-04-072
222- 22-010	AMD-P	05-06-096	232- 28-61900B	REP-E	05-07-061	236- 22-200	DECOD	05-04-072
222- 22-010	AMD-S	05-08-085	232- 28-61900C	NEW-E	05-04-003	236- 22-210	AMD	05-04-072
222- 22-020	AMD-S	05-08-085	232- 28-61900D	NEW-E	05-05-002	236- 22-210	DECOD	05-04-072



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246-100-011	AMD-P	05-06-123	246-272-26001	REP-P	05-02-082	246-562	PREP	05-03-010
246-100-072	AMD-P	05-06-123	246-272-27001	REP-P	05-02-082	246-564-001	NEW-P	05-03-007
246-100-166	PREP	05-03-054	246-272-28001	REP-P	05-02-082	246-564-010	NEW-P	05-03-007
246-100-166	AMD-P	05-04-113	246-272A	AMD-C	05-09-002	246-650	PREP	05-06-030
246-100-166	AMD	05-08-094	246-272A-0001	NEW-P	05-02-082	246-790	PREP	05-03-056
246-100-202	NEW-P	05-06-123	246-272A-0005	NEW-P	05-02-082	246-802-060	AMD-P	05-06-120
246-100-203	NEW-P	05-06-123	246-272A-0010	NEW-P	05-02-082	246-802-130	AMD-P	05-06-120
246-100-204	NEW-P	05-06-123	246-272A-0015	NEW-P	05-02-082	246-802-990	AMD-P	05-07-109
246-100-205	NEW-P	05-06-123	246-272A-0020	NEW-P	05-02-082	246-808-990	AMD-P	05-07-109
246-100-206	AMD-P	05-06-123	246-272A-0025	NEW-P	05-02-082	246-809-990	AMD-P	05-07-109
246-100-207	AMD-P	05-06-123	246-272A-0100	NEW-P	05-02-082	246-810-990	AMD-P	05-07-109
246-100-208	AMD-P	05-06-123	246-272A-0110	NEW-P	05-02-082	246-811-990	AMD-P	05-07-109
246-100-209	AMD-P	05-06-123	246-272A-0120	NEW-P	05-02-082	246-812-990	AMD-P	05-07-109
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246-101-201	AMD	05-03-055	246-272A-0135	NEW-P	05-02-082	246-817-701	PREP	05-09-001
246-101-301	AMD	05-03-055	246-272A-0140	NEW-P	05-02-082	246-817-710	PREP	05-09-001
246-101-505	AMD-P	05-06-123	246-272A-0145	NEW-P	05-02-082	246-817-720	PREP	05-09-001
246-101-520	AMD-P	05-06-123	246-272A-0150	NEW-P	05-02-082	246-817-730	PREP	05-09-001
246-130	PREP	05-06-119	246-272A-0170	NEW-P	05-02-082	246-817-740	PREP	05-09-001
246-140-001	NEW	05-04-112	246-272A-0175	NEW-P	05-02-082	246-817-750	PREP	05-09-001
246-140-010	NEW	05-04-112	246-272A-0200	NEW-P	05-02-082	246-817-760	PREP	05-09-001
246-140-020	NEW	05-04-112	246-272A-0210	NEW-P	05-02-082	246-817-770	PREP	05-09-001
246-247-035	NEW-P	05-08-019	246-272A-0220	NEW-P	05-02-082	246-817-780	PREP	05-09-001
246-260-031	AMD-X	05-03-057	246-272A-0230	NEW-P	05-02-082	246-817-990	AMD-P	05-07-109
246-260-031	AMD	05-09-004	246-272A-0232	NEW-P	05-02-082	246-822-990	AMD-P	05-07-109
246-260-041	AMD-X	05-03-057	246-272A-0234	NEW-P	05-02-082	246-824-990	AMD-P	05-07-109
246-260-041	AMD	05-09-004	246-272A-0238	NEW-P	05-02-082	246-824-995	REP-P	05-07-109
246-260-061	AMD-X	05-03-057	246-272A-0240	NEW-P	05-02-082	246-826-990	AMD-P	05-07-109
246-260-061	AMD	05-09-004	246-272A-0250	NEW-P	05-02-082	246-828-990	AMD-P	05-07-109
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246-260-091	AMD	05-09-004	246-272A-0265	NEW-P	05-02-082	246-834-250	AMD	05-06-118
246-260-131	AMD-X	05-03-057	246-272A-0270	NEW-P	05-02-082	246-834-990	AMD-P	05-07-109
246-260-131	AMD	05-09-004	246-272A-0275	NEW-P	05-02-082	246-836-990	AMD-P	05-07-109
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246-260-171	AMD	05-09-004	246-272A-0290	NEW-P	05-02-082	246-841-990	AMD-P	05-07-109
246-272-00101	REP-P	05-02-082	246-272A-0300	NEW-P	05-02-082	246-843-990	AMD-P	05-07-109
246-272-00501	REP-P	05-02-082	246-272A-0310	NEW-P	05-02-082	246-845-990	AMD-P	05-07-109
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246-272-03001	REP-P	05-02-082	246-272A-0400	NEW-P	05-02-082	246-849-995	REP-P	05-07-109
246-272-04001	REP-P	05-02-082	246-272A-0410	NEW-P	05-02-082	246-850-990	AMD-P	05-07-109
246-272-05001	REP-P	05-02-082	246-272A-0420	NEW-P	05-02-082	246-851-990	AMD-P	05-07-109
246-272-07001	REP-P	05-02-082	246-272A-0425	NEW-P	05-02-082	246-853-990	AMD-P	05-07-109
246-272-08001	REP-P	05-02-082	246-272A-0430	NEW-P	05-02-082	246-869-095	REP	05-07-108
246-272-09001	REP-P	05-02-082	246-272A-0440	NEW-P	05-02-082	246-907-030	AMD-P	05-07-109
246-272-09501	REP-P	05-02-082	246-272A-0450	NEW-P	05-02-082	246-907-995	REP-P	05-07-109
246-272-11001	REP-P	05-02-082	246-272A-990	NEW-P	05-02-082	246-915-040	AMD	05-06-022
246-272-12501	REP-P	05-02-082	246-292-010	AMD	05-06-122	246-915-050	AMD	05-03-009
246-272-13501	REP-P	05-02-082	246-292-031	NEW	05-06-122	246-915-100	AMD	05-06-020
246-272-14501	REP-P	05-02-082	246-292-085	AMD	05-06-122	246-915-105	NEW	05-06-021
246-272-15501	REP-P	05-02-082	246-292-090	AMD	05-06-122	246-915-150	REP	05-09-046
246-272-16501	REP-P	05-02-082	246-292-100	AMD	05-06-122	246-915-170	REP	05-09-046
246-272-17501	REP-P	05-02-082	246-338-010	AMD	05-04-040	246-915-180	AMD	05-06-023
246-272-18501	REP-P	05-02-082	246-338-028	AMD	05-04-040	246-915-350	NEW-P	05-03-008
246-272-19501	REP-P	05-02-082	246-338-040	AMD	05-04-040	246-915-350	NEW	05-09-003
246-272-20501	REP-P	05-02-082	246-338-050	AMD	05-04-040	246-915-990	AMD-P	05-03-008
246-272-21501	REP-P	05-02-082	246-338-060	AMD	05-04-040	246-915-990	AMD-P	05-07-109
246-272-22501	REP-P	05-02-082	246-338-070	AMD	05-04-040	246-915-990	AMD	05-09-003
246-272-23501	REP-P	05-02-082	246-338-080	AMD	05-04-040	246-918-990	AMD-P	05-07-109
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251- 30-057	REP-P	05-09-099	260- 34-040	REP-P	05-04-085	260- 70-550	AMD	05-07-067
257- 10-020	NEW-P	05-09-126	260- 34-040	REP	05-07-066	260- 70-550	AMD-E	05-07-068
257- 10-040	NEW-P	05-09-126	260- 34-045	NEW-P	05-04-085	260- 70-560	AMD-P	05-04-086
257- 10-060	NEW-P	05-09-126	260- 34-045	NEW	05-07-066	260- 70-560	AMD	05-07-067
257- 10-080	NEW-P	05-09-126	260- 34-050	REP-P	05-04-085	260- 70-560	AMD-E	05-07-068
257- 10-100	NEW-P	05-09-126	260- 34-050	REP	05-07-066	260- 70-570	AMD-P	05-04-086
257- 10-120	NEW-P	05-09-126	260- 34-060	AMD-P	05-04-085	260- 70-570	AMD	05-07-067
257- 10-140	NEW-P	05-09-126	260- 34-060	AMD	05-07-066	260- 70-570	AMD-E	05-07-068
257- 10-160	NEW-P	05-09-126	260- 34-070	AMD-P	05-04-085	260- 70-580	AMD-P	05-04-086
257- 10-180	NEW-P	05-09-126	260- 34-070	AMD	05-07-066	260- 70-580	AMD	05-07-067
257- 10-200	NEW-P	05-09-126	260- 34-080	AMD-P	05-04-085	260- 70-580	AMD-E	05-07-068
257- 10-220	NEW-P	05-09-126	260- 34-080	AMD	05-07-066	260- 70-600	AMD-P	05-04-086
257- 10-240	NEW-P	05-09-126	260- 34-090	AMD-P	05-04-085	260- 70-600	AMD	05-07-067
257- 10-260	NEW-P	05-09-126	260- 34-090	AMD	05-07-066	260- 70-600	AMD-E	05-07-068
257- 10-280	NEW-P	05-09-126	260- 34-100	AMD-P	05-04-085	260- 70-610	AMD-P	05-04-086
257- 10-300	NEW-P	05-09-126	260- 34-100	AMD	05-07-066	260- 70-610	AMD	05-07-067
257- 10-320	NEW-P	05-09-126	260- 34-110	REP-P	05-04-085	260- 70-610	AMD-E	05-07-068
257- 10-340	NEW-P	05-09-126	260- 34-110	REP	05-07-066	260- 70-620	AMD-P	05-04-086
257- 10-360	NEW-P	05-09-126	260- 34-120	REP-P	05-04-085	260- 70-620	AMD	05-07-067
257- 10-380	NEW-P	05-09-126	260- 34-120	REP	05-07-066	260- 70-620	AMD-E	05-07-068
257- 10-400	NEW-P	05-09-126	260- 34-130	REP-P	05-04-085	260- 70-630	AMD-P	05-04-086
257- 10-420	NEW-P	05-09-126	260- 34-130	REP	05-07-066	260- 70-630	AMD	05-07-067
260	PREP	05-09-007	260- 34-140	REP-P	05-04-085	260- 70-630	AMD-E	05-07-068
260- 08-005	AMD	05-05-049	260- 34-140	REP	05-07-066	260- 70-640	AMD-P	05-04-086
260- 08-670	REP	05-05-049	260- 34-150	REP-P	05-04-085	260- 70-640	AMD	05-07-067
260- 08-671	NEW	05-05-049	260- 34-150	REP	05-07-066	260- 70-640	AMD-E	05-07-068
260- 08-673	NEW	05-05-049	260- 34-160	REP-P	05-04-085	260- 70-645	NEW-P	05-04-086
260- 08-675	NEW	05-05-049	260- 34-160	REP	05-07-066	260- 70-645	NEW	05-07-067
260- 08-677	NEW	05-05-049	260- 34-170	REP-P	05-04-085	260- 70-645	NEW-E	05-07-068
260- 08-680	REP	05-05-049	260- 34-170	REP	05-07-066	260- 70-650	AMD-P	05-04-086
260- 08-690	REP	05-05-049	260- 34-180	AMD-P	05-04-085	260- 70-650	AMD	05-07-067
260- 08-700	REP	05-05-049	260- 34-180	AMD	05-07-066	260- 70-650	AMD-E	05-07-068
260- 08-710	REP	05-05-049	260- 34-190	REP-P	05-04-085	260- 70-660	AMD-P	05-04-086
260- 08-720	REP	05-05-049	260- 34-190	REP	05-07-066	260- 70-660	AMD	05-07-067
260- 08-730	REP	05-05-049	260- 36	PREP	05-07-093	260- 70-660	AMD-E	05-07-068
260- 08-740	REP	05-05-049	260- 36-085	AMD-W	05-02-052	260- 70-670	REP-P	05-04-086
260- 08-750	REP	05-05-049	260- 36-085	PREP	05-05-011	260- 70-670	REP	05-07-067
260- 08-760	REP	05-05-049	260- 36-120	AMD	05-05-047	260- 70-670	REP-E	05-07-068
260- 08-770	REP	05-05-049	260- 36-180	AMD-P	05-02-078	260- 70-675	NEW-E	05-09-096
260- 08-780	REP	05-05-049	260- 36-180	AMD	05-05-043	260- 70-680	AMD-P	05-04-086
260- 08-790	REP	05-05-049	260- 36-200	AMD-P	05-05-048	260- 70-680	AMD	05-07-067
260- 08-800	REP	05-05-049	260- 36-200	AMD	05-09-045	260- 70-680	AMD-E	05-07-068
260- 08-810	REP	05-05-049	260- 40	PREP	05-09-006	260- 70-690	REP-P	05-04-086
260- 08-820	REP	05-05-049	260- 56-030	REP	05-05-044	260- 70-690	REP	05-07-067
260- 08-830	REP	05-05-049	260- 60-300	AMD-P	05-03-028	260- 70-690	REP-E	05-07-068
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260- 24-500	AMD-P	05-04-084	260- 60-320	REP-P	05-03-028	260- 70-700	REP	05-07-067
260- 24-500	AMD	05-07-065	260- 60-320	REP	05-07-063	260- 70-700	REP-E	05-07-068
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260- 24-510	AMD	05-07-065	260- 70-520	AMD-P	05-04-086	260- 70-720	AMD	05-07-067
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260- 34	AMD	05-07-066	260- 70-530	AMD	05-07-067	260- 70-730	AMD-E	05-07-068
260- 34-010	AMD-P	05-04-085	260- 70-530	AMD-E	05-07-068	260- 72-050	NEW-P	05-02-077
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260- 34-020	AMD	05-07-066	260- 70-540	AMD-E	05-07-068	260- 75-040	NEW	05-05-042
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260- 84	PREP	05-07-094	284- 17-250	AMD	05-07-091	284- 17-320	AMD	05-07-091
260- 84-010	REP-P	05-04-083	284- 17-252	NEW-P	05-03-110	284- 24A-005	AMD-W	05-06-054
260- 84-010	REP	05-07-064	284- 17-252	NEW	05-07-091	284- 24A-010	AMD-W	05-06-054
260- 84-020	REP-P	05-04-083	284- 17-254	NEW-P	05-03-110	284- 24A-033	NEW-W	05-06-054
260- 84-020	REP	05-07-064	284- 17-254	NEW	05-07-091	284- 24A-045	AMD-W	05-06-054
260- 84-030	REP-P	05-04-083	284- 17-256	NEW-P	05-03-110	284- 24A-050	AMD-W	05-06-054
260- 84-030	REP	05-07-064	284- 17-256	NEW	05-07-091	284- 24A-055	AMD-W	05-06-054
260- 84-050	AMD-P	05-04-083	284- 17-258	NEW-P	05-03-110	284- 24A-065	AMD-W	05-06-054
260- 84-050	AMD	05-07-064	284- 17-258	NEW	05-07-091	284- 34-010	REP	05-02-076
260- 84-060	AMD-P	05-04-083	284- 17-260	AMD-P	05-03-110	284- 34-020	REP	05-02-076
260- 84-060	AMD	05-07-064	284- 17-260	AMD	05-07-091	284- 34-030	REP	05-02-076
260- 84-070	AMD-P	05-04-083	284- 17-262	NEW-P	05-03-110	284- 34-040	REP	05-02-076
260- 84-070	AMD	05-07-064	284- 17-262	NEW	05-07-091	284- 34-050	REP	05-02-076
260- 84-090	NEW-P	05-04-083	284- 17-264	NEW-P	05-03-110	284- 34-060	REP	05-02-076
260- 84-090	NEW	05-07-064	284- 17-264	NEW	05-07-091	284- 34-070	REP	05-02-076
260- 84-100	NEW-P	05-04-083	284- 17-270	AMD-P	05-03-110	284- 34-100	NEW	05-02-076
260- 84-100	NEW	05-07-064	284- 17-270	AMD	05-07-091	284- 34-110	NEW	05-02-076
260- 84-110	NEW-P	05-04-083	284- 17-272	NEW-P	05-03-110	284- 34-120	NEW	05-02-076
260- 84-110	NEW	05-07-064	284- 17-272	NEW	05-07-091	284- 34-130	NEW	05-02-076
260- 84-120	NEW-P	05-04-083	284- 17-274	NEW-P	05-03-110	284- 34-140	NEW	05-02-076
260- 84-120	NEW	05-07-064	284- 17-274	NEW	05-07-091	284- 34-150	NEW	05-02-076
260- 84-130	NEW-P	05-04-083	284- 17-275	REP-P	05-03-110	284- 34-160	NEW	05-02-076
260- 84-130	NEW	05-07-064	284- 17-275	REP	05-07-091	284- 34-170	NEW	05-02-076
260- 88-010	REP	05-05-049	284- 17-276	NEW-P	05-03-110	284- 34-180	NEW	05-02-076
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284- 17-200	AMD	05-07-091	284- 17-278	NEW	05-07-091	284- 34-210	NEW	05-02-076
284- 17-210	AMD-P	05-03-110	284- 17-280	AMD-P	05-03-110	284- 34-220	NEW	05-02-076
284- 17-210	AMD	05-07-091	284- 17-280	AMD	05-07-091	284- 34-230	NEW	05-02-076
284- 17-220	AMD-P	05-03-110	284- 17-282	NEW-P	05-03-110	284- 34-240	NEW	05-02-076
284- 17-220	AMD	05-07-091	284- 17-282	NEW	05-07-091	284- 34-250	NEW	05-02-076
284- 17-222	NEW-P	05-03-110	284- 17-284	NEW-P	05-03-110	284- 34-260	NEW	05-02-076
284- 17-222	NEW	05-07-091	284- 17-284	NEW	05-07-091	284- 43-900	REP	05-07-006
284- 17-224	NEW-P	05-03-110	284- 17-286	NEW-P	05-03-110	284- 43-905	AMD	05-07-006
284- 17-224	NEW	05-07-091	284- 17-286	NEW	05-07-091	284- 43-910	AMD	05-07-006
284- 17-226	NEW-P	05-03-110	284- 17-288	NEW-P	05-03-110	284- 43-915	AMD	05-07-006
284- 17-226	NEW	05-07-091	284- 17-288	NEW	05-07-091	284- 43-920	AMD	05-07-006
284- 17-228	NEW-P	05-03-110	284- 17-290	AMD-P	05-03-110	284- 43-925	AMD	05-07-006
284- 17-228	NEW	05-07-091	284- 17-290	AMD	05-07-091	284- 43-930	AMD	05-07-006
284- 17-230	AMD-P	05-03-110	284- 17-292	NEW-P	05-03-110	284- 43-935	AMD	05-07-006
284- 17-230	AMD	05-07-091	284- 17-292	NEW	05-07-091	284- 43-940	AMD	05-07-006
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284- 17-232	NEW	05-07-091	284- 17-294	NEW	05-07-091	284- 43-950	AMD	05-07-006
284- 17-234	NEW-P	05-03-110	284- 17-296	NEW-P	05-03-110	284- 43-955	REP	05-07-006
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284- 17-235	REP-P	05-03-110	284- 17-298	NEW-P	05-03-110	284- 49-020	REP	05-02-074
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284- 17-238	NEW	05-07-091	284- 17-302	NEW	05-07-091	284- 49-330	REP	05-02-074
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284- 17-242	NEW	05-07-091	284- 17-306	NEW	05-07-091	284- 49-900	REP	05-02-074
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296-06-020	AMD-P	05-09-058	296-45-325	AMD-X	05-07-124	296-52-70040	AMD	05-08-110
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296-06-050	AMD-P	05-09-058	296-46B	PREP	05-05-066	296-52-70055	AMD	05-08-110
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296-06-100	AMD-P	05-09-058	296-46B-030	AMD-P	05-06-063	296-52-71080	AMD	05-08-110
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296-06-120	AMD-P	05-09-058	296-46B-210	AMD-P	05-06-063	296-54-51150	AMD	05-03-093
296-06-130	AMD-P	05-09-058	296-46B-220	AMD-P	05-06-063	296-54-51150	AMD-X	05-07-125
296-06-140	AMD-P	05-09-058	296-46B-225	AMD-P	05-06-063	296-56-60001	AMD	05-03-093
296-06-150	AMD-P	05-09-058	296-46B-230	AMD-P	05-06-063	296-56-60005	AMD	05-03-093
296-06-170	AMD-P	05-09-058	296-46B-250	AMD-P	05-06-063	296-56-60053	AMD	05-03-093
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296-17-310042	NEW-W	05-03-088	296-46B-527	REP-P	05-06-063	296-56-60235	AMD	05-03-093
296-17-310043	NEW-W	05-03-088	296-46B-590	NEW-P	05-06-063	296-62	PREP	05-03-091
296-17-310044	NEW-W	05-03-088	296-46B-700	AMD-P	05-06-063	296-62	PREP	05-09-061
296-17-310045	NEW-W	05-03-088	296-46B-760	NEW-P	05-06-063	296-62-07306	AMD	05-03-093
296-17-310046	NEW-W	05-03-088	296-46B-800	AMD-P	05-06-063	296-62-07329	AMD	05-03-093
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296-17-31031	NEW-W	05-03-088	296-46B-925	AMD-P	05-06-063	296-62-07413	AMD	05-03-093
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315-38-100	AMD-P	05-08-100	356-05-225	REP-P	05-09-100	356-05-495	REP-P	05-09-100
332-30-151	PREP	05-06-098	356-05-230	REP-P	05-09-100	356-05-500	REP-P	05-09-100
332-120	PREP	05-02-073	356-05-231	REP-P	05-09-100	356-05-505	REP-P	05-09-100
332-120-040	AMD-P	05-08-067	356-05-233	REP-P	05-09-100	356-06-001	REP-P	05-09-100
332-130	PREP	05-02-073	356-05-234	REP-P	05-09-100	356-06-002	REP-P	05-09-100
332-130-020	AMD-P	05-08-067	356-05-235	REP-P	05-09-100	356-06-003	REP-P	05-09-100
332-130-060	AMD-P	05-08-067	356-05-237	REP-P	05-09-100	356-06-030	REP-P	05-09-100
332-130-070	AMD-P	05-08-067	356-05-238	REP-P	05-09-100	356-06-040	REP-P	05-09-100
352-28	PREP	05-06-125	356-05-240	REP-P	05-09-100	356-06-045	REP-P	05-09-100
356-03-010	REP-P	05-09-100	356-05-245	REP-P	05-09-100	356-06-050	REP-P	05-09-100
356-05-001	REP-P	05-09-100	356-05-250	REP-P	05-09-100	356-06-055	REP-P	05-09-100
356-05-010	REP-P	05-09-100	356-05-260	REP-P	05-09-100	356-06-065	REP-P	05-09-100
356-05-012	REP-P	05-09-100	356-05-300	REP-P	05-09-100	356-06-100	REP-P	05-09-100
356-05-013	REP-P	05-09-100	356-05-305	REP-P	05-09-100	356-06-110	REP-P	05-09-100
356-05-015	REP-P	05-09-100	356-05-310	REP-P	05-09-100	356-06-120	REP-P	05-09-100
356-05-020	REP-P	05-09-100	356-05-315	REP-P	05-09-100	356-07-010	REP-P	05-09-100
356-05-025	REP-P	05-09-100	356-05-320	REP-P	05-09-100	356-07-020	REP-P	05-09-100
356-05-030	REP-P	05-09-100	356-05-325	REP-P	05-09-100	356-07-030	REP-P	05-09-100
356-05-035	REP-P	05-09-100	356-05-332	REP-P	05-09-100	356-07-040	REP-P	05-09-100
356-05-040	REP-P	05-09-100	356-05-333	REP-P	05-09-100	356-07-050	REP-P	05-09-100
356-05-045	REP-P	05-09-100	356-05-335	REP-P	05-09-100	356-07-055	REP-P	05-09-100
356-05-050	REP-P	05-09-100	356-05-340	REP-P	05-09-100	356-07-060	REP-P	05-09-100
356-05-055	REP-P	05-09-100	356-05-345	REP-P	05-09-100	356-07-070	REP-P	05-09-100
356-05-060	REP-P	05-09-100	356-05-350	REP-P	05-09-100	356-09-010	REP-P	05-09-100
356-05-065	REP-P	05-09-100	356-05-353	REP-P	05-09-100	356-09-020	REP-P	05-09-100
356-05-070	REP-P	05-09-100	356-05-355	REP-P	05-09-100	356-09-030	REP-P	05-09-100
356-05-072	REP-P	05-09-100	356-05-358	REP-P	05-09-100	356-09-040	REP-P	05-09-100
356-05-075	REP-P	05-09-100	356-05-360	REP-P	05-09-100	356-09-050	REP-P	05-09-100
356-05-080	REP-P	05-09-100	356-05-365	REP-P	05-09-100	356-10-010	REP-P	05-09-100
356-05-085	REP-P	05-09-100	356-05-370	REP-P	05-09-100	356-10-020	REP-P	05-09-100
356-05-090	REP-P	05-09-100	356-05-375	REP-P	05-09-100	356-10-030	REP-P	05-09-100
356-05-095	REP-P	05-09-100	356-05-380	REP-P	05-09-100	356-10-040	REP-P	05-09-100
356-05-100	REP-P	05-09-100	356-05-385	REP-P	05-09-100	356-10-045	REP-P	05-09-100
356-05-105	REP-P	05-09-100	356-05-387	REP-P	05-09-100	356-10-050	REP-P	05-09-100
356-05-110	REP-P	05-09-100	356-05-389	REP-P	05-09-100	356-10-060	AMD	05-04-043
356-05-115	REP-P	05-09-100	356-05-390	REP-P	05-09-100	356-10-060	REP-P	05-09-100
356-05-120	REP-P	05-09-100	356-05-395	REP-P	05-09-100	356-10-065	NEW	05-04-043
356-05-125	REP-P	05-09-100	356-05-397	REP-P	05-09-100	356-10-065	REP-P	05-09-100
356-05-128	REP-P	05-09-100	356-05-400	REP-P	05-09-100	356-14-010	REP-P	05-09-100
356-05-130	REP-P	05-09-100	356-05-405	REP-P	05-09-100	356-14-026	REP-P	05-09-100
356-05-135	REP-P	05-09-100	356-05-410	REP-P	05-09-100	356-14-031	REP-P	05-09-100
356-05-140	REP-P	05-09-100	356-05-415	REP-P	05-09-100	356-14-045	REP-P	05-09-100
356-05-145	REP-P	05-09-100	356-05-420	REP-P	05-09-100	356-14-062	REP-P	05-09-100
356-05-148	REP-P	05-09-100	356-05-425	REP-P	05-09-100	356-14-065	REP-P	05-09-100
356-05-150	REP-P	05-09-100	356-05-430	REP-P	05-09-100	356-14-067	REP-P	05-09-100
356-05-155	REP-P	05-09-100	356-05-435	REP-P	05-09-100	356-14-070	REP-P	05-09-100
356-05-160	REP-P	05-09-100	356-05-440	REP-P	05-09-100	356-14-075	REP-P	05-09-100
356-05-165	REP-P	05-09-100	356-05-445	REP-P	05-09-100	356-14-080	REP-P	05-09-100
356-05-170	REP-P	05-09-100	356-05-447	REP-P	05-09-100	356-14-085	REP-P	05-09-100
356-05-173	REP-P	05-09-100	356-05-450	REP-P	05-09-100	356-14-090	REP-P	05-09-100
356-05-175	REP-P	05-09-100	356-05-456	REP-P	05-09-100	356-14-100	REP-P	05-09-100
356-05-178	REP-P	05-09-100	356-05-460	REP-P	05-09-100	356-14-110	REP-P	05-09-100
356-05-185	REP-P	05-09-100	356-05-461	REP-P	05-09-100	356-14-120	REP-P	05-09-100
356-05-195	REP-P	05-09-100	356-05-465	REP-P	05-09-100	356-14-130	REP-P	05-09-100
356-05-198	REP-P	05-09-100	356-05-470	REP-P	05-09-100	356-14-140	REP-P	05-09-100
356-05-200	REP-P	05-09-100	356-05-475	REP-P	05-09-100	356-14-150	REP-P	05-09-100

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-39-110	REP-P	05-09-100	356-56-230	REP-P	05-09-100	357-19-191	NEW-P	05-08-126
356-39-120	REP-P	05-09-100	356-56-255	REP-P	05-09-100	357-19-191	NEW-C	05-09-107
356-39-130	REP-P	05-09-100	356-56-400	REP-P	05-09-100	357-19-300	NEW-P	05-08-130
356-39-140	REP-P	05-09-100	356-56-410	REP-P	05-09-100	357-19-301	NEW-P	05-08-130
356-42-010	REP-P	05-09-100	356-56-420	REP-P	05-09-100	357-19-302	NEW-P	05-08-130
356-42-042	REP-P	05-09-100	356-56-440	REP-P	05-09-100	357-19-303	NEW-P	05-08-130
356-42-043	REP-P	05-09-100	356-56-500	REP-P	05-09-100	357-19-350	NEW-P	05-09-114
356-42-045	REP-P	05-09-100	356-56-550	REP-P	05-09-100	357-19-353	NEW-P	05-09-114
356-42-047	REP-P	05-09-100	356-56-600	REP-P	05-09-100	357-19-375	AMD-P	05-08-130
356-42-050	REP-P	05-09-100	356-56-610	REP-P	05-09-100	357-19-388	AMD-P	05-08-131
356-42-055	REP-P	05-09-100	356-56-630	REP-P	05-09-100	357-19-395	AMD-P	05-09-115
356-42-090	REP-P	05-09-100	356-56-650	REP-P	05-09-100	357-19-475	AMD-P	05-08-131
356-42-100	REP-P	05-09-100	356-56-660	REP-P	05-09-100	357-28-070	AMD-P	05-08-131
356-42-105	REP-P	05-09-100	356-60-010	REP-P	05-09-100	357-28-165	AMD-P	05-08-131
356-42-110	REP-P	05-09-100	356-60-020	REP-P	05-09-100	357-28-200	AMD-P	05-09-110
356-46-010	REP-P	05-09-100	356-60-030	REP-P	05-09-100	357-28-300	AMD-P	05-08-131
356-46-020	REP-P	05-09-100	356-60-032	REP-P	05-09-100	357-31-001	NEW	05-08-136
356-46-030	REP-P	05-09-100	356-60-034	REP-P	05-09-100	357-31-001	REP-P	05-09-120
356-46-040	REP-P	05-09-100	356-60-055	REP-P	05-09-100	357-31-005	NEW	05-08-136
356-46-050	REP-P	05-09-100	356-60-057	REP-P	05-09-100	357-31-010	NEW	05-08-136
356-46-060	REP-P	05-09-100	357-01-022	NEW-P	05-09-120	357-31-015	NEW	05-08-136
356-46-070	REP-P	05-09-100	357-01-023	NEW-P	05-09-120	357-31-020	NEW	05-08-136
356-46-080	REP-P	05-09-100	357-01-072	NEW-P	05-09-120	357-31-025	NEW	05-08-136
356-46-090	REP-P	05-09-100	357-01-138	NEW-P	05-09-120	357-31-030	NEW	05-08-136
356-46-100	REP-P	05-09-100	357-01-172	NEW-P	05-09-120	357-31-035	NEW	05-08-136
356-46-110	REP-P	05-09-100	357-01-173	NEW-P	05-08-128	357-31-040	NEW	05-08-136
356-46-120	REP-P	05-09-100	357-01-174	NEW-P	05-09-120	357-31-045	NEW	05-08-136
356-46-125	REP-P	05-09-100	357-01-182	NEW-P	05-09-120	357-31-050	NEW	05-08-136
356-46-135	REP-P	05-09-100	357-01-202	NEW-P	05-09-120	357-31-055	NEW	05-08-136
356-46-140	REP-P	05-09-100	357-01-227	NEW-P	05-09-120	357-31-060	NEW	05-08-136
356-46-145	REP-P	05-09-100	357-01-228	NEW-P	05-09-120	357-31-065	NEW	05-08-136
356-46-150	REP-P	05-09-100	357-01-229	NEW-P	05-09-120	357-31-070	NEW	05-08-136
356-48-010	REP-P	05-09-100	357-01-255	NEW-W	05-02-061	357-31-075	NEW	05-08-136
356-48-020	REP-P	05-09-100	357-01-301	NEW	05-08-134	357-31-080	NEW	05-08-136
356-48-030	REP-P	05-09-100	357-01-301	AMD-P	05-09-119	357-31-090	NEW	05-08-136
356-48-040	REP-P	05-09-100	357-01-348	NEW-P	05-09-120	357-31-095	NEW	05-08-136
356-48-050	REP-P	05-09-100	357-01-360	NEW-P	05-09-118	357-31-100	NEW	05-08-136
356-48-060	REP-P	05-09-100	357-01-365	NEW-P	05-09-118	357-31-105	NEW	05-08-136
356-49-010	REP-P	05-09-100	357-04-105	AMD-P	05-09-103	357-31-110	NEW	05-08-136
356-49-020	REP-P	05-09-100	357-13-090	AMD-P	05-09-105	357-31-115	NEW	05-08-136
356-49-030	REP-P	05-09-100	357-16-110	AMD-P	05-08-131	357-31-120	NEW	05-08-136
356-49-040	REP-P	05-09-100	357-16-130	AMD-P	05-09-109	357-31-125	NEW	05-08-136
356-56-001	REP-P	05-09-100	357-19-025	AMD-P	05-08-131	357-31-130	NEW	05-08-136
356-56-002	REP-P	05-09-100	357-19-080	AMD-P	05-08-131	357-31-135	NEW	05-08-136
356-56-010	REP-P	05-09-100	357-19-115	AMD-P	05-08-131	357-31-140	NEW	05-08-136
356-56-015	REP-P	05-09-100	357-19-125	NEW-P	05-09-116	357-31-145	NEW	05-08-136
356-56-020	REP-P	05-09-100	357-19-181	NEW-P	05-09-111	357-31-150	NEW	05-08-136
356-56-030	REP-P	05-09-100	357-19-183	NEW-P	05-08-126	357-31-155	NEW	05-08-136
356-56-035	REP-P	05-09-100	357-19-183	NEW-C	05-09-107	357-31-160	NEW	05-08-136
356-56-050	REP-P	05-09-100	357-19-184	NEW-P	05-08-126	357-31-165	NEW	05-08-137
356-56-070	REP-P	05-09-100	357-19-184	NEW-C	05-09-107	357-31-165	AMD-P	05-09-104
356-56-100	REP-P	05-09-100	357-19-185	NEW-P	05-08-126	357-31-170	NEW	05-08-137
356-56-105	REP-P	05-09-100	357-19-185	NEW-C	05-09-107	357-31-175	NEW	05-08-137
356-56-115	REP-P	05-09-100	357-19-186	NEW-P	05-08-126	357-31-180	NEW	05-08-137
356-56-118	REP-P	05-09-100	357-19-186	NEW-C	05-09-107	357-31-185	NEW	05-08-137
356-56-120	REP-P	05-09-100	357-19-187	NEW-P	05-08-126	357-31-190	NEW	05-08-137
356-56-200	REP-P	05-09-100	357-19-187	NEW-C	05-09-107	357-31-195	NEW	05-08-137
356-56-203	REP-P	05-09-100	357-19-188	NEW-P	05-08-126	357-31-200	NEW	05-08-137
356-56-205	REP-P	05-09-100	357-19-188	NEW-C	05-09-107	357-31-205	NEW	05-08-137
356-56-210	REP-P	05-09-100	357-19-189	NEW-P	05-08-126	357-31-210	NEW	05-08-137
356-56-215	REP-P	05-09-100	357-19-189	NEW-C	05-09-107	357-31-215	NEW	05-08-137
356-56-220	REP-P	05-09-100	357-19-190	REP-P	05-09-111	357-31-220	NEW	05-08-137

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357-31-225	NEW	05-08-137	357-31-525	AMD-P	05-09-112	357-55-425	NEW	05-08-133
357-31-230	NEW	05-08-137	357-31-530	NEW	05-08-140	357-55-430	NEW	05-08-133
357-31-235	NEW	05-08-137	357-31-530	AMD-P	05-09-117	357-55-510	NEW	05-08-133
357-31-240	NEW	05-08-137	357-31-535	NEW	05-08-140	357-55-515	NEW	05-08-133
357-31-245	NEW	05-08-137	357-31-540	NEW	05-08-140	357-55-520	NEW	05-08-133
357-31-250	NEW	05-08-137	357-31-545	NEW	05-08-140	357-55-610	NEW	05-08-133
357-31-255	NEW	05-08-137	357-31-550	NEW	05-08-140	357-55-615	NEW	05-08-133
357-31-260	NEW	05-08-137	357-31-555	NEW	05-08-140	357-55-620	NEW	05-08-133
357-31-265	NEW	05-08-137	357-31-560	NEW	05-08-140	357-55-625	NEW	05-08-133
357-31-270	NEW	05-08-137	357-31-565	NEW	05-08-140	357-55-630	NEW	05-08-133
357-31-275	NEW	05-08-137	357-37-200	NEW-C	05-09-101	357-55-635	NEW	05-08-133
357-31-280	NEW	05-08-137	357-40-050	NEW-P	05-09-103	357-55-640	NEW	05-08-133
357-31-285	NEW	05-08-137	357-43-008	NEW-W	05-09-053	357-55-645	NEW	05-08-133
357-31-290	NEW	05-08-137	357-43-045	NEW-W	05-02-062	357-58-005	NEW-P	05-04-087
357-31-295	NEW	05-08-137	357-46-010	AMD-W	05-09-054	357-58-010	NEW-P	05-04-087
357-31-300	NEW	05-08-137	357-46-012	NEW-W	05-09-054	357-58-015	NEW-P	05-04-087
357-31-305	NEW	05-08-137	357-46-050	AMD-P	05-09-110	357-58-020	NEW-P	05-04-087
357-31-310	NEW	05-08-138	357-46-053	NEW-P	05-08-129	357-58-025	NEW-P	05-04-087
357-31-315	NEW	05-08-138	357-46-055	NEW	05-08-135	357-58-030	NEW-P	05-04-087
357-31-320	NEW	05-08-138	357-46-056	NEW	05-08-135	357-58-035	NEW-P	05-04-087
357-31-325	NEW	05-08-138	357-46-057	NEW-P	05-08-127	357-58-040	NEW-P	05-04-087
357-31-330	NEW	05-08-138	357-46-058	NEW-P	05-08-127	357-58-045	NEW-P	05-04-087
357-31-335	NEW	05-08-138	357-46-060	AMD-P	05-08-131	357-58-050	NEW-P	05-04-087
357-31-340	NEW	05-08-138	357-46-063	NEW-P	05-08-128	357-58-055	NEW-P	05-04-087
357-31-345	NEW	05-08-138	357-46-064	NEW-P	05-08-128	357-58-060	NEW-P	05-04-087
357-31-346	NEW-P	05-09-108	357-46-065	NEW-P	05-08-128	357-58-065	NEW-P	05-04-087
357-31-347	NEW-P	05-09-108	357-46-066	NEW-P	05-08-128	357-58-070	NEW-P	05-04-087
357-31-350	NEW	05-08-138	357-46-067	NEW-P	05-08-128	357-58-075	NEW-P	05-04-087
357-31-355	NEW	05-08-138	357-46-068	NEW-P	05-08-128	357-58-080	NEW-P	05-04-087
357-31-360	NEW	05-08-138	357-46-095	AMD-P	05-08-131	357-58-085	NEW-P	05-04-087
357-31-370	NEW	05-08-138	357-46-110	AMD-P	05-08-131	357-58-090	NEW-P	05-04-087
357-31-375	NEW	05-08-138	357-46-125	AMD-P	05-09-102	357-58-095	NEW-P	05-04-087
357-31-380	NEW	05-08-139	357-49-010	AMD-P	05-09-106	357-58-100	NEW-P	05-04-087
357-31-385	NEW-W	05-08-125	357-52-207	NEW-P	05-09-113	357-58-105	NEW-P	05-04-087
357-31-390	NEW	05-08-139	357-52-208	NEW-P	05-09-113	357-58-110	NEW-P	05-04-087
357-31-395	NEW	05-08-139	357-55-010	NEW	05-08-132	357-58-115	NEW-P	05-04-087
357-31-400	NEW	05-08-139	357-55-020	NEW	05-08-132	357-58-120	NEW-P	05-04-088
357-31-405	NEW	05-08-139	357-55-030	NEW	05-08-132	357-58-125	NEW-P	05-04-088
357-31-410	NEW	05-08-139	357-55-040	NEW	05-08-132	357-58-130	NEW-P	05-04-088
357-31-415	NEW	05-08-139	357-55-110	NEW	05-08-132	357-58-135	NEW-P	05-04-088
357-31-420	NEW	05-08-139	357-55-210	NEW	05-08-132	357-58-140	NEW-P	05-04-088
357-31-425	NEW	05-08-139	357-55-215	NEW	05-08-132	357-58-145	NEW-P	05-04-088
357-31-430	NEW	05-08-139	357-55-220	NEW	05-08-132	357-58-150	NEW-P	05-04-088
357-31-435	NEW	05-08-139	357-55-225	NEW	05-08-132	357-58-155	NEW-P	05-04-088
357-31-440	NEW	05-08-139	357-55-230	NEW	05-08-132	357-58-160	NEW-P	05-04-088
357-31-445	NEW	05-08-139	357-55-235	NEW	05-08-132	357-58-165	NEW-P	05-04-088
357-31-450	NEW	05-08-139	357-55-240	NEW	05-08-132	357-58-170	NEW-P	05-04-088
357-31-455	NEW	05-08-139	357-55-245	NEW	05-08-132	357-58-175	NEW-P	05-04-088
357-31-460	NEW	05-08-140	357-55-250	NEW	05-08-132	357-58-180	NEW-P	05-04-088
357-31-465	NEW	05-08-140	357-55-255	NEW	05-08-132	357-58-185	NEW-P	05-04-088
357-31-470	NEW	05-08-140	357-55-260	NEW	05-08-132	357-58-190	NEW-P	05-04-088
357-31-475	NEW	05-08-140	357-55-265	NEW	05-08-133	357-58-195	NEW-P	05-04-088
357-31-480	NEW	05-08-140	357-55-270	NEW	05-08-133	357-58-200	NEW-P	05-04-088
357-31-485	NEW	05-08-140	357-55-275	NEW	05-08-133	357-58-205	NEW-P	05-04-088
357-31-490	NEW	05-08-140	357-55-280	NEW	05-08-133	357-58-210	NEW-P	05-04-088
357-31-495	NEW	05-08-140	357-55-285	NEW	05-08-133	357-58-215	NEW-P	05-04-088
357-31-500	NEW	05-08-140	357-55-310	NEW	05-08-133	357-58-220	NEW-P	05-04-088
357-31-505	NEW	05-08-140	357-55-320	NEW	05-08-133	357-58-225	NEW-P	05-04-088
357-31-510	NEW	05-08-140	357-55-330	NEW	05-08-133	357-58-230	NEW-P	05-04-088
357-31-515	NEW	05-08-140	357-55-410	NEW	05-08-133	357-58-235	NEW-P	05-04-088
357-31-520	NEW	05-08-140	357-55-415	NEW	05-08-133	357-58-240	NEW-P	05-04-089
357-31-525	NEW	05-08-140	357-55-420	NEW	05-08-133	357-58-245	NEW-P	05-04-089

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-58-250	NEW-P	05-04-089	363-116-082	AMD	05-04-028	388-25-0225	AMD-P	05-03-082
357-58-255	NEW-P	05-04-089	363-116-300	AMD-P	05-08-063	388-25-0225	AMD	05-06-091
357-58-260	NEW-P	05-04-089	365-110-035	AMD-W	05-06-057	388-25-0225	AMD-E	05-06-093
357-58-265	NEW-P	05-04-089	371-08-305	AMD-E	05-05-005	388-25-0226	NEW-P	05-03-082
357-58-270	NEW-P	05-04-089	371-08-305	AMD-P	05-08-022	388-25-0226	NEW	05-06-091
357-58-275	NEW-P	05-04-089	371-08-335	AMD-E	05-05-005	388-25-0226	NEW-E	05-06-093
357-58-280	NEW-P	05-04-089	371-08-335	AMD-P	05-08-022	388-25-0227	NEW-P	05-03-082
357-58-280	NEW-P	05-09-114	371-08-345	AMD-E	05-05-005	388-25-0227	NEW	05-06-091
357-58-285	NEW-P	05-04-089	371-08-345	AMD-P	05-08-022	388-25-0227	NEW-E	05-06-093
357-58-290	NEW-P	05-04-089	371-08-445	AMD-P	05-08-022	388-25-0228	NEW-P	05-03-082
357-58-295	NEW-P	05-04-089	371-08-450	AMD-P	05-08-022	388-25-0228	NEW	05-06-091
357-58-300	NEW-P	05-04-089	388	PREP	05-08-090	388-25-0228	NEW-E	05-06-093
357-58-305	NEW-P	05-04-089	388-02-0215	PREP	05-06-081	388-25-0229	NEW-P	05-03-082
357-58-310	NEW-P	05-04-089	388-14A	PREP	05-08-087	388-25-0229	NEW	05-06-091
357-58-315	NEW-P	05-04-089	388-14A-2160	PREP	05-08-087	388-25-0229	NEW-E	05-06-093
357-58-320	NEW-P	05-04-089	388-14A-3102	PREP	05-05-078	388-25-0230	REP-P	05-03-082
357-58-325	NEW-P	05-04-089	388-14A-3102	AMD-P	05-09-082	388-25-0230	REP	05-06-091
357-58-330	NEW-P	05-04-089	388-14A-3120	PREP	05-05-078	388-25-0230	REP-E	05-06-093
357-58-335	NEW-P	05-04-089	388-14A-3120	AMD-P	05-09-082	388-25-0231	NEW-P	05-03-082
357-58-340	NEW-P	05-04-089	388-14A-3304	AMD-P	05-03-095	388-25-0231	NEW	05-06-091
357-58-345	NEW-P	05-04-089	388-14A-3304	AMD	05-07-059	388-25-0231	NEW-E	05-06-093
357-58-350	NEW-P	05-04-089	388-14A-3310	AMD-P	05-03-095	388-25-1000	NEW-P	05-06-086
357-58-355	NEW-P	05-04-089	388-14A-3310	AMD	05-07-059	388-25-1000	NEW-E	05-06-094
357-58-360	NEW-P	05-04-089	388-14A-3317	NEW-P	05-03-095	388-25-1010	NEW-P	05-06-086
357-58-365	NEW-P	05-04-089	388-14A-3317	NEW	05-07-059	388-25-1010	NEW-E	05-06-094
357-58-370	NEW-P	05-04-089	388-14A-3320	AMD-P	05-03-095	388-25-1020	NEW-P	05-06-086
357-58-375	NEW-P	05-04-089	388-14A-3320	AMD	05-07-059	388-25-1020	NEW-E	05-06-094
357-58-380	NEW-P	05-04-089	388-14A-3321	NEW-E	05-03-095	388-25-1030	NEW-P	05-06-086
357-58-385	NEW-P	05-04-089	388-14A-3321	NEW	05-07-059	388-25-1030	NEW-E	05-06-094
357-58-390	NEW-P	05-04-089	388-14A-4119	NEW-E	05-03-094	388-25-1040	NEW-P	05-06-086
357-58-395	NEW-P	05-04-089	388-14A-4119	NEW-P	05-05-082	388-25-1040	NEW-E	05-06-094
357-58-400	NEW-P	05-04-089	388-14A-4119	NEW	05-08-060	388-25-1050	NEW-P	05-06-086
357-58-405	NEW-P	05-04-091	388-14A-4180	NEW-E	05-03-094	388-25-1050	NEW-E	05-06-094
357-58-410	NEW-P	05-04-091	388-14A-4180	NEW-P	05-05-082	388-71-0194	REP-P	05-03-096
357-58-415	NEW-P	05-04-091	388-14A-4180	NEW	05-08-060	388-71-0202	REP-P	05-03-096
357-58-420	NEW-P	05-04-091	388-14A-4304	AMD	05-07-087	388-71-0203	REP-P	05-03-096
357-58-425	NEW-P	05-04-091	388-14A-5000	AMD-P	05-02-063	388-71-0205	REP-P	05-03-096
357-58-430	NEW-P	05-04-091	388-14A-5000	AMD	05-06-014	388-71-0210	REP-P	05-03-096
357-58-435	NEW-P	05-04-091	388-14A-5001	AMD-P	05-02-063	388-71-0215	REP-P	05-03-096
357-58-440	NEW-P	05-04-091	388-14A-5001	AMD	05-06-014	388-71-0220	REP-P	05-03-096
357-58-445	NEW-P	05-04-091	388-14A-5005	AMD-P	05-02-063	388-71-0225	REP-P	05-03-096
357-58-450	NEW-P	05-04-091	388-14A-5005	AMD	05-06-014	388-71-0230	REP-P	05-03-096
357-58-455	NEW-P	05-04-091	388-14A-5008	AMD-P	05-02-063	388-71-0235	REP-P	05-03-096
357-58-460	NEW-P	05-04-091	388-14A-5008	AMD	05-06-014	388-71-0240	REP-P	05-03-096
357-58-465	NEW-P	05-04-091	388-14A-5009	NEW-P	05-02-063	388-71-0245	REP-P	05-03-096
357-58-470	NEW-P	05-04-091	388-14A-5009	NEW	05-06-014	388-71-0250	REP-P	05-03-096
357-58-475	NEW-P	05-04-091	388-14A-5010	NEW-P	05-02-063	388-71-0255	REP-P	05-03-096
357-58-480	NEW-P	05-04-091	388-14A-5010	NEW	05-06-014	388-71-0260	REP-P	05-03-096
357-58-485	NEW-P	05-04-091	388-14A-7100	AMD-P	05-03-095	388-71-0400	REP-P	05-03-096
357-58-490	NEW-P	05-04-091	388-14A-7100	AMD	05-07-059	388-71-0405	REP-P	05-03-096
357-58-495	NEW-P	05-04-091	388-14A-7110	NEW-E	05-03-095	388-71-0410	REP-P	05-03-096
357-58-500	NEW-P	05-04-090	388-14A-7110	NEW	05-07-059	388-71-0415	REP-P	05-03-096
357-58-505	NEW-P	05-04-090	388-14A-7115	NEW-E	05-03-095	388-71-0420	REP-P	05-03-096
357-58-510	NEW-P	05-04-090	388-14A-7115	NEW	05-07-059	388-71-0425	REP-P	05-03-096
357-58-515	NEW-P	05-04-090	388-14A-7117	NEW-E	05-03-095	388-71-0430	REP-P	05-03-096
357-58-520	NEW-P	05-04-090	388-14A-7117	NEW	05-07-059	388-71-0435	REP-P	05-03-096
357-58-525	NEW-P	05-04-090	388-14A-7120	NEW-E	05-03-095	388-71-0440	REP-P	05-03-096
357-58-530	NEW-P	05-04-090	388-14A-7120	NEW	05-07-059	388-71-0442	REP-P	05-03-096
357-58-535	NEW-P	05-04-090	388-14A-8100	AMD-E	05-07-034	388-71-0445	REP-P	05-03-096
357-58-540	NEW-P	05-04-090	388-14A-8100	AMD-P	05-09-081	388-71-0450	REP-P	05-03-096
357-58-545	NEW-P	05-04-090	388-14A-8600	NEW-E	05-03-095	388-71-0455	REP-P	05-03-096
363-116	PREP	05-04-094	388-14A-8600	NEW	05-07-059	388-71-0460	REP-P	05-03-096

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-101-2120	RECOD	05-05-077	388-106-0135	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096
388-101-2130	RECOD	05-05-077	388-106-0140	NEW-P	05-03-096	388-106-1045	NEW-P	05-03-096
388-101-2140	RECOD	05-05-077	388-106-0200	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096
388-101-2150	RECOD	05-05-077	388-106-0210	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096
388-101-2150	AMD-P	05-07-136	388-106-0213	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096
388-101-2160	RECOD	05-05-077	388-106-0220	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096
388-101-2300	RECOD	05-05-077	388-106-0225	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096
388-101-2310	RECOD	05-05-077	388-106-0230	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096
388-101-2310	AMD-P	05-07-136	388-106-0235	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096
388-101-2310	DECOD	05-07-138	388-106-0300	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096
388-101-2320	RECOD	05-05-077	388-106-0305	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096
388-101-2320	DECOD	05-07-138	388-106-0310	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096
388-101-2330	RECOD	05-05-077	388-106-0315	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096
388-101-2340	RECOD	05-05-077	388-106-0320	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096
388-101-2350	RECOD	05-05-077	388-106-0325	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096
388-101-2360	RECOD	05-05-077	388-106-0330	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096
388-101-2370	RECOD	05-05-077	388-106-0335	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096
388-101-2380	RECOD	05-05-077	388-106-0350	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096
388-101-2400	RECOD	05-07-138	388-106-0355	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096
388-101-2410	RECOD	05-07-138	388-106-0360	NEW-P	05-03-096	388-145-0100	AMD-P	05-07-134
388-101-2420	RECOD	05-07-138	388-106-0400	NEW-P	05-03-096	388-145-0230	AMD-P	05-07-134
388-101-2430	RECOD	05-07-138	388-106-0410	NEW-P	05-03-096	388-160-0075	AMD-P	05-09-079
388-101-2440	RECOD	05-07-138	388-106-0415	NEW-P	05-03-096	388-160-0195	AMD-P	05-09-079
388-101-2450	RECOD	05-07-138	388-106-0420	NEW-P	05-03-096	388-273-0035	AMD-E	05-06-024
388-101-2460	RECOD	05-07-138	388-106-0425	NEW-P	05-03-096	388-273-0035	PREP	05-06-077
388-101-2470	RECOD	05-07-138	388-106-0430	NEW-P	05-03-096	388-290-0010	PREP	05-06-078
388-101-2480	RECOD	05-07-138	388-106-0435	NEW-P	05-03-096	388-290-0025	PREP	05-06-078
388-101-2490	RECOD	05-07-138	388-106-0500	NEW-P	05-03-096	388-290-0075	PREP	05-06-078
388-101-2500	RECOD	05-07-138	388-106-0510	NEW-P	05-03-096	388-290-0095	PREP	05-06-078
388-101-2510	RECOD	05-07-138	388-106-0515	NEW-P	05-03-096	388-290-0100	PREP	05-06-078
388-101-2520	RECOD	05-07-138	388-106-0520	NEW-P	05-03-096	388-290-0105	PREP	05-06-078
388-101-2530	RECOD	05-07-138	388-106-0525	NEW-P	05-03-096	388-290-0110	PREP	05-06-078
388-101-2540	RECOD	05-07-138	388-106-0530	NEW-P	05-03-096	388-290-0120	PREP	05-06-078
388-106	PREP	05-05-080	388-106-0535	NEW-P	05-03-096	388-290-0200	AMD-E	05-05-024
388-106	PREP	05-06-082	388-106-0600	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024
388-106	PREP	05-06-083	388-106-0610	NEW-P	05-03-096	388-295	PREP	05-08-059
388-106-0005	NEW-P	05-03-096	388-106-0615	NEW-P	05-03-096	388-296	PREP	05-07-131
388-106-0010	NEW-P	05-03-096	388-106-0620	NEW-P	05-03-096	388-296	PREP-W	05-08-058
388-106-0015	NEW-P	05-03-096	388-106-0625	NEW-P	05-03-096	388-310-0600	PREP	05-07-074
388-106-0020	NEW-P	05-03-096	388-106-0630	NEW-P	05-03-096	388-310-1400	AMD-P	05-08-121
388-106-0025	NEW-P	05-03-096	388-106-0650	NEW-P	05-03-096	388-400	PREP	05-08-091
388-106-0030	NEW-P	05-03-096	388-106-0655	NEW-P	05-03-096	388-400-0005	AMD-P	05-09-083
388-106-0035	NEW-P	05-03-096	388-106-0700	NEW-P	05-03-096	388-406	PREP	05-08-091
388-106-0040	NEW-P	05-03-096	388-106-0705	NEW-P	05-03-096	388-408	PREP	05-08-091
388-106-0045	NEW-P	05-03-096	388-106-0710	NEW-P	05-03-096	388-410	PREP	05-08-091
388-106-0050	NEW-P	05-03-096	388-106-0715	NEW-P	05-03-096	388-410-0001	AMD-P	05-05-081
388-106-0055	NEW-P	05-03-096	388-106-0800	NEW-P	05-03-096	388-410-0001	AMD	05-08-124
388-106-0060	NEW-P	05-03-096	388-106-0805	NEW-P	05-03-096	388-412	PREP	05-08-091
388-106-0065	NEW-P	05-03-096	388-106-0810	NEW-P	05-03-096	388-412-0025	PREP	05-07-130
388-106-0070	NEW-P	05-03-096	388-106-0815	NEW-P	05-03-096	388-414	PREP	05-08-091
388-106-0075	NEW-P	05-03-096	388-106-0900	NEW-P	05-03-096	388-416-0005	AMD-P	05-05-081
388-106-0080	NEW-P	05-03-096	388-106-0905	NEW-P	05-03-096	388-416-0005	AMD	05-08-124
388-106-0085	NEW-P	05-03-096	388-106-0950	NEW-P	05-03-096	388-416-0015	PREP	05-05-079
388-106-0090	NEW-P	05-03-096	388-106-0955	NEW-P	05-03-096	388-418	PREP	05-08-091
388-106-0095	NEW-P	05-03-096	388-106-1000	NEW-P	05-03-096	388-418-0005	AMD-P	05-06-089
388-106-0100	NEW-P	05-03-096	388-106-1005	NEW-P	05-03-096	388-418-0005	AMD	05-09-021
388-106-0105	NEW-P	05-03-096	388-106-1010	NEW-P	05-03-096	388-418-0007	AMD-P	05-08-120
388-106-0110	NEW-P	05-03-096	388-106-1015	NEW-P	05-03-096	388-418-0011	PREP	05-05-079
388-106-0115	NEW-P	05-03-096	388-106-1020	NEW-P	05-03-096	388-418-0011	AMD-P	05-06-088
388-106-0120	NEW-P	05-03-096	388-106-1025	NEW-P	05-03-096	388-418-0011	AMD	05-09-020
388-106-0125	NEW-P	05-03-096	388-106-1030	NEW-P	05-03-096	388-418-0020	AMD-P	05-06-088
388-106-0130	NEW-P	05-03-096	388-106-1035	NEW-P	05-03-096	388-418-0020	AMD	05-09-020

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388-422	PREP	05-08-091	388-531-0150	AMD-E	05-07-058	388-550-5400	AMD-P	05-09-086
388-424	PREP	05-08-091	388-531-0150	AMD-P	05-07-135	388-550-6800	AMD-P	05-09-086
388-432	PREP	05-08-091	388-531-0200	AMD-E	05-07-058	388-550-6900	REP-P	05-09-086
388-434	PREP	05-08-091	388-531-0200	AMD-P	05-07-135	388-554-100	NEW	05-04-059
388-436	PREP	05-08-091	388-531-0250	AMD-E	05-07-058	388-554-200	NEW	05-04-059
388-446	PREP	05-08-091	388-531-0250	AMD-P	05-07-135	388-554-300	NEW	05-04-059
388-448	PREP	05-08-091	388-531-0650	AMD-E	05-07-058	388-554-400	NEW	05-04-059
388-450	PREP	05-08-091	388-531-0650	AMD-P	05-07-135	388-554-500	NEW	05-04-059
388-450-0015	AMD	05-03-078	388-531-1600	AMD-E	05-07-058	388-554-600	NEW	05-04-059
388-450-0020	PREP-W	05-02-068	388-531-1600	AMD-P	05-07-135	388-554-700	NEW	05-04-059
388-450-0195	AMD-P	05-06-085	388-533-0710	AMD-P	05-05-085	388-554-800	NEW	05-04-059
388-450-0195	AMD-P	05-09-087	388-533-0710	AMD	05-08-061	388-555	PREP-W	05-03-083
388-450-0200	AMD-E	05-03-079	388-533-0720	AMD-P	05-05-085	388-800	PREP	05-02-065
388-450-0200	AMD	05-05-025	388-533-0720	AMD	05-08-061	388-820-010	DECOD	05-05-077
388-450A-0010	NEW-P	05-07-133	388-533-0730	AMD-P	05-05-085	388-820-020	DECOD	05-05-077
388-454	PREP	05-08-091	388-533-0730	AMD	05-08-061	388-820-030	DECOD	05-05-077
388-455	PREP	05-08-091	388-535-1070	AMD-P	05-03-080	388-820-040	DECOD	05-05-077
388-458	PREP	05-08-091	388-535-1070	AMD	05-06-092	388-820-050	DECOD	05-05-077
388-462-0015	AMD-P	05-03-081	388-538	PREP	05-04-082	388-820-056	DECOD	05-07-138
388-462-0015	AMD	05-07-032	388-538-112	AMD-E	05-05-038	388-820-060	DECOD	05-05-077
388-464	PREP	05-08-091	388-544-0010	NEW-P	05-08-092	388-820-070	DECOD	05-05-077
388-468	PREP	05-08-091	388-544-0050	AMD-P	05-08-092	388-820-076	DECOD	05-05-077
388-470	PREP	05-08-091	388-544-0100	AMD-P	05-08-092	388-820-080	DECOD	05-05-077
388-474-0012	AMD	05-07-031	388-544-0150	AMD-P	05-08-092	388-820-086	DECOD	05-05-077
388-475-0550	AMD-E	05-05-088	388-544-0200	REP-P	05-08-092	388-820-090	DECOD	05-05-077
388-475-0700	AMD-E	05-05-088	388-544-0250	AMD-P	05-08-092	388-820-100	DECOD	05-05-077
388-475-0800	AMD-E	05-05-088	388-544-0300	AMD-P	05-08-092	388-820-110	DECOD	05-05-077
388-475-0820	AMD-E	05-05-088	388-544-0350	AMD-P	05-08-092	388-820-120	DECOD	05-05-077
388-475-0860	AMD-E	05-05-088	388-544-0400	AMD-P	05-08-092	388-820-130	DECOD	05-05-077
388-478	PREP	05-08-091	388-544-0450	AMD-P	05-08-092	388-820-140	DECOD	05-05-077
388-478-0070	AMD-P	05-02-091	388-544-0475	NEW-P	05-08-092	388-820-150	DECOD	05-05-077
388-478-0070	AMD	05-06-090	388-544-0500	AMD-P	05-08-092	388-820-160	DECOD	05-05-077
388-478-0075	PREP	05-07-095	388-544-0550	AMD-P	05-08-092	388-820-170	DECOD	05-05-077
388-478-0075	AMD-E	05-07-098	388-544-0600	AMD-P	05-08-092	388-820-180	DECOD	05-05-077
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388-492-0040	AMD	05-08-009	388-550-2800	AMD-P	05-07-135	388-820-260	DECOD	05-05-077
388-492-0070	AMD-P	05-05-086	388-550-3000	AMD-P	05-07-096	388-820-270	DECOD	05-05-077
388-492-0070	AMD	05-08-008	388-550-3300	PREP	05-06-080	388-820-280	DECOD	05-05-077
388-501-0135	PREP	05-06-079	388-550-3300	AMD-P	05-09-085	388-820-290	DECOD	05-05-077
388-501-0165	PREP	05-08-088	388-550-3800	AMD	05-06-044	388-820-300	DECOD	05-05-077
388-501-0200	PREP-W	05-02-068	388-550-4300	PREP	05-06-080	388-820-310	DECOD	05-05-077
388-503-0510	AMD	05-07-097	388-550-4300	AMD-P	05-09-085	388-820-320	DECOD	05-05-077
388-513-1325	PREP-W	05-02-068	388-550-4400	AMD-E	05-07-058	388-820-330	DECOD	05-05-077
388-513-1340	PREP-W	05-02-068	388-550-4400	AMD-P	05-07-135	388-820-340	DECOD	05-05-077
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388-519-0110	AMD-E	05-07-057	388-550-5250	REP-P	05-09-086	388-820-430	DECOD	05-05-077
388-519-0110	AMD	05-08-093	388-550-5300	REP-P	05-09-086	388-820-440	DECOD	05-05-077
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390- 16-310	AMD	05-06-070	415-111-310	PREP	05-04-011	415-112-700	AMD-P	05-09-055
390- 16-311	REP	05-06-070	415-112-015	AMD-P	05-08-031	415-112-705	AMD-P	05-08-030
390- 17-310	AMD	05-04-039	415-112-020	REP-P	05-08-031	415-112-710	REP-P	05-09-055
390- 19-030	AMD-P	05-06-068	415-112-100	REP-P	05-08-031	415-112-725	REP-P	05-09-055
390- 20-0101	AMD	05-06-070	415-112-119	AMD-P	05-08-031	415-112-800	REP-P	05-09-055
390- 20-110	AMD	05-06-070	415-112-120	AMD-P	05-08-031	415-112-840	REP-P	05-08-033
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390- 24-020	AMD	05-06-070	415-112-130	AMD-P	05-08-031	415-501-110	PREP	05-07-030
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390- 37-090	AMD-P	05-06-068	415-112-145	AMD-P	05-08-031	434-230-175	NEW-E	05-05-033
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392-126	PREP	05-06-027	415-112-320	REP-P	05-08-031	434-253-048	NEW	05-08-065
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392-168-135	AMD-P	05-06-066	415-112-471	AMD-P	05-09-055	434-333-010	REP-P	05-05-034
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392-168-155	AMD-P	05-06-066	415-112-477	AMD-P	05-09-055	434-333-015	REP-P	05-05-034
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392-168-165	REP-P	05-06-066	415-112-482	AMD-P	05-09-055	434-333-020	REP-P	05-05-034
392-168-167	REP-P	05-06-066	415-112-483	REP-P	05-09-055	434-333-025	AMD-E	05-05-033
392-168-170	REP-P	05-06-066	415-112-485	AMD-P	05-09-055	434-333-025	REP-P	05-05-034
392-168-180	AMD-P	05-06-066	415-112-487	AMD-P	05-09-055	434-333-030	REP-P	05-05-034
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415-104-450	AMD-P	05-08-030	415-112-500	AMD-P	05-09-055	434-333-045	AMD-E	05-05-033
415-108	PREP	05-06-040	415-112-501	NEW-P	05-09-055	434-333-045	REP-P	05-05-034
415-108-315	AMD-P	05-08-030	415-112-502	NEW-P	05-09-055	434-333-050	AMD-E	05-05-033
415-108-436	NEW-P	05-08-032	415-112-507	NEW-P	05-09-055	434-333-050	REP-P	05-05-034
415-108-475	AMD-P	05-09-056	415-112-523	NEW-P	05-09-055	434-333-055	AMD-E	05-05-033

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434-333-055	REP-P	05-05-034	434-333-235	NEW-E	05-05-033	434-335-490	NEW-P	05-05-034
434-333-060	AMD-E	05-05-033	434-333-240	NEW-E	05-05-033	434-335-500	NEW-P	05-05-034
434-333-060	REP-P	05-05-034	434-333-245	NEW-E	05-05-033	434-335-510	NEW-P	05-05-034
434-333-063	REP-P	05-05-034	434-333-250	NEW-E	05-05-033	434-335-520	NEW-P	05-05-034
434-333-065	AMD-E	05-05-033	434-333-255	NEW-E	05-05-033	434-335-530	NEW-P	05-05-034
434-333-065	REP-P	05-05-034	434-333-260	NEW-E	05-05-033	434-335-540	NEW-P	05-05-034
434-333-070	AMD-E	05-05-033	434-333-265	NEW-E	05-05-033	434-335-550	NEW-P	05-05-034
434-333-070	REP-P	05-05-034	434-333-270	NEW-E	05-05-033	434-335-560	NEW-P	05-05-034
434-333-075	AMD-E	05-05-033	434-333-275	NEW-E	05-05-033	434-335-570	NEW-P	05-05-034
434-333-075	REP-P	05-05-034	434-333-280	NEW-E	05-05-033	434-335-580	NEW-P	05-05-034
434-333-080	NEW-E	05-05-033	434-333-285	NEW-E	05-05-033	434-335-590	NEW-P	05-05-034
434-333-082	REP-P	05-05-034	434-333-290	NEW-E	05-05-033	434-335-600	NEW-P	05-05-034
434-333-085	AMD-E	05-05-033	434-333-295	NEW-E	05-05-033	434-335-610	NEW-P	05-05-034
434-333-085	REP-P	05-05-034	434-333-300	NEW-E	05-05-033	434-335-620	NEW-P	05-05-034
434-333-090	AMD-E	05-05-033	434-335-010	NEW-P	05-05-034	434-335-630	NEW-P	05-05-034
434-333-090	REP-P	05-05-034	434-335-020	NEW-P	05-05-034	434-335-640	NEW-P	05-05-034
434-333-095	AMD-E	05-05-033	434-335-030	NEW-P	05-05-034	434-379-005	NEW-P	05-09-047
434-333-095	REP-P	05-05-034	434-335-040	NEW-P	05-05-034	434-379-007	NEW-P	05-09-047
434-333-100	AMD-E	05-05-033	434-335-050	NEW-P	05-05-034	434-379-010	AMD-P	05-09-047
434-333-100	REP-P	05-05-034	434-335-060	NEW-P	05-05-034	434-379-020	NEW-P	05-09-047
434-333-105	AMD-E	05-05-033	434-335-070	NEW-P	05-05-034	446- 20-600	AMD	05-03-034
434-333-105	REP-P	05-05-034	434-335-080	NEW-P	05-05-034	446- 20-610	AMD-P	05-03-036
434-333-107	NEW-E	05-05-033	434-335-090	NEW-P	05-05-034	446- 20-610	AMD	05-07-141
434-333-110	AMD-E	05-05-033	434-335-100	NEW-P	05-05-034	446- 20-630	AMD-P	05-03-035
434-333-110	REP-P	05-05-034	434-335-110	NEW-P	05-05-034	446- 20-630	AMD	05-07-157
434-333-115	NEW-E	05-05-033	434-335-120	NEW-P	05-05-034	446- 65-010	AMD	05-04-002
434-333-120	AMD-E	05-05-033	434-335-130	NEW-P	05-05-034	456- 09-001	NEW-P	05-09-125
434-333-120	REP-P	05-05-034	434-335-140	NEW-P	05-05-034	456- 09-010	AMD-P	05-09-125
434-333-125	AMD-E	05-05-033	434-335-150	NEW-P	05-05-034	456- 09-110	AMD-P	05-09-125
434-333-125	REP-P	05-05-034	434-335-160	NEW-P	05-05-034	456- 09-120	AMD-P	05-09-125
434-333-127	REP-P	05-05-034	434-335-170	NEW-P	05-05-034	456- 09-130	AMD-P	05-09-125
434-333-130	AMD-E	05-05-033	434-335-180	NEW-P	05-05-034	456- 09-140	AMD-P	05-09-125
434-333-130	REP-P	05-05-034	434-335-190	NEW-P	05-05-034	456- 09-160	REP-P	05-09-125
434-333-135	AMD-E	05-05-033	434-335-200	NEW-P	05-05-034	456- 09-170	REP-P	05-09-125
434-333-135	REP-P	05-05-034	434-335-210	NEW-P	05-05-034	456- 09-210	AMD-P	05-09-125
434-333-140	AMD-E	05-05-033	434-335-220	NEW-P	05-05-034	456- 09-215	NEW-P	05-09-125
434-333-140	REP-P	05-05-034	434-335-230	NEW-P	05-05-034	456- 09-220	AMD-P	05-09-125
434-333-145	AMD-E	05-05-033	434-335-240	NEW-P	05-05-034	456- 09-300	NEW-P	05-09-125
434-333-145	REP-P	05-05-034	434-335-250	NEW-P	05-05-034	456- 09-310	AMD-P	05-09-125
434-333-150	AMD-E	05-05-033	434-335-260	NEW-P	05-05-034	456- 09-315	AMD-P	05-09-125
434-333-150	REP-P	05-05-034	434-335-270	NEW-P	05-05-034	456- 09-320	REP-P	05-09-125
434-333-155	AMD-E	05-05-033	434-335-280	NEW-P	05-05-034	456- 09-325	AMD-P	05-09-125
434-333-155	REP-P	05-05-034	434-335-290	NEW-P	05-05-034	456- 09-330	AMD-P	05-09-125
434-333-160	AMD-E	05-05-033	434-335-300	NEW-P	05-05-034	456- 09-335	AMD-P	05-09-125
434-333-160	REP-P	05-05-034	434-335-310	NEW-P	05-05-034	456- 09-340	AMD-P	05-09-125
434-333-165	AMD-E	05-05-033	434-335-320	NEW-P	05-05-034	456- 09-345	AMD-P	05-09-125
434-333-165	REP-P	05-05-034	434-335-330	NEW-P	05-05-034	456- 09-350	REP-P	05-09-125
434-333-170	AMD-E	05-05-033	434-335-340	NEW-P	05-05-034	456- 09-355	REP-P	05-09-125
434-333-170	REP-P	05-05-034	434-335-350	NEW-P	05-05-034	456- 09-365	REP-P	05-09-125
434-333-175	AMD-E	05-05-033	434-335-360	NEW-P	05-05-034	456- 09-410	REP-P	05-09-125
434-333-175	REP-P	05-05-034	434-335-370	NEW-P	05-05-034	456- 09-420	REP-P	05-09-125
434-333-180	NEW-E	05-05-033	434-335-380	NEW-P	05-05-034	456- 09-430	REP-P	05-09-125
434-333-185	NEW-E	05-05-033	434-335-390	NEW-P	05-05-034	456- 09-440	REP-P	05-09-125
434-333-190	NEW-E	05-05-033	434-335-400	NEW-P	05-05-034	456- 09-510	AMD-P	05-09-125
434-333-195	NEW-E	05-05-033	434-335-410	NEW-P	05-05-034	456- 09-520	AMD-P	05-09-125
434-333-200	NEW-E	05-05-033	434-335-420	NEW-P	05-05-034	456- 09-530	AMD-P	05-09-125
434-333-205	NEW-E	05-05-033	434-335-430	NEW-P	05-05-034	456- 09-540	AMD-P	05-09-125
434-333-210	NEW-E	05-05-033	434-335-440	NEW-P	05-05-034	456- 09-545	NEW-P	05-09-125
434-333-215	NEW-E	05-05-033	434-335-450	NEW-P	05-05-034	456- 09-550	AMD-P	05-09-125
434-333-220	NEW-E	05-05-033	434-335-460	NEW-P	05-05-034	456- 09-552	NEW-P	05-09-125
434-333-225	NEW-E	05-05-033	434-335-470	NEW-P	05-05-034	456- 09-555	NEW-P	05-09-125
434-333-230	NEW-E	05-05-033	434-335-480	NEW-P	05-05-034	456- 09-560	AMD-P	05-09-125

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456-09-565	NEW-P	05-09-125	456-10-355	REP-P	05-09-125	463-60-435	RECOD-W	05-03-087
456-09-570	AMD-P	05-09-125	456-10-360	REP-P	05-09-125	463-60-525	RECOD-W	05-03-087
456-09-575	NEW-P	05-09-125	456-10-410	AMD-P	05-09-125	463-60-625	RECOD-W	05-03-087
456-09-610	REP-P	05-09-125	456-10-420	REP-P	05-09-125	463-60-645	RECOD-W	05-03-087
456-09-615	REP-P	05-09-125	456-10-430	REP-P	05-09-125	463-60-655	RECOD-W	05-03-087
456-09-620	REP-P	05-09-125	456-10-440	REP-P	05-09-125	463-60-665	RECOD-W	05-03-087
456-09-625	REP-P	05-09-125	456-10-500	NEW-P	05-09-125	463-60-675	RECOD-W	05-03-087
456-09-635	REP-P	05-09-125	456-10-501	NEW-P	05-09-125	463-60-680	RECOD-W	05-03-087
456-09-640	REP-P	05-09-125	456-10-503	NEW-P	05-09-125	463-60-685	RECOD-W	05-03-087
456-09-645	REP-P	05-09-125	456-10-505	AMD-P	05-09-125	463-60-690	RECOD-W	05-03-087
456-09-650	REP-P	05-09-125	456-10-507	NEW-P	05-09-125	463-64-060	NEW-W	05-03-087
456-09-655	REP-P	05-09-125	456-10-510	AMD-P	05-09-125	463-66-010	RECOD-W	05-03-087
456-09-705	REP-P	05-09-125	456-10-515	AMD-P	05-09-125	463-70-080	RECOD-W	05-03-087
456-09-710	REP-P	05-09-125	456-10-525	REP-P	05-09-125	463-76-020	RECOD-W	05-03-087
456-09-715	REP-P	05-09-125	456-10-530	AMD-P	05-09-125	463-76-030	RECOD-W	05-03-087
456-09-720	REP-P	05-09-125	456-10-535	REP-P	05-09-125	463-76-040	RECOD-W	05-03-087
456-09-725	REP-P	05-09-125	456-10-540	AMD-P	05-09-125	463-76-050	RECOD-W	05-03-087
456-09-730	REP-P	05-09-125	456-10-545	AMD-P	05-09-125	463-76-060	RECOD-W	05-03-087
456-09-732	REP-P	05-09-125	456-10-547	AMD-P	05-09-125	468-38	AMD	05-04-053
456-09-735	REP-P	05-09-125	456-10-550	AMD-P	05-09-125	468-38-001	NEW	05-04-053
456-09-740	AMD-P	05-09-125	456-10-555	AMD-P	05-09-125	468-38-005	NEW	05-04-053
456-09-742	AMD-P	05-09-125	456-10-560	AMD-P	05-09-125	468-38-010	REP	05-04-053
456-09-745	AMD-P	05-09-125	456-10-565	AMD-P	05-09-125	468-38-020	REP	05-04-053
456-09-750	AMD-P	05-09-125	456-10-570	REP-P	05-09-125	468-38-030	AMD	05-04-053
456-09-755	AMD-P	05-09-125	456-10-710	AMD-P	05-09-125	468-38-040	REP	05-04-053
456-09-760	REP-P	05-09-125	456-10-720	REP-P	05-09-125	468-38-050	AMD	05-04-053
456-09-765	AMD-P	05-09-125	456-10-725	AMD-P	05-09-125	468-38-060	REP	05-04-053
456-09-770	REP-P	05-09-125	456-10-730	AMD-P	05-09-125	468-38-070	AMD	05-04-053
456-09-775	REP-P	05-09-125	456-10-735	REP-P	05-09-125	468-38-071	AMD	05-04-053
456-09-910	AMD-P	05-09-125	456-10-740	REP-P	05-09-125	468-38-073	NEW-P	05-07-085
456-09-915	AMD-P	05-09-125	456-10-745	REP-P	05-09-125	468-38-075	AMD	05-04-053
456-09-920	AMD-P	05-09-125	456-10-750	REP-P	05-09-125	468-38-080	AMD	05-04-053
456-09-925	AMD-P	05-09-125	456-10-755	AMD-P	05-09-125	468-38-095	NEW	05-04-053
456-09-930	AMD-P	05-09-125	458-12-342	PREP	05-06-017	468-38-100	AMD	05-04-053
456-09-935	REP-P	05-09-125	458-16-1000	NEW-E	05-04-047	468-38-110	REP	05-04-053
456-09-940	REP-P	05-09-125	458-16-1000	NEW-P	05-05-063	468-38-120	AMD	05-04-053
456-09-945	REP-P	05-09-125	458-20-100	PREP	05-07-156	468-38-130	REP	05-04-053
456-09-950	REP-P	05-09-125	458-20-141	AMD	05-03-053	468-38-135	REP	05-04-053
456-09-955	AMD-P	05-09-125	458-20-144	AMD	05-03-052	468-38-140	REP	05-04-053
456-09-960	AMD-P	05-09-125	458-20-168	AMD-P	05-06-019	468-38-155	NEW	05-04-053
456-10-001	NEW-P	05-09-125	458-20-177	AMD-P	05-06-018	468-38-160	REP	05-04-053
456-10-010	AMD-P	05-09-125	458-20-17803	NEW	05-03-051	468-38-175	NEW	05-04-053
456-10-110	AMD-P	05-09-125	458-20-190	AMD	05-03-002	468-38-180	REP	05-04-053
456-10-120	AMD-P	05-09-125	458-20-191	REP	05-03-002	468-38-190	REP	05-04-053
456-10-130	REP-P	05-09-125	458-20-194	PREP	05-06-124	468-38-200	REP	05-04-053
456-10-140	AMD-P	05-09-125	458-20-196	AMD	05-04-048	468-38-220	REP	05-04-053
456-10-150	AMD-P	05-09-125	458-20-198	AMD	05-04-048	468-38-230	REP	05-04-053
456-10-160	AMD-P	05-09-125	458-20-216	AMD-P	05-09-032	468-38-235	REP	05-04-053
456-10-170	REP-P	05-09-125	458-20-24001	PREP	05-05-061	468-38-240	REP	05-04-053
456-10-180	REP-P	05-09-125	458-20-24001A	PREP	05-05-061	468-38-250	REP	05-04-053
456-10-210	AMD-P	05-09-125	458-20-24003	PREP	05-05-062	468-38-260	REP	05-04-053
456-10-215	NEW-P	05-09-125	458-20-261	PREP	05-08-118	468-38-270	AMD-P	05-08-016
456-10-220	AMD-P	05-09-125	458-20-267	NEW-E	05-03-016	468-38-280	AMD	05-04-053
456-10-300	NEW-P	05-09-125	458-20-268	NEW-E	05-03-017	468-38-290	AMD	05-04-053
456-10-310	AMD-P	05-09-125	458-20-268	PREP	05-09-121	468-38-300	REP	05-04-053
456-10-315	AMD-P	05-09-125	458-20-99999	REP	05-03-002	468-38-310	REP	05-04-053
456-10-320	REP-P	05-09-125	458-40-610	AMD	05-08-070	468-38-320	REP	05-04-053
456-10-325	AMD-P	05-09-125	458-40-660	PREP	05-06-059	468-38-330	REP	05-04-053
456-10-330	AMD-P	05-09-125	458-40-680	AMD	05-08-070	468-38-340	REP	05-04-053
456-10-335	AMD-P	05-09-125	460-24A-105	PREP	05-03-104	468-38-350	REP	05-04-053
456-10-340	REP-P	05-09-125	463-60-382	RECOD-W	05-03-087	468-38-360	AMD	05-04-053
456-10-345	REP-P	05-09-125	463-60-385	RECOD-W	05-03-087	468-38-390	REP	05-04-053

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468-38-405	AMD	05-04-053	480-73-030	NEW	05-06-051	480-93-150	REP-S	05-02-096
468-38-420	AMD	05-04-053	480-73-040	NEW	05-06-051	480-93-155	AMD-S	05-02-096
468-300-010	AMD-P	05-05-058	480-73-050	NEW	05-06-051	480-93-160	AMD-S	05-02-096
468-300-010	AMD-P	05-07-159	480-73-060	NEW	05-06-051	480-93-170	AMD-S	05-02-096
468-300-020	AMD-P	05-05-058	480-73-110	NEW	05-06-051	480-93-175	AMD-S	05-02-096
468-300-020	AMD-P	05-07-159	480-73-120	NEW	05-06-051	480-93-178	NEW-S	05-02-096
468-300-040	AMD-P	05-05-058	480-73-130	NEW	05-06-051	480-93-180	AMD-S	05-02-096
468-300-040	AMD-P	05-07-159	480-73-140	NEW	05-06-051	480-93-183	REP-S	05-02-096
468-300-220	AMD-P	05-05-058	480-73-150	NEW	05-06-051	480-93-184	REP-S	05-02-096
468-300-220	AMD-P	05-07-159	480-73-160	NEW	05-06-051	480-93-185	AMD-S	05-02-096
478-04-030	AMD	05-08-064	480-73-180	NEW	05-06-051	480-93-186	AMD-S	05-02-096
478-116-145	AMD	05-08-064	480-73-190	NEW	05-06-051	480-93-18601	AMD-S	05-02-096
478-116-161	AMD	05-08-064	480-73-210	NEW	05-06-051	480-93-187	AMD-S	05-02-096
478-116-311	AMD	05-08-064	480-73-999	NEW	05-06-051	480-93-188	AMD-S	05-02-096
478-116-431	AMD	05-08-064	480-75-240	AMD-P	05-09-122	480-93-190	REP-S	05-02-096
478-118-010	AMD-P	05-03-071	480-80-123	AMD	05-03-031	480-93-200	AMD-S	05-02-096
478-118-010	AMD	05-08-017	480-80-204	AMD	05-03-031	480-93-210	REP-S	05-02-096
478-118-020	AMD-P	05-03-071	480-80-206	AMD	05-03-031	480-93-220	REP-S	05-02-096
478-118-020	AMD	05-08-017	480-90-008	AMD	05-06-051	480-93-223	AMD-S	05-02-096
478-118-045	NEW-P	05-03-071	480-90-023	AMD	05-06-051	480-93-230	AMD-S	05-02-096
478-118-045	NEW	05-08-017	480-90-207	NEW	05-06-051	480-93-240	AMD-P	05-09-122
478-118-050	AMD-P	05-03-071	480-90-208	REP	05-06-051	480-93-999	AMD-S	05-02-096
478-118-050	AMD	05-08-017	480-90-209	NEW	05-06-051	480-100-008	AMD	05-06-051
478-118-055	NEW-P	05-03-071	480-90-218	REP	05-06-051	480-100-023	AMD	05-06-051
478-118-055	NEW	05-08-017	480-90-244	NEW	05-06-051	480-100-207	NEW	05-06-051
478-118-060	AMD-P	05-03-071	480-90-245	NEW	05-06-051	480-100-208	REP	05-06-051
478-118-060	AMD	05-08-017	480-90-248	NEW	05-06-051	480-100-209	NEW	05-06-051
478-118-080	AMD-P	05-03-071	480-90-252	NEW	05-06-051	480-100-218	REP	05-06-051
478-118-080	AMD	05-08-017	480-90-257	NEW	05-06-051	480-100-244	NEW	05-06-051
478-118-100	AMD-P	05-03-071	480-90-264	NEW	05-06-051	480-100-245	NEW	05-06-051
478-118-100	AMD	05-08-017	480-90-268	NEW	05-06-051	480-100-248	NEW	05-06-051
478-118-200	AMD-P	05-03-071	480-90-275	NEW	05-06-051	480-100-248	NEW	05-06-051
478-118-200	AMD	05-08-017	480-90-999	AMD	05-06-051	480-100-252	NEW	05-06-051
478-118-210	AMD-P	05-03-071	480-92-016	AMD	05-06-051	480-100-257	NEW	05-06-051
478-118-210	AMD	05-08-017	480-92-021	AMD	05-06-051	480-100-264	NEW	05-06-051
478-118-270	AMD-P	05-03-071	480-92-050	AMD	05-06-051	480-100-268	NEW	05-06-051
478-118-270	AMD	05-08-017	480-92-055	NEW	05-06-051	480-100-275	NEW	05-06-051
478-118-290	NEW-P	05-03-071	480-93	AMD-C	05-06-064	480-100-999	AMD	05-06-051
478-118-290	NEW	05-08-017	480-93-002	REP-S	05-02-096	480-110-205	AMD-P	05-04-063
478-118-300	NEW-P	05-03-071	480-93-005	AMD-S	05-02-096	480-110-205	AMD	05-06-051
478-118-300	NEW	05-08-017	480-93-007	NEW-S	05-02-096	480-110-205	AMD	05-08-099
478-118-400	AMD-P	05-03-071	480-93-008	NEW-S	05-02-096	480-110-215	AMD	05-06-051
478-118-400	AMD	05-08-017	480-93-009	NEW-S	05-02-096	480-110-225	AMD	05-06-051
478-118-410	AMD-P	05-03-071	480-93-010	REP-S	05-02-096	480-110-227	NEW	05-06-051
478-118-410	AMD	05-08-017	480-93-012	NEW-S	05-02-096	480-110-235	AMD	05-06-051
478-118-420	AMD-P	05-03-071	480-93-015	AMD-S	05-02-096	480-110-245	AMD	05-06-051
478-118-420	AMD	05-08-017	480-93-017	AMD-S	05-02-096	480-110-255	AMD-P	05-04-063
478-118-510	REP-P	05-03-071	480-93-018	AMD-S	05-02-096	480-110-255	AMD	05-08-099
478-118-510	REP	05-08-017	480-93-020	AMD-S	05-02-096	480-110-261	NEW	05-06-051
478-250-050	AMD	05-08-064	480-93-030	REP-S	05-02-096	480-110-265	REP	05-06-051
478-250-060	AMD	05-08-064	480-93-040	AMD-S	05-02-096	480-110-275	REP	05-06-051
479-12-150	AMD	05-05-004	480-93-080	AMD-S	05-02-096	480-110-285	REP	05-06-051
479-14-180	AMD	05-05-004	480-93-082	REP-S	05-02-096	480-110-295	REP	05-06-051
480-60-035	PREP-W	05-07-007	480-93-100	AMD-S	05-02-096	480-110-335	AMD	05-06-051
480-62-218	NEW-W	05-04-008	480-93-110	AMD-S	05-02-096	480-110-355	AMD	05-06-051
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480-70-078	NEW	05-06-051	480-93-120	REP-S	05-02-096	480-110-395	AMD	05-06-051
480-70-079	NEW	05-06-051	480-93-124	AMD-S	05-02-096	480-110-415	AMD	05-06-051
480-73-010	NEW	05-06-051	480-93-130	AMD-S	05-02-096	480-110-425	AMD	05-06-051
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						480-110-433	NEW	05-06-051

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480-110-457	NEW	05-06-051	480-120-375	NEW	05-06-051	504- 25-205	REP-P	05-03-103
480-110-459	NEW	05-06-051	480-120-379	NEW	05-06-051	504- 25-211	NEW-P	05-03-103
480-110-465	AMD	05-06-051	480-120-382	NEW	05-06-051	504- 25-215	AMD-P	05-03-103
480-110-475	REP	05-06-051	480-120-385	NEW	05-06-051	504- 25-221	AMD-P	05-03-103
480-110-485	AMD	05-06-051	480-120-395	NEW	05-06-051	504- 25-223	AMD-P	05-03-103
480-110-495	REP	05-06-051	480-120-399	NEW	05-06-051	504- 25-224	REP-P	05-03-103
480-110-505	NEW	05-06-051	480-120-402	AMD	05-03-031	504- 25-226	AMD-P	05-03-103
480-110-515	NEW	05-06-051	480-120-414	AMD	05-03-031	504- 25-227	AMD-P	05-03-103
480-110-535	NEW	05-06-051	480-120-439	AMD	05-03-031	504- 25-228	REP-P	05-03-103
480-110-545	NEW	05-06-051	480-120-450	AMD	05-03-031	504- 25-229	REP-P	05-03-103
480-110-555	NEW	05-06-051	480-120-540	AMD	05-03-031	504- 25-230	AMD-P	05-03-103
480-110-575	NEW	05-06-051	480-120-999	AMD	05-03-031	504- 25-245	AMD-P	05-03-103
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480-120-034	NEW	05-03-031	480-122-060	REP	05-03-031			
480-120-112	AMD	05-03-031	480-146	AMD	05-06-051			
480-120-122	AMD	05-03-031	480-146-350	REP	05-06-051			
480-120-128	AMD	05-03-031	480-146-360	REP	05-06-051			
480-120-147	AMD	05-03-031	495B-116-030	AMD	05-06-011			
480-120-161	AMD	05-03-031	495B-116-040	AMD	05-06-011			
480-120-166	AMD	05-03-031	495B-116-050	AMD	05-06-011			
480-120-172	AMD	05-03-031	495B-116-060	AMD	05-06-011			
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480-120-196	AMD	05-03-031	495B-116-120	AMD	05-06-011			
480-120-201	REP	05-03-031	495B-116-150	AMD	05-06-011			
480-120-202	NEW	05-03-031	495B-116-160	AMD	05-06-011			
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480-120-305	REP	05-06-051	504- 25-050	AMD-P	05-03-103			
480-120-311	REP	05-06-051	504- 25-051	AMD-P	05-03-103			
480-120-321	REP	05-06-051	504- 25-055	AMD-P	05-03-103			
480-120-322	REP	05-03-031	504- 25-060	AMD-P	05-03-103			
480-120-323	REP	05-06-051	504- 25-065	AMD-P	05-03-103			
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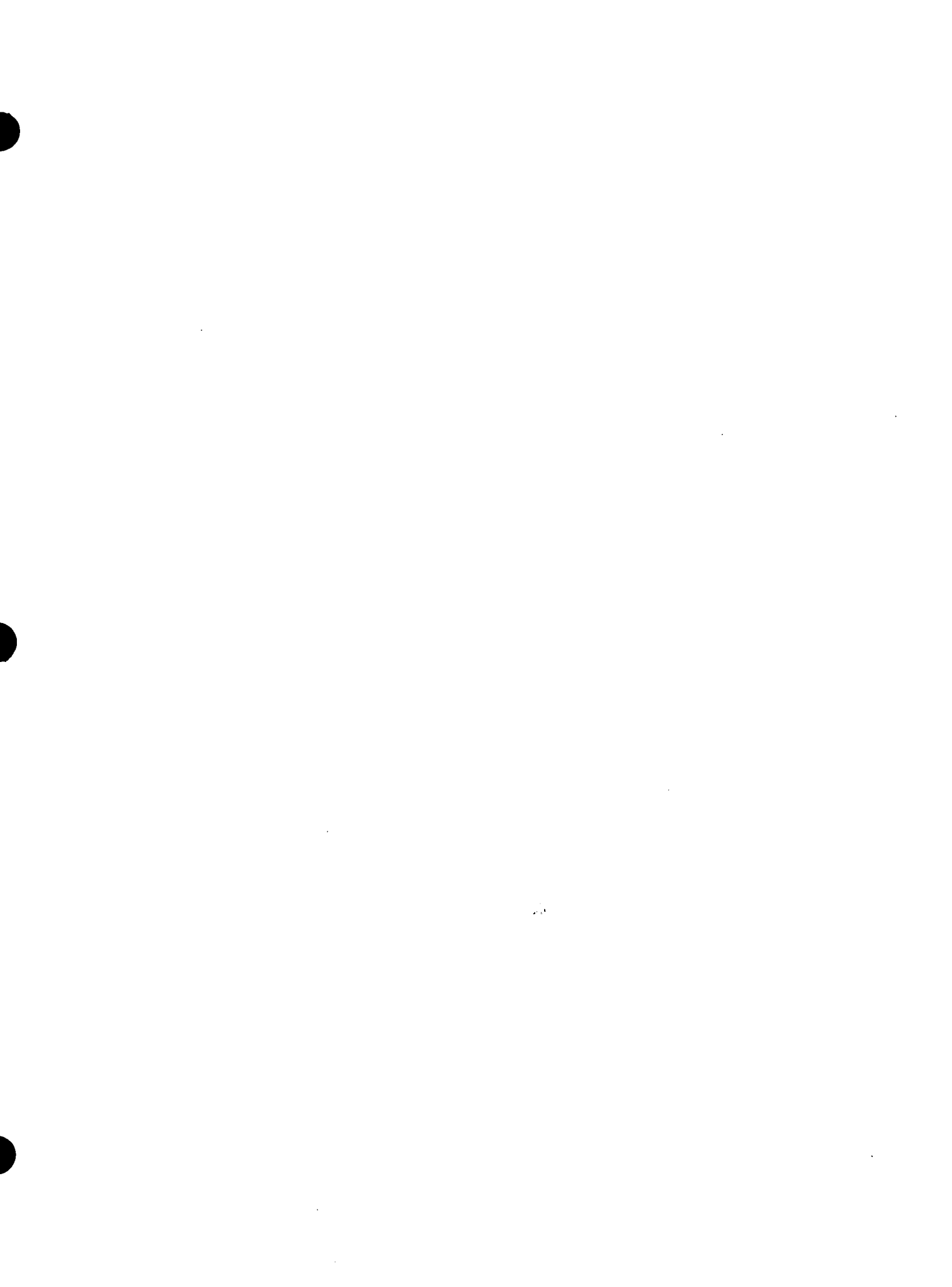
















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