

WSR 05-21-010**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF PERSONNEL**

[Filed October 7, 2005, 8:20 a.m.]

The Department of Personnel hereby withdraws the proposed modification to WAC 357-28-255. This modification was originally filed under WSR 05-18-077 on September 7, 2005, and it was continued under WSR 05-19-144 filed on September 21, 2005.

Eva N. Santos
Director

WSR 05-21-040**PROPOSED RULES
STATE BOARD FOR COMMUNITY
AND TECHNICAL COLLEGES**

[Filed October 13, 2005, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-05-018.

Title of Rule and Other Identifying Information: Chapter 131-16 WAC, Faculty and staff personnel.

Hearing Location(s): Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, on December 1, 2005, at 10:00 a.m.

Date of Intended Adoption: December 1, 2005.

Submit Written Comments to: DelRae Oderman, P.O. Box 42495, Olympia, WA 98504-2495, e-mail doderman@sbtc.ctc.edu, fax (360) 586-6440, by November 14, 2005.

Assistance for Persons with Disabilities: Contact DelRae Oderman by November 14, 2005, (360) 704-4309.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC change provides for the expansion of investment options for participants in the retirement plan sponsored by the State Board for Community and Technical Colleges under RCW 28B.10.400. The state board is expanding the investment options to include an array of market targeted mutual funds which will be added to the annuity investment options currently available. Additional changes are being made to allow plan participants to transfer retirement funds in accordance with IRS regulations and to ensure consistent use of language.

Statutory Authority for Adoption: RCW 28B.10.400.

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, Implementation and Enforcement: John Boesenberg, 319 7th Avenue S.E., Olympia, WA 98504-2495, (360) 704-4303.

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

A cost-benefit analysis is not required under RCW 34.05.328. No additional costs.

October 11, 2005
DelRae Oderman
Executive Assistant
and Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-010 Designation of community and technical college system retirement plan. There is hereby established for the eligible employees of the community and technical colleges of the state of Washington and the state board, a retirement plan which shall provide such employees with ~~((an employer))~~ a state board sponsored retirement plan through the Teachers' Insurance Annuity Association (TIAA) and the College Retirement Equities Fund (CREF), hereafter called ~~((TIAA/CREF))~~ TIAA-CREF, subject to the provisions of WAC 131-16-011 through 131-16-066 and the plan document. On and after January 1, ~~((1998))~~ 2006, this retirement plan is intended to comply with the requirements of a qualified plan under Section ~~((403))~~ 401(a) of the Internal Revenue Code of 1986, as amended and the provisions of the plan document ~~((filed with the Internal Revenue Service on October 29, 1997. Prior to January 1, 1998, the plan was intended to comply with the requirements of Section 403(b) of the Internal Revenue Code of 1986, as amended))~~ approved by the state board on December 1, 2005.

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-011 Definitions. For the purpose of WAC 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any employee who is eligible to ~~((purchase retirement annuities through))~~ participate in the ((TIAA/CREF)) plan and who, as a condition of employment, on and after January 1, 1997, shall participate in the ((TIAA/CREF)) plan upon initial eligibility.

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, made by the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the ~~((TIAA/CREF))~~ plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which ~~((TIAA/CREF))~~ contributions to TIAA-CREF were made by both the participant and a Washington public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: Provided, That the participant will receive a pension benefit from such other retirement system and that not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which (~~TIAA-CREF~~) contributions to TIAA-CREF were made by both the participant and a Washington public higher education institution is divided by two.

(6) "~~(TIAA-CREF)~~ Plan retirement benefit" means the amount of annual retirement income derived from a participant's accumulated (~~(annuities)~~) balances including dividends at the time of retirement: Provided, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the employing college district or the state board, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education or the state board.

(9) "State board" means the state board for community and technical colleges as created in RCW 28B.50.050.

(10) "Appointing authority" means a college district board of trustees or the state board or the designees of such boards.

(11) "Plan" means the retirement plan sponsored by the state board and funded by TIAA-CREF.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-015 Retirement benefit goal established. Subject to the provisions of WAC 131-16-061, the retirement benefit goal for participants in the (~~TIAA-CREF~~) plan is to provide participants at age sixty-five having twenty-five years of full-time service a minimum annual retirement income, exclusive of Federal Old Age Survivors Insurance benefits, equivalent to fifty percent of their average annual salary.

AMENDATORY SECTION (Amending WSR 00-14-017, filed 6/28/00, effective 7/29/00)

WAC 131-16-021 Employees eligible to participate in the retirement (~~(annuity purchase)~~) plan. (1) Eligibility to participate in the (~~TIAA-CREF~~) plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and, effective July 1, 1999, are assigned a cumulative total of

at least fifty percent of full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more college districts or the state board for at least two consecutive college quarters. (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50.4891.)

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed within the community and technical college system. The community and technical college or state board employer shall notify, in writing, all newly hired employees of their potential right to participate. A participating employee, who changes employers without a break in service, shall have the responsibility to notify in writing the new college or state board employer of his or her eligibility. In no case will there be a requirement for retroactive contributions if an employee fails to inform his or her college or state board employer about eligibility previously established with another community and technical college system employer. For the purposes of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031.

AMENDATORY SECTION (Amending WSR 00-14-017, filed 6/28/00, effective 7/29/00)

WAC 131-16-031 Participation in the plan. (1) Except as provided in subsections (2) and (3) of this section, participation in the ~~((TIAA/CREF))~~ plan is required of all otherwise eligible new employees: Provided, That any such new employee, who at the time of employment is a member of the Washington state teachers retirement system or the Washington public employees retirement system, and whose college or state board employment meets the requirements of an "eligible position" as defined by such plan, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the ~~((TIAA/CREF))~~ plan.

(2) Employees who establish ~~((TIAA/CREF))~~ plan eligibility in accordance with WAC 131-16-021 and who, through concurrent employment with another employer, are active Washington public employee retirement system (PERS) members are required to so advise the college or state board employer and shall be given the following options:

(a) To participate in the state board's ~~((TIAA/CREF))~~ retirement plan in accordance with chapter 131-16 WAC, forgoing active PERS membership (contributions and service credit) with their other employer; or

(b) To continue active participation in PERS based upon their employment with the other public employer; forgoing participation in the state board's ~~((TIAA/CREF))~~ retirement plan.

Failure to make an election within thirty days of notification results in the employee being placed in the ~~((TIAA/CREF))~~ plan. The college or state board employer is required to advise the department of retirement systems (DRS) of a PERS member's participation in the ~~((TIAA/CREF))~~ plan, whether through election or default. It shall be the employee's responsibility to notify the other employer if he or she elects to participate in the ~~((TIAA/CREF))~~ plan. The employee will notify his or her college or state board employer should the employee cease to be an active PERS member. This irrevocable election remains in effect as long as the employee is actively participating in a PERS plan and is required because RCW 41.40.023(4) prohibits PERS members from simultaneously participating in two state retirement plans.

(3) Any current active participant of ~~((TIAA/CREF))~~ the plan who becomes an active member of PERS based on employment with another PERS employer is required to notify his or her college or state board employer. The employee will be provided the options listed in subsection (2) of this section and the college or state board employer will follow through accordingly.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-040 Disability retirement provisions for ~~((TIAA/CREF))~~ plan participants. The board of trustees of any college district or the state board may approve the retirement of any participant for reasons of health or permanent disability either upon the request of the appointing authority or the participant: Provided, That reasonable consideration is first given to the written recommendations of the

employee's personal physician or, if requested by either the employee or the appointing authority, a review of such recommendations by another physician appointed by mutual agreement for that purpose.

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-045 Transfers to and from other plans ~~((other than TIAA/CREF))~~. (1) A participant employed in a Washington state community or technical college or the state board for community and technical colleges may directly transfer into his or her ~~((TIAA/CREF))~~ plan account any ~~((account))~~ balances from other employers' retirement plans in accordance with Internal Revenue Code and the plan document: Provided, That such other employers' plans permit transfers out of their plans ~~((and such other employers' plans are covered by the same sections of the Internal Revenue Code as this plan))~~.

(2) A participant who leaves the employment of all Washington state community and technical colleges and the state board for community and technical colleges, may choose to transfer his or her existing ~~((TIAA/CREF))~~ plan account balances, subject to the rules established by ~~((TIAA/CREF))~~ TIAA-CREF for transfers, to any other employer's retirement plan in accordance with Internal Revenue Code and the plan document: Provided, That such other employer's plans will accept the transferred balances ~~((and such other employers' plans are covered by the same sections of the Internal Revenue Code as this plan))~~.

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-055 Options for self-directed investment of retirement plan contributions and accumulations. While actively employed, participants may ~~((exercise any or a combination of the following options for allocation of))~~ allocate current premiums or transfer ~~((of accumulated TIAA or CREF fund))~~ plan accumulated balances to any of the investment options approved by the state board, subject to procedures established by TIAA-CREF.

~~((1) Current premiums may be allocated among the TIAA account and the CREF accounts in any whole percentage proportions:~~

~~((2) CREF account and TIAA real estate account accumulations resulting from previously contributed premiums may be transferred in whole or in part among any of the CREF and TIAA real estate accounts or to the TIAA traditional annuity account, subject to procedures established by TIAA/CREF.~~

~~((3) TIAA traditional annuity accumulations resulting from previously contributed premiums or from transfers from other accounts may be transferred to any CREF accounts on the basis of an irrevocable ten-year schedule of payments, subject to procedures established by TIAA/CREF-))~~

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-056 Hardship withdrawals. (1) In the event of a financial hardship consistent with requirements of

subsection (2) of this section and Section 403 (b)(11) of the Internal Revenue Code, a participant may withdraw all or part of the following plan funds:

- (a) Pre-1998 employee contributions;
- (b) Any pre-1989 earnings on employee contributions;
- (c) Any Section 414(h) employer pick-up contributions;

and

(d) Any contributions transferred to this plan from another employer's plan. Such funds may be withdrawn from the participant's Washington community and technical college system (~~(TIAA/CREF)~~) plan retirement account while actively employed. Hardship withdrawals may not be larger than the amount necessary to meet the immediate and heavy financial need defined in subsection (2) of this section plus taxes on withdrawn funds and early withdrawal penalties. Employer contributions (other than Section 414(h) pick-up contributions) and earnings on the employer contributions may not be withdrawn as a hardship withdrawal.

(2) To enable hardship withdrawal of funds, the Internal Revenue Code (Section 1.401(k)-1(d)(2)) requires that the college president or designee shall verify that the participant has certified in writing that:

(a) The participant has an immediate and heavy financial need; and

(b) The participant has no other resources reasonably available to meet the need.

Withdrawals shall be deemed to be for "an immediate and heavy financial need" only if they are for:

(i) Payments to prevent eviction from or foreclosure on the principal residence of the participant;

(ii) Payments to prevent the participant's impending bankruptcy; and/or

(iii) Unreimbursable medical expenses incurred by the participant, spouse, dependent children, and/or dependent parents.

The participant shall be deemed to have "no other resources reasonably available to meet the need" if the participant certifies that he/she cannot meet the need through:

(A) Reimbursement or compensation by insurance or another source;

(B) Reasonable liquidation of assets;

(C) Borrowing from supplemental retirement accounts, life insurance values, or commercial sources; and/or

(D) Stopping any voluntary employee contributions to tax deferral or savings plans made available by the employer. Contributions to the employer-sponsored retirement plan must continue while the employee remains eligible for the plan.

(3) Hardship withdrawals from the community and technical college (~~(TIAA/CREF)~~) plan are taxable income in the year received. Taxes, early withdrawal penalties, and any other consequences of hardship withdrawals shall be the sole responsibility of the participant. Withdrawals from this qualified (~~(TIAA/CREF)~~) plan may not be replaced at a later date.

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

WAC 131-16-060 Cashability. Notwithstanding WAC 131-16-062(1), upon termination of employment at all com-

munity and technical college districts and the state board for at least one hundred eighty consecutive calendar days, a participant may elect to receive a lump sum payment of his or her (~~(TIAA/CREF)~~) plan account pursuant to the settlement options being made available by (~~(TIAA/CREF)~~) TIAA-CREF at that time.

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-061 Supplemental retirement benefits.

(1) A participant is eligible to receive supplemental retirement benefit payments if at the time of retirement the participant is age sixty-two or over and has at least ten years of full-time service in the (~~(TIAA/CREF)~~) plan at a Washington public institution of higher education: Provided, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount.

(2) Subject to the provisions of subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

(a) The lesser of fifty percent of the participant's average annual salary or two percent of the average annual salary multiplied by the number of years of full-time service; provided that if the participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(b) The combined retirement benefit from the (~~(TIAA/CREF)~~) TIAA-CREF annuity and any other Washington state public retirement system as a result of service while employed by a Washington public higher education institution that the participant would receive in the first month of retirement multiplied by twelve: Provided, That the (~~(TIAA/CREF)~~) TIAA-CREF benefit shall be calculated on the following assumptions:

(i) After July 1, 1974, fifty percent of the combined contributions were made to the TIAA traditional annuity and fifty percent to the CREF stock account during each year of full-time service: Provided, That benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full (~~(TIAA/CREF)~~) TIAA-CREF annuity accumulations, including all dividends payable by TIAA Traditional Annuity and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried participants the TIAA Traditional Annuity accumulations, including dividends, were settled on an installment refund option and the CREF Stock Account accumulations were settled on a life annuity with ten-year guarantee option, all to be based on (~~(TIAA/CREF)~~) TIAA-CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education ((TIAA/CREF)) retirement plan shall be excluded.

(iv) For the purposes of this calculation, the assumptions applied to the ((TIAA/CREF)) plan accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(c) The amount of supplemental retirement benefit for a participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this section reduced by one-half of one percent for each calendar month remaining until age sixty-five: Provided, That the supplemental retirement benefit for an otherwise qualified participant retired for reason of health or permanent disability shall not be so reduced.

(d) Any portion of participant's ((TIAA and/or CREF annuity)) plan accumulation paid to a participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of supplemental retirement benefits just as if these funds had remained in the participant's ((TIAA and/or CREF annuity)) plan account.

(e) The selection of a ((TIAA/CREF)) retirement option other than the joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the supplemental retirement benefit; however, if the participant's combined ((TIAA/CREF)) plan retirement benefit and calculated supplemental retirement benefit exceeds fifty percent of the participant's average annual salary, the supplemental retirement benefit shall be reduced so that the total combined benefits do not exceed fifty percent of average annual salary.

(3) The payment of supplemental retirement benefits shall be consistent with the following provisions:

(a) Supplemental retirement benefits shall be paid in equal monthly installments, except that if such monthly installments should be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the state board.

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement, a participant may choose to provide for the continuation of supplemental retirement benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or designated beneficiary after the retiree's death. Notification of such choice shall be filed in writing with the state board and shall be irrevocable after retirement. If such option is chosen, the supplemental retirement benefit payments shall be in the same proportion as any ((TIAA/CREF)) plan survivor annuity option potentially payable to and elected by the participant. If a designation of a survivor's option is not made and the participant dies after attaining age sixty-two but prior to retirement, any supplemental benefit payable shall be based on the two-thirds benefit to survivor option.

(c) Prior to making any supplemental benefit payments, the state board shall obtain a document signed by the participant and spouse, if any, or designated beneficiary acknowledging the supplemental retirement benefit option chosen by the participant.

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits,

except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC 131-16-021.

AMENDATORY SECTION (Amending Order 137, Resolution 92-05-23, filed 10/28/92, effective 11/28/92)

WAC 131-16-062 Benefit options after termination of employment. (1) After termination of employment, participants who have attained age fifty-five, or who have completed thirty years of full-time service in this plan or any combination of Washington state sponsored retirement plans, or who have retired due to disability in accordance with WAC 131-16-040 may exercise any settlement option for receipt of retirement benefits being made available by ((TIAA/CREF)) TIAA-CREF at that time.

(2) The federal income tax consequences resulting from the exercise of any options of elections provided by this section shall be the sole responsibility of the individual participant, and all federal tax regulations related to the receipt of retirement income benefits shall apply.

(3) The provisions of this section shall apply only to ((TIAA and CREF)) plan account accumulations attributable to contributions made as a result of employment in institutions or agencies subject to the provisions of WAC 131-16-005 through 131-16-066.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-065 Optional retirement transition benefit. Participants may choose the optional retirement transition benefit that at the time of their retirement permits receipt of not more than ten percent of the accumulated value in each annuity in a lump-sum payment, provided that annuity benefits commence after the participant's fifty-fifth birthday. Benefits from the remainder of the combined annuity value shall be paid in the form of other retirement options then available to the annuitant as now or hereafter permitted by ((TIAA/CREF)) TIAA-CREF. Selection of the option to receive the retirement transition benefit shall be made immediately prior to retirement in such manner as now or hereafter permitted by ((TIAA/CREF)) TIAA-CREF.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-066 Single sum death benefit to spouse beneficiaries. Unless previously indicated to the contrary by the participating employee in writing directly to ((TIAA/CREF)) TIAA-CREF, the surviving spouse or other beneficiary, if applicable, of any ((TIAA/CREF)) plan participant who dies before retirement shall be entitled to receive a single sum death benefit in the amount of the then current value of the annuity accumulation.

WSR 05-21-064
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed October 14, 2005, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-04-011.

Title of Rule and Other Identifying Information: WAC 415-111-310 Defined contribution account distribution (withdrawal); and 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on November 22, 2005, at 9:30 a.m.

Date of Intended Adoption: November 23, 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, fax (360) 753-3166, by 5:00 p.m., November 22, 2005.

Assistance for Persons with Disabilities: Contact Leslie Saeger, Rules Coordinator, by November 15, 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 proposed rules explain the types of annuities that Plan 3 members may purchase at the time of retirement and the requirements and process for purchasing such annuities.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.50.088.

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: Dave Nelsen, 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.

October 14, 2005

Leslie Saeger
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-19-120, filed 9/17/03, effective 11/1/03)

WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) **How do I request a distribution (withdrawal) of funds from my defined contribution account?**

(a) You must separate from all eligible employment;

(b) The department must receive the notice of separation from your employer(s) through the retirement transmittal system; and

(c) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form. See WAC 415-111-110.

(2) **Can I receive an expedited distribution?**

(a) If you are terminally ill and eligible, the department will arrange for payment to you within ten workdays. To be eligible for an expedited payment:

(i) You must separate from all eligible employment;

(ii) The department must receive the notice of separation from your employer(s);

(iii) You or your beneficiaries must submit documentation to the department verifying your terminal illness; and

(iv) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110).

(b) If you have an emergency, the department will consider your request for expedited payment and arrange for expedited payment to you whenever possible. To be eligible for consideration:

(i) You must separate from all eligible employment;

(ii) The department must receive the notice of separation from your employer(s);

(iii) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110); and

(iv) You or your beneficiaries must submit documentation to the department verifying and explaining your emergency. The department will consider only unforeseeable emergencies or serious illnesses or death of you or a close family or household member.

(c) If you are invested in a self-directed option, the Plan 3 recordkeeper will distribute your entire self-directed account balance, less any applicable tax withholding.

(d) If you are invested in the Total Asset Portfolio (TAP), the Plan 3 recordkeeper will distribute 80% of your estimated TAP account balance, less any applicable tax withholding. You will be paid the balance of your account after the final valuation has been made.

(3) **Can I still receive my defined contribution distribution if I have returned to work before receiving my funds?** If you return to work in an eligible position after all the criteria in subsection (1) of this section are met, you may receive distribution from your defined contribution account.

(4) **What are my options for distributing my defined contribution funds?** You have the following options for distributions from your Plan 3 defined contribution account. Options for both the WSIB and the ((SELF)) self-directed investment programs are combined where applicable.

(a) **Lump sum cash distribution. In either program,** you may request the entire amount of your funds in a single lump-sum payment.

(b) **Direct rollover. In either program,** you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a

partial rollover, the remaining funds that were not rolled over will be distributed to you as a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) **Scheduled payments. In either program**, subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Scheduled payments for the WSIB program are made monthly only. Scheduled payments for the ((~~SELF~~) self-directed program ((~~are~~) may be made monthly, quarterly, semiannually ((~~and~~) or annually. Both programs have a minimum payment requirement of one hundred dollars per month.

(d) **Personalized payment plan. In either program**, you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) **Annuity purchase. ((For the SELF directed program only)) In either program**, you may request to have your funds used to purchase an annuity ((~~from an insurance company which~~) that pays a benefit for your lifetime or the lifetimes of you and your ((~~beneficiary~~) joint annuitant. See WAC 415-111-320 for information about purchasing an annuity and descriptions of the various annuity contracts.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses will be used to adjust the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses.

EXAMPLE (WSIB - Partial rollover with payments until account exhausted):

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments of \$125 until the account is exhausted (approximately 64 months).

EXAMPLE (Self - Partial rollover with payments for fixed period):

Chris has \$10,000 in the self-directed investment program. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

SELF	WSIB
<ul style="list-style-type: none"> - partial amount - remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below). 	<ul style="list-style-type: none"> - partial amount - remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).
Scheduled Payments	Scheduled Payments
<ul style="list-style-type: none"> - equal payments - monthly, quarterly, semi-annual or annual - specified period of time, or <ul style="list-style-type: none"> - until the account is exhausted - payments can be combined life expectancy of you and a beneficiary. 	<ul style="list-style-type: none"> - equal payments - monthly payments only - specified period of time, or <ul style="list-style-type: none"> - until the account is exhausted - payments can be combined life expectancy of you and a beneficiary.
Annuity Purchase	((Not available for WSIB-program)) Annuity Purchase
<ul style="list-style-type: none"> - purchase an annuity from an insurance company - set up to pay benefits for - your lifetime, or - lifetimes of you and your ((beneficiary) <u>joint annuitant</u>. 	<ul style="list-style-type: none"> - <u>purchase an annuity, administered by the state of Washington</u> - <u>set up to pay benefits for</u> - <u>your lifetime, or</u> - <u>lifetimes of you and your joint annuitant.</u>
In addition to the above, you may set up:	In addition to the above, you may set up:
Personalized Payment Plan	Personalized Payment Plan
<ul style="list-style-type: none"> - customized for your needs - available for options above. 	<ul style="list-style-type: none"> - customized for your needs - available for options above.

(6) **Minimum required distribution.** Beginning on April 1 of the calendar year following the year in which you turn age 70 1/2, you are required to withdraw a minimum amount from your defined contributions annually. If you are still working at age 70 1/2, distribution ((~~will be~~) is required to begin immediately upon retirement.

(7) See RCW 41.34.070 for additional information.

NEW SECTION

WAC 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account? Any time after you become eligible to withdraw funds from your Plan 3 account, you may use part or all of your funds to purchase a life annuity according to this section. To purchase a Total Allocation Portfolio (TAP) Annuity that is administered by the state of Washington you must use funds that are in the Washington state investment board (WSIB) investment pro-

Summary of Distribution Options	
SELF	WSIB
Lump Sum Cash Distribution <u>or</u> Direct Rollover	Lump Sum Cash Distribution <u>or</u> Direct Rollover
- entire account	- entire account

gram. To purchase an annuity through an insurance company that is offered by the self-directed investment program, you must use funds that are in the self-directed investment program.

(1) **What is a life annuity?** A life annuity is a contract that provides a guaranteed income for the rest of your life in exchange for a lump-sum dollar amount you pay up front. The contract specifies the amount you pay to purchase the annuity, the amount you will receive each month, and any other terms and conditions.

(a) **A single life annuity** is based on your lifetime. It provides guaranteed payments for as long as you live. The payments stop upon your death.

(b) **A joint life annuity** is based on two lifetimes, yours and another person that you choose (referred to as your joint annuitant). It provides guaranteed payments for as long as you live, and then for as long as your joint annuitant lives. The payments stop when both you and your joint annuitant die.

(c) **A term certain—Single life annuity** is based on your lifetime. It provides you with regular payments for as long as you live. It also guarantees the payments for a specific, predetermined period of time (term certain). If you die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.

(d) **A term certain—Joint life annuity** is based on two lifetimes, yours and your joint annuitant's. It provides regular payments for as long as you or your joint annuitant live. It also guarantees those payments for a specific, predetermined period of time (term certain). If you and your joint annuitant should both die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.

Example (Term certain—Joint life annuity):

John purchased a 20-year term certain joint life annuity. He received monthly payments until his death 10 years later. Upon John's death, Mary, John's joint annuitant, will receive payments for the duration of her life.

- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.
- If Mary lives for 15 years after John's death, upon her death the annuity will cease. The annuity will have paid benefits for 25 years, five years beyond the 20-year guaranteed period.

(2) **Are the life annuities offered by each investment program different?** The life annuities offered through the WSIB investment program and the self-directed investment program have distinct features and options. Each program may offer some or all of the annuities described in subsection (1) of this section. Minimum purchase price, payment frequency, survivorship percentages, length of term certain annuities, and other optional features differ between programs as well.

(3) **How are the annuity payments calculated?** Your annuity payment amount is based on:

- (a) The original purchase price;
- (b) Your age;
- (c) The age of your joint annuitant, if any;

- (d) Assumptions about life expectancy;
- (e) The survivorship percentage you select on a joint annuity;
- (f) Anticipated investment returns; and
- (g) The specific features of the annuity you select, such as, but not limited to, COLAs or refunds of any undistributed balance upon death.

(4) **May I change my mind after I purchase an annuity?** Your contract will specify a period of time in which you can rescind your decision to purchase the annuity. Once the rescission period expires, your decision is irrevocable.

(5) **May I change the terms of the annuity after the rescission period expires?** You may not make any changes after the rescission period unless your annuity contract explicitly states otherwise. Some policies allow you to make changes in specific circumstances. For instance, you may make changes to an annuity purchased through the Washington state investment board investment program only as follows:

(a) If you name someone other than your spouse as the joint annuitant, you may convert to a single life annuity at any time after your payments begin. This option may only be used once and is irrevocable.

(b) If you marry after purchasing a single life annuity, you may convert to a joint life annuity and name your new spouse as survivor, provided that:

- (i) Your monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;
- (ii) The selection is made during a one-year window on or after the date of the first anniversary and before the second anniversary of your marriage; and
- (iii) You provide satisfactory proof of your new marriage and your new spouse's birth date. This option may only be used once and is irrevocable.

(6) **What are the tax consequences of a life annuity?**

(a) You, your joint annuitant or your beneficiary may be liable for federal and/or state taxes on payments from your annuity in the year in which they are received. You will receive an annual statement indicating the taxable portion of your annuity payments.

(b) If you do not submit a tax withholding Form W-4P to the department before your first payment, taxes will be withheld according to Internal Revenue Service requirements, using a filing status of married with three exemptions.

(c) The department does not:

- (i) Guarantee that payments should or should not be designated as exempt from federal income tax;

(ii) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;

(iii) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(iv) Assume any liability for your compliance with the Internal Revenue Code.

(7) **How do I purchase a life annuity?**

(a) The forms required to purchase an annuity and the applicable directions are available on the department's website or upon request from the department, and include:

- (i) Plan 3 Request for Payment of Defined Contributions Funds Form;
 - (ii) Plan 3 Annuity Payment Request Form;
 - (iii) Spousal consent form, if married;
 - (iv) Proof of your birth date;
 - (v) Proof of your joint annuitant's birth date, if applicable; and
 - (vi) Tax withholding Form W-4P.
- (b) You may transfer funds from one investment program to the other in order to have sufficient funds in the appropriate investment program to cover the cost of the annuity purchase.
- (8) **What if there is an error in my contract?** Carefully examine your contract upon receipt. If there is an error or omission, you must report the error or omission immediately according to the instructions in your contract.

WSR 05-21-074
PROPOSED RULES
GAMBLING COMMISSION

[Filed October 14, 2005, 3:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-205.

Title of Rule and Other Identifying Information: WAC 230-40-120 Limits on wagers in card games.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (509) [(360)] 248-8220, on January 13, 2006, at 9:30 a.m.

Date of Intended Adoption: January 13, 2006.

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 January 2, 2006.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 2, 2006, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current rule places a \$200 limit on wagers at a specified number of tables based on the number of authorized house-banked tables. The remaining tables must not exceed the original \$100 wagering limits. A card room licensed for up to five tables may have one table with a \$200 limit on house-banked games, a card room licensed for six to ten tables may have two tables with a \$200 limit on house-banked games, and a card room licensed for more than ten tables may have three with a \$200 limit on house-banked games. This compromise rule was put into place in February 2004 when licensees requested an increase on wager limits from \$100 to \$300.

The Recreational Gaming Association is now asking to make the \$200 wager limit universal for all house-banked tables in a licensed card room.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Gambling Commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 12, 2005

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 437, filed 9/16/04, effective 10/17/04)

WAC 230-40-120 Limits on wagers in card games.

Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

Nonhouse-banked card games.

(1) Poker:

(a) There shall be no more than five betting rounds in any one game;

(b) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and

(c) The maximum amount of a single wager shall not exceed twenty-five dollars;

(2) Games based on achieving a specific number of points - each point shall not exceed five cents in value;

(3) An ante, except for panguingue (pan), shall not be more than the maximum wager allowed for the first betting round for any game. The ante may, by house rule, be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round. An ante, by house rule, may be used as part of a player's wager;

(4) Panguingue (pan) - the maximum value of a chip for a payoff shall not exceed ten dollars. An ante will not exceed one chip. Doubling of conditions is prohibited. Players going out may collect not more than two chips from each participating player;

House-banked card games.

(5) Licensees authorized to conduct house-banked card games shall not allow a single wager to exceed ~~((one)) two~~ hundred dollars ~~((, except that such licensees may allow a single wager of up to two hundred dollars on a limited number of tables as follows:~~

~~(a) Licensees authorized to operate five tables or fewer may operate one table at the two hundred dollar limit;~~

~~(b) Licensees authorized to operate from six to ten tables may operate two tables at the two hundred dollar limit; and~~

~~(c) Licensees authorized to operate more than ten tables may operate three tables at the two hundred dollar limit);~~

(6) A single wager may be made for each decision made by the player before additional cards are dealt or revealed. In addition, for blackjack, an additional wager may be placed for doubling down or splitting pairs; and

(7) Bonus wagers for house-banked progressive jackpots shall not exceed one dollar. Bonus wagers with a predetermined prize amount based upon a separate element of chance within the same game shall not exceed the authorized maximum table limits as described in subsection (5) of this section.

WSR 05-21-075
PROPOSED RULES
GAMBLING COMMISSION
[Filed October 14, 2005, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-205.

Title of Rule and Other Identifying Information: WAC 230-40-010 Social card games—Rules of play—Types of card games authorized.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (509) [(360)] 248-8220, on January 13, 2006, at 9:30 a.m.

Date of Intended Adoption: January 13, 2006.

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 January 2, 2006.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 2, 2006, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule authorizes certain types of card games and rules of play. Currently, players are required to receive cards and base their decision to fold, discard, draw additional cards, or raise the wager on the cards in their hand.

Dolores Chiechi, on behalf of the Recreational Gaming Association, has submitted a petition for rule change to amend rules of play so players would no longer be required to receive their own hand of cards. Instead players would be responsible for their own decisions regarding the game, rather than their own hand. It also removes the prohibition of players from betting on the house's or other player's hand. A player would still be prohibited from betting on another player's position.

This would allow additional types of card games, such as mini-baccarat, craps style games (played with cards) and other games in the house-banked card rooms.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Gambling Commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 12, 2005

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 424, filed 9/18/03, effective 1/1/04)

WAC 230-40-010 Social card games—Rules of play—Types of card games authorized. Social card games shall be played using rules and procedures as set forth in this section. Only card games that have been specifically authorized are allowed to be played in public or social card rooms.

Rules of play for all card games.

(1) Social card games shall be played in the following manner:

(a) The game must be played with one or more standard decks of playing cards or with approved electronic card facsimiles which meet the requirements of WAC 230-40-070 (1)(c): Provided, That cards may be removed to comply with rules of a specific game, such as pinochle;

(b) Players shall compete against all other players on an equal basis for nonhouse-banked games or against the licensee for house-banked games;

(c) Each player shall ~~((receive their own hand of cards and))~~ be responsible for their own decisions regarding ~~((such hand, such as whether to fold, discard, draw additional cards, or raise the wager))~~ the game;

(d) Players shall not place wagers on any other player's or the house's hand and no side bets between players are allowed: Provided, That the following shall not be in violation of this section:

(i) An insurance bet placed in the game of blackjack;

(ii) A tip wager made on behalf of a dealer; or

(iii) "Envy" provisions which allow a player to receive a prize if another player wins a jackpot or odds wager;

(e) A player's win or loss shall be determined during the course of play of a single card game; and

(f) No more than two separate games shall be played with a single hand of cards. For purposes of this section, bonus features and progressive jackpots are considered a

game: Provided, That bonus features that allow a player to receive an additional prize if another player achieves a specific hand, such as "envy" or "share the wealth" features, shall not be considered a separate game if the player does not have to place a separate wager to participate.

Nonhouse-banked card games authorized.

(2) Nonhouse-banked card games shall only be played in the manner set forth in *The New Complete Hoyle, Revised, Hoyle's Modern Encyclopedia of Card Games*, or a similar authoritative book on card games approved by the director: Provided, That each licensee may make immaterial modifications to each authorized game set out in Hoyle. The following nonhouse-banked card games are authorized:

- (a) Poker;
- (b) Hearts;
- (c) Pinochle;
- (d) Cribbage;
- (e) Rummy;
- (f) Panguingue (Pan);
- (g) Pitch;
- (h) Bid Whist;

(i) Other games or modifications to approved games may be approved by the director, or the director's designee, on a case-by-case basis. Requests for approval of a game must be submitted in writing, and include the rules of play and all wagering schemes.

House-banked card games authorized.

(3) House-banked card games shall be approved by the director, or the director's designee, on a case-by-case basis. Request for approval of a house-banked card game must be submitted in writing, including the rules of play and all wagering schemes. A list of all approved games, modifications to games, and rules of play shall be available at all commission offices. The director may approve games in which the determination of whether a player wins or loses depends upon one or more of the following:

(a) The player's hand is a specific:

- (i) Pattern or ranking of cards (pair, straight, flush, royal flush, etc.);
- (ii) Combination of cards (two queens of hearts, ace and jack of spades, three sevens, etc.); or
- (iii) Value of the cards (seventeen, twenty-one, etc.);

and/or

(b) The player has a higher or lower ranking or value hand than the house/dealer/banker.

Removing an approved game from play.

(4) Once a game is approved for play, the director shall not remove it from the authorized list of games without providing licensees written notice. Licensees shall be afforded an opportunity to object to the director's decision. If an objection is filed, an administrative law judge shall review the director's decision utilizing the brief adjudicative procedures set forth in WAC 230-50-010.

Procedures for when a proposed game is denied.

(5) The licensee shall be notified in writing when the director denies a request for a new game or modification of a

game. The notification shall include reasons for the denial and provide the petitioner all information necessary for a formal petition to the commission for rule making, amendments, or repeal, as set forth in WAC 230-50-800.

WSR 05-21-076

PROPOSED RULES

GAMBLING COMMISSION

[Filed October 14, 2005, 3:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-205.

Title of Rule and Other Identifying Information: WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (509) [(360)] 248-8220, on January 13, 2006, at 9:30 a.m.

Date of Intended Adoption: January 13, 2006.

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 January 2, 2006.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 2, 2006, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change is proposed on behalf of the members of the Recreational Gaming Association. This rule allows licensees to impose an administrative fee up to 10% of the amount collected from players for a player-supported jackpot (PSJ). The intent of the rule is to allow licensees to recoup the administrative expenses incurred for maintaining the required PSJ account, including banking fees, and required recordkeeping. Licensees are required to maintain a separate PSJ bank account.

The proposed amendment would increase the administrative fee from 10% to 35%.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Gambling Commission is

not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 12, 2005
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 439, filed 11/24/04, effective 1/1/05)

WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval. A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized non-house-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

Funding a PSJ.

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start up funds shall not exceed five thousand dollars per PSJ.

Using a rake to fund a PSJ.

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed one dollar per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

PSJ funds are player funds - exception from administrative fee.

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ~~((ten))~~ thirty-five percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

Prize fund custodian.

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-40-608.

Payout of prizes.

(5) Prize amounts paid in cash shall not exceed two thousand five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Type of identification reviewed;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's and dealer's initials.

(c) When awarding a prize of five hundred dollars or more, the dealer must, in view of the surveillance camera, display the value and suit of each card in the winning hand, and the remaining cards in the deck must be counted and put in numerical order by suit to confirm a complete deck. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

Owners and employees competing for a PSJ.

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

Owners and employees showing cards.

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

- (a) Playing in a game with a PSJ;
- (b) The prize is not based upon a predetermined hand; and
- (c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

House dealer required.

(8) All card games offering a PSJ must utilize a house dealer.

Security requirements.

(9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set

forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

Removing a PSJ from play.

(10) The following procedures shall be followed for all discontinued player-supported jackpots:

Discontinued.

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

Closure of business.

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds associated with the PSJ shall be distributed to the Washington state council on problem gambling.

Posting rules.

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

House rules.

(11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

Dispute resolution.

(12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

(a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;

(b) Amount of the advertised PSJ; and

(c) A full description of the circumstances surrounding the dispute.

(13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

WSR 05-21-077

PROPOSED RULES

GAMBLING COMMISSION

[Filed October 14, 2005, 3:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-205.

Title of Rule and Other Identifying Information: WAC 230-40-120 Limits on wagers in card games.

Hearing Location(s): DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (509) [(360)] 248-8220, on January 13, 2006, at 9:30 a.m.

Date of Intended Adoption: January 13, 2006.

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 January 2, 2006.

Assistance for Persons with Disabilities: Contact Shirley Corbett by January 2, 2006, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, there is a \$25 wagering limit on poker games. Poker wagering limits were increased from \$10 to \$25 on May 15, 2000, and licensees have not asked for an increase since that time.

The Recreational Gaming Association is now asking to raise the wager limit for all poker games at house-banked card rooms to \$100. This rule change would not allow non-house-banked card rooms to raise their poker wagering limit.

The rule change would lead to much higher stakes in poker games.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Gambling Commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

October 12, 2005

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 437, filed 9/16/04, effective 10/17/04)

WAC 230-40-120 Limits on wagers in card games.

Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

Nonhouse-banked card games.

(1) Poker:

(a) There shall be no more than five betting rounds in any one game;

(b) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and

(c) The maximum amount of a single wager shall not exceed twenty-five dollars, except that licensees authorized to conduct house-banked card games shall not exceed one hundred dollars;

(2) Games based on achieving a specific number of points - each point shall not exceed five cents in value;

(3) An ante, except for panguingue (pan), shall not be more than the maximum wager allowed for the first betting round for any game. The ante may, by house rule, be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round. An ante, by house rule, may be used as part of a player's wager;

(4) Panguingue (pan) - the maximum value of a chip for a payoff shall not exceed ten dollars. An ante will not exceed one chip. Doubling of conditions is prohibited. Players going out may collect not more than two chips from each participating player;

House-banked card games.

(5) Licensees authorized to conduct house-banked card games shall not allow a single wager to exceed one hundred dollars, except that such licensees may allow a single wager of up to two hundred dollars on a limited number of tables as follows:

(a) Licensees authorized to operate five tables or fewer may operate one table at the two hundred dollar limit;

(b) Licensees authorized to operate from six to ten tables may operate two tables at the two hundred dollar limit; and

(c) Licensees authorized to operate more than ten tables may operate three tables at the two hundred dollar limit;

(6) A single wager may be made for each decision made by the player before additional cards are dealt or revealed. In addition, for blackjack, an additional wager may be placed for doubling down or splitting pairs; and

(7) Bonus wagers for house-banked progressive jackpots shall not exceed one dollar. Bonus wagers with a predetermined prize amount based upon a separate element of chance within the same game shall not exceed the authorized maximum table limits as described in subsection (5) of this section.

WSR 05-21-078

PROPOSED RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed October 17, 2005, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-197.

Title of Rule and Other Identifying Information: Process for the Office of Financial Management approval of electronic funds and information transfers by state agencies.

Hearing Location(s): Office of Financial Management, Point Plaza West, 6639 Capitol Boulevard, 1st Floor Conference Room, Tumwater, WA, on November 28, 2005, at 9 a.m.

Date of Intended Adoption: December 1, 2004 [2005].

Submit Written Comments to: Wendy Jarrett, Statewide Accounting Manager, Office of Financial Management, P.O. Box 43113, Olympia, WA 98504-3113, e-mail Wendy.Jarrett@ofm.wa.gov, fax (360) 664-7675, by November 22, 2005.

Assistance for Persons with Disabilities: Contact Jayda Williams by November 22, 2005, TTY (360) 902-0679 or (360) 664-7652.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current rules related to the approval of and the requirements for agency electronic funds and information transfer systems were last updated in 1982. Since implementation, the statute upon which the rules were enacted has been repealed and additional statutes related to this subject have been enacted. The proposed changes are intended to update the rules to ensure consistency with the current banking and agency practices, informational systems availability and current state and federal statutory requirements, as well as to make technical adjustments and clarifications as needed.

Reasons Supporting Proposal: The rule changes will provide processes and procedures consistent with current banking and agency practices, making it easier to comply with the requirements.

Statutory Authority for Adoption: RCW 43.41.180 and 43.41.110(14).

Statute Being Implemented: RCW 43.41.180.

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

Name of Proponent: Office of Financial Management, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Wendy Jarrett, 6639 Capitol Boulevard, Point Plaza West, P.O. Box 43113, Olympia, (360) 664-7675.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rules have [has] no or minimal cost, as authorized by statute, to small business.

A cost-benefit analysis is not required under RCW 34.05.328. The Office of Financial Management (OFM) is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, OFM does not voluntarily make section 201 applicable to this

rule adoption nor to date, has JARRC made section 201 applicable to this rule adoption.

October 17, 2005
Roselyn Marcus
Director of Legal Affairs
Rules Coordinator

Chapter 82-20 WAC

ELECTRONIC ((~~DEPOSIT OF SALARIES AND STATE FUNDED BENEFITS~~)) ACCEPTANCE AND DISBURSEMENT OF FUNDS

AMENDATORY SECTION (Amending Order 53, filed 2/11/82)

WAC 82-20-010 Purpose. ~~((1) RCW 43.08.085, as amended, makes provisions for the electronic deposit of salaries and state funded benefit payments into financial institutions subject to regulations adopted by))~~ The rules adopted in chapter 82-20 WAC further define and clarify the application of RCW 43.41.180, which authorizes the office of financial management to approve the use of electronic and other technological means to transfer funds whenever economically feasible.

~~((2) The policies and procedures contained in chapter 82-20 WAC for the deposit of salaries are consistent with the statutory authority cited in WAC 82-20-010(1).~~

~~((3) The term "recipient" means any state employee or any person to whom state funded public employees' retirement benefits, industrial insurance benefits, or state public assistance benefits are being paid)).~~

NEW SECTION

WAC 82-20-025 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates other meaning:

(1) "Agency" means and includes every state agency, office, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, and community and technical colleges.

(2) An "economic feasibility study" is a package of information that includes a cover letter, a business case and analytical information. It documents the cost/benefit analysis of an agency's proposed electronic payment project and demonstrates the net benefit of the proposed project.

(3) "Economic feasibility" and "economically feasible" mean that over a reasonable period of time, an application's cumulative benefits outweigh or are equivalent to the application's cumulative costs.

(4) "Electronic and other technological means" and "electronic payments" include, but are not limited to, credit cards, debit cards, electronic fund transfers utilizing the automated clearing house network, electronic benefit transfers, wire transfers, lock boxes, electronic checks, smart cards, and stored value cards.

(5) "Financial institution" means any state or federally chartered commercial bank, trust company, mutual savings bank, savings and loan association, or credit union.

(6) "Funds" means any moneys either received or disbursed by a state agency, and applies to all cash types including treasury funds, treasury trust funds, and local funds.

NEW SECTION

WAC 82-20-035 Is an economic feasibility study required? In order for the office of financial management to determine whether or not an application is economically feasible, agencies are required to prepare and submit an economic feasibility study for approval. Agencies must file an economic feasibility study for all new applications to accept or disburse funds by electronic and other technological means and the application must be approved by the office of financial management prior to implementation. This applies to both pilot and permanent applications, and includes, but is not limited to, internet and retail applications. An economic feasibility study is also required for expansions to existing applications. The office of financial management can grant exceptions to the requirement to file an economic feasibility study, for example:

(1) Very small applications and limited expansions to existing approved electronic payment processes may only require a cover letter that incorporates the business case and analytical information. The office of financial management should be contacted to determine if this is an option for a particular application.

(2) Electronic funds transfers into treasury or treasury trust accounts through the automated clearing house network may only require a cover letter to be submitted to the office of financial management that incorporates the business case and analytical information. The office of financial management and the office of the state treasurer should be contacted to determine if this is an option for a particular application.

(3) Applications involving electronic transfers that are limited to information only do not require an economic feasibility study to be submitted. These would include, but are not limited to, bill presentment, employee earnings statements, and remittance advices.

(4) Wire transfers are usually needed immediately and are singular in nature, therefore they do not require an economic feasibility study. However, the agency must work with the office of the state treasurer to ensure that there is not a less expensive alternative available.

NEW SECTION

WAC 82-20-045 Agency requirements. (1) The agency is to establish controls to prevent loss of funds. Controls are to include a positive system of validating the amounts to be transferred and verifying that the amounts to be transferred for a recipient are actually due goods or services received, work performed, benefits due or other purpose as authorized by law.

(2) The agency is to comply with state administrative and accounting policies established by the office of financial management.

(3) The agency is to work with the office of the state treasurer regarding the banking arrangements related to accepting or disbursing funds via electronic and other technological means.

AMENDATORY SECTION (Amending Order 53, filed 2/11/82)

WAC 82-20-050 Financial institution requirements.
~~((+)) Each participating financial institution ((must be a member of an automated clearinghouse, and observe all automated clearinghouse rules and regulations)) is responsible for adherence to federal and state statutes and regulations related to the transfer of funds via electronic and other technological means. The state reserves the right to refuse to do business with any financial institution that fails to comply with federal and state statutes and regulations related to the transfer of funds via electronic and other technological means.~~

~~((2)) Each participating financial institution must observe the requirements of Regulation E of the Federal Reserve System.~~

~~(3) Each participating financial institution must provide, when requested by the participating payroll system, positive confirmations on all prenotification requests transmitted for verification of a recipient's account number. If a positive means of confirmation is not required, the financial institution must provide a means by which the payroll system is notified of discrepancies on a timely basis. Deposits are not to be processed without a valid account number.~~

~~(4) Each participating financial institution is to complete the lower portion of the standard authorization form SF 6952, "Electronic funds transfer of salary authorization," or other form approved by the office of financial management when presented by a recipient. The form is to be returned to the recipient or agency payroll office upon completion.~~

~~(5) If a financial institution is presented an SF 6952 "Electronic funds transfer of salary authorization," or other form approved by the office of financial management by a recipient for processing, and the institution is not a member of an automated clearinghouse or is otherwise ineligible to participate in this program, it is the responsibility of the financial institution to notify the recipient of this fact.~~

~~(6) Subject to the approval of the office of financial management, a financial institution may reproduce form SF 6952, "Electronic funds transfer of salary authorization" for the sole purpose of preprinting the institution's name, address, and transit routing indicator. Any other alterations to the format or content of the form are not allowed and will not be honored by state agencies.~~

~~(7) Each participating financial institution is responsible for adherence to the applicable federal and state statutes and regulations regarding the electronic transfer of funds.~~

~~(8) Financial institutions serving as a "payable through" bank will be considered the receiving institution for electronic fund transfers of the recipient's salaries or benefits if their American Bankers Association Transit Routing Indicator is used as part of the recipient's account code.~~

~~(9) Financial institutions are to provide each participating recipient with a notice of initial disclosure as required by Regulation E. This notice is to include the mechanism to be~~

~~used by the recipient for verification that the deposit by electronic funds transfer has been made.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 82-20-020 Payroll system requirements.
- WAC 82-20-030 Agency requirements.
- WAC 82-20-040 Recipient requirements.
- WAC 82-20-060 Subsequent transactions.
- WAC 82-20-070 Failure to comply.

WSR 05-21-082
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed October 17, 2005, 4:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-109.

Title of Rule and Other Identifying Information: WAC 392-140-600 through 392-140-685, state special education safety net funding.

Hearing Location(s): Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on November 22, 2005, at 9 a.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, by November 18, 2005.

Assistance for Persons with Disabilities: Contact Sheila Emery by November 18, 2005, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Remove language requiring "other" available revenue be included in the calculation determining need on Worksheet A; add the federal definition of high need student to the rules; establish a common threshold to be determined annually for all high need student applications; and change voting membership status of the state oversight committee member representing the office of the state auditor.

Statutory Authority for Adoption: RCW 28A.150.290.

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

Name of Agency Personnel Responsible for Drafting: Mary Ellen Parrish, Office of Superintendent of Public Instruction, (360) 725-6086; Implementation: Calvin W. Brodie, Office of Superintendent of Public Instruction, (360) 725-6300; and Enforcement: Jennifer Priddy, Office of Superintendent of Public Instruction, (360) 725-6292.

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

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

October 13, 2005
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-600 Special education safety net—Applicable provisions. The provisions of WAC 392-140-600 through 392-140-685 apply to the determination of safety net allocations of Individuals with Disabilities Education Act (IDEA) federal funds for the ~~((2003-04))~~ 2005-06 school year and thereafter.

NEW SECTION

WAC 392-140-60105 Definition—High need student. A student with a disability whose program cost is greater than three times the statewide average per pupil expenditures as defined in section 9101 of the Elementary and Secondary Education Act of 1965 or a multiple of the statewide average per pupil expenditures as established by the superintendent of public instruction and published in the *Safety Net Bulletin* shall be considered a high need student for purposes of this chapter.

AMENDATORY SECTION (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

WAC 392-140-602 Special education safety net—Eligible applicants. (1) An individual school district of the state of Washington is eligible to apply for special education safety net moneys on behalf of its resident students. Resident students include those defined as resident pursuant to WAC 392-137-115, those enrolled through choice (RCW 28A.225.225) and those from nonhigh districts (RCW 28A.225.210). Resident students exclude those residing in another district and enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(2) An interdistrict cooperative of at least fifteen districts in which all excess cost services for special education students of the districts are provided by the cooperative is eligible to apply for special education safety net moneys. The cooperative and the participating school districts shall be treated as a single school district for the purposes of this chapter. Participating school districts are not eligible to apply for safety net moneys individually.

(3) The Washington ~~((state))~~ school for the deaf and the Washington state school for the blind are eligible to apply for high ~~((cost individual))~~ need students under WAC 392-140-616.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-605 Special education safety net—Application type, certification, worksheets. Application for safety net funding shall be made on Form SPI 1381 - Cer-

tification published by the superintendent of public instruction as follows:

(1) School districts may make application for safety net funding for ~~((high cost individual))~~ high need student(s). The school district making application for safety net funding shall certify that:

(a) The district recognizes that differences in costs attributable to district philosophy, service delivery choice, or accounting practice are not a legitimate basis for safety net awards.

(b) The application complies with the respective safety net application standards of WAC 392-140-616;

(c) The application provides true and complete information to the best of the school district's knowledge;

(d) The district understands that safety net funding is not an entitlement, is subject to adjustment and recovery, may not be available in future years, must be expended in program 21 or program 24 as specified in the award letter, and certifies that federal Medicaid has been billed for all services to eligible students;

(e) The district is making reasonable effort to provide appropriate services for students in need of special education using state funding generated by the basic education apportionment and special education funding formulas and federal funding;

(f) The district's special education services are operated in a reasonably efficient manner;

(g) Indirect costs included for purposes of determining safety net allocations do not exceed the allowable percent for federal special education program plus one percent;

(h) Any available state and federal funding is insufficient to address the additional needs;

(i) The costs of any supplemental contracts are not included for purposes of determining safety net awards. Supplemental contracts are those contracts made pursuant to RCW 28A.400.200(4) excluding extended school year contracts (ESY) required by an IEP; and

(j) The costs of any summer school instruction are not included for purposes of making safety net determinations excluding extended school year contracts (ESY) required by an IEP.

(2) Worksheet A shall be included with the application and must demonstrate the need for safety net funding. Worksheet A is used to determine a maximum amount of eligibility for a school district. Award amounts may be less than the maximum amount of eligibility determined on Worksheet A. School districts are encouraged and may be required to submit additional information designed to assist the state oversight committee in analyzing the application.

(3) All ~~((high cost individual))~~ high need student applications shall include worksheets "A" and "C" and summary published in the safety net application, and certification of standards and criteria pursuant to WAC 392-140-616.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-609 Special education safety net—Standards and criteria—Appropriate and properly and efficiently prepared and formulated IEPs. Individualized

education programs (IEPs) which are appropriate, properly and efficiently prepared and formulated are those IEPs that meet all of the following criteria:

(1) The IEPs comply with federal and state procedural requirements.

(2) The delivery of specially designed instruction identified on the IEP complies with state ~~((standards))~~ and federal requirements (regularly scheduled teaching or training activities provided or designed by special education qualified staff).

(3) The provision of special education services conforms with areas of need identified in the student's evaluation and/or reevaluation made pursuant to chapter 392-172 WAC.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-616 Special education safety net—Standards—~~((High-cost individual))~~ High need student applications. For districts requesting safety net funding to meet the extraordinary needs of an eligible ~~((high-cost individual))~~ high need special education student, the district shall demonstrate at a minimum that:

(1) The IEP for the eligible special education student is appropriate, and properly and efficiently prepared and formulated.

(2) All of the following criteria apply to the ~~((high-cost individual))~~ high need student:

(a) Costs eligible for safety net consideration must be associated with providing direct ~~((expenditures for))~~ special education and related services ~~((required))~~ identified in the IEP.

(b) In order to deliver appropriate special education and related services to the student, the district must be providing services which incur ~~((additional))~~ costs ~~((which exceed available district annual average per-pupil revenues, including state, federal and local revenues, by the published threshold. The threshold amount shall be adjusted annually thereafter based upon the increase in base salary and NERCs as budgeted in the Biennial Operating Appropriations Act and published in the safety net application. This))~~ exceeding:

(i) The annual threshold as established by the office of superintendent of public instruction for state funding; then

(ii) Three times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965) for the state of Washington for federal funding. Threshold amounts shall be adjusted pro rata for students not counted or expected to be counted for special education services on all eight enrollment count dates (October through May). For example, for a student served and reported for only six of the eight count dates, the threshold amount shall be reduced to three-quarters of the full amount. ((The state safety net oversight committee may set a lower threshold for small school districts.))

(c) The total cost of educational services must exceed any carryover of federal flow-through special education funding as of August 31 of the prior school year.

~~((d) The cost of providing special education services, as directed in the IEP, for this student would be detrimental to the school district's ability to provide necessary services to~~

~~the other students being provided special education in the district.))~~

(3) The state safety net oversight committee shall adapt the high ~~((cost individual))~~ need student application as appropriate for applications prepared by the Washington state school for the blind and the Washington ~~((state))~~ school for the deaf.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-626 Special education safety net—Worksheet A—Demonstration of need. Applications for ~~((high-cost individual))~~ high need students shall demonstrate district financial need as follows:

(1) Application worksheet "A" shall demonstrate a fiscal need in excess of:

(a) Any previous safety net awards for the current school year; and

(b) All ~~((other))~~ available revenue for special education, including all carryover of state and federal special education revenue.

(2) Awards shall not exceed the amount of need demonstrated on the worksheet "A."

(3) Worksheets submitted with safety net applications are to reflect the state adopted excess cost method of accounting, consistently applied for both years presented.

(4) The safety net oversight committee may revise the district's worksheet "A" submitted for errors or omissions or more current information.

(5) The school district shall provide clarifying information as requested by the state oversight committee.

(6) After the close of the school year, the safety net oversight committee may review the worksheet "A" used to determine need for a district's award against the actual final school year enrollments, revenues, and expenditures reported by the district. Based upon the results of this review:

(a) The safety net allocation for the school year may be adjusted or recovered; or

(b) If the committee finds that a portion of the safety net allocation was not needed to balance revenues and expenditures, the committee may consider that portion of the allocation available to meet the needs of the ensuing school year.

(7) The state safety net oversight committee shall adapt the worksheet "A" - Demonstration of Need as appropriate for applications prepared by districts participating in the pilot program according to the provisions of RCW 28A.630.015 (4).

(8) In accordance with the state of Washington *Accounting Manual for Public School Districts* and ~~((proposed))~~ statutory federal language, demonstrated need shall not include legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child to ensure a free appropriated public education.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-640 Special education safety net—State oversight committee—Membership, structure. Membership of the state oversight committee shall consist of:

Staff of the office of superintendent of public instruction, staff of the office of state auditor who shall be nonvoting, one or more representatives from a school district(s), and one or more representatives from an educational service district.

(1) The state oversight committee members will be appointed by the office of superintendent of public instruction.

(2) The state director of special education shall serve as an ex officio, nonvoting committee member and act as the state oversight committee manager.

(3) Members of the state oversight committee from school districts and/or educational service districts will be appointed based on their knowledge of special education program service delivery and funding, geographical representation, size of district(s) served, and other demographic considerations which will guarantee a representative state committee.

(4) Alternate members shall be appointed. In the event a member is unable to attend a committee meeting, an alternate member shall attend.

(5) Membership appointments shall be made for a period of one year. The oversight committee manager may replace a portion of the committee each year in order to enhance representation.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-643 Special education safety net—Definition—State oversight committee—Procedures. (1) The state oversight committee will review applications as deemed necessary by the superintendent of public instruction pursuant to WAC 392-140-608.

(2) All applications received by the state oversight committee will be reviewed for completeness by the state oversight committee manager or designee. Applications must include all necessary forms, worksheets, and attachments described in the instruction bulletin published by the superintendent of public instruction. If applications are not complete, they will not be considered by the committee.

(3) The state oversight committee manager will forward to the committee members copies of the applications in a timely manner.

(4) The state oversight committee manager or designee will be responsible for presenting each application for consideration to the committee.

(5) Committee members shall ~~((question))~~ review and discuss the application content for completeness, accuracy, and understanding of the reason(s) for the applicant's need for safety net funding.

(6) The committee may request that a submitting school district provide clarifying information.

(7) Committee members will individually indicate their agreement ~~((or))~~, disagreement, or abstention with the action of the committee pursuant to WAC 392-140-646.

(8) A majority vote by the committee members will be sufficient to determine the committee action.

(9) The state oversight committee manager will ensure that notes are taken which summarize the questions and discussion related to each application. A decision summary for

each application shall include the amount of the initial request, funding adjustments recommended by the committee, the amount of any award to be made, and the reasons for and against the action taken by the committee.

(10) Committee members shall each sign the decision summary.

(11) The state oversight committee manager, on behalf of the committee, will notify the applicant school district in writing of the determination of the committee. The school district will be provided a copy of the decision summary.

(12) All applications received by the state oversight committee will be retained by the superintendent of public instruction for use in the evaluation of the safety net funding process and to provide the superintendent of public instruction with information with which to make future decisions regarding the safety net process.

AMENDATORY SECTION (Amending WSR 04-08-118, filed 4/6/04, effective 5/7/04)

WAC 392-140-646 Special education safety net—State oversight committee actions. The state oversight committee shall take the following actions:

(1) After the state oversight committee determines:

(a) There are no unresolved audit examination issues related to special education that are material in nature;

(b) There are no unresolved ~~((state))~~ child count verification issues which are material in nature; and

(c) All corrections to state enrollment reporting, required for resolution of (a) and (b) of this subsection, are completed.

(2) An application reviewed during an application cycle may be:

(a) Approved;

(b) Disapproved; or

(c) Returned to the submitting school district, for possible resubmission at a later date during the school year, because information contained in the application is insufficient to establish a need for safety net funding.

(3) The amount approved shall be equal to or less than the amount for which application was made.

(4) The approval may be contingent on additional requirements imposed by the committee such as development of an action plan to resolve a specified problem prior to submission of any future safety net application to assure school district compliance with the criteria and standards set forth in these safety net regulations.

(5) The approvals are subject to adjustment and recovery pursuant to WAC 392-140-675 through 392-140-685.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-660 Special education safety net—Approved application—Special education safety net allocations.

(1) The special education safety net allocation for an individual district shall be the smaller of:

(a) The amount requested by the school district; or

(b) The amount authorized by the state oversight committee.

(2) Special education safety net allocations for (~~high-cost individual~~) high need students under WAC 392-140-605 (1) shall use appropriated federal moneys. If safety net awards to meet the extraordinary needs of one or more individual special education students exceed the general fund—federal appropriation, the superintendent shall expend all available and otherwise uncommitted federal discretionary funds necessary to meet this need.

AMENDATORY SECTION (Amending WSR 03-02-053, filed 12/26/02, effective 1/26/03)

WAC 392-140-675 Special education safety net—Adjustments to special education safety net allocations. Safety net allocations may be adjusted as follows:

(1) For those districts not maximizing Medicaid billing for special education students under RCW 74.09.5255, special education safety net allocations shall be reduced by the estimated potential additional incentive payments for the school year if the district maximized Medicaid incentive payments. Potential additional incentive payments shall be estimated by the superintendent of public instruction based on the district's percent of Medicaid eligible students billed and a statewide average incentive payment per student determined by the superintendent in October of the school year. The average incentive payment per student shall be determined using the prior school year's statewide Medicaid billing data assuming fifty percent incentive payments for all school districts. The superintendent of public instruction shall update Medicaid billing adjustments to safety net allocations periodically during the school year and again in January following the close of the school year.

(2) Special education safety net allocations for a school district may be adjusted to reflect changes in factors for which additional or revised information becomes available after the awarding of the initial safety net allocation. This means:

(a) (~~High-cost~~) High need awards may be reduced or nullified when the school district's actual revenues and expenditures for the school year differ significantly from the estimates on which the initial safety net award was based.

(b) A school district's safety net award may be adjusted by the safety net oversight committee based on the results of the review conducted by the special education program audit team pursuant to WAC 392-140-630.

AMENDATORY SECTION (Amending Order 98-05, filed 3/18/98, effective 4/18/98)

WAC 392-140-685 Special education safety net—Recovery of state and/or federal allocations to school districts. High (~~cost individual~~) need student state and/or federal special education safety net allocations:

(1) Shall be recovered or awards reduced for the following reasons:

(a) The application contains a falsification or deliberate misrepresentation, including omission of a material fact.

(b) The allocation is unexpended for the purpose allocated including but not limited to situations where the student leaves the district or has a change in services. For students who transfer to another Washington public school district,

expenditures for specialized equipment purchased with these funds shall not be recovered provided the district transfers the equipment to the other school district.

(c) The IEP is determined at a later date, through state audit or child count verification, to be inappropriate or improperly prepared and appropriate and proper preparation would materially affect the justification or amount of need for safety net funding.

(2) May be recovered or awards reduced for the following reasons:

(a) The school district has carryover of state and/or federal flow-through special education funding from the school year for which the award was made.

(b) The district's actual revenues are significantly higher than estimated revenues on which the award was based or the district's actual expenditures are significantly lower than the estimated expenditures on which the award was based.

(c) The state oversight committee finds grounds for adjustment in the special education program audit team's review pursuant to WAC 392-140-630.

Recovery adjustments not made in the current school year shall be added to the amount calculated pursuant to WAC 392-140-616 (2)(c) for the following school year. Such amounts reduce state and/or federal safety net awards in the following year.

WSR 05-21-089
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 18, 2005, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-029.

Title of Rule and Other Identifying Information: Chapter 296-828 WAC, Hazardous chemicals in laboratories; chapter 296-62 WAC, Part Q, Hazardous chemicals in laboratories; chapter 296-307 WAC, Safety standards for agriculture; chapter 296-800 WAC, Safety and health core rules; and chapter 296-848 WAC, Arsenic.

Hearing Location(s): Department of Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA, on November 28, 2005, at 1:30 p.m.

Date of Intended Adoption: December 20, 2005.

Submit Written Comments to: Kimberly Johnson, P.O. Box 44620, e-mail rhok235@lni.wa.gov, fax (360) 902-5619, by December 5, 2005.

Assistance for Persons with Disabilities: Contact Kimberly Johnson by November 21, 2005, at rhok235@lni.wa.gov or (360) 902-5008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is rewriting the requirements relating to using hazardous chemicals in laboratories, reorganizing for clarity and removing outdated terminology and unnecessary requirements. This rule is being repealed from chapter 296-62 WAC, and placed into its own chapter, chapter 296-828 WAC. In addition, ref-

erences throughout our standards are being corrected to reflect the changes.

Reasons Supporting Proposal:

NEW CHAPTER:

- Chapter 296-828 WAC, Hazardous chemicals in laboratories.

NEW SECTIONS:

WAC 296-828-100 Scope.

- Put language in this section to tell users who the chapter applies to.

WAC 296-828-20005 Chemical hygiene plan.

- Moved requirements relating to the chemical hygiene plan into this section.

WAC 296-828-20010 Exposure evaluation.

- Moved requirements relating to exposure evaluation into this section.

WAC 296-828-20015 Training.

- Moved requirements relating to training into this section.

WAC 296-828-20020 Labeling and material safety data sheets (MSDSs).

- Moved requirements relating to labeling and MSDSs into this section.

WAC 296-828-20025 Chemicals produced in laboratories.

- Moved requirements relating to producing chemicals in labs into this section.

WAC 296-828-20030 Medical evaluations.

- Moved requirements relating to medical evaluations into this section.

WAC 296-828-300 Definitions.

AMENDED SECTIONS:

WAC 296-307-55035 Follow these rules for laboratories using hazardous chemicals.

- Correcting reference.

WAC 296-307-704 Scope. What is the purpose of WAC 296-307-704 Emergency response to hazardous substance releases?

- Correcting reference.

WAC 296-800-17305 Follow these rules for laboratories using hazardous chemicals.

- Correcting reference.

WAC 296-848-100 Scope.

- Removing an incorrect exemption.

REPEALED SECTIONS: WAC 296-62-400 Occupational exposure to chemicals in laboratories, 296-62-40001 Scope and application, 296-62-40003 Definitions applicable to all sections of this chapter, 296-62-40005 Permissible exposure limits, 296-62-40007 Permissible exposure determination, 296-62-40009 Chemical hygiene plan—General, 296-62-

40011 Employee information and training, 296-62-40013 Medical consultation and medical examinations, 296-62-40015 Hazard identification, 296-62-40017 Use of respirators, 296-62-40019 Recordkeeping, 296-62-40021 Start-up date, 296-62-40023 Appendices, 296-62-40025 Appendix A—National Research Council recommendations concerning chemical hygiene in laboratories (nonmandatory), and 296-62-40027 Appendix B—References (nonmandatory).

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 47.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to RCW 19.85.030 (1)(a), a small business economic impact statement is required only when a rule will "impose more than a minor cost on businesses in an industry." An analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will make WISHA rules easier for employers and employees to understand and use, and thus save them time and resources. Therefore, no small business economic impact statement is required.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs to assess within these rule amendments. Additionally, the amendments will make the rules easier for employers and employees to understand and use, and thus save them time (see RCW 34.05.328 (5)(b)(iv)).

October 18, 2005

Gary Weeks

Director

AMENDATORY SECTION (Amending WSR 05-01-166, filed 12/21/04, effective 4/2/05)

WAC 296-307-55035 Follow these rules for laboratories using hazardous chemicals.

Note: Laboratories are required to have a written chemical hygiene plan under ((WAC 296-62-400)) chapter 296-828 WAC, Hazardous chemicals in laboratories, if applicable. They are not required to have a written Chemical Hazard Communication Program.

You may combine your Accident Prevention Program and Chemical Hazard Communication Program to assist you in developing a Chemical Hygiene Plan for your laboratory.

You must:

(1) Make sure that labels on incoming containers of hazardous chemicals are in place and readable.

(2) Maintain material safety data sheets (MSDSs) received with incoming shipments of hazardous chemicals and make them available to laboratory employees when they are in their work areas.

(3) Provide laboratory employees with information and training as described in: "Inform and train your employees about hazardous chemicals in your workplace," WAC 296-307-55030, except for the part about the location and avail-

ability of the written Chemical Hazard Communication Program.

Note: Laboratory employers that ship hazardous chemicals are considered to be either chemical manufacturers or distributors. When laboratory employers ship hazardous chemicals they must comply with the rule, Material safety data sheets and label preparation, WAC 296-307-560 through 296-307-56050.

AMENDATORY SECTION (Amending WSR 05-01-166, filed 12/21/04, effective 4/2/05)

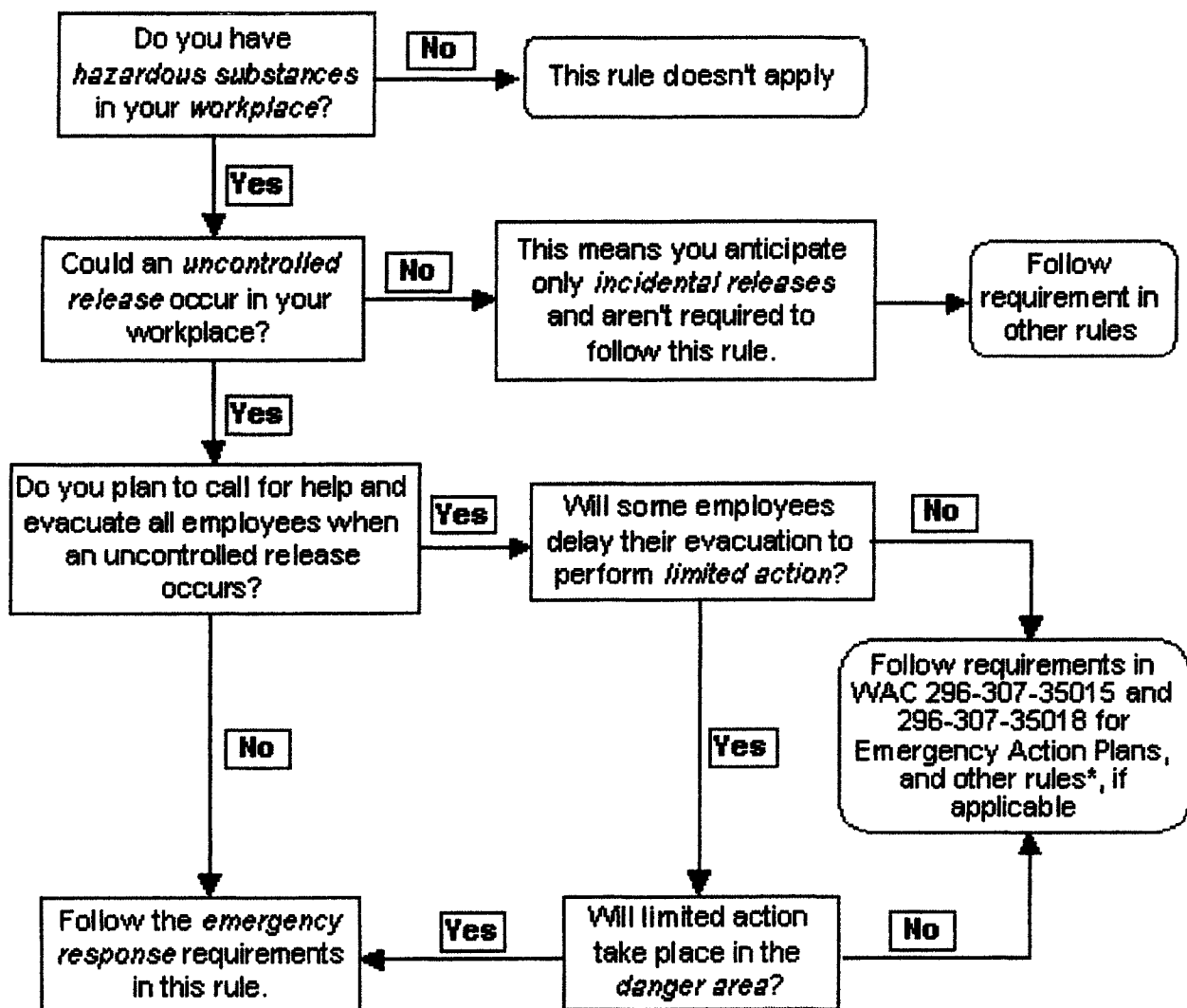
WAC 296-307-704 Scope. What is the purpose of WAC 296-307-704, Emergency response to hazardous substance releases?

To state the minimum requirements that help you protect the safety and health of your employees during a response to hazardous substance releases in your workplace or any other location.

Do the requirements of this rule apply to your workplace?

This section applies if your employees are, or could become, involved in responding to uncontrolled releases of hazardous substances in your workplace or any other location. Use the scope flow chart, and definitions that follow, to determine if this section applies to your workplace(s). Defined words are *italicized* in the flow chart.

307 - FLOWCHART



*The flow chart references other rules applicable to your workplace depending on conditions and hazards.

Examples include:

- ((WAC 296-62-400)) Chapter 296-828 WAC, Hazardous chemicals in laboratories

- WAC 296-307-594, Respiratory protection.

Definitions applicable to the flow chart (see WAC 296-307-70480 for additional definitions used in this section):

Danger area

Areas where conditions pose a serious danger to employees, such as areas where:

- Immediately dangerous to life or health (IDLH) conditions could exist

OR

- High levels of exposure to toxic substances could exist

OR

- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

Emergency response

A response to an anticipated release of a hazardous substance that is, or could become, an *uncontrolled release*.

Hazardous substance

Any biological, radiological, or chemical substance that can have adverse effects on humans. (See WAC 296-307-70480 for a more specific definition.)

Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

- Cause an immediate threat to life
- Cause permanent or delayed adverse health effects
- Interfere with an employee's ability to escape.

Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an *uncontrolled release*.

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

Limited action

Action necessary to:

- Secure an operation during emergency responses,

OR

- Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

Release

A spill, leak, or other type of hazardous substance discharge.

Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk:

- Large-quantity releases
- Small-releases that could be highly toxic

- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

Workplace

- A fixed facility

OR

- A temporary location (such as a traffic corridor)

OR

- Locations where employees respond to emergencies.

Summary:**Your responsibility:**

To anticipate, plan for, and manage emergency response operations so employees are protected from hazardous substances and conditions.

Note: Other chapters may apply to your workplace, such as:
 • Chapter 296-62 WAC, General occupational health standards.

You will find some safety and health requirements (for example, personal protective equipment) are addressed on a general level in the core rules, while being addressed for a specific application in this section. When this happens, both requirements apply and should not conflict.

If you are uncertain which requirements to follow, you must comply with the more protective requirement. Contact your local L&I office if you need assistance in making this determination.

You must:

WAC 296-307-70410 Planning

WAC 296-307-70415 Training

WAC 296-307-70420 Medical surveillance

WAC 296-307-70425 Keep records

WAC 296-307-70430 Incident requirements

WAC 296-307-70435 Implement and maintain an incident command system (ICS) (incident command system)

WAC 296-307-70440 Prepare skilled support personnel

WAC 296-307-70445 Make sure the incident commander oversees activities during the response

WAC 296-307-70450 Use the buddy system in danger areas

WAC 296-307-70455 Provide rescue and medical assistance

WAC 296-307-70460 Personal protective equipment

WAC 296-307-70465 Control hazards created by personal protective equipment (PPE)

WAC 296-307-70470 Use personal protective equipment (PPE) properly

WAC 296-307-70475 Postemergency response
 WAC 296-307-70480 Definitions.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

WAC 296-800-17035 Follow these rules for laboratories using hazardous chemicals.

- Note:
- Laboratories are required to have a written chemical hygiene plan under ((WAC 296-62-400)) chapter 296-828 WAC, if applicable. They are **not** required to have a written Chemical Hazard Communication Program.
 - You may combine your accident prevention program and chemical hazard communication program to assist you in developing a chemical hygiene plan for your laboratory.

You must:

- (1) Make sure that labels on incoming containers of hazardous chemicals are in place and readable.
- (2) Maintain material safety data sheets (MSDSs) received with incoming shipments of hazardous chemicals and make them readily accessible to laboratory employees when they are in their work areas.
- (3) Provide laboratory employees with information and training as described in: "Inform and train your employees about hazardous chemicals in your workplace," WAC 296-800-17030. You do not have to cover the location and the availability of the Hazard Communication Program.

Note: Laboratory employers that ship hazardous chemicals are considered to be either chemical manufacturers or distributors. When laboratory employers ship hazardous chemicals they must comply with the rule, "hazard communication standards for chemical manufacturers, importers and distributors," WAC 296-62-054.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

WAC 296-848-100 Scope. This chapter applies to all occupational exposure to inorganic arsenic.

Definitions:

Inorganic arsenic means elemental arsenic (As), copper aceto-arsenite, and inorganic compounds containing arsenic (measured as As), except arsine. Inorganic compounds do not contain the element carbon.

Exposure is the contact an employee has with inorganic arsenic, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Helpful tool:

Arsenic contamination in soil; information and guidance for employers.

Use this tool if you have employees who work with soil. It will help you find out if this rule is applicable to your employee's exposure to soil.

- Exemptions:**
- This chapter does not apply to any of the following:
 - Exposures during agricultural operations.
 - Pesticide applications, including the treatment of wood with preservatives.
 - Use of wood treated with inorganic arsenic.
 - Arsine, a gas identified by Chemical Abstract Service (CAS) Registry No. 7784-42-1.
- ~~((Laboratories subject to the requirements found in another chapter:))~~

- Go to the General occupational health standards, chapter 296-62 WAC;
- ~~AND~~
- Find the section, Hazardous chemicals in laboratories, WAC 296-62-400;))
 - Inorganic arsenic present in a form and handled in such a way that airborne exposures could not occur. For example, inorganic arsenic present in glass is fused in the material. Due to the fused form, airborne exposure can not occur when the glass is scored and subsequently broken.

All requirements in this chapter will not apply to every workplace with an occupational exposure. The following steps will show you which requirements apply to your workplace.

Step 1: Follow requirements in the basic rules sections, WAC 296-848-20010 through 296-848-20090.

- This includes completing an exposure evaluation, as specified in Exposure evaluations, WAC 296-848-20060, to:
 - Obtain employee eight-hour exposure monitoring results of airborne inorganic arsenic;

AND

– Determine if employee exposure monitoring results are above, at, or below these values:

- Eight-hour time-weighted average (TWA₈). 10 micrograms per cubic meter (µg/m³).
- Eight-hour action level (AL). 5 µg/m³.

Step 2: Use employee exposure monitoring results from Step 1 and follow Table 1 to find out which additional sections of this chapter apply to your workplace.

Table 1
Sections That Apply To Your Workplace

If:	Then continue to follow the Basic Rules, and these additional requirements:
<ul style="list-style-type: none"> • Employee exposure monitoring results are above the TWA₈ 	<ul style="list-style-type: none"> • Training, exposure monitoring, and medical monitoring, WAC 296-848-30005 through 296-848-30080; AND • Exposure control areas, WAC 296-848-40005 through 296-848-40045.
<ul style="list-style-type: none"> • Employee exposure monitoring results are: <ul style="list-style-type: none"> – At or below the TWA₈; AND – At or above AL 	<ul style="list-style-type: none"> • Training, exposure monitoring, and medical monitoring, WAC 296-848-30005 through 296-848-30080.
<ul style="list-style-type: none"> • Employee exposure monitoring results are below the AL; AND • Eye or skin irritation from exposure to inorganic arsenic cannot occur 	<ul style="list-style-type: none"> • No additional requirements apply if exposures remain stable.

Table 1
Sections That Apply To Your Workplace

If:	Then continue to follow the Basic Rules, and these additional requirements:
<ul style="list-style-type: none"> • Employees could experience eye or skin irritation from exposure to inorganic arsenic 	<ul style="list-style-type: none"> • Training in WAC 296-848-30005. • Washing, showering, and changing in WAC 296-848-40030. • Personal protective equipment (PPE) in WAC 296-848-40040.

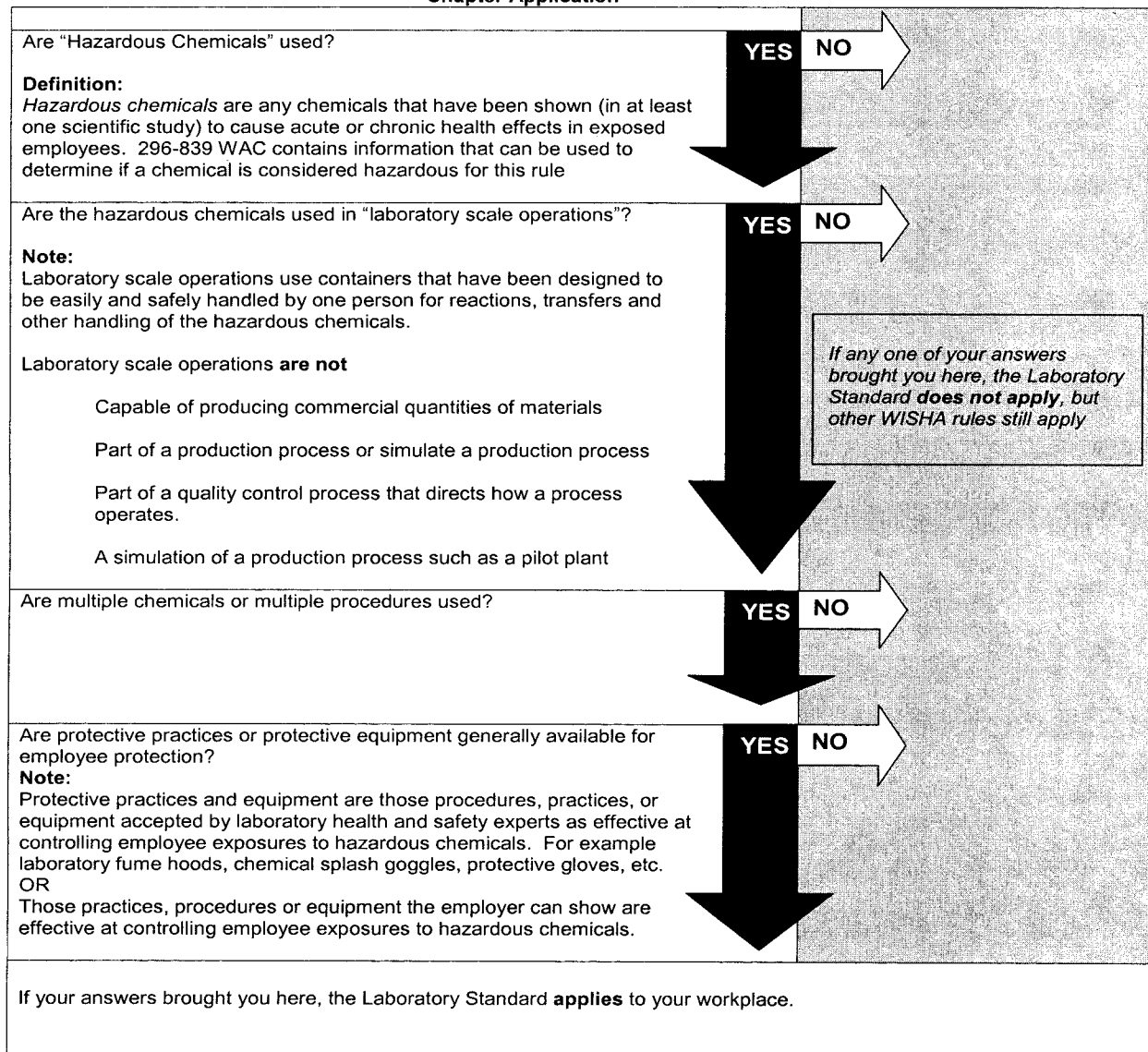
Chapter 296-828 WAC

HAZARDOUS CHEMICALS IN LABORATORIES

NEW SECTION

WAC 296-828-100 Scope. This chapter applies to the laboratory use of hazardous chemicals. To determine if this chapter applies to your workplace, use Table 1.

Table 1
Chapter Application



IMPORTANT:

- When your laboratory operation is covered by this chapter, and you use any of the substances in Table 2, the following applies:
 - The exposure limits and any requirement protecting employees from skin and eye contact in the rules listed in Table 2 will still apply.
 - Where the action level (or where no action level exists, the permissible exposure limit) is exceeded for a substance listed in Table 2, the exposure evaluation and medical surveillance requirements in the substance rule will still apply.
 - You are not required to meet other requirements of the substance rule.
- To get the permissible exposure limits (PELs) for hazardous chemicals used in your laboratory, see chapter 296-841 WAC, Respiratory hazards.

**Table 2
WISHA Regulated Hazardous Chemicals**

Acrylonitrile
Arsenic (inorganic)
Asbestos
Benzene
Butadiene
Cadmium
Coke ovens
Cotton dust
1, 2-Dibromo-3-chloropropane
Ethylene oxide
Formaldehyde
Lead
Methylene chloride
Methylenedianiline
Vinyl chloride
Ionizing radiation
4-Nitrobiphenyl
Alpha-Naphthylamine
4,4' Methylene bis (2 - chloroaniline)
Methyl chloromethyl ether
3,3'-Dichlorobenzidine (and its salts)
Bis-Chloromethyl ether
Beta-Naphthylamine benzidine
4-Aminodiphenyl
Ethyleneimine
Beta-Propiolactone
2-Acetylaminofluorene
4-Dimethylaminoazobenzene
N-Nitrosodimethylamine

NEW SECTION

WAC 296-828-200 Using hazardous chemicals in laboratories.

Your responsibility:

- To protect employees from laboratory use of hazardous chemicals.
- WAC 296-828-20005
Chemical hygiene plan.
 - WAC 296-828-20010
Exposure evaluation.
 - WAC 296-828-20015
Training.
 - WAC 296-828-20020
Labeling and material safety data sheets (MSDSs).
 - WAC 296-828-20025
Chemicals produced in laboratories.
 - WAC 296-828-20030
Medical evaluations.

NEW SECTION

WAC 296-828-20005 Chemical hygiene plan.

You must:

- Develop and carry out a written chemical hygiene plan (CHP) that will protect your employees from hazardous substances in the laboratory and keep exposure levels below those listed in Respiratory hazards, chapter 296-841 WAC.
 - Make sure the written plan is readily available to employees and their representatives.
 - Include the following elements in your written CHP:
 - The names or job titles of the chemical hygiene officer, other personnel responsible for implementing the CHP, or when appropriate, the members of a chemical hygiene committee.
 - Standard operating procedures that provide employee protection when working with hazardous substances.
 - Criteria for how you will select and use control measures to reduce employee exposures to hazardous chemicals, especially chemicals known to be extremely hazardous.
 - Additional employee protection for select carcinogens, reproductive toxins, and chemicals with high degree of acute toxicity. The following will be considered, when appropriate:
 - The establishment of exposure control areas.
 - Containment devices, such as fume hoods or glove boxes.
 - The safe removal of contaminated waste.
 - Procedures for decontamination.
 - Specific measures to make sure fume hoods and other protective equipment provide proper and adequate performance and are properly functioning.
 - The circumstances when specific laboratory operation, activity, or procedure requires prior approval from the employer or their designated representative before implementation.
 - A description of how you are going to train and inform your employees about laboratory use of hazardous chemicals.
 - A description of your provisions for medical consultations and medical examinations.

- Review and evaluate the effectiveness of your written CHP at least annually and update as necessary.

Reference: This publication can provide you with additional information to help you with your written chemical hygiene plan: National Research Council, Prudent Practices for Disposal of Chemicals from Laboratories, National Academy Press, Washington, DC, 1995.

NEW SECTION

WAC 296-828-20010 Exposure evaluation.

IMPORTANT:

For any of the specific substances listed in Table 2 of the scope of this chapter, you need to follow the exposure evaluation procedures found in the chapters regulating those substances if employee exposure routinely exceeds the AL or PEL. For all other employee exposures follow this section to determine exposure evaluation procedures.

You must:

- Determine if you could have a respiratory hazard as described in chapter 296-841 WAC, Respiratory hazards.

Reference: For additional requirements relating to respiratory hazards, see:

- Chapter 296-841 WAC, Respiratory hazards.
- Chapter 296-842 WAC, Respirators.
- The specific rule for your chemical.

You must:

- Provide written notification of exposure monitoring results to employees represented by your exposure evaluation, within five business days after the results become known to you.

Note:

- You can notify employees either individually or by posting the notification in areas readily accessible to all affected employees.
- Posted notifications may need information that allows affected employees to determine which monitoring results apply to them.
- Notification may be:
 - In any written form, such as hand-written or e-mail.
 - Limited to the required information, such as exposure monitoring results.

Reference: For additional requirements relating to employee exposure records, go to Access to records, chapter 296-802 WAC.

NEW SECTION

WAC 296-828-20015 Training.

You must:

- Inform employees about the presence of hazardous chemicals at the following times:
 - At the time of initial assignment to a work area where hazardous chemicals are present.
 - Prior to situations involving a new exposure to hazardous chemicals.
- Train employees on all of the following:
 - Methods and observations for detecting the presence or release of hazardous substances. Examples of these methods and observations may include:
 - Monitoring conducted by you.
 - Continuous monitoring devices.
 - Visual appearance or odor of hazardous chemicals when being released.

- The physical and health hazards of chemicals in the work area.

- The procedures and measures employees can use to protect themselves from hazardous substances. Examples of these include:

- Appropriate work practices.
- Emergency procedures.
- Personal protective equipment.

- Provide refresher training to fit your needs.

- Provide information to employees on all of the following:

- The contents of this chapter and where to find a copy.
- Permissible exposure limits found in chapter 296-841 WAC, Respiratory hazards.

- Any recommended exposure levels for compounds without an exposure limit in the WISHA rules. Examples include:

- The RELs found in the National Institute for Occupational Safety and Health (NIOSH) NIOSH Pocket Guide to Chemical Hazards 2004; or

- The American Conference of Governmental Industrial Hygienists (ACGIH®) Documentation of the Threshold Limit Values (TLVs) and Biological Exposure Indices (BEIs), 7th Ed.

- Signs and symptoms associated with exposures to hazardous chemicals used in the laboratory.

- Where to find a copy of:

- Your chemical hygiene plan.

- Material safety data sheets (MSDSs), including those received from the chemical suppliers.

- Reference material on the hazards, safe handling, storage, and disposal of hazardous chemicals found in the laboratory.

NEW SECTION

WAC 296-828-20020 Labeling and material safety data sheets (MSDSs).

You must:

- Make sure labels on incoming containers are not removed or defaced.

- Keep and make available to employees any MSDS received with an incoming container of hazardous chemicals.

NEW SECTION

WAC 296-828-20025 Chemicals produced in laboratories.

You must:

Follow Table 3 for chemical substances produced in your laboratory.

Table 3

Lab Produced Chemical Substance Requirements

If	Then
The chemical is a hazardous chemical	Follow all appropriate requirements of this chapter
A chemical by-product is produced and its composition is unknown	Assume it is a hazardous chemical

**Table 3
Lab Produced Chemical Substance Requirements**

	AND Follow your chemical hygiene plan to protect employees
You produce chemicals in your laboratory for users outside the laboratory	Follow chapter 296-839 WAC, MSDS and label preparation

NEW SECTION

WAC 296-828-20030 Medical evaluations.

IMPORTANT:

For any of the specific substances listed in Table 2 of the scope of this chapter, you need to follow the medical evaluation procedures found in the chapters regulating those substances if employee exposure routinely exceeds the AL or PEL. For all other employee exposures follow this section to determine medical evaluation procedures.

You must:

- (1) Make medical evaluations available when:
 - An employee develops signs or symptoms associated with a hazardous substance from laboratory exposure.
 - Any emergency situation that could cause a hazardous exposure, such as a spill, leak, or explosion, occurs.
 - A medical provider recommends a follow-up evaluation.
 - Exposure monitoring for any of the substances found in Table 2 reveals exposures routinely over the action level (AL) or in the absence of an AL the permissible exposure level (PEL).
- (2) Make sure medical evaluations are provided at reasonable times and places, and at no cost to employees.

Note: This includes travel costs and wages associated with any time spent obtaining the medical evaluation.

You must:

- Provide the LHCP the following information before the medical evaluation is performed:
 - The name of the hazardous chemicals the employee may have been exposed to.
 - Any signs or symptoms of exposure the employee has.
 - A description of the conditions under which the exposure occurred.
 - The exposure monitoring results for the conditions, if available.
- Obtain the LHCP's written opinion for each medical evaluation that includes the following:
 - Recommendations for medical follow-up.
 - Any medical conditions found that would increase the employee's risk for impairment from exposure to a hazardous chemical.
 - A statement that the employee has been informed of exposure-related medical results and conditions that require further examination or treatment.
 - A written opinion that does not contain any medical information unrelated to the employee's occupational exposures.

■ If the written opinion contains any medical information unrelated to occupational exposures, return it to the LHCP and obtain a revised version without the additional medical information.

Reference: • For additional requirements relating to employee medical records, go to Access to records, chapter 296-802 WAC.

NEW SECTION

WAC 296-828-300 Definitions.

Action level

An airborne concentration of a hazardous substance that is calculated as an 8-hour time-weighted average, and initiates certain requirements to be followed such as exposure monitoring or medical surveillance.

Carcinogens see "select carcinogen"

Chemical hygiene officer

An employee designated by the employer who is qualified by training or experience to provide technical guidance in the development and implementation of the chemical hygiene plan. This definition is not intended to place limitations on the designated employee's position description or job classification within the employer's organization.

Chemical hygiene plan

A written program developed and implemented by the employer that establishes procedures, equipment, personal protective equipment, and work practices to protect employees from the health hazards of the chemicals used in the laboratory.

Container

Any container, except for pipes or piping systems that contains a hazardous substance. For example it can be any of the following:

- Barrel.
- Bottle.
- Can.
- Cylinder.
- Drum.
- Reaction vessel.
- Storage tank.

Day

Any part of a calendar day.

Designated representative

Any one of the following:

- Any individual or organization to which an employee gives written authorization.
- A recognized or certified collective bargaining agent without regard to written employee authorization.
- The legal representative of a deceased or legally incapacitated employee.

Emergency

Any event that could or does result in the unexpected, significant release of a hazardous substance. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Exposure

The contact an employee has with a hazardous substance, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can

occur through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Hazardous chemical

A chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic systems, and agents which damage the lungs, skin, eyes, or mucous membranes.

Laboratory

A facility where the "laboratory use of hazardous substances" takes place. A workplace where relatively small amounts of hazardous substances are used on a nonproduction basis.

Laboratory-type hood

A device located in a laboratory, enclosure on five sides with a moveable sash or fixed partial enclosed on the remaining side; constructed and maintained to draw air from the laboratory and to prevent or minimize the escape of air contaminants into the laboratory; and allows chemical manipulations to be conducted in the enclosure without insertion of any portion of the employee's body other than hands and arms.

Note: Walk-in hoods with adjustable sashes meet the above definition provided that the sashes are adjusted during use so that the airflow and the exhaust of air contaminants are not compromised and employees do not work inside the enclosure during the release of airborne hazardous substances.

Laboratory scale

Work with substances in which the containers used for reactions, transfers and other handling of the substances are designed to be easily and safely manipulated by one person. "Laboratory scale" **does not** include workplaces producing commercial quantities of materials.

Laboratory use

The handling or use of hazardous substances that includes **all** the following:

- Chemical manipulations conducted on a "laboratory scale."
- Multiple chemical procedures or chemicals are used.
- The procedures are not part of a production process, nor in any way simulate a production process.
- "Protective laboratory practices and equipment" are available and are commonly used to minimize the potential for employee exposures to hazardous substances.

Licensed healthcare professional (LHCP)

An individual whose legally permitted scope of practice allows him or her to provide some or all of the healthcare services required for medical evaluations.

Material safety data sheet (MSDS)

Written, printed, or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors, employers or employees about a hazardous substance, its hazards, and protective measures as required by material safety data sheet and label preparation, chapter 296-839 WAC.

Permissible exposure limits (PELs)

PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are also specified in WISHA rules found in other chapters.

Physical hazard

As used in Employer chemical hazard communication, WAC 296-800-170 means a chemical that has scientifically valid evidence to show it is one of the following:

- Combustible liquid.
- Compressed gas.
- Explosive.
- Flammable.
- Organic peroxide.
- Oxidizer.
- Pyrophoric.
- Unstable (reactive).
- Water reactive.

Protective laboratory practices and equipment

Laboratory procedures, practices, and equipment accepted by laboratory health and safety experts as effective, that can be shown to be effective, in minimizing the potential for employee exposure to hazardous substances.

Reproductive toxin

Chemicals that affect reproductive capabilities including chromosomal damage (mutations) and effects on fetuses (teratogenesis).

Select carcinogen

Any substance meeting one of the following criteria:

- Regulated by WISHA as a carcinogen.
- Listed in the "know to be carcinogens" category in the latest edition of the Annual Report on Carcinogens by the National Toxicity Program (NTP).
- Listed in Group I (carcinogenic to humans) in the latest editions of the International Agency for Research on Cancer (IARC) Monographs.
- Listed in either group 2A or 2B by IARC **or** in the category "reasonably anticipated to be carcinogens" by the NTP, and causes statistically significant tumor incidence in experimental animals in accordance with any of the following criteria:

- After an inhalation exposure of six to seven hours a day; five days a week; for a significant portion of a lifetime to dosages of less than 10 mg/m³; **or**
- After repeated skin application of less than 300 mg/kg of body weight per week; **or**
- After oral dosages of less than 50 mg/kg of body weight per day.

Time-weighted average (TWA₈)

An exposure limit averaged over an 8-hour period that must not be exceeded during an employee's workday.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-400	Occupational exposure to hazardous chemicals in laboratories.
WAC 296-62-40001	Scope and application.

WAC 296-62-40003	Definitions applicable to all sections of this chapter.
WAC 296-62-40005	Permissible exposure limits.
WAC 296-62-40007	Employee exposure determination.
WAC 296-62-40009	Chemical hygiene plan—General.
WAC 296-62-40011	Employee information and training.
WAC 296-62-40013	Medical consultation and medical examinations.
WAC 296-62-40015	Hazard identification.
WAC 296-62-40017	Use of respirators.
WAC 296-62-40019	Recordkeeping.
WAC 296-62-40021	Start up date.
WAC 296-62-40023	Appendices.
WAC 296-62-40025	Appendix A—National Research Council recommendations concerning chemical hygiene in laboratories (nonmandatory).
WAC 296-62-40027	Appendix B—References (nonmandatory).

WSR 05-21-099**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed October 18, 2005, 1:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-080.

Title of Rule and Other Identifying Information: Chapter 388-112 WAC, Residential long-term care services—Training.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on November 22, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 23, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., November 22, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by November 18, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the new language in WAC 388-112-0020, 388-112-0060, 388-112-0090, 388-112-0210, 388-112-0245, and 388-112-0315, is to clarify standards and expectations regarding the integration of safe food handling training into the required training and continuing education, as required by SHB 1591, chapter 505, Laws of 2005. The statute requires that:

- The department's curricula meet the standards established by the State Board of Health pursuant to chapter 69.06 RCW. This includes the addition of a separate section of safe food handling questions be a part of the basic and modified training competency testing.
- Caregivers working in adult family homes receive information on safe food handling practices from the employer before providing food handling service for clients.
- The addition of .5 hours per year of safe food handling continuing education for adult family home caregivers in order to maintain food handling and safety training.

The purpose of new language in WAC 388-112-0255 and 388-112-0260 is to add content requirements for first-aid training.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 18.20.090, 70.128.040, 70.128.230.

Statute Being Implemented: RCW 18.20.090, 70.128.-040, 70.128.230.

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: Barbara Hanneman, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2540.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that no new costs will be imposed on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tiffany Sevruck, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

October 13, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0020 What content must be included in an orientation? Orientation may include the use of videotapes, audiotapes, and other media if the person overseeing the orientation is available to answer questions or concerns

for the person(s) receiving the orientation. Orientation must include introductory information in the following areas:

- (1) The care setting;
- (2) The characteristics and special needs of the population served;
- (3) Fire and life safety, including:
 - (a) Emergency communication (including phone system if one exists);
 - (b) Evacuation planning (including fire alarms and fire extinguishers where they exist);
 - (c) Ways to handle resident injuries and falls or other accidents;
 - (d) Potential risks to residents or staff (for instance, aggressive resident behaviors and how to handle them); and
 - (e) The location of home policies and procedures.
- (4) Communication skills and information, including:
 - (a) Methods for supporting effective communication among the resident/guardian, staff, and family members;
 - (b) Use of verbal and nonverbal communication;
 - (c) Review of written communications and/or documentation required for the job, including the resident's service plan;
 - (d) Expectations about communication with other home staff; and
 - (e) Whom to contact about problems and concerns.
- (5) Universal precautions and infection control, including:
 - (a) Proper hand washing techniques;
 - (b) Protection from exposure to blood and other body fluids;
 - (c) Appropriate disposal of contaminated/hazardous articles;
 - (d) Reporting exposure to contaminated articles, blood, or other body fluids; and
 - (e) What staff should do if they are ill.
- (6) Resident rights, including:
 - (a) The resident's right to confidentiality of information about the resident;
 - (b) The resident's right to participate in making decisions about the resident's care, and to refuse care;
 - (c) Staff's duty to protect and promote the rights of each resident, and assist the resident to exercise his or her rights;
 - (d) How and to whom staff should report any concerns they may have about a resident's decision concerning the resident's care;
 - (e) Staff's duty to report any suspected abuse, abandonment, neglect, or exploitation of a resident;
 - (f) Advocates that are available to help residents (LTC ombudsmen, organizations); and
 - (g) Complaint lines, hot lines, and resident grievance procedures.
- (7) In Adult Family Homes, safe food handling practices information must be provided to all staff, prior to handling food for residents.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0060 Is competency testing required for basic training? Passing the DSHS competency test is

required for successful completion of basic training as provided under WAC 388-112-0290 through 388-112-0315.

For licensed adult family home providers and employees, successfully completing basic training includes passing the safe food handling section or obtaining a valid food handler permit.

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-112-0090 Is competency testing required for modified basic training? Passing the DSHS competency test is required for successful completion of modified basic training as provided in WAC 388-112-0290 through 388-112-0315.

For licensed adult family home providers and employees, successfully completing modified basic training includes passing the safe food handling section or obtaining a valid food handler permit.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0210 What kinds of training topics are required for continuing education? Continuing education must be on a topic relevant to the care setting and care needs of residents, including but not limited to:

- (1) Resident rights;
- (2) Personal care (such as transfers or skin care);
- (3) Mental illness;
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive resident behavior support;
- (10) Developing or improving resident centered activities;
- (11) Dealing with wandering or aggressive resident behaviors; ~~(and)~~
- (12) Medical conditions; and
- (13) Safe food handling.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0245 Who is required to complete continuing education training, and when? Adult Family Homes

(1) Adult family home providers (including entity representatives as defined under chapter 388-76 WAC), resident managers, and caregivers must complete ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.

(2) Continuing education must be on a topic relevant to the care setting and care needs of residents in adult family homes.

(3) Continuing education must include 0.5 hours per year on safe food handling.

Boarding Homes

~~((3))~~ (4) Boarding home administrators (or their designees) and caregivers must complete ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training. A boarding home administrator with a current nursing home administrator license is exempt from this requirement.

~~((4))~~ (5) Continuing education must be on a topic relevant to the care setting and care needs of residents in boarding homes.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0255 What is first-aid training? First-aid training is training that ~~((meets the content requirements in WAC 296-800-15010))~~ meets the guidelines established by the Occupational Safety and Health Administration and listed at www.osha.gov. Topics include:

(1) General program elements, including:

(a) Responding to a health emergency;

(b) Surveying the scene;

(c) Basic Cardiopulmonary Resuscitation (CPR);

(d) Basic First Aid intervention;

(e) Standard Precautions;

(f) First aid supplies; and

(g) Trainee assessments.

(2) Type of injury training, including:

(a) Shock;

(b) Bleeding;

(c) Poisoning;

(d) Burns;

(e) Temperature Extremes;

(f) Musculoskeletal injuries;

(g) Bites and stings;

(h) Confined spaces; and

(i) Medical emergencies; including heart attack, stroke, asthma attack, diabetes, seizures, and pregnancy.

(3) Site of injury training, including:

(a) Head and neck;

(b) Eye;

(c) Nose;

(d) Mouth and teeth;

(e) Chest;

(f) Abdomen; and

(g) Hand, finger and foot.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0260 What are the CPR and first-aid training requirements? Adult Family Homes

(1) Adult family home providers and resident managers must possess a valid CPR and first-aid card or certificate prior to providing care for residents, and must maintain valid cards or certificates.

(2) Adult family home caregivers must obtain a valid CPR and first-aid card or certificate:

(a) Within thirty days of beginning to provide care for residents, if the provision of care for residents is directly

supervised by a fully qualified caregiver who has a valid first-aid and CPR card or certificate; or

(b) Before providing care for residents, if the provision of care for residents is not directly supervised by a fully qualified caregiver who has a valid first-aid and CPR card or certificate.

(3) Adult family home caregivers must maintain valid CPR and first-aid cards or certificates.

(4) Licensed nurses working in adult family homes must possess a valid CPR card or certificate within thirty days of employment and must maintain a valid card or certificate. If the licensed nurse is an adult family home provider or resident manager, the valid CPR card or certificate must be obtained prior to providing care for residents.

Boarding Homes

~~((4))~~ (5) Boarding home administrators who provide direct care, and caregivers must possess a valid CPR and first-aid card or certificate within thirty days of employment, and must maintain valid cards or certificates. ~~((Boarding home))~~ Licensed nurses working in boarding homes must possess a valid CPR card or certificate within thirty days of employment, and must maintain a valid card or certificate.

AMENDATORY SECTION (Amending WSR 02-15-066, filed 7/11/02, effective 8/11/02)

WAC 388-112-0315 How many times may a competency test be taken? (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must retake the course before any additional tests are administered. Licensed adult family providers and employees who fail the food handling section of the basic training competency test a second time, must obtain a valid food worker permit.

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

WSR 05-21-103**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed October 18, 2005, 1:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-139.

Title of Rule and Other Identifying Information: The Division of Child Support (DCS) is proposing amendments to WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-2005 When does an application for public assistance automatically become an application for support enforcement services?, 388-14A-2025 What services does the division of child support provide for a nonassistance support enforcement case?, 388-14A-2035 Do I assign my rights to support when I receive public assistance?, 388-14A-2036 What does assigning my rights to support mean?, 388-14A-2040 Do I have to

cooperate with the division of child support in establishing or enforcing child support?, and 388-14A-3350 Are there any limits on how much back support the division of child support can seek to establish?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on December 6, 2005, at 10:00 a.m.

Date of Intended Adoption: December 7, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., December 6, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by December 2, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DCS seeks to clarify when a claim for child support starts as a result of the family receiving Medicaid or medical-only assistance.

Reasons Supporting Proposal: DCS is amending these rules for clarity and client satisfaction.

Statutory Authority for Adoption: RCW 74.08.090, 74.20A.055, 74.20A.310.

Statute Being Implemented: RCW 26.18.170, 74.20A.-055, 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 rules relating to liability for care of dependents are exempt from preparing a further analysis under RCW 34.05.328 (5)(b)(vii).

October 11, 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 05-22 issue of the Register.

WSR 05-21-105

PROPOSED RULES

DEPARTMENT OF CORRECTIONS

[Filed October 18, 2005, 1:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-113.

Title of Rule and Other Identifying Information: Amendments to WAC 137-28-260 Serious infractions and chapter 137-56 WAC, Community residential programs; work/training release; create new chapter 137-25 WAC, Serious infractions.

Hearing Location(s): Department of Corrections, Tumwater Office Building, Cascade Room - #3004, 7345 Linder-son Way S.W., Tumwater, WA 98501, on November 22, 2005, at 10 a.m.

Date of Intended Adoption: November 22, 2005.

Submit Written Comments to: John Nispel, P.O. Box 41114, Olympia, WA 98504-1114, e-mail jrnispel@doc1.wa.gov, fax (360) 664-2009, by November 18, 2005.

Assistance for Persons with Disabilities: Contact John Nispel by November 18, 2005, TTY (800) 833-6389.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revise the procedures for operation of work release and standardize serious infractions for prison and work release offenders.

Reasons Supporting Proposal: These amendments will standardize the serious infractions for offenders in both full and partial confinement facilities.

Statutory Authority for Adoption: RCW 72.01.090, 72.65.100, and 72.09.130.

Statute Being Implemented: RCW 72.65.100 and 72.09.130.

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

Name of Proponent: Doreen Geiger, governmental.

Name of Agency Personnel Responsible for Drafting: Doreen Geiger/Lori Ramsdell-Gilkey, Olympia, (360) 753-1508; Implementation: Kit Bail, Olympia, (360) 586-0844; and Enforcement: Eldon Vail, Olympia, (360) 664-0488.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect incarcerated offenders only and will not impose costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption as the agency is not named in RCW 34.05.328 (5)(a)(i).

October 18, 2005

Harold W. Clarke

Secretary

Chapter 137-25 WAC

SERIOUS INFRACTIONS—TOTAL AND PARTIAL CONFINEMENT FACILITIES

NEW SECTION

WAC 137-25-010 Application of chapter. The definitions and serious infractions described herein apply to offenders committed to both full and partial confinement facilities.

NEW SECTION

WAC 137-25-020 Definitions. For the purposes of this chapter, the following words have the following meanings:

Abusive sexual contact - an incident in which the contact occurs without his/her consent or he/she was unable to consent or refuse. Abusive sexual contact includes one or more of the following behaviors:

- Intentional touching, either directly or through the clothing of the genitalia, anus, groin, breast, inner thigh, or buttocks of the victim. It does not include kicking, grabbing or punching genitals when the intent is to harm or debilitate rather than to sexually exploit.

Adult correctional institution and institution - a facility identified in RCW 72.01.050(2) and any similar facility hereinafter established.

Aggravated assault - an assault resulting in physical injury and requiring medical care (see definition of medical care).

Assault - a physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to, weapons, body parts, food products, or bodily secretions.

Attempted suicide - an unsuccessful attempt to kill oneself as determined by a medical or mental health professional.

Attempt - putting forth an effort to commit any infraction shall be considered the same as commission of the infraction. However, attempted aggravated assault shall be considered an attempted assault.

Bodily harm - physical pain or injury, illness, or impairment of physical condition.

Cell tag - if contraband or other violation is discovered in an area under control of the inmate (such as within the confines or contents of a cell), the contraband or other violation shall be constructively attributed to the inmate(s) assigned to that area, unless the inmate(s) can establish a lack of involvement in the infraction at the disciplinary hearing.

Conspiracy - an agreement between two or more persons to commit an infraction. Conspiracy to commit an infraction shall be considered the same as commission of the infraction.

Deputy secretary - the deputy secretary of the office of correctional operations of the Washington state department of corrections, or the deputy secretary's designee.

Discovery - when a staff member discovers that an infraction has occurred or when an investigation into the incident is concluded.

Earned time - means that portion of time an offender is eligible to earn for program participation approved by the

classification process and consistent with his/her case management plan.

Earned release time - means the combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the indeterminate sentence review board or the sentencing court.

Good conduct time credits - that portion of an inmate's potential reduction to minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which may be lost by receiving serious infractions.

Hearing officer - staff member(s) designated by the superintendent or hearings program administrator to conduct disciplinary hearings.

Infraction - commission of, attempt to commit, or conspiracy with another to commit any violation of rules as enumerated in this code. Aiding or abetting another to commit an infraction will be considered the same as commission of the infraction.

Infraction review officer - staff member(s) designated by the superintendent to review a serious infraction.

Lesser included offense - any infraction that must necessarily have been committed in order to commit another infraction.

Medical care - any care conducted in a medical facility/treatment center by medical staff to treat a documented, physical injury, including, but not limited to, bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered medical care.

Mental health professional - an individual with a unique set of knowledge, skills and abilities that makes him/her competent in either development, research, administration, assessment, prevention, treatment, education or training aimed at affecting the onset, occurrence, and maintenance of mental, behavioral and in some cases physical health disorders.

Mitigating factors - factors to be considered by the infraction officer in deciding whether to charge a #328 general infraction rather than a #728 serious infraction. Also, factors to be considered by the infraction review officer, hearings officer, and superintendent for the purpose of deciding whether a #728 serious infraction should be reduced to a #328 general infraction. Mitigating factors may include the seriousness of the sexually explicit material involved, whether the inmate has been convicted of a sexually motivated crime, the treatment needs of the inmate, the prior history of similar behavior, and the source of the material.

Possession - established when an item(s) is found on a person or in an area which is under the control of the individual(s) charged.

Promptly - to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

Secretary - the secretary of the Washington state department of corrections, or the secretary's designee.

Sexual harassment - any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.

Sexually explicit - means a depiction of one of the following:

- One of the participants in the sexual act is, or appears to be, nonconsenting;
 - One of the participants in the sexual act appears to be forceful, threatening, or violent;
 - One of the partners in the sexual act is dominating one of the other participants and one of the individuals is obviously in a submissive role or one of the participants is degraded, humiliated, or willingly engages in behavior that is degrading or humiliating;
 - One of the participants in the sexual act is a minor, or appears to be a minor, or a minor alone is depicted in a sexually suggestive way;
 - Actual penetration, be it penile/vaginal-oral, penile-anal, or penile-vaginal; digital-anal; digital-vaginal; or insertion of any inanimate object in the vaginal or anal cavity, and the depiction in the context presented is deemed to be a threat to legitimate penological objectives;
 - Any bodily excretory function which is sexual in nature;
 - Bestiality, sadomasochistic behavior, bondage; or
 - Material reasonably deemed to be a threat to legitimate penological objectives.
- Staff member - for purposes of this chapter includes employees of the department of corrections, contract employees, and volunteers.
- Superintendent - superintendent of an adult correctional institution or the superintendent's designee.
- Working days - Monday through Friday, excluding weekends and holidays.

NEW SECTION

WAC 137-25-030 Serious infractions.

Category A

501 - Committing homicide.
502 - Aggravated assault on another offender.
507 - Committing a felony.
511 - Aggravated assault on a visitor or community member.
521 - Taking or holding any person hostage.
550 - Escape or attempted escape.
601 - Possession, manufacture, or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
602 - Possession, manufacture, or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any component thereof.
603 - Possession, introduction, use or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug, mind altering substance, or drug paraphernalia.
604 - Aggravated assault on a staff member.
611 - Nonconsensual sexual assault on a staff member.
612 - Attempted nonconsensual sexual assault of staff.
613 - Abusive sexual contact with staff.
635 - Nonconsensual sexual assault on another offender.

Category A

636 - Attempted nonconsensual sexual assault of another offender.
637 - Abusive sexual contact with another offender.
650 - Rioting.
651 - Inciting others to riot.

Category B

762 - Failing to comply with DOSA requirements.

Category B - Level 1

504 - Engaging in sexual acts with others within the facility with the exception of approved conjugal visits.
553 - Setting a fire.
560 - Unauthorized possession of items or materials likely to be used in an escape attempt.
588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.
633 - Assault on another offender.
704 - Assault on a staff member.
711 - Assault on a visitor or community member.
744 - Making a bomb threat.

Category B - Level 2

505 - Fighting with any person.
556 - Refusing to submit or cooperate in a search when ordered to do so by a staff member.
607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member within the allotted time frame.
608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests when ordered to do so by a staff member.
652 - Engaging in or inciting a group demonstration.
655 - Making intoxicants, alcohol, controlled substances, narcotics, or possession of ingredients, equipment, items, formulas, or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.
682 - Engaging in or inciting an organized work stoppage.
707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.
716 - Unauthorized use of prescribed or over the counter medication.
736 - Possession, manufacture or introduction of unauthorized keys.

Category B - Level 2

750 - Indecent exposure.
752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.
830 - Any escape from work release with voluntary return within 24 hours.

Category B - Level 3

503 - Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
506 - Threatening another with bodily harm or with any offense against another person, property, or family.
509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.
525 - Violating conditions of a furlough.
557 - Refusing to participate in an available education or work program or other mandatory programming assignment.
558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.
600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
605 - Impersonating any staff member, contracted staff member, volunteer, other offenders or visitor.
653 - Causing an inaccurate count or interfering with count by means of unauthorized absence, hiding, concealing oneself, or other form of deception or distraction.
654 - Counterfeiting, forgery, altering, falsification, or unauthorized reproduction of any document, article, or identification, money, security, or official paper.
660 - Unauthorized possession of money or other negotiable instruments the value of which is five dollars or more.
709 - Out-of-bounds: Being in another offender's cell or other area in the facility where not assigned or authorized; being in an area in the facility with one or more offenders without authorization.
738 - Possession of clothing of a staff member.
739 - Possession of personal information about currently employed staff, contractors, or volunteers, or their immediate family members, not voluntarily given to the offender by the individual involved; including, but not limited to: Social Security numbers, unpublished home addresses or telephone numbers, driver's license numbers, medical, personnel, financial, or real estate records, bank or credit card numbers, or other like information not authorized by the court or the superintendent.
745 - Refusing a transfer to another institution.
746 - Engaging in or inciting an organized hunger strike.

Category B - Level 3

777 - Causing injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
813 - Unauthorized/unaccounted time in the community or being in an unauthorized location in the community.
814 - Violation of an imposed special condition.
831 - While in work release, failure to return from an authorized sign out.
879 - Operating a motor vehicle without permission.

Category C - Level 1

508 - Throwing objects, materials, substances, or spitting at staff, visitors, or other offenders.
517 - Committing a misdemeanor.
555 - Theft of property or possession of stolen property.
563 - Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.
610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.
620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
659 - Sexual harassment.
663 - Using physical force, intimidation or coercion against any person.
702 - Possession, manufacture or introduction of an unauthorized tool.
708 - Organizing or participating in unauthorized group activity or meeting.
714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another offender or that offender's friend(s) or family, the value of which is ten dollars or more.
717 - Causing a threat of injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
720 - Flooding a cell or other area of the institution/facility.
724 - Refusing a cell or housing assignment.
734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.

Category C - Level 2

552 - Causing an innocent person to be penalized or proceeded against by providing false information.
554 - Mutilating, altering, defacing, or destroying any item the value of which is ten dollars or more and that is not the personal property of the offender.
559 - Gambling; possession of gambling paraphernalia.
656 - Giving, receiving, or offering any person a bribe or anything of value for an unauthorized favor or service.
706 - Giving false information when proposing a release plan.
710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.
718 - Use of mail or telephone in violation of court order or local, state, or federal law.
726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary action.
728 - Possession of any written photographic or hand drawn material, that depicts sexually explicit acts as defined in department policy.
740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.
742 - A pattern of creating a false emergency by feigning illness.
778 - Providing a false and/or adulterated urine sample.

Category C - Level 3

551 - Providing false information to the disciplinary hearings officer or on a disciplinary appeal.
606 - Possession, introduction, or transfer of any tobacco, tobacco products, matches, or tobacco paraphernalia.
657 - Being found guilty of four or more general infractions arising out of separate incidents within a 90-day period.
658 - Failing to comply with any administrative or post-hearing sanction imposed for committing any general or serious infraction.
662 - Soliciting goods or services for which the provider would expect payment when the offender knows or should know that no funds are available to pay for those goods or services.
712 - Attempted suicide as determined by mental health staff.
713 - Self-mutilation or self-harm.
741 - Theft of food the value of which is more than five dollars.

Category C - Level 3

755 - Misuse or waste of issued supplies, goods, services, or property the replacement value of which is ten dollars or more.
810 - Willful failure to seek/maintain employment or training oneself financially or being terminated from a job for negative or substandard performance.
811 - Entering into an unauthorized contract.
812 - Failure to report/turn in all earnings income.
854 - Destroying or damaging state property, or the property of another person.
861 - Performing or taking part in an unauthorized marriage.

Definitions: Attempting to commit or aiding another person to commit a serious infraction - such action shall be considered the same as commission of the offense itself.

AMENDATORY SECTION (Amending WSR 05-16-033, filed 7/26/05, effective 8/26/05)

WAC 137-28-260 Serious infractions.

~~((1) Assault/threatening actions/causing injury to another person~~

- ~~501 - Committing homicide.~~
- ~~502 - Aggravated assault on another offender.~~
- ~~503 - Extortion, blackmail, or demanding or receiving money or anything of value in return for protection against others, or under threat of informing.~~
- ~~505 - Fighting with any person.~~
- ~~506 - Threatening another with bodily harm or with any offense against another person, property or family.~~
- ~~508 - Throwing objects, materials, substances or spitting at staff, visitors, or other inmates.~~
- ~~511 - Aggravated assault on a visitor.~~
- ~~521 - Taking or holding any person hostage.~~
- ~~588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.~~
- ~~604 - Aggravated assault on a staff member.~~
- ~~611 - Sexual assault on a staff member.~~
- ~~612 - Attempted sexual assault of staff.*~~
- ~~613 - Abusive sexual contact with staff.~~
- ~~633 - Assault on another offender.~~
- ~~635 - Sexual assault on another offender.~~
- ~~636 - Attempted sexual assault on another offender.*~~
- ~~637 - Abusive sexual contact with another offender.~~

- 663 - Using physical force, intimidation or coercion against any person.
- 704 - Assault on a staff member.
- 711 - Assault on a visitor.
- 717 - Causing a threat of injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.
- 777 - Causing injury to another person by resisting orders, resisting assisted movement or physical efforts to restrain.

Unauthorized possession

- 559 - Gambling; possession of gambling paraphernalia.
- 601 - Possession, manufacture or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
- 602 - Possession, manufacture or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any components thereof.
- 620 - Receipt or possession of contraband during participation in off-grounds or outer perimeter activity or work detail.
- 660 - Unauthorized possession of money, stamps, or negotiable instruments, the value of which is five dollars or more.
- 702 - Possession, manufacture or introduction of an unauthorized tool.
- 736 - Possession, manufacture or introduction of unauthorized keys.
- 738 - Possession of the clothing of a staff member.
- 739 - Possession of personal information about currently employed staff, contractors or volunteers, or their immediate family members, not voluntarily given to the offender by the individual involved, including, but not limited to: Social Security numbers, unpublished home addresses or telephone numbers, drivers license numbers, medical, personnel, financial or real estate records, bank or credit card numbers, or other like information not authorized by the court or the superintendent.

Tattooing

- 710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.

Theft/possession of stolen property

- 555 - Theft of property or possession of stolen property.
- 741 - Theft of food, the value of which is more than five dollars.

- 755 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is ten dollars or more.

Forgery

- 654 - Counterfeiting, forging, altering or unauthorized reproduction of any document, article of identification, money, security, or official paper.

Setting fire, damaging or destroying property

- 553 - Setting a fire.
- 554 - Mutilating, altering, defacing or destroying any item, the value of which is ten dollars or more and that is not the personal property of the inmate.
- 563 - Making a false fire alarm, tampering, damaging, blocking or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.
- 600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
- 720 - Flooding a cell or other area of the institution.

Inciting others/participation in unacceptable group behavior

- 650 - Rioting.
- 651 - Inciting others to riot.
- 652 - Engaging in or inciting a group demonstration.
- 682 - Engaging in or inciting an organized work stoppage.
- 708 - Organizing or participating in an unauthorized group activity or meeting.
- 734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.
- 746 - Engaging in or inciting an organized hunger strike.

Inappropriate sexual behavior

- 504 - Engaging in sexual acts with others with the exception of spouses during approved extended family visits.
- 659 - Sexual harassment; any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.
- 728 - Possession of any written, photographic or hand-drawn material that depicts a sexually explicit act as defined in WAC 137-28-160.
- 750 - Indecent exposure.

Providing false statements

- 551 - Providing false information to a disciplinary hearing officer or on a disciplinary appeal.

552 - Causing an innocent person to be penalized or proceeded against by providing false information.

706 - Giving false information about proposed community residence when proposing a release plan, community placement, etc.

Interfering with staff/impersonating

558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.

605 - Impersonating any staff member, other inmate or visitor.

Failure to follow orders and rules

509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.

556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member.

557 - Refusing to participate in an available education or work program or other mandatory programming assignment.

609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests, when ordered to do so by a staff member.

658 - Failing to comply with any administrative or posthearing sanction imposed for committing any general or serious infraction.

724 - Refusing a cell or housing assignment.

745 - Refusing a transfer to another facility.

Counts/unauthorized absence

653 - Causing an inaccurate count by means of unauthorized absence, hiding, concealing ones self or other form of deception or distraction.

Escape/attempted escape

525 - Violating conditions of furlough.

550 - Escape or attempted escape.

560 - Unauthorized possession of items or materials likely to be used in an escape attempt.

Committing crimes/excess infractions

507 - Committing any act that is a felony under state or federal law that is not otherwise included in these rules.

517 - Committing any act that is a misdemeanor under local, state, or federal law that is not otherwise included in these rules.

657 - Being found guilty of four or more general infractions which have been reported in writing arising out of separate incidents, all of which occur within a six-month period.

Unacceptable communication

718 - Use of mail or telephone in violation of court order or local, state or federal law.

726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.

727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary actions.

Misuse of controlled substances, drugs, alcohol and related programs

603 - Possession, introduction, or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug or drug paraphernalia.

606 - Possession, introduction or transfer of any tobacco, tobacco products, matches, or tobacco paraphernalia.

607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member.

608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.

610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.

655 - Making intoxicants, alcohol, controlled substances, narcotics, or the possession of ingredients, equipment, items, formulas or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.

707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.

716 - Unauthorized use of drugs, alcohol or other intoxicants.

752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.

Soliciting/fraud

656 - Giving, offering or receiving from any person a bribe or anything of value for an unauthorized favor or service.

662 - Soliciting goods or services for which the provider would expect payment when the inmate knows or should know that no funds are available to pay for those goods or services.

714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family, the value of which is ten dollars or more.

- 740 - ~~Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.~~

~~Creating an emergency situation~~

- 712 - ~~Attempted suicide as determined by mental health staff.~~
- 713 - ~~Self mutilation or self harm.~~
- 742 - ~~Creating a false emergency by feigning illness when contrary to medical/mental health screening results.~~
- 744 - ~~Making a bomb threat.~~

~~(2) In determining whether a #728 infraction or a #328 infraction pursuant to WAC 137-28-220 should be charged, the infraacting officer shall consider mitigating factors as defined in WAC 137-28-160.~~

~~*Attempts to commit infractions #611 or #635 are now separate infractions #612 and #636 for the Prison Rape Elimination Act (PREA) reporting purposes only and do not impact the definition in WAC 137-28-160 which includes "attempts.")~~

See WAC 137-25-030 for the list of serious infractions.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-010 Definitions. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

~~(2) ("Director" is the director, division of community services, department of corrections.~~

~~(3) "Assistant director" is the assistant director, division of community corrections, department of corrections or his/her designee and is the staff member assigned by the director to administer and supervise the work/training release programs in a specific geographic area.~~

(4)) "Department" is the department of corrections.

~~((5)) (3) "Work/training release facility supervisor" is a staff member assigned by the community corrections regional administrator to administer and supervise a specific work/training release facility and includes his/her designee.~~

~~((6)) (4) "Work/training release community corrections officer" is a staff member assigned by the work/training release facility supervisor to supervise and counsel a caseload of work/training release residents at a specific work/training release facility.~~

~~((7)) (5) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide housing and monitoring for work/training release residents.~~

~~((8) "Work/training release coordinator" is a staff member assigned by the superintendent of an adult correctional institution to act as liaison between the institution and work/training release facility personnel.~~

~~((9)) (6) "Work/training release ((resident)) offender" is any offender committed to or transferred to the department's custody pursuant to a valid criminal conviction who has been~~

approved by the department for placement in a designated work/training release facility.

~~((10)) (7) "Sponsor-escort" is a responsible citizen assigned to escort and monitor a resident during official and social activities outside of the work/training release facility.~~

~~((11)) (8) "Work/training release facility" is an establishment approved for housing and monitoring of work/training release residents during the resident's stay in a work/training release program.~~

~~((12)) (9) "One working day" is a nine-hour day, 8:00 a.m. to 5:00 p.m. excluding weekends and holidays.~~

(10) "Hearing officer" means an employee of the department authorized to conduct disciplinary/department hearings.

(11) "Hearings program administrator" means the administrator of the hearings unit of the department, or the hearing program administrator's designee.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-015 Disposition of earnings. Reasonable payment as determined by the department of board and room charges will be deducted from the work/training release residents' earnings. For purposes of this section, earnings shall constitute all income and money received or possessed by the work/training release ~~((resident))~~ offender while under a work release plan. Nothing in this section shall prohibit the department's authority to obtain reimbursement for moneys advanced to a work/training release ~~((resident))~~ offender by the department.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-030 Reasons for ~~((which given))~~ placement in a work release program. Work/training release may be authorized for one or more of the following:

(1) To ~~((take))~~ participate in full-time employment or part-time employment ~~((or to make application to or be interviewed by a prospective employer))~~ at specialized programs;

(2) To ~~((take))~~ participate in a vocational training program, including attendance at an accredited college.

(3) To ~~((make use of transitional))~~ secure services to support transition back to the community.

(4) As a sanction for violating ~~((release))~~ community supervision conditions.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-040 ~~((Application—Who may apply-))~~ Eligibility criteria. (1) An ~~((inmate may apply))~~ offender is eligible for work/training release provided that:

(a) He or she has a minimum security status;

~~((His or her minimum term has been fixed by the indeterminate sentence review board;~~

~~((e)))~~ He or she is within the last one hundred eighty days of their confinement ~~((SRA offenders only))~~.

(2) ~~((Persons))~~ Offenders convicted of rape in the first degree shall not be eligible for work/training release at any time during the first three years of confinement.

(3) ~~((Persons))~~ Offenders convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary.

(4) Offender who violates condition(s) of community supervision and is sanctioned to a term less than one hundred eighty days.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-050 Application—Consideration. (1) ~~((The inmate shall submit his or her application for work/training release to his or her counselor on forms prescribed by the department.~~

(2) ~~The classification committee shall make its recommendations to the superintendent, giving written documentation of the information which the committee relied on and giving reasons for the recommendation.~~

(3) ~~Probationers/parolees/SRA offenders may be referred by the superior court or indeterminate sentence review board.)~~ Based on the offender's request to participate in a work release program and/or the offender's need to transition through a work release program, the facility classification review team will refer the offender to the appropriate program.

(2) The community corrections officer can make recommendation for placement in a work release program as a result of violation of conditions of supervision in the community.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-070 ((Plan—Investigation.)) Screening referrals. (1) ~~((Upon receipt of a community release plan,))~~ The work/training release facility supervisor or his or her designee shall screen the ((information)) offenders referred to the program.

(2) ~~The work/training release screening process will be based on established criteria ((and any additional factors which may affect the resident's ability to successfully complete a work/training release program.~~

(3) ~~The screening decision will be forwarded by the work/training release facility supervisor to the referral source indicating the action taken).~~

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-080 Plan—Approval or denial. (1) ~~((The division director, or his or her designee has the authority to approve or disapprove a plan.~~

(2) ~~If approved, the resident shall sign and agree under oath, to the standard rules of work/training release. (See WAC 137-56-100.)~~

(3) ~~If the plan is disapproved, the director, or his or her designee shall state the reasons for denial in writing with a copy to the superintendent and inmate and will set a date when the inmate can reapply.)~~ The work release supervisor or designee's screening decision will be documented by the

work/training release facility supervisor/designee on the offender tracking system indicating the action taken.

(2) Approved offenders will be placed in the program based on priority with high risk offenders being placed first. Disapproved offenders can obtain the reasons for the denial as documented on the offender tracking system.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-090 Plan—Restrictions. ~~((1) A resident may be permitted to travel outside the state for the purpose of employment, training, or treatment with prior written permission of the facility supervisor and agreement to waive extradition.~~

(2)) ~~The work or training site shall be within reasonable commuting distance (in most circumstances not more than fifty miles) of the work/training release facility ((or institution)) in which the ((resident)) offender is confined.~~

(3) ~~If the resident has been placed in a work/training release facility for the purpose of developing a plan and the plan is not secured within a reasonable period of time as determined by the department from the date of issuance of transfer orders, the resident may be returned to the institution without prejudice.~~

(4) ~~A purpose of work/training release is to provide a transition period prior to release. Before a work/training release plan is approved, the staff will have a reasonable expectation that the resident will be released in a period of time which will normally not exceed six months. If a release date is not fixed within six months of placement in a work/training release plan, the assistant director, or his or her designee will review the case on an individual basis and may return the resident to the institution if it appears that the resident will be on work/training release for an extended period of time.)~~

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-095 ((Notification.)) Orientation. (1) At the time of admission, each work/training release ((resident)) offender shall be advised in writing of:

- (a) ~~((His/her rights and responsibilities;~~
- (b) ~~Acts prohibited in the work release facility; and))~~

Program goals and services available.

(b) Rules governing conduct and program rules.

(c) Disciplinary action which may be taken in the event of a serious infraction or violation of ((local)) rules((:

(2) ~~Each resident, upon entering the work release facility, shall be given a copy of the rules in this chapter and of all local rules of the work/training release facility to which he/she is assigned.~~

(3)) or special conditions. To include, but not be limited to:

(i) Remain confined to the work/training release premises at all times other than the time necessary to implement the plan or when authorized under WAC 137-56-140. Any work/training release resident approved for placement under a work/training release plan who willfully fails to report to his or her designated assignment or return to the designated

place of confinement at the time specified may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(ii) Have employment or other approved resources in order to maintain himself or herself financially.

(iii) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances or alcoholic beverages.

(iv) Report all income to the work/training facility supervisor or his or her designee. All income from any source shall be immediately placed in the resident's inmate banking account by the facility supervisor or his/her designee. A receipt will be issued.

(2) All amendments or additions to ((this chapter and all amendments or additions to local)) disciplinary rules, policies, and procedures shall be posted at a specifically designated place or places in each work/training release facility in advance of their effective date if possible and for at least thirty days after their effective date. Work/training release ((residents)) offenders shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all ((local)) program rules shall be available at each work/training release facility for examination.

((4)) (3) The work/training release facility supervisor shall ensure that each work/training release resident has the opportunity to understand rules which relate to his/her conduct. If the resident is unable to read or understand English, the rules shall be read to him/her promptly in his/her accustomed language.

(4) All offenders will receive orientation within forty-eight hours of arrival. Orientation must be completed before the offender can leave the facility. The offender must sign the appropriate form indicating he/she will comply with all the work release policies and program rules.

AMENDATORY SECTION (Amending WSR 99-16-078, filed 8/3/99, effective 8/18/99)

WAC 137-56-110 Serious infractions. ((Any of the following acts or omissions of the work/training release resident described and codified in the form below shall constitute a)) Refer to chapter 137-25 WAC, serious infractions.

((Infraction Code	Act/Omission
800	— Creating a risk to the orderly operation of the facility or the health and safety of its residents, staff, or visitors.
801	— Assaulting any person which results in the hospitalization of the person assaulted.
802	— Assaulting any person.
803	— Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
804	— Engaging in sexual acts with others within the facility boundaries.

((Infraction Code	Act/Omission
805	— Fighting with any person, provided, however, that self-defense may be a defense to a serious infraction for fighting.
806	— Threatening another with bodily harm or with any offense against his/her person.
810	— Intentionally failing to seek or maintain employment or training or to maintain oneself financially.
811	— Entering into an unauthorized contract.
812	— Failing to report or turn in all earnings or income.
813	— Modifying a work release plan by the releasee without authorization.
814	— Violating a special condition of work release plan.
815	— Failing to comply with all federal, state, and local laws, or court orders.
816	— Tampering with or blocking any locking device.
817	— Possessing or introducing into the facility an explosive or any ammunition or components of explosives or ammunitions.
818	— Possessing or introducing into the facility any unauthorized tool.
819	— Possessing or introducing into the facility any gun, firearm, weapon, sharpened instrument, knife, or components thereof.
821	— Holding a person hostage or restraining a person against his/her will.
825	— Violating conditions of furlough.
830	— Escaping/absconding with voluntary return within twenty-four hours.
831	— Failing to return to the facility from an authorized sign-out.
832	— Escape from the facility.
833	— Using physical force in the act of escape.
834	— Escape and apprehension out-of-state.
842	— Receiving a positive test result for use of marijuana.
843	— Possessing, introducing, or using alcohol.
844	— Possessing or introducing marijuana or related paraphernalia.
845	— Possessing, introducing, or transferring any narcotics, controlled substance, or related paraphernalia unless authorized by the supervisor pursuant to a valid prescription or order issued in the course of professional treatment by a licensed medical practitioner.

((Infraction Code	Act/Omission
846	— Refusing to submit to a urinalysis, breathalyzer, or other sobriety test.
847	— Receiving a positive test result for use of unauthorized drugs, controlled substances or intoxicants.
851	— Lying to a hearing committee.
852	— Lying to a staff member which causes an innocent person to be penalized, disciplined, or proceeded against.
853	— Intentionally or recklessly setting a fire.
854	— Intentionally or recklessly destroying or damaging state property, or the property of another person.
855	— Stealing (theft) or knowingly possessing stolen property.
856	— Refusing to submit to a body search when lawfully ordered to do so by staff.
857	— Refusing and/or failing to work or attend regularly scheduled assignments.
858	— Intentionally interfering with a staff member in the performance of his/her duties.
859	— Gambling.
860	— Possessing money or other negotiable instruments without prior authorization.
861	— Performing or participating in a marriage ceremony in the facility or on the facility grounds, except when such marriage was approved by the supervisor.
870	— Rioting.
871	— Inciting others to riot.
872	— Engaging in or inciting prohibited group demonstration.
873	— Intentionally interfering with the taking of count.
874	— Counterfeiting, forging, falsification, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
875	— Making intoxicants, narcotics, or other controlled substances.
876	— Giving or offering any official staff member or volunteer a bribe or anything of value for favor or unauthorized service.
877	— Committing four or more general infractions within a ninety-day period all of which arise out of separate incidents and have been reported in writing.
878	— Intentionally failing to comply with an administrative or post-hearing sanction.

((Infraction Code	Act/Omission
900	— Attempting to commit or aiding another person to commit a serious infraction as enumerated in this section. Such action shall be considered the same as commission of the offense itself.
901	— Operating a motor vehicle without permission.)

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-120 Provisions of supervision. In meeting its responsibilities for ~~((the care of residents, a work/training release facility shall provide))~~ providing supervision of offenders in the program, the following will be provided at the work release facility:

(1) ~~((A))~~ Staff on duty twenty-four hours ~~((duty and an office within the facility so that the staff can monitor the activities of the residents))~~ a day, seven days a week;

(2) A check-in and check-out system to ensure that the stated whereabouts of the ~~((resident))~~ offender is known at all times, including checks ~~((on the resident))~~ at school, work, furlough, sponsored outing, pass, etc.;

(3) Bed checks or head counts to account for the resident's whereabouts; a minimum of three counts ~~((per shift))~~ daily shall be required;

(4) Provide adequately for the resident with respect to sleeping quarters, bathroom facilities, and accommodations for cooking, dining, lounging and leisure time activities;

(5) Comply with state and local fire codes and applicable building, safety, and sanitation codes.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-140 Limits of confinement. A work/training release ~~((resident))~~ offender shall be confined to the facility at all times except:

(1) When ~~((interviewing prospective employers))~~ seeking or arranging for registration at a school or training facility;

(2) When working at paid employment or attending a training facility in a vocational or academic program;

(3) ~~((If enrolled in an on-campus training program and housed in an on-campus facility, when participating in customary and official on-campus activities or mandatory field trips;~~

~~((4))~~ When authorized a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal business including a treatment regimen, between the hours of ((8:00)) 7:00 a.m. and 10:00 p.m. and/or outside that time frame with written permission of the facility supervisor or designee;

~~((5))~~ (4) When authorized to participate in social and recreational activities in company with a sponsor-escort between 8:00 a.m. and midnight;

~~((6))~~ (5) When on furlough;

~~((7))~~ (6) When on authorized medical appointments or court appearances;

~~((8))~~ (7) When ordered to perform community service;

(8) When seeking employment as approved on an approved job search pass.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-150 Sponsor-escort. (1) A sponsor-escort shall be a responsible citizen who shall accompany and monitor a work/training release ~~((resident))~~ offender during a social or recreational activity. The sponsor-escort must be approved by the work/training release facility supervisor or designee; and the sponsor and resident must sign an agreement with the department which describes his or her responsibilities.

(2) Persons who are on active/inactive felony probation or parole or under an active SRA sentence, shall not be approved as sponsor-escorts. Persons who have a past felony conviction and who have earned a discharge may be approved as sponsor-escorts on an individual basis by the ~~((assistant director))~~ work release supervisor, or his or her designee.

(3) Sponsor-escorts must complete a sponsor orientation provided by the work/training release facility before eligibility under this section.

(4) Sponsor-escorts may not be party to an active no-contact order with the offender.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-160 Termination of plan. ~~((+))~~ At any time after approval has been granted to any work/training release ~~((resident))~~ offender to participate in the work/training release program, such approval may be revoked, and ~~((if the work/training release resident has been released from))~~ the offender may be sent to a state correctional institution ~~((on a work release plan, he/she may be returned to a state correctional institution, or the plan may be modified, in the sole discretion of the secretary.~~

~~(2) Without limiting the authority of the secretary under subsection (1) of this section, a work/training release plan may be terminated or disciplinary action taken by the classification/disciplinary committee pursuant to this chapter) or jail. A work release offender may be terminated from the program as a result of a disciplinary or classification decision or the following:~~

~~((a))~~ (1) If requested in writing by the work/training release ~~((resident))~~ offender;

~~((b) If the work/training release facility refuses to accept or continue to serve the work/training release resident in accordance with its contract with the department;~~

~~(c) If the plan is discontinued or modified so that it no longer meets agency standards or if the work/training release resident becomes unable to comply with the terms of the plan;~~

~~((d))~~ (2) If the work/training release ~~((resident))~~ offender lacks aptitude for the assignment or is improperly placed; or

~~((e))~~ (3) If the work/training release ~~((resident))~~ offender has been unable to adjust or adapt to the conditions of the work/training release facility; or

~~((f) If the work/training release resident has demonstrated through his or her behavior an unwillingness to respond to counseling by staff; or~~

~~((g))~~ (4) If the work/training release ~~((resident's))~~ offender's situation and circumstances have significantly changed; or

~~((h))~~ (5) If the work/training release ~~((resident))~~ offender has failed to comply with federal or state laws or local ordinances~~((; or~~

~~(i) If the work/training release resident has failed to comply with standard work/training release rules as enumerated in WAC 137-56-100; or~~

~~(j) If the work/training release resident has failed to comply with such other written facility rules as are promulgated by the facility supervisor; or~~

~~(k) If the work/training release resident has failed to comply with such other specific restrictions or behavior expectations which have previously been called to the attention of the work/training release resident by the work/training release facility supervisor and are documented in writing; or~~

~~(l) If the work/training release resident has committed a serious infraction as enumerated in WAC 137-56-110).~~

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-170 Service of notice of proposed disciplinary action. (1) If disciplinary action is proposed, the work/training release facility supervisor or community corrections officer may suspend the work/training release plan and place the ~~((resident))~~ offender in custody pending a disciplinary hearing.

(2) The work/training release facility supervisor or designee shall advise the ~~((resident))~~ offender in writing of the factual allegations which provide the basis for the proposed disciplinary action within one working day after the suspension of the work/training release plan.

(3) If the work/training release plan is not suspended pending the disciplinary hearing, then the facility supervisor or designee shall advise the offender at least twenty-four hours prior to the scheduled hearing.

(4) The factual allegations may be amended and/or new allegations added at any time prior to the disciplinary hearing, provided that the work/training release ~~((resident))~~ offender shall have notice of such new and/or amended allegations at least twenty-four hours prior to the disciplinary hearing unless such notice shall be waived in writing by the ~~((resident))~~ offender.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-175 ((Facility)) Alternatives to the formal disciplinary hearing ((committee)). ~~((1) The disciplinary hearing committee shall consist of at least two members, including the work/training release facility supervisor, or his/her designee, and a member of the contractor's staff, if the~~

facility is under contract with the department. No resident may be a member of this committee. The facility supervisor or designee shall serve as chairperson and shall have the authority to make the final decision. The facility supervisor or his or her designee shall inform the resident, in writing, of the disciplinary hearing committee's decision within three working days.

(2) At institutions, prerelease facilities, and nonecontract work/release facilities, a single hearing officer or the classification committee may serve as the disciplinary hearing committee for work/training release residents housed at those facilities. If the hearing is conducted by a single hearing officer, the hearing must be taped and the tape kept for a minimum of one hundred twenty days after the date of the appeal decision or court action, whichever is later.

(3) No person making an allegation involved in the incident, or called as a witness, shall be a member of the disciplinary hearing committee. Persons called as witnesses must be approved by the disciplinary hearing committee chairperson and must have information or facts which are relative to the allegations being considered. In the event that an individual is disqualified, or disqualifies himself or herself, under this rule or for any other reason, a replacement may be designated by the facility supervisor. When addressing serious infractions, the work/training release community corrections officer may, with the facility supervisor's permission, choose to address the infraction behavior using either a department authorized stipulated agreement or the negotiated sanction agreement process.

AMENDATORY SECTION (Amending WSR 95-22-060, filed 10/30/95, effective 12/1/95)

WAC 137-56-180 Disciplinary hearing. (1) A work/training release ~~((resident))~~ offender served with allegations providing the basis for a proposed disciplinary action shall be notified in writing that a hearing has been set before ~~((a disciplinary hearing committee/))~~ department hearing officer. An allegation involving the commission by the ~~((resident))~~ offender of a serious infraction may be amended at anytime by the department, provided that twenty-four hours notice be given to the ~~((resident))~~ offender or the ~~((resident))~~ offender agrees in writing to waive notice to respond to the allegations. The hearing will be ~~((set))~~ held within ~~((five))~~ eight working days of the suspension of the work/training release plan, unless a longer time is approved by the ~~((area assistant director))~~ hearings program administrator or his or her designee. The written notice of hearing shall be given to the ~~((resident))~~ offender at least twenty-four hours before the hearing unless notice is waived, in writing, and advise the ~~((resident))~~ offender of his or her rights, including the following:

(a) The ~~((resident))~~ offender shall be present at all stages of the hearing, except during deliberation in appropriate circumstances.

(b) The ~~((resident))~~ offender shall present his or her own case to the ~~((disciplinary hearing committee/))~~ hearing officer. If there is a language or communications barrier, the ~~((disciplinary hearing committee chairperson/))~~ hearing officer shall appoint an advisor.

(c) The ~~((resident))~~ offender may have an attorney present at his/her expense, only when a felony has been alleged. Such representation is limited to advising the ~~((resident))~~ offender of his or her rights to remain silent, and does not include the right to act as an advocate throughout the hearing.

(d) The ~~((resident))~~ offender may testify during the hearing or remain silent, and his or her silence will not be held against him or her.

(e) The work/training release ~~((resident))~~ offender may, in preparation for the hearing, ask the ~~((disciplinary hearing committee chairperson/))~~ hearing officer that certain department or contract staff members, other work/training release ~~((residents))~~ offenders, and other persons be present as witnesses at the hearing. The ~~((disciplinary hearing committee/))~~ hearing officer shall grant such request if it is determined by the ~~((disciplinary hearing committee chairperson/))~~ hearing officer that to do so would not be unduly hazardous to the work/training release facility's safety or correctional goals: Provided, however, Limitations may be made by the ~~((disciplinary committee))~~ hearing officer if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the work/training release ~~((resident's))~~ offender's case.

(2) Attendance at the hearing shall be limited to parties directly concerned. The ~~((disciplinary hearing committee chairperson/))~~ hearing officer may exclude unauthorized persons.

(3) ~~((The disciplinary hearing committee/hearing officer shall make an evaluation of the resident and may make a recommendation to the indeterminate sentence review board regarding good time credits and readiness for parole.))~~ Hearings shall be recorded and a copy of the recording maintained in accordance with the statewide retention schedule.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-200 Disciplinary hearing—Waiver. (1) At any time after having been served with an allegation providing the basis for a proposed disciplinary action, the ~~((resident))~~ offender may choose to waive his or her right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with entirely or limited only to questions of disposition. Also, the ~~((resident))~~ offender may waive, in writing, the twenty-four hour notice.

(2) The ~~((resident))~~ offender may admit in writing to part of the allegations and thereby limit the scope of the hearing.

(3) In those cases where the allegation involves misbehavior or other culpability on the part of the ~~((resident))~~ offender, he or she shall be advised in writing that in admitting the violation and waiving the hearing, a report will be submitted which may result in the loss of work/training release status, good time credits and/or the extension of the minimum term.

AMENDATORY SECTION (Amending WSR 95-22-060, filed 10/30/95, effective 12/1/95)

WAC 137-56-210 Disciplinary hearing—Rules of evidence. (1) All relevant and material evidence is admissi-

ble which, in the opinion of the ~~((disciplinary hearing committee chairperson))~~ hearing officer, is the best evidence reasonably obtainable having due regard for its necessity, availability, and trustworthiness.

(2) All evidence material to the issues raised in the hearing shall be offered into evidence. All evidence forming the basis for the ~~((department's))~~ hearing officer's decision in a matter shall be offered into evidence.

(3) The work/training release ~~((resident))~~ offender shall be allowed to call witnesses approved by the ~~((disciplinary hearing committee chairperson))~~ hearing officer pursuant to WAC 137-56-180 (1)(e) and to present documentary evidence in his/her defense at the hearing when permitting the work/training release ~~((resident))~~ offender to do so will not be unduly hazardous to the work/training release facility's safety or correctional goals unless the testimony to be presented by the witness and/or the information desired to be presented is deemed by the ~~((disciplinary hearing committee chairperson))~~ hearing officer to be irrelevant, immaterial, unnecessarily duplicative of other information and/or testimony before the ~~((disciplinary hearing committee))~~ hearing officer, or otherwise found to be unnecessary to the adequate presentation of the work/training release ~~((resident's))~~ offender's case. The testimony of all witnesses from outside the work/training release facility shall be considered in writing. In the event the ~~((disciplinary hearing committee chairperson))~~ hearing officer determines that the presence of a witness is appropriate, the ~~((disciplinary hearing committee))~~ hearing officer should call the witness, or in its discretion, may continue the hearing if the witness is unavailable, but will become available within a reasonable period of time: Provided, however, That if the witness is unavailable, the ~~((disciplinary hearing committee))~~ hearing officer may, in ~~((its))~~ his or her discretion, consider the written testimony previously submitted.

(4) The work/training release ~~((resident))~~ offender may question witnesses against him/her at the discretion of the ~~((disciplinary hearing committee chairperson))~~ hearing officer. If the ~~((disciplinary hearing chairperson))~~ hearing officer determines that a source of information would be subject to risk or harm if his/her identity were disclosed, testimony of the confidential source may be introduced by the testimony of a staff member. The confidential testimony may be provided by the source or by the written and signed statement of the source. If the staff member to whom the source provided information is unavailable, the written statement of this staff member may be used. The ~~((disciplinary hearing chairperson))~~ hearing officer shall, out of the presence of all work/training release ~~((residents))~~ offenders and off the record, identify the confidential source, and how the testifying staff member received the confidential information. The staff member presenting the information from a confidential source shall identify the source and the circumstances surrounding the receipt of the confidential information to the ~~((disciplinary hearing chairperson))~~ hearing officer, off the record. The ~~((disciplinary hearing chairperson))~~ hearing officer shall make an independent determination regarding the reliability of the confidential source, the credibility of the confidential information, and the necessity of not revealing the source of the confidential information. In determining

whether the confidential source is reliable and the confidential information is credible, the ~~((disciplinary hearing chairperson))~~ hearing officer should consider all relevant circumstances including, but not limited to:

(a) Evidence from other staff members that the confidential source has previously given reliable information;

(b) Evidence that the confidential source had no apparent motive to fabricate information;

(c) Evidence that the confidential source received no benefit from providing the information;

(d) Whether the confidential source is giving first-hand information;

(e) Whether the confidential information is internally consistent and is consistent with other known facts; and

(f) The existence of corroborating evidence.

The ~~((disciplinary hearing chairperson))~~ hearing officer shall also determine whether safety concerns justify nondisclosure of the source of confidential information. The reliability and credibility determination and the need for confidentiality must be made on the record.

(5) Documentary evidence, including written statements submitted by interested parties on behalf of the ~~((resident))~~ offender, may be received. Such evidence may include copies of documents, excerpts from documents and incorporation of written material by reference, including depositions.

~~((The chairperson of the disciplinary hearing committee may exclude relevant evidence if the probative value is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the committee or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.~~

~~((7))~~ The ~~((disciplinary hearing committee))~~ hearing officer should determine if the ~~((resident))~~ offender is competent to understand the charges and proceedings or needs an interpreter to participate therein. If the ~~((resident))~~ offender is not competent or needs an interpreter, the ~~((disciplinary hearing committee))~~ hearing officer should postpone the hearing to secure a report on the competency of the ~~((resident))~~ offender, provide an interpreter, or take such other action as will assure the fairness and orderliness of the hearings.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-220 Disciplinary hearing—Findings and conclusions. (1) At the conclusion of the hearing, the ~~((disciplinary hearing committee))~~ hearing officer will make a finding of fact ~~((within one working day))~~ as to whether or not the allegations made against the ~~((resident))~~ offender have been proven by a preponderance of the evidence presented at the hearing.

(2) If the ~~((disciplinary hearing committee))~~ hearing officer determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the ~~((resident))~~ offender shall be restored/continued on work/training release status.

(3) If the ~~((disciplinary hearing committee))~~ hearing officer determines that one or more of the allegations have been proven by a preponderance of the evidence presented at

the hearing, the ~~((disciplinary hearing committee))~~ hearing officer will proceed to a disposition.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-230 Disciplinary hearing—Disposition.

(1) ~~The hearing officer shall seek and consider input from the community corrections officer, the facility contract staff and pertinent treatment providers.~~

(2) The ~~((disciplinary hearing committee))~~ hearing officer will consider the ~~((resident's))~~ offender's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the ~~((resident's))~~ offender's ability to continue in the program. The ~~((disciplinary hearing committee))~~ hearing officer shall make a determination as to whether or not the ~~((resident))~~ offender has earned good time credits toward release, and whether the matter should be referred to the indeterminate sentence review board or the court for possible increase in the inmate's or ~~((resident's))~~ offender's minimum term.

~~((2))~~ (3) The ~~((resident))~~ offender shall be present at all stages of the hearing, except for deliberation and even during deliberation when appropriate, and shall have the opportunity to make argument in his or her own behalf.

AMENDATORY SECTION (Amending WSR 94-07-065, filed 3/14/94, effective 5/1/94)

WAC 137-56-240 Disciplinary hearing—Decision.

(1) The ~~((disciplinary hearing committee))~~ hearing officer may:

(a) Restore the work/training release ~~((resident))~~ offender to his or her work/training release status under the same or modified conditions as the original plan; or

(b) Restrict the ~~((resident))~~ offender to the work/training release facility for up to thirty days; or

(c) Require restitution to be made by the work/training release ~~((resident))~~ offender; or

(d) Require extra duty to be performed by the ~~((resident))~~ offender; or

(e) Revoke approval of an approved sponsor; or

(f) Deny good conduct time; or

(g) ~~((Require additional time in prerelease, or~~

~~((h)))~~ Terminate the work/training release plan and return the work/training release ~~((resident))~~ offender to an institution/jail, or facility~~((; or~~

~~((i) Refer the offender to the court or the indeterminate sentence review board for final disposition)).~~

(2) Nothing in this section shall preclude subsequent reclassification of the work/training release ~~((resident))~~ offender or placement into administrative segregation if indemonstrable cause exists to support this action.

(3) The ~~((facility supervisor or designee))~~ hearing officer shall notify the ~~((resident))~~ offender orally within one working day and confirm the decision in writing within five working days. The written decision shall specify the evidence upon which the ~~((disciplinary hearing committee))~~ hearing officer relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termi-

nation of the work/training release is based, the reasons for the decision, a discussion of the ~~((resident's))~~ offender's personal culpability in the actions which have led to the termination, and an evaluation of the ~~((resident's))~~ offender's progress, attitudes, need for further programs including work training alternatives ~~((and readiness for release)).~~

AMENDATORY SECTION (Amending WSR 95-22-060, filed 10/30/95, effective 12/1/95)

WAC 137-56-250 Disciplinary hearing—Appeal. The ~~((resident))~~ offender may appeal the decision of the ~~((facility disciplinary hearing committee))~~ hearing officer to the ~~((assistant director, or his or her designee))~~ area appeals panel. Appeal requests must be in writing, must be specific and based on objection to the procedures used or the information available to the ~~((committee))~~ hearing officer in making ~~((its))~~ his or her decision. Appeals must be submitted within ~~((five working))~~ seven calendar days of the ~~((committee's oral))~~ hearing officer's written decision. For reasons of community protection, all sanctions ordered by the ~~((disciplinary hearing chairperson))~~ hearing officer will be imposed following the hearing and will not be stayed. The ~~((assistant director, or his or her designee))~~ appeals panel, upon receipt of an appeal, will review the findings and decision of the ~~((disciplinary hearing committee))~~ hearing officer and either:

(1) Affirm, or affirm and modify to a lesser sanction the decision of the ~~((facility disciplinary hearing committee))~~ hearing officer; or

(2) Reverse the decision of the ~~((facility disciplinary hearing committee))~~ hearing officer; or

(3) Remand ~~((the decision for additional findings or))~~ for a rehearing.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 137-56-060 Application—Decision.

WAC 137-56-100 Standard rules.

WSR 05-21-106

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 18, 2005, 3:50 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Chapter 308-20 WAC, Cosmetologists, barbers, manicurists and estheticians; amending WAC 308-20-120 Written and performance examinations and 308-20-210 Fees.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on November 22, 2005, at 1:00 p.m.

Date of Intended Adoption: November 23, 2005.

Submit Written Comments to: Sandra Gonzales, Department of Licensing, Cosmetology Program, P.O. Box 9026, Olympia, WA 98507, e-mail sgonzales@dol.wa.gov, fax (360) 570-4957, by November 21, 2005.

Assistance for Persons with Disabilities: Contact Sandra Gonzales by November 21, 2005, TTY (360) 664-8885 or (360) 664-6649.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Department of Licensing will be moving to a national written exam for cosmetologists, barbers, manicurists, and estheticians on or after January 1, 2006.

WAC 308-20-120 Written and performance examinations, on the national examination each question may be worth different points. In keeping with national standards of the way the examination is graded we are proposing that the examination be graded on the percent of total number of points available instead of the total number of questions.

WAC 308-20-210 Fees, the department is removing written examination application and written examination retake fees. These fees will be paid directly to the third-party examiner.

Reasons Supporting Proposal: Eliminating the written examination application and examination retake fees will still ensure that there is a sufficient level of revenue to maintain a reasonable fund balance and to defray program administration costs as required under RCW 43.24.086. Grading by the total points available will be fair and equitable to all examinees and will keep the grading process of the exam in line with national standards.

Statutory Authority for Adoption: RCW 18.16.030 and 43.24.086.

Statute Being Implemented: RCW 18.16.030.

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

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Trudie Touchette, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-6626; Implementation: Rosie McGrew, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-6626; and Enforcement: Susan Colard, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-6626.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Washington State Department of Licensing is not a named agency, therefore, exempt from this provision.

October 18, 2005

Andrea C. Archer
Assistant Director

AMENDATORY SECTION (Amending WSR 03-14-046, filed 6/24/03, effective 7/25/03)

WAC 308-20-120 Written and performance examinations. (1) The department shall administer or approve the administration of a written and performance license examination. The department may approve written or performance

examinations given by department-approved examination providers.

(2) The written and performance examinations for cosmetologist, barber, manicurist and esthetician shall reasonably measure the applicant's knowledge of safe and sanitary practice. The performance examinations may be divided into skill sections. The overall minimum passing grade for performance examinations shall be seventy-five percent with no section being scored lower than forty percent. If an individual scores lower than forty percent in any one section, the entire performance examination must be retaken. The minimum passing grade for the written examinations shall be seventy-six percent of the total examination (~~((questions))~~) points available.

(3) The written and performance examinations for instructors shall be constructed to measure the applicant's knowledge of lesson planning and teaching techniques. The overall minimum passing grade for the performance examination shall be eighty percent. The minimum passing grade for the written examination shall be eighty percent of the total examination (~~((questions))~~) points available.

AMENDATORY SECTION (Amending WSR 03-14-046, filed 6/24/03, effective 7/25/03)

WAC 308-20-210 Fees. In addition to any third-party examinations fees, the following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Cosmetologist:	
((Written examination application	\$25.00
Written examination retake	25.00))
Renewal (two-year license)	40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
Instructor:	
((Examination application	30.00))
Renewal (two-year license)	40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
Manicurist:	
((Written examination application	25.00
Written examination retake	25.00))
Renewal (two-year license)	40.00
Late renewal penalty	20.00
Duplicate	15.00
Certification	25.00
Esthetician:	
((Written examination application	25.00
Written examination retake	25.00))
Renewal (two-year license)	40.00

Title of Fee	Fee
Late renewal penalty	20.00
Duplicate	15.00
Certification	25.00
Barber:	
((Written examination application	25.00
Written examination retake	25.00))
Renewal (two-year license)	40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
School:	
License application	175.00
Renewal (one-year license)	175.00
Late renewal penalty	175.00
Duplicate	15.00
Curriculum review	15.00
Salon/shop:	
License application	50.00
Renewal (one-year license)	50.00
Late renewal penalty	50.00
Duplicate license	15.00
Mobile unit:	
License application	50.00
Renewal (one-year license)	50.00
Late renewal penalty	50.00
Duplicate license	15.00
Personal services:	
License application	50.00
Renewal (one-year license)	50.00
Late renewal penalty	50.00
Duplicate license	15.00

mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 23, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 18, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Continues the transaction fee at the current rate. The department is implementing a call center for telephonic license issuance and license dealer support, and will monitor the costs for one year. The department will review the transaction fee amount, and may propose a different fee beginning in July, 2007.

Reasons Supporting Proposal: Funds automated licensing system.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.32.050.

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: Ron McQueen, 1111 Washington Street, Olympia, (360) 902-2204; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule affects the cost of a license paid by a recreational fisher or hunter, and has no affect on the small business license vendor. Additionally, there is no change in the rate paid, and thus no effect on the license purchaser.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-311, filed 12/16/03, effective 1/16/04)

WAC 220-55-180 Point-of-sale transaction fee. The point-of-sale transaction fee shall be used to operate an automated recreational licensing system. This fee shall be applied to all automated licensing system purchases of recreational documents. The transaction fee shall be ten percent of the value of the document transaction, excluding any applicable dealer fees except ((that for the period July 1, 2000,)) through June 30, ((2006)) 2007, the transaction fee shall be nine and one-half percent of the value of the document transaction, excluding any applicable dealer fee.

WSR 05-21-108
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed October 18, 2005, 4:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-060.

Title of Rule and Other Identifying Information: Automated license system transaction fee.

Hearing Location(s): Natural Resources Building, 1111 Washington Street, Olympia, WA, on December 2-3, 2005, begins at 8:00 a.m. December 2, 2005.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-

WSR 05-21-109
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed October 18, 2005, 4:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-331 Game management units (GMUs) boundary descriptions—Region one.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region one.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-175, filed 8/5/03, effective 9/5/03)

WAC 232-28-331 Game management units (GMUs) boundary descriptions—Region one.

GMU 101-SHERMAN (Ferry and Okanogan counties):

Beginning at the Kettle River and the US-Canadian border near the Ferry Customs Office, north of the town of Toroda; E on the US-Canadian border to the Kettle River, east of the town of Laurier; S down the Kettle River (Ferry-Stevens county line) to the mouth of the Kettle River on Lake Roosevelt; S down the western shore of Lake Roosevelt to the northeastern corner of the Colville Indian reservation; W on the northern Colville Indian reservation boundary to SR 21; N on SR 21 to SR 20 at the town of Republic; NW on SR 20 to Toroda Creek Rd (Okanogan County Rd 9495) at the town of Wauconda; NE on the Toroda Creek Rd (Okanogan

County Rd 9495 and Ferry County Rd 502) to Toroda Creek at the town of Toroda; E along Toroda Creek to its mouth on the Kettle River; N up the Kettle River to the US-Canadian border near the Ferry Customs Office north of the town of Toroda and point of beginning.

GMU 105-KELLYHILL (Stevens County):

Beginning at the Kettle River (Ferry-Stevens county line) and the US-Canadian border east of the town of Laurier; E on the US-Canadian border to Lake Roosevelt (Columbia River); SW along the eastern shore of Lake Roosevelt (Columbia River) to the US Hwy 395 bridge; W on US Hwy 395 over the bridge to the western shore of Lake Roosevelt; N on the western shore of Lake Roosevelt to the mouth of the Kettle River; N up the Kettle River (Ferry-Stevens county line) to the US-Canadian border east of the town of Laurier and the point of beginning.

GMU 108-DOUGLAS (Stevens County):

Beginning at the junction of US Hwy 395 and SR 20 in the town of Colville; NW on US Hwy 395 (SR 20) to the bridge over Lake Roosevelt; N up the southeastern shore of Lake Roosevelt and Columbia River to the SR 25 bridge over the Columbia River at the town of Northport; S on SR 25 to Aladdin Rd in the town of Northport; SW on the Aladdin Rd to SR 20, E of the town of Colville; W on SR 20 to Hwy 395 at the town of Colville and point of beginning.

GMU 111-ALADDIN (Stevens and Pend Oreille counties):

Beginning at the junction of the Aladdin Rd and SR 20 on the east side of Colville; N on Aladdin Rd to SR 25 at the town of Northport; N on SR 25 to the bridge over the Columbia River; NE along the southeastern shoreline of the Columbia River to the US-Canadian border; E along the US-Canadian border to the Pend Oreille River; S along the western shoreline of the Pend Oreille River to Tiger East Rd, which is due east of the town of Tiger; W on the Tiger East Rd to SR 20 at the town of Tiger; W and S on SR 20 to the junction with the Aladdin Rd, E of the town of Colville and point of beginning.

GMU 113-SELKIRK (Pend Oreille County):

Beginning on the western shore of the Pend Oreille River at the US-Canadian border; E on the US-Canadian border to the Washington-Idaho state line; S on the Washington-Idaho state line to the southwestern shore of the Pend Oreille River at the town of Newport; NW along the southwestern shore of the Pend Oreille River to the US-Canadian border and the point of beginning.

GMU 117-49 DEGREES NORTH (Stevens and Pend Oreille counties):

Beginning at junction of SR 20 and US Hwy 395 at the town of Colville; E on SR 20 to Tiger East Rd at the town of Tiger; E on Tiger East Rd to western shore of the Pend Oreille River; S along the southwestern shore of the Pend Oreille River to the Washington-Idaho state line; S along the Washington-Idaho state line to US Hwy 2 in the town of Newport; SW and S on US Hwy 2 to the Deer Park-Milan Rd; W on the Deer Park-Milan Rd to US Hwy 395 at the town of Deer Park; NW on US Hwy 395 to its junction with SR 20 at the town of Colville and the point of the beginning.

GMU 121-HUCKLEBERRY (Stevens County):

Beginning at the US Hwy 395 bridge over Lake Roosevelt (Columbia River) northwest of the town of Kettle Falls; SE on US Hwy 395 through Colville and Chewelah to SR 292 at Loon Lake; W on SR 292 to SR 231 at the town of Springdale; S on SR 231 to the northeast corner of the Spokane Indian reservation; W on the northern boundary of the Spokane Indian reservation to eastern boundary of the Colville Indian reservation on the Ferry-Stevens county line on Lake Roosevelt; N along the Colville Indian reservation boundary to its northern corner on Lake Roosevelt; W along Colville Indian reservation boundary to the western shore of Lake Roosevelt; N along western shore of Lake Roosevelt to the US Hwy 395 bridge over Lake Roosevelt northwest of the town of Kettle Falls and the point of beginning.

GMU 124-MOUNT SPOKANE (Spokane, Stevens and Pend Oreille counties):

Beginning at the junction of SR 231 and SR 292 at the town of Springdale; E on SR 292 to US Hwy 395 at Loon Lake; SE on US Hwy 395 to the Deer Park-Milan Rd; E on the Deer Park-Milan Rd to US Hwy 2; N and NE on US Hwy 2 to the Washington-Idaho state line at the town of Newport; S on the Washington-Idaho state line to the Spokane River; W and NW down the north shore of Spokane River to Spokane Indian reservation boundary (Chamokane Creek) north along the eastern boundary of the Spokane Indian reservation boundary (Chamokane Creek) to the northeastern corner of the Spokane Indian reservation; E from the northeastern corner of the Spokane Indian reservation to SR 231; N on SR 231 to SR 292 at the town of Springdale and the point of beginning.

GMU 127-MICA PEAK (Spokane County):

Beginning at the mouth of Latah Creek (Hangman Creek) on the Spokane River; E up the south shore of the Spokane River to the Maple Street Bridge; N across the Maple Street Bridge to the north shore of the Spokane River; E on the north shore of the Spokane River to the Washington-Idaho state line; south on the Washington-Idaho state line to SR 274 at the town of Willard; SW on SR 274 to SR 27 at the town of Tekoa; NW on SR 27 to Fairbanks Rd; W on Fairbanks Rd to Dunn Rd; SW on Dunn Rd to Merrit Rd; W on Merrit Rd to US Route 195; N on US Route 195 to I-90; E on I-90 to Latah Creek (Hangman Creek); N down Latah Creek (Hangman Creek) to the Spokane River and the point of beginning.

GMU 130-CHENEY (Spokane and Lincoln counties):

Beginning on the Spokane River and SR 231; E up the north shore of the Spokane River to the Maple Street Bridge; S on the Maple Street Bridge to the south shore of the Spokane River; W on the south shore of the Spokane River to Latah Creek (Hangman Creek) in Spokane; S up Latah Creek (Hangman Creek) to I-90; W on I-90 to US Hwy 195; S on US Hwy 195 to Rosalia exit and south to Gashouse Rd in the town of Rosalia; W on Gashouse Rd to Squaw Rd; NW on Squaw Rd to Blackman Rd; W on Blackman Rd to Texas Ferry Rd; S on Texas Ferry Rd to Siegal Rd; W on Siegal Rd to Belsby Rd; W on Belsby Rd to Henderson Rd; W on Henderson Rd to Mullinix Rd; N on Mullinix Rd to Reed Rd; W on Reed Rd to Spuller Rd; S on Spuller Rd to Dewey Rd; W on Dewey Rd to Stoner Rd; SW on Stoner Rd to SR 23; NW

along SR 23 to SR 231; N on SR 231 to US Hwy 2; E on US Hwy 2 to SR 231 at the town of Reardan; N along State Hwy 231 to the Spokane River and to the point of beginning.

GMU 133-ROOSEVELT (Lincoln County):

Beginning at the west end of the Grand Coulee Dam at Lake Roosevelt; E along the Grant-Okanogan, Lincoln-Okanogan, Lincoln-Ferry county lines on Lake Roosevelt to the Spokane River; E up the Spokane River, following the Lincoln-Stevens county line, to SR 231; S on SR 231 to US Hwy 2 at the town of Reardan; W on US Hwy 2 to SR 21 at the town of Wilbur; N on SR 21 to SR 174; NW on SR 174 to SR 155 at the town of Grand Coulee; NE on SR 155 to the access road to the Grand Coulee Dam causeway (access restricted); E on the causeway access road to the west end of the Grand Coulee Dam at Lake Roosevelt and the point of the beginning.

GMU 136-HARRINGTON (Lincoln and Grant counties):

Beginning at the town of Grand Coulee at SR 174 and Rd W N.E. (Grand Coulee Hill Rd); SE on SR 174 to US Hwy 2 at the town of Wilbur; E on US Hwy 2 to SR 231; S on 231 to SR 23; S on SR 23 to I-90; SW on I-90 to Danekas Rd (Interstate Hwy Exit 231); W on Danekas Rd to Tokio Rd; W on Tokio Rd to Marcellus Rd; N on Marcellus Rd to Davis Rd; W on Davis Rd to Rd 12 N.E.; W on Rd 12 N.E. to Rd W N.E.; N on Rd W N.E. to Rd X N.E. at the town of Marlin; N on Rd X N.E. to Kiner Rd (Lincoln County Rd 9115); NE, E, N, E, and N on Kiner Rd (Lincoln County Rd 9115) to US Hwy 2, east of the town of Almira; SW on US Hwy 2 to Maxwell Rd; W on Maxwell Rd to Old Coulee Rd at the town of Almira; N on Old Coulee Rd to Douglas Rd; W on Douglas Rd to Peterson Rd; N on Peterson Rd to Rd 51; E on Rd 51 N.E. to Rd W N.E.; N on Rd W N.E. to Grand Coulee Hill Rd; N on Grand Coulee Hill Rd to SR 174 in the town of Grand Coulee and the point of the beginning.

GMU 139-STEPTOE (Lincoln, Whitman, and Spokane counties):

Beginning at the Washington-Idaho state line and SR 274 at the town of Willard; W on SR 274 to SR 27 at the town of Tekoa; NW on SR 27 to Fairbanks Rd; W on Fairbanks Rd to Dunn Rd; SW on Dunn Rd to Merrit Rd; W on Merrit Rd to the town of Rosalia; from Rosalia, W on Gashouse Rd to Squaw Rd; NW on Squaw Rd to Blackman Rd; W on Blackman Rd to Texas Ferry Rd; S on Texas Ferry Rd to Siegal Rd; W on Siegal Rd to Belsby Rd; W on Belsby Rd to Henderson Rd; W on Henderson Rd to Mullinix Rd; N on Mullinix Rd to Reed Rd; W on Reed Rd to Spuller Rd; S on Spuller Rd to Dewey Rd; W on Dewey Rd to Stoner Rd; SW on Stoner Rd to SR 23; N on SR 23 to Lamont Rd; SW on Lamont Rd to Revere Rd; S on Revere Rd to Rock Creek; S down Rock Creek to the Palouse River; S down the Palouse River to SR 26; E along SR 26 to US Hwy 195 at the town of Colfax; S on US Hwy 195 to SR 270; E on SR 270 to Washington-Idaho state line; north on the Washington-Idaho state line to SR 274 at the town of Willard and the point of the beginning.

GMU 142-ALMOTA (Whitman County):

Beginning at US Hwy 195 and SR 26 at the town of Colfax; SE on US Hwy 195 to SR 270; E on SR 270, through the town of Pullman to the Washington-Idaho state line near Moscow, Idaho; S along the Washington-Idaho state line to

the Snake River (Asotin-Whitman county line), north of the town of Clarkston; W along the Snake River (Asotin-Whitman, Garfield-Whitman, and Columbia-Whitman county line) to the mouth of the Palouse River (Franklin-Whitman county line); N and E up the Palouse River (Franklin-Whitman county line) to SR 26, west of the town of Gordon; E on SR 26 (Washtucna-Lacrosse Hwy) to US Hwy 195 at the town of Colfax and the point of beginning.

GMU 145-MAYVIEW (Garfield and Asotin counties):

Beginning at the SR 127 bridge crossing the Snake River (Whitman-Garfield county line) at Central Ferry; E along the Snake River (Whitman-Asotin and Whitman-Garfield county lines) to the mouth of Alpowa Creek; S up Alpowa Creek to the US Hwy 12 bridge; W on US Hwy 12 to SR 127; N on SR 127 (Central Ferry Hwy) to the bridge crossing the Snake River (Garfield-Whitman county line) at Central Ferry and the point of beginning.

GMU 149-PRESCOTT (Walla Walla, Columbia, and Garfield counties):

Beginning on the Columbia River at the mouth of the Snake River (Benton-Franklin-Walla Walla county line); NE and E along the Snake River (Franklin-Walla Walla, Whitman-Columbia, and Whitman-Garfield county lines) to SR 127 bridge at Central Ferry; S on SR 127 (Central Ferry Hwy) to US Hwy 12 at Dodge Junction; SW on US Hwy 12, through the towns of Dayton and Waitsburg, to SR 125 at the town of Walla Walla; S on SR 125 to the Washington-Oregon state line; W on the Washington-Oregon state line to the Columbia River (Benton-Walla Walla county line); N along the Columbia River (Benton-Walla Walla county line) to the mouth of the Snake River and the point of beginning.

GMU 154-BLUE CREEK (Walla Walla and Columbia counties):

Beginning on US Hwy 12 at the town of Waitsburg; NE on US Hwy 12 to Hogeeye Rd at Long Station; E on Hogeeye Rd to the Payne Hollow Rd; S on the Payne Hollow Rd to Jasper Mountain Rd; S on Jasper Mountain Rd to Mt. Pleasant Rd; S on Mt. Pleasant Rd to Dent Rd; S on Dent Rd to the Lewis Peak Rd; S on the Lewis Peak Rd to Lewis Peak Trail; SE on Lewis Peak Trail to US Forest Service Trail 3211 (Mill Creek Watershed Intake Trail); SW on US Forest Service Trail 3211 to the Washington-Oregon state line; W on the Washington-Oregon state line to SR 125; N on SR 125 to US Hwy 12; NE on US Hwy 12 to the town of Waitsburg and the point of beginning.

GMU 157-MILL CREEK WATERSHED (Walla Walla and Columbia counties):

Beginning at US Forest Service Trail 3211 (Mill Creek Watershed Intake Trail) at the Washington-Oregon state line; NE and E on US Forest Service Trail 3211 to US Forest Service Rd 64; S on the US Forest Service Rd 64 to the Washington-Oregon state line; W on the Washington-Oregon state line to US Forest Service Trail 3211 and the point of beginning.

GMU 162-DAYTON (Walla Walla and Columbia counties):

Beginning at the junction of US Hwy 12 and Patit Rd in the town of Dayton; E on the Patit Rd to the Hartsock Grade Rd-Maloney Mountain Rd intersection; S on Maloney Mountain Rd to US Forest Service Rd 4625 (Maloney Mountain Rd); S and W on to US Forest Service Rd 4625 to Skyline Drive Rd; SE on Skyline Drive Rd to US Forest Service Rd 46 (Skyline Drive Rd); S on US Forest Service Rd 46 to US Forest Service Rd 64; S on US Forest Service Rd 64 to US Forest Service Trail 3211 (Mill Creek Watershed Intake Trail); W on US Forest Service Trail 3211 to the Lewis Peak Trail; NW on the Lewis Peak Trail to Lewis Peak Rd; N on the Lewis Peak Rd to Dent Rd; N on Dent Rd to Mt. Pleasant Rd; N on the Mt. Pleasant Rd to the Jasper Mountain Rd; N on the Jasper Mountain Rd to Payne Hollow Rd; N on Payne Hollow Rd to Hogeeye Rd; W on Hogeeye Rd to US Hwy 12 at Long Station; NE on US Hwy 12 to its junction with Patit Rd at the town of Dayton and the point of beginning.

GMU 163-MARENGO (Columbia and Garfield counties):

Beginning at the junction of US Hwy 12 and Patit Rd in the town of Dayton; N and E on US Hwy 12 to the Tatman Mountain Rd at Zumwalt; SE on Tatman Mountain Rd to Linville Gulch Rd; S on the Linville Gulch Rd to the Blind Grade Rd; SW on the Blind Grade Rd to the Tucannon Rd; N on the Tucannon Rd to the Hartsock Grade Rd; S on the Hartsock Grade Rd to the Patit Rd; W on the Patit Rd to US Hwy 12 in the town of Dayton and the point of beginning.

GMU 166-TUCANNON (Columbia and Garfield counties):

Beginning at the intersection of the Hartsock Grade Rd and the Tucannon River Rd; SE on the Tucannon River Rd to the elk drift fence at the northern boundary of the W.T. Wooten Wildlife Area; E and S along the elk drift fence to the US Forest Service Rd 40 (Mountain Rd) at the Umatilla National Forest's northern boundary; S on the US Forest Service Rd 40 (Mountain Rd) to US Forest Service Rd 4030 (Diamond Peak Rd); W on US Forest Service Rd 4030 to US Forest Service Trail 3113 (Diamond Peak Trail-Bullfrog Springs Trail-Oregon Butte Trail) at Diamond Peak; W on US Forest Service Trail 3113 to US Forest Service Trail 3136 (Teepee Trail); W along US Forest Service Trail 3136 to US Forest Service Rd 4608 (Teepee Rd) at Teepee Camp; W on the US Forest Service Rd 4608 to US Forest Service Rd 46 (Skyline Drive Rd); N on the US Forest Service Rd 46 to Skyline Drive Rd; N on Skyline Drive Rd to the Maloney Mountain Rd; W on Maloney Mountain Rd to US Forest Service Rd 4625 (Maloney Mountain Rd); E and N on the US Forest Service Rd 4625 (Maloney Mountain Rd) to the Hartsock Grade Rd; N on the Hartsock Grade Rd to the Tucannon River Rd and the point of the beginning.

GMU 169-WENAHA (Columbia, Garfield and Asotin counties):

Beginning on the Washington-Oregon state line at the US Forest Service Rd 64; N on US Forest Service Rd 64 to US Forest Service Rd 46 (Skyline Dr); E on US Forest Service Rd 46 to US Forest Service Rd 4608 (Teepee Rd) at Godman

Springs; E on US Forest Service Rd 4608 to US Forest Service Trail 3136 (Teepee Trail) at Teepee Camp; E on the US Forest Service Trail 3136 to US Forest Service Trail 3113 (Oregon Butte Trail-Bullfrog Springs Trail-Diamond Peak Trail); E on US Forest Service Trail 3113 to US Forest Service Rd 4030 (Diamond Peak Rd) at Diamond Peak; E on US Forest Service Rd 4030 to US Forest Service Rd 40 (Mountain Rd); S along US Forest Service Rd 40 to US Forest Service Rd 4039 (South Boundary Rd); SW along US Forest Service Rd 4039 to US Forest Service Trail 3133 (Three Forks Trail); NW on US Forest Service Trail 3133 to US Forest Service Trail 3100; S on US Forest Service Trail 3100 to the Washington-Oregon state line; due W on the Washington-Oregon state line to US Forest Service Rd 64 and the point of beginning.

GMU 172-MOUNTAIN VIEW (Garfield and Asotin counties):

Beginning on the Washington-Oregon state line at US Forest Service (~~Rd~~) Trail 3100; N on US Forest Service Trail 3100 to US Forest Service Trail 3133 (Three Forks Trail); SE on US Forest Service Trail 3133 (Three Forks Trail) to US Forest Service Rd 4039 (South Boundary Rd); NE on US Forest Service Rd 4039 to US Forest Service Rd 40 (Mountain Rd); N on US Forest Service Rd 40 to US Forest Service Rd 44 (Mount Misery-Big Butte Rd) at Misery junction; E on US Forest Service Rds 44, 43, and 4304 (Mount Misery-Big Butte Rd) to West Mountain Rd; NE on the West Mountain Rd to the Bennett Ridge Rd-Mill Rd; N and E on the Bennett Ridge Rd-Mill Rd to SR 129 at the town of Anatone; SW on SR 129 to the Washington-Oregon state line; due W on the Washington-Oregon state line to US Forest Service Rd 3100 and the point of beginning.

GMU 175-LICK CREEK (Garfield and Asotin counties):

Beginning at the intersection of US Forest Service Rd 40 (Mountain Rd) and the elk drift fence on the Umatilla National Forest's northern boundary; E along the elk drift fence to its end at the eastern border section line of Section 2, T9N, R43E; due S from the end to the elk drift fence on section line of Section 2, T9N, R43E to Charley Creek; E down Charley Creek to Asotin Creek; S down Asotin Creek to the South Fork Asotin Creek Rd; S up the South Fork Asotin Creek Rd to Campbell Grade Rd; E on the Campbell Grade Rd to Back Rd (Asotin County Rd 01550); N and E on Back Rd (Asotin County Rd 01550) to the Cloverland Rd; S on Cloverland Rd to its junction with the Umatilla National Forest's eastern boundary fence; E and S on the US Forest Service boundary fence past Big Butte to US Forest Service Rd 4303 (Big Butte Rd-Mount Misery Rd); W on US Forest Service Rds 4304, 43, and 44 (Big Butte Rd-Mount Misery Rd) to US Forest Service Rd 40 (Mountain Rd) at Misery junction; NW on US Forest Service Rd 40 (Mountain Rd) to the intersection with the elk drift fence on the Umatilla National Forest's northern boundary and the point of beginning.

GMU 178-PEOLA (Garfield and Asotin counties):

Beginning at the intersection of US Hwy 12 and Tatman Mountain Rd at Zumwalt; E on US Hwy 12 to bridge near the mouth of Alpowa Creek; N down Alpowa Creek to the Snake River; E and S along the Snake River (Asotin-Whitman county line, Washington-Idaho state line) to the mouth of

Asotin Creek; W along Asotin Creek to Charley Creek; W along Charley Creek to the unit boundary marker at the eastern border section line of Section 2, T9N, R43E; N on eastern border section line of Section 2, T9N, R43E to end of the elk drift fence; W along the elk drift fence to the boundary of the W.T. Wooten Wildlife Area; NW and W along the elk drift fence to the Tucannon River Rd; N on the Tucannon River Rd to Blind Grade Rd; NE up Blind Grade Rd to the Linville Gulch Rd; N on the Linville Gulch Rd to Tatman Mountain Rd; NW up Tatman Mountain Rd to US Hwy 12 at Zumwalt and the point of beginning.

GMU 181-COUSE (Asotin County):

Beginning at the mouth of Asotin Creek on the Snake River at the town of Asotin; S along the Snake River (Washington-Idaho state line) to the Grande Ronde River; W along the north shore of Grande Ronde River to SR 129; NW on SR 129 to Mill Rd in the town of Anatone; S and W on the Mill Rd-Bennett Ridge Rd to West Mountain Rd; SW on West Mountain Rd to Umatilla National Forest eastern boundary fence at Big Butte; N along the Umatilla National Forest boundary fence to the Cloverland Rd; NE on the Cloverland Rd to Back Rd (Asotin County Rd 01550); W and S on Back Rd (Asotin County Rd 01550) to Campbell Grade Rd; W on the Campbell Grade Rd to the South Fork Asotin Creek Rd; NE on the South Fork Asotin Creek Rd to Asotin Creek; NE down Asotin Creek to the Snake River at the town of Asotin and the point of beginning.

GMU 186-GRANDE RONDE (Asotin County):

Beginning on the Washington-Oregon state line and SR 129; N on SR 129 to the Grande Ronde River; E along the north shore of the Grande Ronde River to the Snake River (Washington-Idaho state line); S along the Snake River (Washington-Idaho state line) to the Washington-Oregon state line; W on the Washington-Oregon state line to SR 129 and the point of beginning.

WSR 05-21-110

PROPOSED RULES

**DEPARTMENT OF
FISH AND WILDLIFE**

[Filed October 18, 2005, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-337 Deer and elk area descriptions.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Boundary adjustments are being proposed for Elk Areas 3911, 3912, 3068, 3721, and 3722 to better address current elk damage issues. An additional Elk Area, 3723, is being proposed in anticipation of future hunting seasons on the Arid Lands Ecology Reserve.

Reasons Supporting Proposal: The department is required by statute to address wildlife damage. The proposed amendment provides the means to reduce wildlife damage issues and direct elk damage hunts by adjusting elk area boundaries.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 05-84, filed 5/10/05, effective 5/15/05)

WAC 232-28-337 Deer and elk area descriptions.

ELK AREAS

Elk Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1011 (Columbia County): That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

Elk Area No. 1012 (Columbia County): That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1013 (Asotin County): GMU 172, excluding National Forest lands.

Elk Area No. 1014 (Columbia-Garfield counties): That part of GMU 166 Tucannon west of the Tucannon River and USFS Trail No. 3110 (Jelly Spr.-Diamond Pk. Trail).

Elk Area No. 2032 Malaga (Kittitas and Chelan counties): Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north

of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

Elk Area No. 2033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); west on USFS 7101 Road to Mission Creek Road; north on Mission Creek Road to USFS 7104 Road (Sand Creek Road); west on USFS 7104 Road (Sand Creek Road) to Camas Creek; west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; north along USFS 7200 Road to U.S. Highway 97; north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); north on the USFS 7300 Road to the Wenatchee River at Leavenworth; down the Wenatchee River and Columbia River to the point of beginning.

Elk Area No. 2051 Tronsen (Chelan County): All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingersol Road (WDFW Rd 1); north and east on Ingersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to Naneum Ridge Road; west on Naneum Ridge Road to Ingersol Road and the point of beginning.

Elk Area No. 3028 Cooke Creek (Kittitas County): Beginning at the junction of the Naneum Ridge and Swift Creek Road in T20N, R20E, Section 16, east on the Naneum Ridge Road to the Colockum Road; south on the Colockum and Brewton roads to the power lines in T20N, R21E, Section 29; south and west on the power lines to the Coleman Creek Road; north on the Coleman Creek Road to the Swift Creek

Road and point of beginning, excluding Arthur Coffin Game Reserve.

Elk Area No. 3068 Klickitat Meadows (Yakima County): Beginning at ~~((Reservation Creek and South Fork Ahtanum Creek; west along Reservation Creek to))~~ the high point (Section 18, T12N, R14E) on the ridge above ~~((its))~~ the headwaters of Reservation Creek; northwest to Spenser Point (as represented on the Mt. Adams DNR 100K map); northeast from Spenser Point to USFS Trail 1136; north along USFS Trail 1136 to USFS Road 615 to Darland Mt.; southeast along crest of main divide between Diamond Fork drainage and ~~((Middle Fork))~~ Ahtanum Creek drainage to the high point on the ridge above the headwaters of ((South Fork Ahtanum Creek; east along South Fork Ahtanum Creek to)) Reservation Creek and point of beginning.

Elk Area No. 3721 Corral Canyon (Benton and Yakima counties): That part of GMU 372 beginning at the Yakima River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the Hanford Reach National Monument's (HRNM) southwest corner boundary; ~~((north along the HRNM western boundary to SR 24; continue north along the HRNM western boundary))~~ east and south along the HRNM boundary ((to the Columbia River; east along Columbia River (Yakima Grant, Grant Benton Co. lines) to Vernita Bridge on SR 24; east and south down Benton County side of Columbia River, following ordinary high water mark of shoreline, to mouth of Yakima River;)) to SR 225; south on SR 225 to the Yakima River; west (upstream) along Yakima River ~~((upstream))~~ to point of beginning (SR 241 Bridge).

Elk Area No. 3722 Blackrock (Benton and Yakima counties): That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids Dam; east along Columbia River ~~((Yakima Grant, Grant Benton Co. lines) to Vernita Bridge on SR 24; east and south down Benton County side of Columbia River, following ordinary high water mark of shoreline, to mouth of Yakima River; west along Yakima River (upstream) to southeast corner of the WDFW Rattlesnake Slope Wildlife Area; west along the southern boundary of the Rattlesnake Wildlife Area to the southern boundary of the Arid Lands Ecology Reserve (ALE); west along the ALE southern boundary to SR 241))~~ to the Hanford Reach National Monument's (HRNM) western boundary; south along the HRNM boundary to the Rattlesnake Ridge Road; west on Rattlesnake Ridge Road to highway SR 241; south on SR 241 to the Yakima River Bridge; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

Elk Area No. 3723 ALE (Benton County): That part of GMU 372 within the boundaries of the Arid Lands Ecology Reserve (ALE) of the Hanford Reach National Monument

(HRNM). ALE encompasses the HRNM lands south of SR 24, southwest of SR 240, and west of SR 225.

Elk Area No. 3911 Fairview (Kittitas County): Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and I-90; east along the power lines through Cle Elum to the Teanaway Road; north on the Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; north on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to Parke Creek Road; north on Parke Creek Road to Whiskey Jim Road; east on Whiskey Jim Road to Beacon Ridge Road; south on Beacon Ridge Road to the Vantage Highway; east along the Vantage Highway to I-90; west along I-90 to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umptaneum Road; north on Umptaneum Road to South Branch Canal; west on South Branch Canal to Bradshaw Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to the Cabin Creek Road; east and north on Cabin Creek Road to Easton and I-90; east on I-90 to point of beginning.

Elk Area No. 3912 Old Naches (Yakima County): Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the sheep feeding site in T15N, R16E, Section 30; south on the feeding site Access Road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the elk fence in T14N, R16E, Section 3; due south from the start of the elk fence to the top of the cliff; southwest along the cliff/rimrock to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; South Fork Ahtanum Creek to Ahtanum Creek to Yakima River; up the Yakima River to Roza Canal and point of beginning.

Elk Area No. 3944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); north to USFS Road 1712; east on USFS Road 1712 (Clemen Ridge Road) to the elk fence gate (T15N; R17E; Section 23 NE 1/4) at the top of Austin Spur Road; south and west along the elk fence to Highway 410 to the point of beginning.

Elk Area No. 4041 Grandy Creek (Skagit County): Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road; west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

Elk Area No. 4941 Skagit River (Skagit County): Beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

Elk Area No. 5029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

Elk Area No. 5050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection; west to the Mauerman Road; west and southwest on the Mauerman Road to the Pe Ell/McDonald Road; south and east on the Pe Ell/McDonald Road to the Lost Valley Road; south and southeast on the Lost Valley Road to the Boistfort Road; east and north along the Boistfort Road to State Highway 6 and point of beginning.

Elk Area No. 5051 Green Mountain (Cowlitz County): Beginning at the junction of the Cowlitz River and the Toutle River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser

4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

Elk Area No. 5052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5054 Boistfort (Lewis County): Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

Elk Area No. 5055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; west on East Valley Road to the junction with Middle Valley Road (4.5 miles); north along Middle Valley Road to the junction of Oat Field Road (2.5 miles).

Elk Area No. 5056 Grays River Valley (Wahkiakum County): On or within 1/4 mile of agricultural land in the Grays River Valley within the following sections: T10N,

R7W, Sections 8, 9, 17, 18 and T10N, R8W, Sections 13, 23, 24, 26.

Elk Area No. 5057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 5058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 5060 Merwin (Cowlitz County): Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

Elk Area No. 5090 JBH (Wahkiakum County): The main-land portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

Elk Area No. 5099 Mudflow (Cowlitz County): That part of GMU 522 (Loo-wit) that is within the boundary of the St. Helens Wildlife Area.

Elk Area No. 6010 Mallis (Pacific County): That part of GMUs 506, 672, and 673 within one mile either side of State Road 6 between the east end of Elk Prairie Road and the Mallis Landing Road.

Elk Area No. 6011 Centralia Mine (Lewis County): That portion of GMU 667 within Centralia Mine property boundary.

Elk Area No. 6012 Tri Valley (Grays Harbor and Mason counties): All lands within one mile of Brady-Matlock Road from State Highway 12 north to the junction with Schaefer State Park Road (east Satsop Road) and all lands within one mile of Wynoochee Valley Road from State Highway 12 north to the junction with Cougar Smith Road, and all lands within one mile of Wishkah Valley Road from north Aberdeen city limit to the junction with Wishkah-East Hoquiam Road.

Elk Area No. 6054 Puyallup River (Pierce County): That part of GMU 654 south of the Puyallup River.

Elk Area No. 6061 Twin Satsop Farms (Mason County): That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

Elk Area No. 6062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

Elk Area No. 6063 (Grays Harbor and Jefferson counties): Private lands within Elk Area 6064 east of Highway 101.

Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) within the Quinault River watershed.

Elk Area No. 6066 Chehalis Valley (Grays Harbor County): That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

Elk Area No. 6067 North Minot (Grays Harbor County): The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank to South State Street (Oakville); north on South State Street to U.S. 12; northwest and west on U.S. 12 to State Route 107; south and southwest on SR 107 to the Melbourne A-line and the point of beginning.

Elk Area No. 6068 Willapa (Grays Harbor County): That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

Elk Area No. 6069 Hanaford (Lewis and Thurston counties): Beginning at the intersection of Salzer Valley Road and Centralia-Alpha Road; east and north on Salzer Valley Road to Little Hanaford Road; west on Little Hanaford Road to Teitzel Road; north on Teitzel Road to Big Hanaford Road; west on Big Hanaford Road to State Route 507; north on State Route 507 to Skookumchuck Road; east on Skookumchuck Road to the first bridge over the Skookumchuck River; east along the Skookumchuck River to the Skookumchuck Road bridge; east on Skookumchuck Road to the steel tower

power line; southwest along the power line to Big Hanaford Road; east and south along Big Hanaford Road to Weyerhaeuser Road E150; east on Weyerhaeuser Road E150 to Weyerhaeuser Road E247; south and west on Weyerhaeuser Road E247 to Weyerhaeuser Road E240; south on Weyerhaeuser Road E240 to North Fork Road; south on North Fork Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Salzer Valley Road and the point of beginning.

Elk Area No. 6071 Dungeness (Clallam County): Beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan De Fuca to the mouth of Jimmycomelately Creek on Sequim Bay; south and west up Jimmycomelately Creek to Don Schmith Road; north on Don Schmith Road to Palo Alto Road; west and southwest on Palo Alto Road to US Forest Service Road 2880; southwest on US Forest Service Road 2880 to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

DEER AREAS

Deer Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Deer Area No. 1020 Prescott (Columbia and Garfield counties): That portion of GMU 149 between Hwy 261 and Hwy 127.

Deer Area No. 1030 Flat Creek (Stevens County): That portion of GMU 105, beginning at the junction of Northport-Flat Creek Rd (Co. 4005) and Bull Hill Rd; north on Bull Hill Rd to USFS Rd 240; north on USFS Rd 240 to USFS Rd 230 (Belshazzar Mtn Rd); east and north on USFS Rd 230 to East Boundary of Colville National Forest at Section 24; north on Forest Boundary to Sheep Creek Rd (USFS 15, Co. 4220); west on Sheep Creek Rd to USFS Rd 170 at Kiel Springs; south on USFS Rd 170 to Lael-Flat Creek Rd (USFS 1520); south on Lael-Flat Creek Rd (USFS 1520, Co. 4181) to Northport-Flat Creek Rd; north on Northport-Flat Creek Rd to Bull Hill Rd junction and point of beginning.

Deer Area No. 1040 Summit Lake (Stevens County): That portion of GMU 105, beginning at the intersection of Sand Creek Rd (Co. 4017) and the Kettle River at the Rock Cut Bridge; north and east on Sand Cr Rd to Lael-Flat Cr Rd (Co. 4181, USFS Churchill Mine Rd, 1520); east on Lael-Flat Cr Rd (Churchill Mine Rd) to intersection with USFS Rd 15 near Fisher Cr; north and east on USFS Rd 15 to USFS Rd 180; north and west on USFS Rd 180 and continue west on Box Canyon-Deep Creek Rd (USFS Rd 030, Co. 4212) to the intersection of Box Canyon-Deep Creek Rd and the Kettle River; south on the Kettle River to the intersection of Sand Creek Rd and the Kettle River at the Rock Cut Bridge and the point of beginning.

Deer Area No. 2010 Benge (Adams County): That part of GMU 284 beginning at the town of Benge, west on Benge-Washtucna Road to Cow Creek; north along Cow Creek to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to Rock Creek; south along

Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Beckley Road; north on Beckley Road to Negro Road; north on Negro Road to Beckley Road; north on Beckley Road to Benge-Winona Road; west on Benge-Winona Road to Benge and the point of beginning.

Deer Area No. 2011 Lakeview (Grant County): That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Davis Canyon Road; north on Davis Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

Deer Area No. 3071 Whitcomb (Benton County): That part of GMU 372 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3072 Paterson (Benton County): That part of GMU 372 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3081 (Franklin County): That part of GMU 381 that is west of Highways 395 and 17.

Deer Area No. 4926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Deer Area No. 5051 Fisher Island (Cowlitz County): The islands in the Columbia River known as Fisher Island and Hump Island in Game Management Unit 504.

**WSR 05-21-111
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed October 18, 2005, 4:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-248 Special closures and firearm restriction areas.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Little Pend Oreille Wildlife Area is no longer being used for military

training; therefore, it can be opened for hunting. The remaining changes are for clarification of existing rules.

Reasons Supporting Proposal: To expand area open for hunting and clarify rules.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005
Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 05-89, filed 5/10/05, effective 6/10/05)

WAC 232-28-248 Special closures and firearm restriction areas.

RESTRICTED AND PROHIBITED HUNTING AREAS.

These areas are closed by Fish and Wildlife Commission action. Other areas may be closed to hunting by local, state or federal regulations.

IT IS ILLEGAL TO HUNT EXCEPT WHERE PROVIDED IN THE FOLLOWING AREAS:

1. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds year round. ~~((Both the Little Pond Oreille (1) and))~~ The Parker Lake ~~((2) closures were))~~ closure was established to provide a protected area for the Air Force Military Survival Training Program.
2. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
3. Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During

the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.

4. McNeil Island: McNeil Island (part of GMU 652) is closed to the hunting of all wild animals (including wild birds) year around.
5. Loo-wit (GMU 522): Closed to hunting and trapping within GMU 522 (Loo-wit), except for the hunting of elk by special permit holders during established seasons and designated areas.
6. The Voice of America Dungeness Recreation Area County Park in Clallam County is closed to all hunting except Wednesdays, weekends, and holidays, from the first weekend in October to the end of January.

BIG GAME CLOSURES

1. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
2. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all deer and elk hunting, to protect the Columbian White-tail Deer.
3. Willapa National Wildlife Refuge: Except for Long Island, Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for the hunting of elk by the holders of GMU-157 special elk permits during the established open season. This area is closed to motorized vehicles. Entry is allowed only by Forest Service permit for the duration of the hunt. Any entry into the Mill Creek Watershed at other times is prohibited.
5. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.

FIREARM RESTRICTION AREAS

The firearm restriction areas listed below have been established by the Fish and Wildlife Commission. Centerfire and rimfire rifles are not legal for hunting in any of these areas.

In firearm restriction areas, hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt

during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or revolver-type handguns meeting the equipment restrictions or legal shotguns firing slugs or buckshot.

Additional firearm restrictions may be listed under the area description.

COUNTY	AREA
Chelan	That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning.
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battleground) That portion of GMU 554 in Clark County.
Cowlitz	GMU 554 (Yale) GMU 504 (Stella) That portion of GMU 564 (Battleground) in Cowlitz County.
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning. The Chehalis Valley restriction applies only during elk seasons:

COUNTY	AREA
	That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on the Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of the South Bank Road to Delzene Road; north along Delzene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.
Jefferson	Indian and Marrowstone islands.
King	The area west of Highway 203 (Monroe-Fall City, Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands. This area is restricted to archery only: The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning.
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
Kittitas	GMU 334 (Ellensburg) Closed to (high power) <u>center fire</u> rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.

COUNTY	AREA
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road. The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge. GMU 681 between U.S. Highway 101, Chinook Valley Road and the Columbia River from Astoria -Megler bridge to the Wallacut River.
Pierce	GMU 652 (Anderson and Ketron islands) limited to archery, shotgun, and muzzle-loader. McNeil Island closed to hunting. See GMU 652 restriction area outlined for King County. GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
Snohomish	West of Highway 9.
Skagit	Guemes Island and March Point north of State Highway 20.
Skamania	That portion of GMU 564 (Battle Ground) in Skamania County.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	Area west of I-5 and north of Bellingham city limits including Lummi Island and Point Roberts.

WSR 05-21-112**PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed October 18, 2005, 4:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-12-021 Importation and retention of dead nonresident wildlife.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal amends restrictions on the importation of dead wildlife to include moose from states known to harbor chronic wasting disease in wild populations. It adds New York, West Virginia, and Alberta to the list of state/provinces that have CWD in wild cervid populations.

Reasons Supporting Proposal: Research results have confirmed the infective agents of chronic wasting disease (CWD) can transfer from decomposing carcasses into the environment. The research conducted by scientists from Colorado and Wyoming showed that infective agents in the soil could infect healthy deer. Recent monitoring in other states has confirmed CWD in wild, free-ranging moose for the first time. Three new states/provinces have confirmed CWD in their wild cervid populations: New York, West Virginia, and Alberta.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 04-327, filed 1/3/05, effective 2/3/05)**WAC 232-12-021 Importation and retention of dead nonresident wildlife.** It is unlawful:

(1) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts. Violation of this subsection is punishable under RCW 77.15.290.

(2) For a person who imports a dead mountain sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored and general information describing where and how the wildlife was obtained. Violation of this subsection is punishable under RCW 77.15.290.

(3) To import or possess deer, (~~or~~) elk, or moose, or parts thereof, harvested in Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, New

York, West Virginia, Alberta and Saskatchewan with the following exceptions:

(a) Meat that has been deboned in the state or province where it was harvested and is imported as boned out meat;

(b) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(c) Hides or capes without heads attached;

(d) Tissue imported for use by a diagnostic or research laboratory;

(e) Finished taxidermy mounts.

Violation of this subsection is punishable under RCW 77.15.290.

(4) To fail to notify the department within twenty-four hours if an importer or receiver of deer or elk is notified by a state or province that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160.

WSR 05-21-113

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed October 18, 2005, 4:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits and 232-28-284 2005 Spring black bear damage seasons and regulations.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 232-28-282 Establishes auction and raffle permits for big game species.

(A) Consistent with a public request and the status of mountain goat populations, the department is recommending increasing the number of mountain goat raffle permits from one to two. The increased harvest will not impact the sustainability of mountain goat populations.

(B) The department is also recommending reducing the number of turkey raffle hunts from six to three. No anticipated biological effect.

(C) The department is recommending removing all language regarding private lands wildlife management areas (PLWMA) because the program is currently being revised

and the language is no longer necessary. No anticipated biological effect.

(D) The department is also recommending removing language that expired in 2004. No anticipated biological effect.

WAC 232-28-284 establishes spring black bears [bear] seasons. The anticipated effects are to reduce female harvest, to focus harvest pressure, and to reduce damage to trees. Changes include combining all spring bear seasons into one WAC and minor changes to permit levels.

Reasons Supporting Proposal: The changes to WAC 232-28-282 will increase funding for managing mountain goat populations.

The changes to WAC 232-28-284 will reduce female harvest, better distribute harvest, and reduce tree damage caused by bears.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 05-89, filed 5/10/05, effective 6/10/05)

WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.

BIG GAME AUCTION PERMITS

The director will select a conservation organization(s) to conduct annual auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey auctions shall be conducted consistent with WAC 232-28-292.

~~((SPECIES—ONE DEER PERMIT~~

~~Hunting season dates: September 1—December 31, 2004
 Hunt Area: Statewide except all Private Lands Wildlife Management Areas (PLWMA)s, GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.
 Weapon: Any legal weapon.
 Bag limit: One additional any buck deer))~~

SPECIES - ONE WESTSIDE DEER PERMIT

Hunting season dates: 2005 and thereafter, September 1 - December 31

Hunt Area: Western Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's);))~~ GMU 485(7) and those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any buck deer

SPECIES - ONE EASTSIDE DEER PERMIT

Hunting season dates: 2005 and thereafter, September 1 - December 31

Hunt Area: Eastern Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's) and))~~ those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any buck deer

SPECIES - ONE WESTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31, 2005

Hunt Area: Western Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's);))~~ those GMUs closed to elk hunting(7) and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

Hunting season dates: September 1 - December 31, 2006 and thereafter

Hunt Area: Western Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's);))~~ GMU 485, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE EASTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Eastern Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's);))~~ GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE BIGHORN SHEEP PERMIT

Hunting season dates: September 1 - October 31, 2005

Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), or Sheep Unit 13 (Quilomene).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bighorn ram

Hunting season dates: September 1 - October 31, 2006 and thereafter

Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting season dates: October 1 - November 30

Hunt Area: Any open moose unit.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 15 - October 31

Hunt Area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One mountain goat of either sex

RAFFLE PERMITS

Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct annual raffles. Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey raffles shall be conducted consistent with WAC 232-28-290.

RAFFLE PERMIT HUNT(S)

~~((DEER RAFFLE PERMIT HUNT~~

~~Bag limit: One additional any buck deer~~

~~Open area: Statewide except all Private Lands Wildlife Management Areas (PLWMA's), GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.~~

~~Open season: September 1 - December 31, 2004.~~

~~Weapon: Any legal weapon.~~

~~Number of permits: 1~~

~~Raffle ticket cost: \$5.00 including a 50-cent vendor fee.))~~

WESTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Western Washington EXCEPT ~~((all Private Lands Wildlife Management Areas (PLWMA's);))~~ GMU 485(7) and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: 2005 and thereafter, September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

EASTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Eastern Washington EXCEPT (~~all Private Lands Wildlife Management Areas (PLWMA's) and~~) those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: 2005 and thereafter, September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

WESTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Western Washington EXCEPT (~~all Private Lands Wildlife Management Areas (PLWMA's);~~) those GMUs closed to elk hunting(♾) and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31, 2005.

Weapon: Any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

Bag limit: One additional any bull elk

Open area: Western Washington EXCEPT (~~all Private Lands Wildlife Management Areas (PLWMA's);~~) GMU 485, those GMUs closed to elk hunting, and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31, 2006 and thereafter.

Weapon: Any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

EASTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Eastern Washington EXCEPT (~~all Private Lands Wildlife Management Areas (PLWMA's);~~) GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

BIGHORN SHEEP RAFFLE PERMIT HUNT

Bag limit: One bighorn ram

Open area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), or Sheep Unit 13 (Quilomene).

Open season: September 1 - October 31, 2005.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$10.00 including a 50-cent vendor fee.

Bag limit: One bighorn ram

Open area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain) or Sheep Unit 13 (Quilomene).

Open season: September 1 - October 31, 2006 and thereafter.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$10.00 including a 50-cent vendor fee.

MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex

Open area: Any open moose unit.

Open season: October 1 - November 30.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

MOUNTAIN GOAT RAFFLE PERMIT HUNT

Bag limit: One mountain goat of either sex

Open area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Open season: September 15 - October 31.

Weapon: Hunter may use any legal weapon.

Number of permits: ((+)) 2

Raffle tickets cost: \$5.00 including a 50-cent vendor fee.

TURKEY RAFFLE PERMIT HUNTS

Bag limit: Three (3) additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.

Open area: Statewide.

Open season: April 1 - May 31.

Weapon: Archery or shotgun only.

Number of permits: ((2)) 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

DIRECTOR AUTHORIZED BIG GAME AUCTION OR RAFFLE PERMITS

The director shall determine which method of permit opportunity, auction or raffle, taking into consideration impacts to the wildlife resource, opportunity to the hunting community, other resource management issues, and expected revenue. The director may select a conservation organization(s) to conduct annual auction(s) or raffle(s). Selection of the conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game auctions and raffles shall be conducted consistent with WAC 232-28-292.

ROCKY MOUNTAIN BIGHORN SHEEP AUCTION OR RAFFLE PERMIT

Hunting season dates: 2005 and thereafter, September 1 - October 31

Hunt Area: GMUs 166, 169, 181, 186.

Weapon: Hunter may use any legal weapon.

Bag limit: One bighorn ram

SPECIAL INCENTIVE PERMITS

Hunters will be entered into a drawing for special deer and elk incentive permits for prompt reporting of hunting activity in compliance with WAC 232-28-299.

(a) There will be two (2) any elk special incentive permits for Western Washington.

Open area: Western Washington EXCEPT (~~all Private Lands Wildlife Management Areas (PLWMA's);~~) GMUs 418, 485,

522, and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

There will be two (2) any elk special incentive permits for Eastern Washington.

Open area: Eastern Washington EXCEPT ((~~all Private Lands Wildlife Management Areas (PLWMAs);~~)) GMU 157 and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

(b) There will be five (5) statewide any deer special incentive permits, for use in any area open to general or permit hunting seasons EXCEPT ((~~all Private Lands Wildlife Management Areas (PLWMAs);~~)) GMUs 157, 418, 485, 522, and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons and any legal weapon at other times if there are no firearm restrictions.

Bag limit: One additional any deer.

Auction, raffle, and special incentive hunt permittee rules

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering

the designated hunt area or entering the region to hunt outside the general season.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(5) The permit is valid during the hunting season dates for the year issued.

(6) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

(7) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

(8) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.

AMENDATORY SECTION (Amending Order 04-327, filed 1/3/05, effective 2/3/05)

WAC 232-28-284 ((2005)) Spring black bear ((~~damage~~)) seasons and regulations. ((~~Spring black bear hunting seasons under this section constitute a three year pilot program to reduce black bear damage to trees.~~))

Who may apply: Anyone with a valid Washington big game license, which includes black bear as a species option.

Hunt areas, ((~~permits~~)) permit levels, and season dates for each license year:

Hunt name	Hunt area	((2005)) Permits	((2005)) Season dates ^b
Blue Creek	<u>GMU 154</u>	<u>15</u>	<u>April 15 - May 31</u>
Dayton	<u>GMU 162</u>	<u>15</u>	<u>April 15 - May 31</u>
Tucannon	<u>GMU 166</u>	<u>10</u>	<u>April 15 - May 31</u>
Wenaha	<u>GMU 169</u>	<u>30</u>	<u>April 15 - May 31</u>
Mt. View	<u>GMU 172</u>	<u>15</u>	<u>April 15 - May 31</u>
Lick Creek	<u>GMU 175</u>	<u>15</u>	<u>April 15 - May 31</u>
Grande Ronde	<u>GMU 186</u>	<u>5</u>	<u>April 15 - May 31</u>
Capitol Forest ^a	That portion of Capitol Forest within GMU 663	((100)) <u>75</u>	April 15 - June 15
((Kapowsin (All)))	<u>PLWMA 401 in GMU 653 and 654</u>	<u>100</u>	<u>April 15 - June 15</u>)

^a Spring black bear hunting seasons under this hunt area constitute a pilot program to reduce black bear damage to trees.

^b Permits are valid for the license year they are issued.

Bag limit: One black bear per black bear special permit season.

License Required: A valid big game hunting license, which includes black bear as a species option, is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option.

Hunting method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of dogs or bait to hunt black bear is prohibited statewide.

Submitting bear teeth: Successful bear hunters must submit the black bear premolar located behind the canine tooth of the upper jaw.

WSR 05-21-114
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed October 18, 2005, 4:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-334 Game management units (GMUs) boundary descriptions—Region four.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region four.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005
 Evan Jacoby
 Rules Coordinator

AMENDATORY SECTION (Amending Order 03-175, filed 8/5/03, effective 9/5/03)

WAC 232-28-334 Game management units (GMUs) boundary descriptions—Region four.

GMU 407-NORTH SOUND (Whatcom, Skagit, Snohomish and King counties):

Beginning at the NW corner of Whatcom county line and the US-Canadian border; E on the US-Canadian border to a point due north of Silver Lake Rd; S to Silver Lake Rd; S on Silver

Lake Rd to SR 542 (Mount Baker Hwy); SW on SR 542 (Mount Baker Hwy) to Mosquito Lake Rd; S on Mosquito Lake Rd to SR 9 (Valley Hwy); S on SR 9 (Valley Hwy) through the town of Sedro-Woolley then S on SR 9 to SR 530 at the town of Arlington; NE on SR 530 to Jim Creek-Trafton Rd at the Trafton School in the town of Trafton; SE along Jim Creek-Trafton Rd (242nd St. NE) to the City of Seattle power transmission line; SW on the transmission line to Jordan Rd in Section 20, T31N, R6E; SE along Jordan Rd to SR 92 at the town of Granite Falls; E on SR 92 to South Alder Ave; S on South Alder Ave to East Pioneer St; E and SE on East Pioneer St to Menzel Lake Rd; S on Menzel Lake Rd to North Lake Roesiger Rd; S on North Lake Roesiger Rd to South Lake Roesiger Rd; S on South Lake Roesiger Rd to Woods Creek Rd; S on Woods Creek Rd to US Hwy 2 at the town of Monroe; W on US Hwy 2 to SR 203 at the town of Monroe; S on SR 203 to N.E. Woodinville-Duvall Rd at the town of Duvall; W on N.E. Woodinville-Duvall Rd to the Snoqualmie River; N down the Snoqualmie River to the Snohomish River; W down the Snohomish River to its mouth on the Puget Sound; W from the mouth of the Snohomish River to the northern tip of Gedney Island; due W from the northern tip of Gedney Island to a point on the Snohomish-Island county line; N along the Island-Snohomish county line in Possession Sound and Port Susan to Juniper Beach and N through Davis Slough to the Island-Snohomish-Skagit county junction; W and N along Island-Skagit county line through Skagit Bay and W through Deception Pass to San Juan-Skagit county line; N on the San Juan-Skagit county line to a point due West of Kelly's Point on Guemes Island; E from the San Juan-Skagit county line to Bellingham Channel; N through the middle of Bellingham Channel; NE from Bellingham Channel to Carter Point on Lummi Island; NW from Carter Point to the Skagit-Whatcom county line; W along Skagit-Whatcom county line to the Whatcom-San Juan county line; NW along the Whatcom-San Juan county line to the US-Canadian border and the point of beginning.

GMU 410-ISLANDS (San Juan and Island counties):

Beginning at the junction of San Juan-Whatcom county lines and the US-Canadian border at the northernmost point in San Juan County; SE on the San Juan-Whatcom county line to the junction of San Juan-Whatcom-Skagit county lines; E on the Skagit-Whatcom county line to the first point where the Skagit-Whatcom county line turns SE; SE from the Skagit-Whatcom county line to Carter Point on Lummi Island; SW down the middle of Bellingham Channel to a point due W of Kelly's Point on Guemes Island and including Cypress Island; W to the Skagit-San Juan county line; S through Rosario Strait on the San Juan-Skagit county line to the San Juan-Skagit-Island county line; E on the Skagit-Island county line through Deception Pass and S through Skagit Bay to the Island-Snohomish-Skagit county junction; SE on the Island-Snohomish county line through Davis Slough, Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap county line; NW on the Island-Kitsap-Jefferson county line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; W on the Clallam-Jefferson-San Juan county lines to the US-Canadian border; N on the US-Canadian border, through Middle Bank, Haro Strait, and Boundary Pass, to the north-

ernmost corner of San Juan-Whatcom county line and the point of beginning.

GMU 418-NOOKSACK (Whatcom and Skagit counties):

Beginning at the US-Canadian border and the western border of the North Cascades National Park; S on the North Cascades National Park boundary to Noisy Diobsud Wilderness Area boundary; W and S on Noisy Diobsud Wilderness Area boundary to a point due E of the head waters of Watson Creek; W to the headwaters of Watson Creek; S down Watson Creek to Thunder Creek; W down Thunder Creek to Baker River Rd; S along Baker River Rd to SR 20 at the town of Concrete; W along SR 20 to SR 9 at the town of Sedro-Woolley; N along SR 9 to Mosquito Lake Rd; N on the Mosquito Lake Rd to SR 542 (Mount Baker Hwy); N on SR 542 (Mount Baker Hwy) to the Silver Lake Rd; N on the Silver Lake Rd to its northern most point; N from the Silver Lake Rd to the US-Canadian border; E on the US-Canadian border to the western border of the North Cascades National Park and the point of beginning.

GMU 426-DIABLO (Skagit and Whatcom counties):

Beginning at the US-Canadian border and the western boundary of the Ross Lake National Recreation Area; S on the Ross Lake National Recreation Area boundary across SR 20 (North Cascades Hwy) and Skagit River; NE and E on the Ross Lake National Recreation Area boundary to a point 2 miles east of Panther Creek, where the recreation boundary connects with the Okanogan National Forest boundary; S on North Cascades National Park boundary to the Skagit-Chelan county line at Fisher Peak; SE along the Skagit-Chelan county line, across SR 20 to the US Forest Service Trail 2000 (Pacific Crest Trail); N on the US Forest Service Trail 2000 (Pacific Crest Trail) to the Pasayten Wilderness boundary at Jim Pass; W along the Pasayten Wilderness boundary to the Ross Lake National Recreation Area boundary; N along the Ross Lake National Recreation Area-Pasayten Wilderness Area boundary to the US-Canadian border; W along the US-Canadian border to the NW corner of the Ross Lake National Recreation Area and the point of beginning.

GMU 437-SAUK (Skagit and Snohomish counties):

Beginning at the intersection of SR 9 and SR 20, W of the town of Sedro-Woolley; E along SR 20 to Baker River Rd at the town of Concrete; N on Baker River Rd to Thunder Creek; E up Thunder Creek to Watson Creek; N up Watson Creek to its headwaters; E from the headwaters of Watson Creek to Noisy Diobsud Wilderness boundary; N and E on Noisy Diobsud Wilderness boundary to North Cascades National Park boundary; S and E along the North Cascades National Park boundary to the Ross Lake National Recreation Area boundary; S along the Ross Lake National Recreation Area boundary, across the SR 20 (North Cascade Hwy) and the Skagit River; E along the Ross Lake National Recreation Area boundary to the North Cascades National Park boundary near Big Devil Peak; SE on the North Cascades National Park boundary to the Cascade River Rd; S on Cascade River Rd to US Forest Service Rd 1590; S on US Forest Service Rd 1590 to US Forest Service Trail 769 (South Fork Cascade River Trail); S on US Forest Service Trail 769 (South Fork Cascade River Trail) to the Glacier Peak Wilderness Area boundary; W and S on Glacier Peak Wilderness Area Bound-

ary to the Suiattle River; W down the Suiattle River to the Sauk River; N on the Sauk River to SR 530 (Sauk Valley Rd); S on SR 530 to the town of Darrington; W on SR 530 to SR 9 at the town of Arlington; N on SR 9 to SR 20, W of the town of Sedro-Woolley, and the point of beginning.

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties):

Beginning at the intersection of Hwy 530 (Arlington-Darrington Hwy) and Jim Creek Rd at the town of Trafton; NE on SR 530 to the town of Darrington; N on SR 530 (Sauk Valley Rd) to the Sauk River; S on the Sauk River to Suiattle River; E along the Suiattle River to the Glacier Peak Wilderness Area boundary; S on the Glacier Peak Wilderness Area boundary to US Forest Service Trail 650 West of June Mountain; W on the US Forest Service Trail 650, to US Forest Service Trail 1050 (Quartz Creek Trail) at Curry Gap; S on the US Forest Service Trail 1050 (Quartz Creek Trail) to US Forest Service Rd 6300; E on US Forest Service Rd 6300 to US Forest Service Trail 1051; NE on Trail 1051 to Henry M. Jackson Wilderness boundary; S along the Henry M. Jackson Wilderness boundary to Meadow Creek; S down Meadow Creek to Rapid River; E up Rapid River to US Forest Service Trail 2000 (Pacific Crest Trail) at Lake Janus; S on the US Forest Service Trail 2000 (Pacific Crest Trail) to SR 2 at Stevens Pass; W on SR 2 to Woods Creek Rd at the town of Monroe; N on Woods Creek Rd to South Lake Roesiger Rd; N on South Lake Roesiger Rd to North Lake Roesiger Rd; N on North Lake Roesiger Rd to Menzel Lake Rd; N on Menzel Lake Rd to East Pioneer St; NW and W on East Pioneer St to South Alder Ave; N on South Alder Ave to SR 92; W on SR 92 to Jordan Rd; NW on Jordan Rd, through the town of Jordan, to the City of Seattle power transmission lines; NE on the transmission lines to Jim Creek-Trafton Rd (242nd St. NE); W on Jim Creek-Trafton Rd to SR 530 at the town of Trafton and the point of beginning.

GMU 450-CASCADE (Skagit and Snohomish counties):

Beginning on the Glacier Peak Wilderness boundary and Jordan Creek, W of Jordan Lakes; N and E on the wilderness boundary to US Forest Service Trail 769; N on US Forest Service Trail 769 to US Forest Service Rd 1590; N on US Forest Service Rd 1590 to the US Forest Service Rd 15 (Cascade River Rd); N on US Forest Service Rd 15 (Cascade River Rd) to the North Cascades National Park boundary; E on the North Cascades National Park boundary to US Forest Service Trail 2000 (Pacific Crest Trail); S on US Forest Service Trail 2000 (Pacific Crest Trail) to the Rapid River at Lake Janus; NW down the Rapid River to Meadow Creek; N up Meadow Creek to Henry M. Jackson Wilderness Area boundary; N along the Henry M. Jackson Wilderness boundary to US Forest Service Trail 1051; S on US Forest Service Trail 1051 to US Forest Service Rd 6300; W on US Forest Service Rd 6300 to US Forest Service Trail 1050; N on US Forest Service Trail 1050 to US Forest Service Trail 650 at Curry Gap; E on US Forest Service Trail 650 to the Glacier Peak Wilderness boundary west of June Mountain; N on the Glacier Peak Wilderness boundary, across the Suiattle River, to Jordan Creek and the point of beginning.

GMU 454-ISSAQUAH (King and Snohomish counties):

Beginning at the mouth of the Snohomish River at the city of Everett; SE up the Snohomish River to the Snoqualmie River; SE up the Snoqualmie River to NE Woodinville-Duvall Rd; E on NE Woodinville-Duvall Rd to SR 203 at the town of Duvall; S on SR 203 to SR 202 (Fall City-Snoqualmie Rd) at the town of Fall City; S on SR 202 (Fall City-Snoqualmie Rd), across the Snoqualmie River to Preston-Fall City Rd; SW on Preston-Fall City Rd to I-90 at the town of Preston; E on I-90 to SR 18; S on SR 18 to the Raging River; SE along the Raging River to Kerriston Rd; S on Kerriston Rd to the City of Seattle Cedar River Watershed boundary; W, S and E along the Cedar River Watershed boundary to US Forest Service Rd 5100; S along US Forest Service Rd 5100 to the posted boundary of the Green River Watershed; S along the posted boundary of the Green River Watershed to the US Forest Service Rd 5410; S on US Forest Service Rd 5410 to US Forest Service Rd 5400; E on US Forest Service Rd 5400 to the junction with posted boundary of the Green River Watershed; S on the posted Tacoma Green River Watershed boundary to US Forest Service Rd 7110 (Weyerhaeuser 5200 line) near Lynn Lake; SW on US Forest Service Rd 7110 (Weyerhaeuser 5200 line) to US Hwy 410; W on SR 410 to SR 164 at the city of Enumclaw; W on SR 164 to SR 18 at the city of Auburn; W on SR 18 to SR 99; N on SR 99 to SR 509; W on SR 509 to Redondo Way South; NW on Redondo Way South to the town of Redondo on Puget Sound; SW across Admiralty Inlet on the Pierce-King county line to the point (~~([where] [were])~~) where the county line turns southeast, northwest of Dash Point; W and N along the King county line to King, Snohomish, and Kitsap county line junction in the Puget Sound west of Point Wells; N on the Snohomish county line through Possession Sound to a point on the Snohomish county line due west of the northern tip of Gedney Island (Hat Island); E to the northern tip of Gedney Island (Hat Island); E from the northern tip of Gedney Island (Hat Island) to the mouth of the Snohomish River and the point of beginning.

GMU 460-SNOQUALMIE (King and Snohomish counties):

Beginning at SR 203 and SR 2 at the town of Monroe; E on SR 2 to US Forest Service Trail 2000 (Pacific Crest Trail) at Stevens Pass; S on the US Forest Service Trail 2000 (Pacific Crest Trail) to the City of Seattle Cedar River Watershed; W on the Cedar River Watershed boundary to Kerriston Rd; N on Kerriston Rd to the Raging River; W and N along the Raging River to SR 18; N on SR 18 to I-90; W on I-90 to the Preston-Fall City Rd; N on the Preston-Fall City Rd to SR 202 (Fall City-Snoqualmie Rd); N on SR 202 (Fall City-Snoqualmie Rd), across the Snoqualmie River, to SR 203; N on SR 203 to SR 2 at the town of Monroe and the point of beginning.

GMU 466-STAMPEDE (King County):

Beginning on the US Forest Service Trail 2000 (Pacific Crest Trail) and the east boundary of the City of Seattle Cedar River Watershed; S on the US Forest Service Trail 2000 (Pacific Crest Trail) past Blowout Mountain to US Forest Service Rd 7038 at its closest point to the Pacific Crest Trail near Windy Gap north of Pyramid Peak; NW on US Forest

Service Rd 7038 to US Forest Service Rd 7036; NW on US Forest Service Rd 7036 to US Forest Service Rd 7030; NW on US Forest Service Rd 7030 to US Forest Service Rd 7032; NW on US Forest Service Rd 7032 to US Forest Service Trail 1172; W on US Forest Service Trail 1172 to about 1/4 mile past Williams Hole to the posted boundary of the City of Tacoma Green River Watershed; N on the posted City of Tacoma Green River Watershed boundary to the City of Seattle Cedar River Watershed boundary; N along City of Seattle Cedar River Watershed boundary to US Forest Service Trail 2000 (Pacific Crest Trail) and the point of beginning.

GMU 485-GREEN RIVER (King County):

Beginning at the junction of NW corner of the city of Tacoma Green River Watershed and US Forest Service Rd 5100; E on the boundary between the Green River Watershed and the Cedar River Watershed to US Forest Service Rd 5060; S on US Forest Service Rd 5060 to the posted boundary of the Green River Watershed; along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain to the US Forest Service Rd 5400; NW along US Forest Service Rd 5400 to US Forest Service Rd 5410; N along US Forest Service Rd 5410 to posted boundary of the City of Tacoma Green River Watershed; N along the posted boundary of the City of Tacoma Green River Watershed to US Forest Service Rd 5100; N along US Forest Service Rd 5100 to City of Tacoma Green River Watershed and City of Seattle Cedar River Watershed border and the point of beginning.

~~**GMU 490 CEDAR RIVER (King County):**~~

~~The area within the posted boundary of the city of Seattle's Cedar River Watershed.)~~

WSR 05-21-115**PROPOSED RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Filed October 18, 2005, 4:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-335 Game management units (GMUs) boundary descriptions—Region five.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region five.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 05-89, filed 5/10/05, effective 6/10/05)

WAC 232-28-335 Game management units (GMUs) boundary descriptions—Region five.

GMU 501-LINCOLN (Lewis, Thurston, Pacific, and Grays Harbor counties):

Beginning at the intersection of I-5 and SR 6; west on SR 6 to Stevens Rd; NW on Stevens Rd to Elk Creek Rd at the town of Doty; W on Elk Creek Rd to Weyerhaeuser 7000 line; W and N on Weyerhaeuser 7000 line to Weyerhaeuser 7400 line; N on Weyerhaeuser 7400 line to Weyerhaeuser 7050 line; NE on Weyerhaeuser 7050 line to Weyerhaeuser 7000 line; NW and N on Weyerhaeuser 7000 line to the Weyerhaeuser 7800 line; N on Weyerhaeuser 7800 line to Weyerhaeuser 7800 F line; NE on Weyerhaeuser 7800 F line to Weyerhaeuser 720 line; E on Weyerhaeuser 720 line to Weyerhaeuser 723 line; NW on Weyerhaeuser 723 line to the Weyerhaeuser C line; NE on Weyerhaeuser C line to Garrard Creek Rd; NE on Garrard Creek Rd to South Bank Rd; E on South Bank Rd to North State St; N on North State St to US Hwy 12 at the town of Oakville; E on US Hwy 12 to I-5; S on I-5 to SR 6 and point of beginning.

GMU 503-RANDLE (Lewis County):

Beginning at the intersection of US Hwy 12 and the Rainier Timber 100 Mainline (Kosmos Rd, Old Champion Haul Rd); E on US Hwy 12 to SR 131; S on SR 131 to US Forest Service Rd 25; S on the US Forest Service Rd 25 to the Cispus River; W on the Cispus River to Rainier Timber 271 line; S on the Rainier Timber 271 line to the Rainier Timber 300 line; W on the Rainier Timber 300 line to the Rainier Timber

100 line; N on the Rainier Timber 100 line (Kosmos Rd) to US Hwy 12 and the point of beginning.

GMU 504-STELLA (Cowlitz County):

Beginning at the mouth of the Cowlitz River on the Columbia River; W down the Columbia River to the mouth of Germany Creek (including all islands in the Columbia River which are both north of the Washington-Oregon state line and between the Cowlitz River and Germany Creek); N up Germany Creek to SR 4; E on SR 4 to Germany Creek Rd; N on Germany Creek Rd to International Paper 1000 line; N on International Paper 1000 line to International Paper 1050 line; E on International Paper 1050 line to International Paper 2200 line; E and S on International Paper 2200 to Woodside Dr; NE on Woodside Dr to Delameter Rd; E on Delameter Rd to the three power lines; N along the three power lines to Weyerhaeuser 9312 line; E on Weyerhaeuser 9312 line to Growlers Gulch Rd; E on Growlers Gulch Rd to Public Highway 10 Rd; E along the Public Highway 10 Rd to the A Street bridge over the Cowlitz River at the town of Castle Rock; S down the Cowlitz River to the Columbia River and point of beginning.

GMU 505-MOSSYROCK (Lewis County):

Beginning on I-5 and the Cowlitz River; NE up the Cowlitz River to the Mayfield Dam; NE along the south shore of Mayfield Lake to the US Hwy 12 bridge; NE on US Hwy 12 to Winston Creek Rd; SE on Winston Creek Rd to Longbell Rd; E on Longbell Rd to Perkins Rd; NE on Perkins Rd to Green Mountain Rd; E on Green Mountain Rd to the outlet of Swofford Pond; E along the Swofford Pond outlet to Riffe Lake; E along the south shore of Riffe Lake to the Cowlitz River; up the Cowlitz River to the Rainier Timber 100 Mainline; N on the Rainier Timber 100 Mainline to US Hwy 12; W on US Hwy 12 to SR 7 at the town of Morton; N on SR 7 to SR 508; W on Highway 508 to Centralia-Alpha Rd; W and N on Centralia-Alpha Rd to Salzer Valley Rd; W on Salzer Valley Rd to Summa St at the town of Centralia; W on Summa St to Kresky Rd; N on Kresky Rd to Tower St; N on Tower St to SR 507; W on SR 507 (Cherry St, Alder St, and Mellen St) to I-5; S on I-5 to the Cowlitz River and point of beginning.

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties):

Beginning at SR 6 and 3rd St South at the town of Pe Ell; S on 3rd St South to Muller Rd; S on Muller Rd to Weyerhaeuser 1000 line; S on Weyerhaeuser 1000 line to Weyerhaeuser 1800 line; S on Weyerhaeuser 1800 line to Weyerhaeuser 500 line; SE on Weyerhaeuser 500 line to SR 407 (Elochoman Valley Rd) at Camp 2; S on SR 407 (Elochoman Valley Rd) to the Elochoman River; down the Elochoman River to Foster Rd; N on Foster Rd to Risk Rd; W and N along Risk Rd to SR 4; W on SR 4 to Skamokawa Creek; SW down Skamokawa Creek to the Columbia River; W along Columbia River to the mouth of the Deep River (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Deep River); N along the Deep River to SR 4; NW on SR 4 to the Salmon Creek Rd; NE on Salmon Creek Rd to Weyerhaeuser 5000 line; N on Weyerhaeuser 5000 line to Weyerhaeuser 5800 line; NE on Weyerhaeuser 5800 line to power

transmission line; N on the power transmission line to SR 6; E on SR 6 to the town of Pe Ell and the point of beginning.

GMU 510-STORMKING (Lewis County):

Beginning on US Hwy 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverbrook Rd to US Forest Service Rd 47; N on US Forest Service Rd 47 to US Forest Service Rd 85; W and N on US Forest Service Rd 85 to US Forest Service Rd 52; N on US Forest Service Rd 52 to the Nisqually River; W down the Nisqually River to SR 7; S on Hwy 7 to US Hwy 12 at the town of Morton; E on US Hwy 12 to the Silver Creek bridge and point of beginning.

GMU 513-SOUTH RAINIER (Lewis County):

Beginning on US Hwy 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverdale Rd to US Forest Service Rd 47; N on US Forest Service Rd 47 to US Forest Service Rd 85; W and N on US Forest Service Rd 85 to US Forest Service Rd 52; W and N on US Forest Service Rd 52 to the Nisqually River; E up the Nisqually River to the southern boundary of Mount Rainier National Park; E along the south park boundary to the Pacific Crest Trail (US Forest Service Trail 2000); S along the Pacific Crest Trail (US Forest Service Trail 2000) to US Hwy 12; W on US Hwy 12 to the Silver Creek bridge and point of beginning.

GMU 516-PACKWOOD (Lewis and Skamania counties):

Beginning at US Hwy 12 and Pacific Crest Trail at White Pass; S on Pacific Crest Trail (US Forest Service Trail 2000) to US Forest Service Trail 98 at Sheep Lake; W on US Forest Service Trail 98 to US Forest Service Rd 2160 at Walupt Lake; W on US Forest Service Rd 2160 to US Forest Service Rd 21; S and W on US Forest Service Rd 21 to US Forest Service Rd 23; S on US Forest Service Rd 23 to US Forest Service Trail 263; S and W on US Forest Service Trail 263 to US Forest Service Trail 261; S on US Forest Service Trail 261 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Rd 99; W on US Forest Service Rd 99 to US Forest Service Rd 26; N on US Forest Service Rd 26 to US Forest Service Rd 2612; W on US Forest Service Rd 2612 to US Forest Service Trail 217; N and W on US Forest Service Trail 217 to Weyerhaeuser 2600 line; Weyerhaeuser 2600 line to Weyerhaeuser 2658 line; N on Weyerhaeuser 2658 line to Rainier Timber (Campbell Group) 430 line; N on Rainier Timber 430 line to the Rainier Timber Mainline 400 line; N and E on Rainier Timber Mainline 400 line to Rainier Timber 300 line; E on Rainier Timber 300 line to Rainier Timber 271 line; N on Rainier Timber 271 line to the Cispus River; E on the Cispus River to US Forest Service Rd 25; N on US Forest Service Rd 25 to SR 131; N on SR 131 to US Hwy 12; E on US Hwy 12 to the Pacific Crest Trail (US Forest Service Trail 2000) at White Pass and beginning.

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties):

Beginning at the bridge at intersection of I-5 and the Cowlitz River; S down the Cowlitz River to the Toutle River; E up the Toutle River to the South Fork Toutle River; SE up South Fork Toutle River to Johnson Creek; NE up Johnson Creek to Weyerhaeuser 4400 line; N along Weyerhaeuser 4400 line to Weyerhaeuser 2421 line; N along Weyerhaeuser 2421 line to Weyerhaeuser 2400 line; NW along Weyerhaeuser 2400 line

to Alder Creek; NW down Alder Creek to North Fork Toutle River; W down the North Fork Toutle River to the Green River; E up the Green River to US Forest Service Rd 2612; E on US Forest Service Rd 2612 to US Forest Service Trail 217; N and W on US Forest Service Trail 217 to Weyerhaeuser 2600 line; W on Weyerhaeuser 2600 line to Weyerhaeuser 2658 line; N on Weyerhaeuser 2658 line to Rainier Timber (Campbell Group) 430 line; N on Rainier Timber 430 line to Rainier Timber 400 Mainline; N and E on Rainier Timber 400 Mainline to Rainier Timber 100 Mainline; N on Rainier Timber 100 Mainline to Cowlitz River; W down the Cowlitz River to Riffe Lake; W along the south shore to the Swofford Pond outlet; W along the Swofford Pond outlet to Green Mountain Rd; W on Green Mountain Rd to Perkins Rd; SW on Perkins Rd to Longbell Rd; W on Longbell Rd to Winston Creek Rd; NW on Winston Creek Rd to US Hwy 12; SW on US Hwy 12 to the Mayfield Lake bridge at Mayfield Lake; SW down the south shore of Mayfield Lake to the Cowlitz River at Mayfield Dam; SW down the Cowlitz River to I-5 bridge crossing the Cowlitz River and point of beginning.

GMU 522-LOO-WIT (Cowlitz and Skamania counties):

Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River to Deer Creek; SE up Deer Creek to Weyerhaeuser 3020 line; NW along Weyerhaeuser 3020 line to Weyerhaeuser 3000 line; E along Weyerhaeuser 3000 line to US Forest Service Trail 216G; SE along US Forest Service Trail 216G to the intersection of US Forest Service Trail 238 and US Forest Service Trail 216; S on US Forest Service Trail 238 to South Fork of the Toutle River; E along South Fork Toutle River to its headwaters and Mount St. Helens crater's edge; E along the Mount St. Helens crater's southern edge to the headwaters of Ape Canyon Creek; NE down Ape Canyon Creek to US Forest Service Trail 225 (Smith Creek Trail); N and NW on US Forest Service Trail 225 (Smith Creek Trail) to US Forest Service Rd 99; NE along US Forest Service Rd 99 to US Forest Service Rd 26; N on US Forest Service Rd 26 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Trail 214; NW on US Forest Service Trail 214 to US Forest Service Trail 211; W on US Forest Service Trail 211 to Coldwater Creek; W down Coldwater Creek to Coldwater Lake; SW along the northwest shore of Coldwater Lake to the outlet of Coldwater Lake; SW down the outlet stream from Coldwater Lake to SR 504 bridge at mile post 45; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties):

Beginning on the North Fork Toutle River at the mouth of the Green River; SE up the North Fork Toutle River to the mouth of Hoffstadt Creek; N and E up Hoffstadt Creek to the SR 504 bridge over Hoffstadt Creek; E on SR 504 to the bridge over the outlet to Coldwater Lake at mile post 45; NE up the outlet stream of Coldwater Lake to Coldwater Lake; NE along the northwest shoreline of Coldwater Lake to Coldwater Creek inlet; E up Coldwater Creek to US Forest Service Trail 211; NE on US Forest Service Trail 211 to US Forest Service Trail 214; SE on US Forest Service Trail 214 to US Forest Service

Trail 1; E on US Forest Service Trail 1 to US Forest Service Rd 26; N on the US Forest Service Rd 26 (Ryan Lake Rd) to US Forest Service Rd 2612; W on US Forest Service Rd 2612 to the Green River; W down the Green River to its mouth on the North Fork of the Toutle River and point of beginning.

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties):

Beginning at Stevens Rd and SR 6, south of the town of Doty; E on SR 6 to I-5 at the town of Chehalis; S on I-5 to the Cowlitz River; S along the Cowlitz River to Public Hwy 10 on the A Street bridge at the town of Castle Rock; W on the Public Hwy 10 to Growler's Gulch Rd; W on Growler's Gulch Rd to Weyerhaeuser 9312 line; W on Weyerhaeuser 9312 line to three power lines; S on the three power lines to Delameter Rd; SW on Delameter Rd to Woodside Dr; SW on Woodside Dr to International Paper Rd 2200; N and W on International Paper Rd 2200 to International Paper Rd 1050; W on International Paper Rd 1050 to International Paper Rd 1000; S on International Paper Rd 1000 to the Germany Creek Rd; S on the Germany Creek Rd to SR 4; W on SR 4 to Germany Creek; S along Germany Creek to its mouth at the Columbia River; W along the Columbia River to Skamokawa Creek (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Germany Creek); NE up Skamokawa Creek to SR 4; E on SR 4 to Risk Rd; SE on Risk Rd to Foster Rd; S on Foster Rd to the Elochoman River; SE up the Elochoman River to SR 407 (Elochoman Valley Rd); NE on SR 407 (Elochoman Valley Rd) to Weyerhaeuser 500 line at Camp 2; NW on Weyerhaeuser 500 line to Weyerhaeuser 1800 line; N on Weyerhaeuser 1800 line to Weyerhaeuser 1000 line; N on Weyerhaeuser 1000 line to Muller Rd; N on Muller Rd to 3rd St South in the town of Pe Ell; N on 3rd St South to SR 6 at the town of Pe Ell; N on SR 6 to Stevens Rd, south of the town of Doty, and the point of beginning.

GMU 550-COWEEMAN (Cowlitz County):

Beginning at the mouth of the Toutle River on the Cowlitz River; E along the Toutle River to the South Fork Toutle River; up the South Fork Toutle River to Weyerhaeuser 4100 line; E on Weyerhaeuser 4100 line to Weyerhaeuser 4950 line; S and E on Weyerhaeuser 4950 line to Weyerhaeuser 235 line; SE on Weyerhaeuser 235 line to Weyerhaeuser 200 line; W on Weyerhaeuser 200 line to Weyerhaeuser 240 line; SE on Weyerhaeuser 240 line to Weyerhaeuser 243 line; E on Weyerhaeuser 243 line to Weyerhaeuser 135A line; S on Weyerhaeuser 135A line to Weyerhaeuser 135 line; E on Weyerhaeuser 135 line to Weyerhaeuser 134 line; SW on Weyerhaeuser 134 line to Weyerhaeuser 133 line; SW on Weyerhaeuser 133 line to Weyerhaeuser 130 line; SW on Weyerhaeuser 130 line to Weyerhaeuser 1680 line; W on Weyerhaeuser 1680 line to Weyerhaeuser 1600 line; SE on Weyerhaeuser 1600 line to Weyerhaeuser 1400 line; W on Weyerhaeuser 1400 line to Weyerhaeuser 1420 line which is the Kalama/Coweeman Summit; SE on Weyerhaeuser 1420 line to Weyerhaeuser 1426 line; W on Weyerhaeuser 1426 line to Weyerhaeuser 1428 line; SW on Weyerhaeuser 1428 line to Weyerhaeuser 1429 line which turns into Weyerhaeuser 6400 line; SW down Weyerhaeuser 6400 line to Weyerhaeuser 6000 line; E on Weyerhaeuser 6000 line to Weyer-

haeuser 6450 line; SE for approximately one mile on Weyerhaeuser 6450 line (crossing the Kalama River) to Weyerhaeuser 6452 line; SE on Weyerhaeuser 6452 line to Dubois Rd; SE on Dubois Rd to SR 503; W on SR 503 to Cape Horn Creek; SE down Cape Horn Creek to Merwin Reservoir; SW along the north shore of Merwin Reservoir to the Lewis River; SW down the Lewis River to the power transmission lines in Section 4, T5N, R2E; NW along the power transmission lines to Northwest Natural Gas Pipeline located east of the town of Kalama, approximately 1/2 mile east of China Gardens Rd; N up the Natural Gas Pipeline right of way to Ostrander Creek; W down Ostrander Creek to the Cowlitz River; N on the Cowlitz River to the Toutle River and point of beginning.

GMU 554-YALE (Cowlitz and Clark counties):

Beginning on SR 503 at its crossing of Cape Horn Creek; E on SR 503 to Weyerhaeuser 6600 line (Rock Creek Rd); NE on Weyerhaeuser 6600 line (Rock Creek Rd) to Weyerhaeuser 6690 Rd; N and E on Weyerhaeuser 6690 line to Weyerhaeuser 6696 line; N on Weyerhaeuser 6696 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of the Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to Dog Creek; S down Dog Creek to Yale Reservoir; S and W along western shore of Reservoir to Yale Dam and the North Fork Lewis River; W along the northern shore of the North Fork Lewis River to State Route 503 bridge crossing; S and W along SR 503 to N.E. 221st Ave; N about 1/4 mile on N.E. 221st Ave to N.E. Cedar Creek Rd; W along N.E. Cedar Creek Rd to N.E. Pup Creek Rd; N on N.E. Pup Creek Rd to N.E. Buncome Hollow Rd; N about 1/4 mile on N.E. Buncome Hollow Rd to electrical transmission line; S and W on the electrical transmission line to the north shore of the North Fork Lewis River; NE along the north shore of the North Fork Lewis River to Merwin Reservoir at the Merwin Dam; NE along the north shore of Merwin Reservoir to Cape Horn Creek; NW up Cape Horn Creek to SR 503 and the point of beginning.

GMU 556-TOUTLE (Cowlitz County):

Beginning on the intersection of SR 503 (Lewis River Rd) and US Forest Service Rd 81 (Merrill Lake Rd); N on US Forest Service Rd 81 to Weyerhaeuser 7200 line; NW on Weyerhaeuser 7200 line to Weyerhaeuser 7400 line; N on Weyerhaeuser 7400 line to Weyerhaeuser 5500 line; E and N on Weyerhaeuser 5500 line to Weyerhaeuser 5670 line; N and E on Weyerhaeuser 5670 line to Weyerhaeuser 5660 line; N on Weyerhaeuser 5660 line about a 1/4 mile to the South Fork Toutle River; E on the South Fork Toutle River to US Forest Service Trail 238; N on US Forest Service Trail 238 to the intersection of US Forest Service Trail 216 and US Forest Service Trail 216G; NW on US Forest Service Trail 216G to Weyerhaeuser 3000 line; W on Weyerhaeuser 3000 line to Weyerhaeuser 3020 line; SE on Weyerhaeuser 3020 line to Deer Creek; NW down Deer Creek to the North Fork Toutle River; down the North Fork Toutle River to Alder Creek; up Alder Creek to Weyerhaeuser 2400 line; S on Weyerhaeuser 2400 line to Weyerhaeuser 2421 line; S on Weyerhaeuser 2421 line to Weyerhaeuser 4400 line; S and W along Weyerhaeuser 4400 line to Johnson Creek; S along Johnson Creek to the South Fork Toutle River; SE up the South Fork Toutle

River to Weyerhaeuser 4100 line; E on Weyerhaeuser 4100 line to the Weyerhaeuser 4950 line; S and E on Weyerhaeuser 4950 line to Weyerhaeuser 235 line; SE on Weyerhaeuser 235 line to Weyerhaeuser 200 line; W on Weyerhaeuser 200 line to Weyerhaeuser 240 line; SE on Weyerhaeuser 240 line to Weyerhaeuser 243 line; E on Weyerhaeuser 243 line to Weyerhaeuser 135A line; S on Weyerhaeuser 135A line to Weyerhaeuser 135 line; E on Weyerhaeuser 135 line to Weyerhaeuser 134 line; SW on Weyerhaeuser 134 line to Weyerhaeuser 133 line; SW on Weyerhaeuser 133 line to Weyerhaeuser 130 line; SW on Weyerhaeuser 130 line to Weyerhaeuser 1680 line; W on Weyerhaeuser 1680 line to Weyerhaeuser 1600 line; SE on Weyerhaeuser 1600 line to Weyerhaeuser 1400 line; W on Weyerhaeuser 1400 line to Weyerhaeuser 1420 line which is the Kalama/Coweeman Summit; SE on Weyerhaeuser 1420 line to Weyerhaeuser 1426 line; W on Weyerhaeuser 1426 line to Weyerhaeuser 1428 line; SW on Weyerhaeuser 1428 line to Weyerhaeuser 1429 line; SW on Weyerhaeuser 1429 line to Weyerhaeuser 6400 line; SW on Weyerhaeuser 6400 line to Weyerhaeuser 6000 line; E on Weyerhaeuser 6000 line to Weyerhaeuser 6450 line; SE for approximately one mile on Weyerhaeuser 6450 line (crossing the Kalama River) to Weyerhaeuser 6452 line; SE on Weyerhaeuser 6452 line to Dubois Rd; SE on Dubois Rd to SR 503; E on SR 503 to Weyerhaeuser 6600 line (Rock Creek Rd); NE on Weyerhaeuser 6600 line (Rock Creek Rd) to Weyerhaeuser 6690 Rd; N and E on Weyerhaeuser 6690 line to Weyerhaeuser 6696 line; N on Weyerhaeuser 6696 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to US Forest Service Rd 81 and point of beginning.

(GMU 558-MARBLE (Cowlitz and Skamania counties): ~~Beginning on SR 503 (Lewis River Rd) and the US Forest Service Rd 81 intersection; N on US Forest Service Rd 81 to Weyerhaeuser 7200 line; NE on Weyerhaeuser 7200 line to Weyerhaeuser 7400 line; NW on Weyerhaeuser 7400 line to Weyerhaeuser 5500 line; E and N on Weyerhaeuser 5500 line to Weyerhaeuser 5670 line; N and E on Weyerhaeuser 5670 line to Weyerhaeuser 5660 line; N on Weyerhaeuser 5660 line about 1/4 mile to the South Fork Toutle River; E along South Fork Toutle River to its headwaters and Mount St. Helens crater's edge; E along the Mount St. Helens crater's southern edge to the headwaters of Ape Canyon Creek; NE down Ape Canyon Creek to the US Forest Service Trail 225 (Smith Creek Trail); N and NW on US Forest Service Trail 225 (Smith Creek Trail) to US Forest Service Rd 99; NE on US Forest Service Rd 99 to US Forest Service Trail 1; S and E on US Forest Service Trail 1 to US Forest Service Rd 25; S on US Forest Service Rd 25 to the Muddy River; S down the Muddy River to the North Fork Lewis River; W down the North Fork Lewis River to the Swift Reservoir; W along the north shore of the Swift Reservoir to Swift Dam and the Lewis River; W down the Lewis River to Yale Reservoir; W along the north shore of the Yale Reservoir to the mouth of Dog Creek; N up Dog Creek to SR 503; SW on SR 503 to US Forest Service Rd 81 and point of beginning.)~~

GMU 560-LEWIS RIVER (Cowlitz, Skamania, Klickitat, Yakima and Lewis counties):

Beginning on SR 141 and Mount Adams Recreational Area Rd at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service Rd 80 (Mount Adams Recreational Area Rd); N on US Forest Service Rd 80 (Mount Adams Recreational Area Rd) to US Forest Service Rd 82 (Mount Adams Recreational Area Rd); N on US Forest Service Road 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); N along the Yakama Indian reservation boundary (Cascade Mountain Range Crest) to US Forest Service Trail 2000 (Pacific Crest Trail) in Section 3, T11N, R11E; S on US Forest Service Trail 2000 (Pacific Crest Trail) to US Forest Service Trail 98 at Sheep Lake; W on US Forest Service Trail 98 to US Forest Service Rd 2160 at Walupt Lake; W on US Forest Service Rd 2160 to US Forest Service Rd 21; S and W on US Forest Service Rd 21 to US Forest Service Rd 23; S on US Forest Service Rd 23 to US Forest Service Trail 263; S and W on US Forest Service Trail 263 to US Forest Service Trail 261; S on US Forest Service Trail 261 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Rd ((25; ~~S on US Forest Service Rd 25 to the Muddy River; S down the Muddy River to the North Fork Lewis River; W down the North Fork Lewis River to US Forest Service Rd 90 bridge (Eagle Cliff))~~ 99; S and W on US Forest Service Rd 99 to US Forest Service Trail 225 (Smith Creek Trail) S on US Forest Service Trail 225 to Ape Canyon Creek; S and W up Ape Canyon Creek to Mount St. Helens crater's eastern edge; W along Mount St. Helens crater's southern edge to headwaters of S Fork Toutle River; W along S Fork Toutle River to Weyerhaeuser 5660 line; S along Weyerhaeuser 5660 line to Weyerhaeuser 5670 line; S and W on Weyerhaeuser 5670 line to Weyerhaeuser 5500 line; S and W on Weyerhaeuser 5500 line to Weyerhaeuser 7400 line; S and E on Weyerhaeuser 7400 line to Weyerhaeuser 7200 line; S and E on Weyerhaeuser 7200 line to US Forest Service Rd 81; S on US Forest Service Rd 81 to State Route 503; N and E on State Route 503 to Dog Creek; S down Dog Creek to the N shore of Yale Reservoir; E along N shore of Yale Reservoir to N Fork Lewis River; E up the Lewis River to Swift Dam and Swift Reservoir; E along the N shore of Swift Reservoir to N Fork Lewis River; E up N Fork Lewis River to US Forest Service Rd 90 Bridge (Eagle Cliff); E on US Forest Service Rd 90 to US Forest Service Rd 51 (Curly Creek Rd); SE on US Forest Service Rd 51 (Curly Creek Rd) to US Forest Service Rd 30; NE on US Forest Service Rd 30 to US Forest Service Rd 24; SE on US Forest Service Rd 24 to SR 141; NE on SR 141 to Mount Adams Recreational Area Rd, at the town of Trout Lake and point of beginning.

GMU 564-BATTLE GROUND (Clark, Skamania, and Cowlitz counties):

Beginning at the mouth of Ostrander Creek on the Cowlitz River; E up Ostrander Creek approximately 1 1/2 miles to the second Northwest Natural Gas Pipeline right of way crossing Ostrander Creek, east of the railroad crossing; S along the Northwest Natural Gas Pipeline right of way to the power transmission lines right of way located east of the town of Kalama, approximately 1/2 mile east of China Garden Rd; SE along the power transmission lines right of way across the

north fork of the Lewis River in the northeast corner of Section 4, T5N, R2E to N.E. Buncome Hollow Rd; S on N.E. Buncome Hollow Rd to N.E. Pup Creek Rd; S on N.E. Pup Creek Rd to N.E. Cedar Creek Rd; E on N.E. Cedar Creek Rd to 221st Ave; S along 221st Ave about 1/4 mile to SR 503; SE along SR 503 to N.E. Amboy Rd; S on N.E. Amboy Rd to N.E. Yacolt Rd; E on Yacolt Rd to Railroad Ave; SE on Railroad Ave to Lucia Falls Rd; W on Lucia Falls Rd to Hantwick Rd; SE on Hantwick Rd to Basket Flats Rd; W on Basket Flats Rd to N.E. 197th Ave; S on N.E. 197th Ave to N.E. 279th St; W on N.E. 279th St to N.E. 182nd Ave; S on N.E. 182nd Ave to N.E. 259th St; E on N.E. 259th St to N.E. 220th Ave; S on N.E. 220th Ave to N.E. Cresap Rd; SE on N.E. Cresap Rd to N.E. 222nd Ave; S on N.E. 222nd Ave to N.E. Allworth Rd; E on N.E. Allworth Rd to NE 232nd Ave; S on N.E. 232nd Ave to N.E. 237th St; E on N.E. 237th St to N.E. 240th Ave; S on N.E. 240th Ave to N.E. Berry Rd; NE on N.E. Berry Rd to the DNR L-1410 Rd; SE on L-1410 Rd to the DNR L-1400 Rd; W on L-1400 Rd to N.E. Rawson Rd; W on N.E. Rawson Rd to N.E. Powell Rd; SW on N.E. Powell Rd to N.E. 212th Ave; S on N.E. 212th Ave to N.E. 109th St; E on N.E. 109th St to N.E. 222nd Ave; S on N.E. 222nd Ave to N.E. 83rd St; W on N.E. 83rd St to N.E. 217th Ave; S on N.E. 217th Ave to N.E. 68th St; E on N.E. 68th St to N.E. 232nd Ave; S on N.E. 232nd Ave to SR 500; SE on SR 500 to N.E. 53rd St; E on N.E. 53rd St to N.E. 292nd Ave; S on N.E. 292nd Ave to N.E. Ireland Rd; E on N.E. Ireland Rd to N.E. Stauffer Rd; SW on N.E. Stauffer Rd to N.E. 292nd Ave; S on N.E. 292nd Ave to N.E. Reilly Rd; SW on N.E. Reilly Rd to N.E. Blair Rd; SE on N.E. Blair Rd to N.E. Zeek Rd; E on N.E. Zeek Rd to N.E. 10th St; E on N.E. 10th St to N.E. 312th Ave; S on N.E. 312th Ave to N.E. 9th St; E on N.E. 9th St to N.E. 322nd Ave; N on N.E. 322nd Ave to N.E. Ammeter Rd; NE on N.E. Ammeter Rd approximately 1/8th mile to the power transmission lines; E along the northern margin of the power transmission lines to N.E. Hughes Rd; N on N.E. Hughes Rd to N.E. 392nd Ave; N on N.E. 392nd Ave to N.E. 28th St; E on N.E. 28th St to N.E. Miller Rd; NE on N.E. Miller Rd to N.E. 39th St; E on N.E. 39th St to Skye Rd; SE on Skye Rd to Washougal River Rd; S on Washougal River Rd to SR 140; SE on SR 140 to Cape Horn Rd; S on Cape Horn Rd to Columbia River; W down the Columbia River to the Cowlitz River (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and the Cowlitz River); N along Cowlitz River to Ostrander Creek and point of beginning.

GMU 568-WASHOUGAL (Clark and Skamania counties):

Beginning on the Lewis River at SR 503; E on Lewis River (Cowlitz-Clark County line) to Canyon Creek; SE along Canyon Creek to N.E. Healy Rd; E on N.E. Healy Rd to US Forest Service Rd 54; E on US Forest Service Rd 54 to US Forest Service Rd 37; NW on US Forest Service Rd 37 to US Forest Service Rd 53; S on US Forest Service Rd 53 to US Forest Service Rd 4205 (Gumboat Rd); S on US Forest Service Rd 4205 to US Forest Service Rd 42 (Green Fork Rd); SW on US Forest Service Rd 42 to US Forest Service Rd 41 at Sunset Falls; E on US Forest Service Rd 41 to US Forest Service Rd 406 at Little Lookout Mountain; SE on US Forest Service Rd

406 to the boundary of the Gifford Pinchot National Forest; due E on the national forest boundary to Rock Creek; SE along Rock Creek to the Columbia River at the town of Stevenson; W down the Columbia River to the Cape Horn Rd (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and Rock Creek); N on Cape Horn Rd to SR 140; W on SR 140 to Washougal River Rd; E on Washougal River Rd to Skye Rd; NW on Skye Rd to N.E. 39th St; W on N.E. 39th St to N.E. Miller Rd; SW on N.E. Miller Rd to N.E. 28th St; W on N.E. 28th St to N.E. 392nd Ave; S on N.E. 392nd Ave to N.E. Hughes Rd; S on N.E. Hughes Rd approximately 1/8th mile to the power transmission lines; W along the northern margin of the power transmission lines to N.E. Ammeter Rd; SW on N.E. Ammeter Rd to N.E. 322nd Ave; S on N.E. 322nd Ave to N.E. 9th St; W on N.E. 9th St to N.E. 312th Ave; N on N.E. 312th Ave to N.E. 10th St; W on N.E. 10th St to N.E. Zeek Rd; W on N.E. Zeek Rd to N.E. Blair Rd; NW on N.E. Blair Rd to N.E. Reilly Rd; NE on N.E. Reilly Rd to N.E. 292nd Ave; NE on N.E. 292nd Ave to N.E. Stauffer Rd; NE on N.E. Stauffer Rd to N.E. Ireland Rd; W on N.E. Ireland Rd to N.E. 292nd Ave; N on N.E. 292nd Ave to N.E. 53rd St; W on N.E. 53rd St to SR 500; NW on SR 500 to N.E. 232nd Ave; N on N.E. 232nd Ave to N.E. 68th St; W on N.E. 68th St to N.E. 217th Ave; N on N.E. 217th Ave to N.E. 83rd St; E on N.E. 83rd St to N.E. 222nd Ave; N on N.E. 222nd Ave to NE 109th St; W on N.E. 109th St to N.E. 212th Ave; N on N.E. 212th Ave to N.E. Powell Rd; NE on N.E. Powell Rd to N.E. Rawson Rd; E on Rawson Rd to DNR L-1400 Rd; E on DNR L-1400 Rd to DNR L-1410 Rd; NW on DNR L-1410 Rd to N.E. Berry Rd; SW on N.E. Berry Rd to N.E. 240th Ave; N on N.E. 240th Ave to N.E. 237th St; W on N.E. 237th St to N.E. 232nd Ave; N on N.E. 232nd Ave to N.E. Allworth Rd; W on N.E. Allworth Rd to N.E. 222nd Ave; N on N.E. 222nd Ave to N.E. Cresap Rd; NW on N.E. Cresap Rd to N.E. 220th Ave; N on N.E. 220th Ave to N.E. 259th St; W on N.E. 259th St to N.E. 182nd Ave; N on N.E. 182nd Ave to N.E. 279th St; E on N.E. 279th St to N.E. 197th Ave; N on N.E. 197th Ave to N.E. Basket Flats Rd; E on N.E. Basket Flats Rd to N.E. Hantwick Rd; NW on N.E. Hantwick Rd to Lucia Falls Rd; E on Lucia Falls Rd to Railroad Ave; NW on Railroad Ave to N.E. Yacolt Rd; W on N.E. Yacolt Rd to N.E. Amboy Rd; N on N.E. Amboy Rd to N.E. 221st Ave; N on 221st Ave to SR 503; NE along SR 503 to the Lewis River and point of beginning.

GMU 572-SIOUXON (Skamania and Clark counties):

Beginning at the Yale Dam at Yale Lake; N then E along the shore of Yale Lake to the Lewis River; NE along the Lewis River to Swift Reservoir; E along the north shore Swift Reservoir to US Forest Service Rd 90 at the Eagle Cliff bridge; E on US Forest Service Rd 90 to US Forest Service Rd 51 (Curly Creek Rd); SE on US Forest Service Rd 51 to US Forest Service Rd 30 (Wind River Rd); N on US Forest Service Rd 30 to US Forest Service Rd 24 (Twin Butte Rd); S on US Forest Service Rd 24 to US Forest Service Rd 60 (Carson Guler Rd); SW on US Forest Service Rd 60 to US Forest Service Rd 65; SW on US Forest Service Rd 65 to the Wind River Rd; NW on the Wind River Rd to Hemlock Rd at the town of Stabler; W on Hemlock Rd to US Forest Service Rd 41 (Sunset-Hemlock Rd); W on the US Forest Service Rd 41

to US Forest Service Road 42 (Green Fork Rd) at Sunset Falls; NE on US Forest Service Rd 42 to US Forest Service Rd 4205 (Gumboat Rd); N on US Forest Service Rd 4205 to US Forest Service Rd 53; NW on US Forest Service Rd 53 to US Forest Service Rd 54 (N.E. Healy Rd); W on US Forest Service Rd 54 to Canyon Creek; N down Canyon Creek to the Lewis River; NE up the Lewis River to the Yale Dam and the point of beginning.

GMU 574-WIND RIVER (Skamania and Klickitat counties):

Beginning at SR 141 and US Forest Rd 86, SW of the town of Trout Lake; S on US Forest Service Rd 86 to US Forest Service Rd 1840; S on US Forest Service Rd 1840 to US Forest Service Rd 18 (Oklahoma Rd); S on US Forest Service Rd 18 to Willard Rd, at the town of Willard; E on Willard Rd to the Little White Salmon River; S down the Little White Salmon River to the Columbia River; W down the Columbia River to the mouth of Rock Creek (including all islands in the Columbia River that are both north of the Washington state line and between the Little White Salmon River and Rock Creek); NW along Rock Creek through the town of Stevenson to the southern boundary of the Gifford Pinchot National Forest; W along the southern boundary of the Gifford Pinchot National Forest to US Forest Service Rd 4100-406; NW on US Forest Service Rd 4100-406 to the US Forest Service Rd 41 (Sunset-Mowich Rd) at Little Lookout Mountain; E on US Forest Service Rd 41 to Hemlock Rd; E on Hemlock Rd to Wind River Rd at the town of Stabler; SE on Wind River Rd to Old State Rd; E on Old State Rd to US Forest Service Rd 65 (Panther Creek Rd); N on US Forest Service Rd 65 to US Forest Service Road 60 (Carson-Guler); NE on US Forest Service 60 to US Forest Service 24 (also called Carson-Guler); E on US Forest Service Rd 24 to SR 141; NE, E and SE on SR 141 to US Forest Service Rd 86, SW of the town of Trout Lake, and the point of beginning.

GMU 578-WEST KLICKITAT (Klickitat, Yakima, and Skamania counties):

Beginning at the mouth of the Little White Salmon River on the Columbia River; N up the Little White Salmon River to Willard Road bridge, E of Willard; W on Willard Rd to US Forest Service Rd 18 (Oklahoma Rd); N on US Forest Service Rd 18 to US Forest Service 1840; N on US Forest Service Rd 1840 to US Forest Service Rd 86; N on US Forest Service Road 86 to SR 141; NE on SR 141 to Mount Adams Recreation Area Road, at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service Rd 80 (Mount Adams Recreational Area Rd); N on US Forest Service Rd 80 (Mount Adams Recreational Area Rd) to US Forest Service Rd 82 (Mount Adams Recreational Area Rd); N on US Forest Service Road 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); S along the Yakama Indian Reservation boundary to the Reservation's SW corner at King Mountain (Section 27, T7N, R11E); E along the Yakama Indian Reservation boundary to the end of King Mountain Rd, about 1 mile; N along the Yakama Indian Reservation boundary to its corner in Section 2, T7N, R11E; E along the Yakama Indian Reservation boundary to the NE corner of Section 4, T7N, R12E; SE along the Yakama Indian Reservation boundary to Summit Creek Rd; SW on Summit

Creek Rd to Glenwood-Goldendale Hwy; NW on Glenwood-Goldendale Hwy to Lakeside Rd; S on Lakeside Rd to Fisher Hill Rd (P-2000); S on Fisher Hill Rd to the Fisher Hill bridge crossing the Klickitat River; S and SW down the Klickitat River to the Columbia River; W down the Columbia River to the mouth of the Little White Salmon River and the point of beginning (including all islands in the Columbia River which are both north of the Washington state line and between the Klickitat River and the Little White Salmon River).

GMU 588-GRAYBACK (Klickitat County):

Beginning at the US Hwy 97 bridge crossing the Columbia River; W down the Columbia River to the mouth of the Klickitat River at the town of Lyle (including all islands in the Columbia River which are both north of the Washington state line and between the US Hwy 97 bridge and the Klickitat River); N up the Klickitat River to the Fisher Hill Rd (P-2000) at the Fisher Hill bridge; N along Fisher Hill Rd to Lakeside Rd; S on Lakeside Rd to Glenwood-Goldendale Hwy; E and SE on Glenwood-Goldendale Hwy to Summit Creek Rd; NE on Summit Creek Rd to the Yakama Indian Reservation; E along the southern boundary of the Yakama Indian Reservation to US Hwy 97 (Satus Pass Hwy); S on US Hwy 97 to US Hwy 97 bridge crossing the Columbia River and point of beginning.

WSR 05-21-116

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed October 18, 2005, 4:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-333 Game management units (GMUs) boundary descriptions—Region three.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region three.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005
Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 05-90, filed 5/10/05, effective 6/10/05)

WAC 232-28-333 Game management units (GMUs) boundary descriptions—Region three.

GMU 328-NANEUM (Kittitas and Chelan counties):

Beginning US Hwy 97 and US Forest Service Rd 9716 at Blewitt Pass; E on US Forest Service Rd 9716 to US Forest Service Rd 9712 (Liberty-Beehive Rd); E on US Forest Service Rd 9712 (Liberty-Beehive Rd) to the Naneum Ridge (Chelan-Kittitas county line) at the west boundary of Section 22, T21N, R19E; SE along the Naneum Ridge (Chelan-Kittitas county line), past Mission Peak, to Naneum Ridge Rd (WA Dept. of Fish and Wildlife Rd 9) at Wenatchee Mountain; SE on Naneum Ridge Rd (WA Dept. of Fish and Wildlife Rd 9) to Colockum Pass Rd (WA Dept. of Fish and Wildlife Rd 10); S on Colockum Pass Rd (WA Dept. of Fish and Wildlife Rd 10) to the Highline Canal (North Branch Canal); NW along the Highline Canal (North Branch Canal) to Lower Green Canyon Rd; S on Lower Green Canyon Rd to US Hwy 97; N on US Hwy 97 to Blewett Pass and the point of beginning.

GMU 329-QUILOMENE (Kittitas and Chelan counties):

Beginning on the Columbia River at the mouth of Tarpiscan Creek; E from Tarpiscan Creek to the Douglas-Kittitas county line on the Columbia River; S along the Columbia River (Douglas-Kittitas county line) to a point north of Cape Horn; S from the Columbia River (Douglas-Kittitas county line) to Cape Horn; S up Cape Horn to its rim; SE along the top of Cape Horn and the rim of the West Bar Cliffs (cliffs overlooking West Bar) to WA Dept. of Fish and Wildlife Rd 14.14; E along WA Dept. of Fish and Wildlife Rd 14.14 to WA Dept. of Fish and Wildlife Rd 14.17; S along WA Dept. of Fish and Wildlife Rd 14.17 to WA Dept. of Fish and Wildlife Rd 14 rear gate; S on WA Dept. of Fish and Wildlife Rd 14 to Tekison Creek; SE along Tekison Creek its mouth on the Columbia River; E from Tekison Creek to the Grant-Kittitas county line on the Columbia River; S along Columbia River (Grant-Kittitas county line) to I-90 bridge at the town of Vantage; W along I-90 to Highline Canal (North Branch Canal); N on Highline Canal (North Branch Canal) to Coloc-

kum Rd (WA Dept. of Fish and Wildlife Rd 10); N on Colockum Rd to North Fork Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 10.10); E on North Fork Tarpiscan Rd to Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 14); S on Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 14) approximately 100 feet to Tarpiscan Creek; E down Tarpiscan Creek to its mouth on the Columbia River and the point of beginning.

GMU 330-West Bar (Kittitas County):

Beginning on the Columbia River at Cape Horn; S up Cape Horn to its rim; SE along the rim of Cape Horn and West Bar Cliffs (the cliffs overlooking West Bar) to WA Dept. of Fish and Wildlife Rd 14.14; E along Rd 14.14 to WA Dept. of Fish and Wildlife Rd 14.17; S along WA Dept. of Fish and Wildlife Rd 14.17 to WA Dept. of Fish and Wildlife Rd 14 near the gate; S on WA Dept. of Fish and Wildlife Rd. 14 to Tekison Creek; SE down Tekison Creek to its mouth on the Columbia River; E from Tekison Creek to the Kittitas-Grant county line on the Columbia River; N and W along the Columbia River (Kittitas-Grant then Kittitas-Douglas county lines) to a point north of Cape Horn; S from the aforesaid point in the Columbia River to Cape Horn and the point of beginning.

GMU 334-ELLENSBURG (Kittitas County):

Beginning on US Hwy 97 and Lower Green Canyon Rd; N on Lower Green Canyon Rd to Highline Canal; N, E and S along Highline Canal to I-90 and the Yakima Training Center boundary; S and W along the Yakima Training Center boundary to I-82; N on I-82 to Thrall Rd; W on Thrall Rd to Wilson Creek; S down Wilson Creek to Yakima River; N up Yakima River to Umptanum Rd; S up Umptanum Rd to the South Branch Extension Canal; W on South Branch Extension Canal to Bradshaw Rd; W on Bradshaw Rd to the elk fence; N along the elk fence to Taneum Creek; NE down Taneum Creek to the Yakima River; NE down the Yakima River to Thorp Hwy; NW along the Thorp Hwy to SR 10; SE on SR 10 to US Hwy 97 junction; N on US Hwy 97 to Lower Green Canyon Rd and point of beginning.

GMU 335-TEANAWAY (Kittitas County):

Beginning at I-90 and US Forest Service Trail 2000 (Pacific Crest Trail) at Snoqualmie Pass; N on US Forest Service Trail 2000 (Pacific Crest Trail) to the Alpine Lakes Wilderness boundary; E on the Alpine Lakes Wilderness boundary to the Chelan-Kittitas county line; E on US Forest Service Trail 1226 to US Hwy 97 at Blewett Pass; S on US Hwy 97 to SR 10; N and W on SR 10 to Thorp Hwy; SE on Thorp Hwy to Yakima River; SW up the Yakima River to Taneum Creek; SW up Taneum Creek to I-90; W on I-90 to US Forest Service Trail 2000 (Pacific Crest Trail) at Snoqualmie Pass and the point of beginning.

GMU 336-TANEUM (Kittitas County):

Beginning at US Forest Service Trail 2000 (Pacific Crest Trail) and I-90 at Snoqualmie Pass; E on I-90 to Taneum Creek; W up Taneum Creek to the south fork of Taneum Creek; W up the south fork of Taneum Creek to US Forest Service Trail 1367; W on US Forest Service Trail 1367 to US Forest Service Trail 1363; S on US Forest Trail 1363 (Peaches Ridge Trail) to US Forest Service Trail 1388; W on

US Forest Service Trail 1388 to US Forest Service Trail 2000 (Pacific Crest Trail) to Blowout Mountain; N on US Forest Service Trail 2000 (Pacific Crest Trail) to I-90 at Snoqualmie Pass and the point of beginning.

GMU 340-MANASTASH (Kittitas County):

Beginning at I-82 and SR 821; N on SR 821 to SR 823 (Harrison Rd); W on SR 823 (Harrison Rd) to Yakima River; N up Yakima River to Umtanum Creek; W up Umtanum Creek to Ellensburg-Wenas Rd; W and S along Ellensburg-Wenas Rd to North Fork Wenas Rd (Audubon Rd, W5000); NW along North Fork Wenas Rd to Barber Springs Rd; W on Barber Springs Rd to US Forest Service Trail 4W694; NW on US Forest Service Trail 4W694 to US Forest Service Trail 4W307; NW on US Forest Service Trail 4W307 to US Forest Service Trail 1388; NW on US Forest Service Trail 1388 to US Forest Service Trail 4W306; NW on US Forest Service Trail 4W306 to US Forest Service Trail 1388 at Quartz Mountain; NW along US Forest Service Rd 1388 to US Forest Service Trail 1363 (Peaches Ridge Trail); N and E along US Forest Service Trail 1363 (Peaches Ridge Trail) to US Forest Service Trail 1367; SE along US Forest Service 1367 to South Fork Taneum Creek; E down the South Fork Taneum Creek to Taneum Creek; E down Taneum Creek to the elk fence; SE along the elk fence to Bradshaw Rd; E on Bradshaw Rd to South Branch Extension Canal; SE along the South Branch Extension Canal to Umtanum Rd; N on Umtanum Rd to Yakima River; S down the Yakima River to Wilson Creek; NE up Wilson Creek to Thrall Rd; E on Thrall Rd to I-82; SE and SW on I-82 to SR 821 and the point of beginning.

GMU 342-UMTANUM (Kittitas and Yakima counties):

Beginning at US Forest Service Rd 1701 and Barber Springs Rd (WA Dept. of Natural Resources Rd W5000) at T17N, R15E, NE 1/4 of Section 12; SE on Barber Springs Rd to the North Fork Wenas Rd (Audubon Rd); SE on the North Fork Wenas Rd to Wenas-Ellensburg Rd; NE on Wenas-Ellensburg Rd to Umtanum Creek; E down the Umtanum Creek to the Yakima River; S down the Yakima River to I-82; SE on I-82 to US Hwy 12 at the city of Yakima; NW on US Hwy 12 to SR 410; NW on SR 410 to US Forest Service Rd 1701; N on US Forest Service Rd 1701 to Barber Spring Rd-US Forest Service Trail 4W694 intersection and the point of beginning.

GMU 346-LITTLE NACHES (Yakima and Kittitas counties):

Beginning at US Forest Service Rd 1388 and US Forest Service Trail 2000 (Pacific Crest Trail) at Blowout Mountain; SE on US Forest Service Rd 1388 to US Forest Service Trail 4W306; SE on US Forest Service Trail 4W306 to US Forest Service Trail 1388; SE on US Forest Service Trail 1388 to US Forest Service Trail 4W307; SE on US Forest Service Trail 4W307 to US Forest Service Trail 4W694; E on US Forest Service Trail 4W694 to US Forest Service Rd 1701 (T17N, R15E, NW 1/4 of Section 12); S on US Forest Service Rd 1701 to SR 410; NW and SW on SR 410 to US Forest Service Trail 2000 (Pacific Crest Trail) near Chinook Pass; N on US Forest Service Trail 2000 (Pacific Crest Trail) to US Forest Service Rd 1388 at Blowout Mountain and the point of beginning.

GMU 352-NILE (Yakima County):

Beginning on the Bumping Lake Rd and SR 410; E and S on SR 410 to the Lower Nile Loop Rd; W and N on the Lower Nile Loop Rd to US Forest Service Rd 1500; W on US Forest Service Rd 1500 to US Forest Service Rd 1502 (McDaniel Lake Rd); W on the US Forest Service Rd 1502 (McDaniel Lake Rd) to Rattlesnake Creek; N down Rattlesnake Creek to the North Fork of Rattlesnake Creek; W up the North Fork of Rattlesnake Creek to US Forest Service Trail 973 (Richmond Mine Rd); N on US Forest Service Trail 973 (Richmond Mine Trail) to US Forest Service Rd 1800 (Bumping Lake Rd); N on the US Forest Service Rd 1800 (Bumping Lake Rd) to SR 410 and the point of beginning.

GMU 356-BUMPING (Yakima County):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and SR 410 at Chinook Pass; NE on SR 410 to US Forest Service Rd 1800 (Bumping Lake Rd); SW on the US Forest Service Rd 1800 (Bumping Lake Rd) to US Forest Service Trail 973 (Richmond Mine Rd); SE on US Forest Service Trail 973 (Richmond Mine Rd) to the north fork of Rattlesnake Creek; SE down the north fork of Rattlesnake Creek to US Forest Service Rd 1502 (McDaniel Lake Rd); SE on US Forest Service Rd 1502 (McDaniel Lake Rd) to US Forest Service Rd 1500; S on US Forest Service Rd 1500 to US Hwy 12; W on US Hwy 12 to US Forest Service Trail 2000 (Pacific Crest Trail) at White Pass; N on the US Forest Service Trail 2000 (Pacific Crest Trail) to SR 410 at Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.)

GMU 360-BETHEL (Yakima County):

Beginning on SR 410 and the Lower Nile Loop Rd; SE on SR 410 to US Hwy 12; SW on US Hwy 12 to US Forest Service Rd 1500; N and E on US Forest Service Rd 1500 to Nile Loop Rd; SE on Nile Loop Rd to SR 410, southeast of the town of Nile, and the point of beginning.

GMU 364-RIMROCK (Yakima County):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and US Hwy 12 at White Pass; E on US Hwy 12 to US Forest Service 1302 (Jump Off Rd) at Windy Point; SW on US Forest Service 1302 (Jump Off Rd) to US Forest Service Trail 1127, southeast of the Jump Off Lookout; SW on US Forest Service Trail 1127 to US Forest Service Rd 613; SW on US Forest Service Rd 613 to US Forest Service Rd 1020; SW on US Forest Service Rd 1020 to US Forest Service Rd 615; SW on US Forest Service Rd 615 to US Forest Service Trail 1136; SW on US Forest Service Trail 1136 to its southernmost point; W from US Forest Service Trail 1136 to Spenser Point; NW on the Yakama Indian reservation boundary from Spenser Point to the US Forest Service Trail 2000 (Pacific Crest Trail); N on the US Forest Service Trail 2000 (Pacific Crest Trail) to US Hwy 12 at White Pass and the point of beginning.

GMU 368-COWICHE (Yakima County):

Beginning on US Hwy 12 to US Forest Service Rd 1302 (Jump Off Rd) at Windy Point; NE and SE on US Hwy 12 to I-82; NW on I-82 to the Yakima River; S down the Yakima River to Ahtanum Creek; W up Ahtanum Creek to the south

fork of Ahtanum Creek; SW up the south fork of Ahtanum Creek to its junction with Reservation Creek; (~~(NW)~~ SW up (~~the south fork of Ahtanum Creek~~) Reservation Creek to its headwaters; N along the crest of the main divide between the Diamond Fork drainage and the (~~(Middle Fork)~~) Ahtanum Creek drainage to Darland Mountain; NE on US Forest Service Trail 615 to US Forest Service Rd 1020; NE on US Forest Service Rd 1020 to US Forest Service Rd 613; NE on US Forest Service Rd 613 to US Forest Service Trail 1127; NE on US Forest Service Trail 1127 to US Forest Service Rd 1302 (Jump Off Rd), SE of the Jump Off Lookout Station; NE on US Forest Service Rd 1302 (Jump Off Rd) to US Hwy 12 and the point of beginning.

GMU 371-ALKALI (Kittitas and Yakima counties):

Beginning at the Vantage Bridge where I-90 crosses the Columbia River; S down the Columbia River (Kittitas-Grant and Grant-Yakima county line) to the Priest Rapids Dam; NW on the southern shore of the Columbia River (Priest Rapids Lake) to the Yakima Training Center boundary; S and W along the Yakima Training Center boundary to the main gate on Firing Center Rd; W along Firing Center Rd to I-82; N along I-82 to Yakima Training Center boundary at Vanderbuilt Gap; N and E along the Yakima Training Center boundary to I-90; E on I-90 to the Vantage Bridge on Columbia River and the point of beginning.

GMU 372 RATTLESNAKE HILLS (Benton and Yakima counties):

Beginning at southern corner of Yakima Training Center border on the Columbia River, northwest of the Priest Rapids Dam; SE on the southern shore of the Columbia River (Priest Rapids Lake) to the Priest Rapids Dam; E along the Columbia River (Yakima-Grant, Grant-Benton county lines) to the Vernita Bridge on SR 24; E and S down the Benton County side of the Columbia River, following the ordinary high water mark of the shoreline, to the mouth of the Yakima River; NW up the Yakima River to SR 823 (Harrison Rd) south of the town of Pomona; E along SR 823 (Harrison Rd) to SR 821; SE on SR 821 to Firing Center Rd at I-82; E on Firing Center Rd to the main gate of the Yakima Training Center; S and E along the Yakima Training Center boundary to southern corner of the Yakima Training Center boundary on the Columbia River and the point of beginning.

GMU 373-HORSE HEAVEN (Benton and Yakima counties):

Beginning at the mouth of the Yakima River and Columbia River; SE down the Columbia River (Franklin-Benton and Benton-Walla Walla county lines) to the Washington-Oregon state line; W on the Columbia River (Washington-Oregon state line) from the southern junction of the Benton-Walla Walla county lines to Alder Creek (including all islands in the Columbia River north of the Oregon state line and between Alder Creek and the junction of the Benton-Walla Walla county lines); N on Alder Creek to SR 14; E on SR 14 to Alderdale Rd; N on the Alderdale Rd to Ridge Rd; W and S on Ridge Rd to Donaho Rd; W on Donaho Rd to Mabton-Bickleton Hwy (Glade Rd); N on Mabton-Bickleton Rd to the power transmission lines; SW on the power transmission lines to the power line access road in Section 3, T6N, R20E; N on power line access road to Yakama reservation Road 272

at the Yakama Indian reservation boundary; NE on the Yakama Indian reservation boundary to the Mabton-Sunnyside Rd; N on the Mabton-Sunnyside Rd to the Yakima River; E along the Yakima River the point of beginning.

GMU 381-ESQUATZEL (Franklin, Grant and Adams counties):

Beginning at the Vernita Bridge on SR 24 and the west shore of the Columbia River Grant-Benton county line; N and E on SR 24 to Muse Rd; E on Muse Rd to Mail Rd; E on Mail Rd to Scootney Rd; N on Scootney Rd to SR 17; N on SR 17 to SR 26; E on SR 26 to Old SR 26; E on Old SR 26 to the Palouse River (Whitman-Franklin county line); S down the Palouse River to Snake River (Franklin-Walla Walla county line); W and SW down the Snake River to the Columbia River (Franklin-Benton-Walla Walla county line junction); NW up the Columbia River (Franklin-Benton county line) to a point northeast of the mouth of the Yakima River where it joins the Columbia River; SW to the mouth of the Yakima River; N and W up the Benton county side of the Columbia River, following the ordinary high water mark of the shoreline, to the mouth of the Vernita Bridge on SR 24 and the point of beginning. (Certain portions of the Hanford Reach National Monument are closed to public entry. The Hanford Nuclear Reservation and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry.)

GMU 382-EAST KCLICKITAT (Klickitat County):

Beginning at the US Hwy 97 Bridge on the Columbia River at the town of Maryhill; N on US Hwy 97 to the Yakama Indian reservation at Satus Pass; E along the Yakama Indian reservation boundary to Yakama Reservation Rd 272 and the power line access road; S and E on the power line access road to the electrical transmission lines; N and E on the electrical transmission lines to the Mabton-Bickleton Hwy (Glade Rd); S on the Mabton-Bickleton Hwy to Donaho Rd; E on Donaho Rd to Ridge Rd; E and N on Ridge Rd to Alderdale Rd; SE and S on Alderdale Rd to SR 14; W on SR 14 to Alder Creek; S down Alder Creek to the Columbia River; W down the Columbia River to the US Hwy 97 Bridge at the town of Maryhill and the point of beginning including all islands in the Columbia River both north of the Washington-Oregon state line and between Alder Creek and the US Hwy 97 Bridge at Maryhill.

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

WSR 05-21-117

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed October 18, 2005, 4:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-336 Game management units (GMUs) boundary descriptions—Region six.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region six.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-23, filed 3/5/03, effective 4/5/03)

WAC 232-28-336 Game management units (GMUs) boundary descriptions—Region six.

GMU 601-HOKO (Clallam County):

Beginning on the Makah Indian reservation boundary and the Strait of Juan de Fuca; SE along the shore of the Strait of Juan de Fuca to the mouth of the Hoko River; S along the Hoko River to SR 112; SE on SR 112 to the Hoko-Ozette Rd; SW on the Hoko-Ozette Rd to the Olympic National Park boundary near Ozette; N along the Olympic National Park boundary to the Makah Indian reservation boundary; E and N along the Makah Indian reservation boundary to the Strait of Juan de Fuca and the point of beginning.

GMU 602-DICKEY (Clallam County):

Beginning at the mouth of the Hoko River and the Strait of Juan de Fuca; SE along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River; S along the Clallam River to SR 112; S on SR 112 to the Burnt Mountain Rd (SR 113); S on the Burnt Mountain Rd (SR 113) to US Hwy 101 at the

town of Sappho; SW on US Hwy 101 to the LaPush Rd; SW on the LaPush Rd to the Olympic National Park boundary; N along the Olympic National Park boundary to the Hoko-Ozette Rd; NE on the Hoko-Ozette Rd to SR 112; NW on SR 112 to the Hoko River; NW on the Hoko River to its mouth on the Strait of Juan De Fuca and the point of beginning.

GMU 603-PYSHT (Clallam County):

Beginning at the mouth of the Clallam River on Strait of Juan de Fuca; E along the shore of the Strait of Juan de Fuca to the mouth of the Elwha River; S along the Elwha River to the Olympic National Park boundary; W along the Olympic National Park boundary to one mile west of Lake Crescent; S on the Olympic National Park boundary to US Hwy 101; W on US Hwy 101 to the Burnt Mountain Rd (SR 113); N on the Burnt Mountain Rd (SR 113) to SR 112; N on SR 112 to the Clallam River; N along the Clallam River to its mouth and the point of beginning (~~(-except Private Lands Wildlife Management Area 600, Merrill and Ring)).~~

GMU 607-SOL DUC (Clallam County):

Beginning at US Hwy 101 at the town of Sappho; E on US Hwy 101 to the Olympic National Park boundary; S and W along the Olympic National Park boundary to the Bogachiel River; W along the Bogachiel River to US Hwy 101; N on US Hwy 101, through the town of Forks, to the town of Sappho and the point of beginning.

GMU 612-GOODMAN (Jefferson and Clallam counties):

Beginning approximately two miles east of the town of LaPush on the Olympic National Park boundary and LaPush Rd intersection; NE on LaPush Rd to US Hwy 101 at the town of Forks; S on US Hwy 101, across the Hoh River, and west to Olympic National Park Boundary; N on the Olympic National Park boundary to LaPush Rd and the point of beginning.

GMU 615-CLEARWATER (Jefferson County):

Beginning on US Hwy 101 and the Bogachiel River; E along the Bogachiel River to the Olympic National Park boundary; SE and W on the Olympic National Park boundary to the Quinault Indian reservation boundary; W on the Quinault Indian reservation boundary to the Olympic National Park boundary; N along the Olympic National Park boundary to US Hwy 101; E, N, and W on US Hwy 101 to the Bogachiel River and the point of beginning.

GMU 618-MATHENY (Jefferson and Grays Harbor counties):

Beginning at the boundary junction of Olympic National Park and the Quinault Indian reservation, east of the Queets River Rd; N, E, S, and W along the Olympic National Park boundary to the park and Quinault Indian reservation boundary junction north of Lake Quinault; NW along the Quinault Indian reservation boundary to its junction with the boundary of Olympic National Park, east of the Queets River Rd, and the point of beginning, including the Olympic National Forest land and private land one mile west of Lake Quinault and bounded by the Olympic National Park and the Quinault Indian reservation.

GMU 621-OLYMPIC (Jefferson, Clallam and Mason counties):

Beginning at the Olympic National Park boundary and the Elwha River; N along the Elwha River to US Hwy 101; E on US Hwy 101, through Port Angeles and Sequim, to the Chimaquam Center Rd at the town of Quilcene; N on the Chimaquam Center Rd to the East Quilcene Rd; E on the East Quilcene Rd to Quilcene Bay; S along the shore of Quilcene Bay to Dabob Bay; S along the shore of Dabob Bay to Hood Canal; SW along the shore of Hood Canal to Finch Creek; upstream on Finch Creek to US Hwy 101; S on US Hwy 101 to SR 119; W on SR 119 to Standstill Dr (Power Dam Rd); W on Standstill Dr (Power Dam Rd) to Upper Cushman Dam and the shore of Lake Cushman; NW on the west shore of Lake Cushman to the North Fork Skokomish River; N along the North Fork Skokomish River to the Olympic National Park boundary; N and W on the Olympic National Park boundary to the Elwha River and the point of beginning.

GMU 624-COYLE (Clallam and Jefferson counties):

Beginning at the mouth of the Elwha River and the Strait of Juan de Fuca; north from the mouth of the Elwha River to the Clallam county line in the Strait of Juan De Fuca; NE on the Clallam county line to Clallam-San Juan county line; NE on the Clallam-San Juan county line to the Jefferson-San Juan county line; NE on the Jefferson-San Juan county line to the Jefferson-Island county line; S then SE on the Jefferson-Island county line to the Kitsap-Island county line; SE on the Kitsap-Island county line to a point due east of Point No Point; W from the Kitsap-Island county line to Point No Point; NW, S, N, and SW along the coast of the Kitsap peninsula to Cougar Spit; W from Cougar Spit to Finch Creek at the town of Hoodsport; NE along the east shore of Hood Canal to Dabob Bay; N along the shore of Dabob Bay and Quilcene Bay to East Quilcene Rd; W on East Quilcene Rd to the Chimaquam Center Rd; S on Chimaquam Center Rd to US Hwy 101; N and W on US Hwy 101 through Sequim and Port Angeles to the Elwha River; N down the Elwha River to its mouth and the Strait of Juan de Fuca and the point of beginning.

GMU 627-KITSAP (Kitsap, Mason, and Pierce counties):

Beginning at the Hood Canal Bridge; E, S, N, and SE along the shore of the Kitsap peninsula to Point No Point; due E from Point No Point to Kitsap-Island county line in the Puget Sound; S along the Kitsap-Island county line to the Kitsap-Snohomish county line; S along the Kitsap-Snohomish county line to Kitsap-King county line; S along the Kitsap-King county line to the King-Pierce county line; S on the King-Pierce county line to the outlet of the Tacoma Narrows; S through the Tacoma Narrows, past Fox Island (which is included in this GMU), to Carr Inlet; NW up Carr Inlet around McNeil and Gertrude Islands (which are excluded from this GMU), to Pitt Passage; SW through Pitt Passage and Drayton Passage to the Pierce-Thurston county line in the Nisqually Reach; NW along the Pierce-Thurston county line to the Pierce-Mason county line; NW on the Pierce-Mason county line in the Nisqually Reach to North Bay; along the east shore of North Bay to SR 3 at the town of Allyn; N on SR 3 to the Old Belfair Hwy at the town of Belfair; N on the Old Belfair Hwy to the Bear Creek-Dewatto

Rd; W on the Bear Creek-Dewatto Rd to the Dewatto Rd West; N along the Dewatto Rd to its intersection with the Albert Pfundt Rd; N on the Albert Pfundt Rd to Anderson Creek; E down Anderson Creek to the east shore of the Hood Canal; N from Anderson Creek along the east shore of Hood Canal to the Hood Canal bridge and the point of beginning.

GMU 633-MASON (Mason and Kitsap counties):

Beginning at the mouth of Anderson Creek on the eastern shore of Hood Canal; W along Anderson Creek to Albert Pfundt Rd; S on the Albert Pfundt Rd to West Dewatto Rd; S on West Dewatto Rd to Bear Creek-Dewatto Rd; E along Bear Creek-Dewatto Rd to Old Belfair Hwy; S on Old Belfair Hwy to SR 3 at the town of Belfair; S on SR 3 to North Bay at the town of Allyn; N along the west shore of North Bay; S along the east shore of North Bay to Pierce-Mason county line at Case Inlet; SE along the Pierce-Mason county line through Case Inlet to the Mason-Thurston county line; W along the Mason-Thurston county line through Dana Passage, Squaxin Passage, and Totten Inlet to US Hwy 101 at Oyster Bay; N on US Hwy 101 Finch Creek at the town of Hoodsport; E from Finch Creek across Hood Canal to Cougar Spit on the east shore of the Hood Canal; N from Cougar Spit along the east shore of Hood Canal to the mouth of Anderson Creek and the point of beginning.

GMU 636-SKOKOMISH (Grays Harbor and Mason counties):

Beginning on the Olympic Park boundary and the North Fork Skokomish River; S along the North Fork Skokomish River to Lake Cushman; SE along the west shore of Lake Cushman to Standstill Dr (Power Dam Rd) at the Upper Cushman Dam; E on the Standstill Dr to SR 119; SE on Lake Cushman Rd to US Hwy 101 at the town of Hoodsport; S on US Hwy 101 to the Shelton-Matlock Rd at the town of Shelton; W on the Shelton-Matlock Rd to the Matlock-Brady Rd; S on the Matlock-Brady Rd to Deckerville Rd south of the town of Matlock; W on Deckerville Rd to Boundary Rd (Middle Satsop Rd); W and S on Boundary Rd (Middle Satsop Rd) to Kelly Rd; N on Kelly Rd to US Forest Service Rd 2368 (Simpson Timber 500 line); N on US Forest Service Rd 2368 (Simpson Timber 500 line) to US Forest Service Rd 2260 (Simpson Timber 600 line); W on US Forest Service Rd 2260 (Simpson Timber 600 line) to Wynoochee Rd (US Forest Service Rd 22); NW and W on US Forest Service Rd 22 (Wynoochee Rd) to US Forest Service Rd 2294, 1/4 mile east of Big Creek; NW on US Forest Service Rd 2294 which parallels Big Creek, to junction with US Forest Service Rd 2281; W on US Forest Service Rd 2281, to the watershed divide between the Humptulips River watershed and the Wynoochee River watershed; N on the ridge between the Humptulips River watershed and Wynoochee River watershed to Olympic National Park boundary; E along the Olympic National Park boundary to the north fork of the Skokomish River and the point of beginning.

GMU 638-QUINAULT RIDGE (Grays Harbor and Jefferson counties):

Beginning on the Olympic National Park boundary and the Quinault Indian reservation boundary at the northwest corner of Lake Quinault; NE along the west shore of Lake Quinault to the Quinault River; NE on the Olympic National Park

boundary, along the Quinault River, to the Olympic National Park boundary west of Bunch Creek; S and NE on the Olympic National Park boundary to the ridge between the Wynoochee River watershed and Humptulips River watershed; S along the ridge between the Humptulips River watershed and the Wynoochee River watershed to its intersection with US Forest Service Rd 2281; E along US Forest Service Rd 2281 to US Forest Service Rd 2294; SE on US Forest Service Rd 2294, paralleling Big Creek, to US Forest Service Rd 22 (Donkey Creek Rd); W on the US Forest Service Rd 22 (Donkey Creek Rd) to US Hwy 101; N on US Hwy 101 to the Quinault Indian reservation boundary; NE on the reservation boundary to Lake Quinault; NW along the south shore of Lake Quinault to the Olympic National Park boundary and the point of beginning.

GMU 642-COPALIS (Grays Harbor County):

Beginning at the Quinault Indian reservation and US Hwy 101 south of Lake Quinault; S on US Hwy 101 to the Hoquiam River in the city of Hoquiam; S along the Hoquiam River to the north shore of Grays Harbor; W along the north shore of Grays Harbor to the Pacific Ocean; N along the shore of the Pacific Ocean to the Quinault Indian reservation boundary; E and NE along the Quinault Indian reservation to US Hwy 101 south of Lake Quinault and the point of beginning.

GMU 648-WYNOOCHEE (Grays Harbor County):

Beginning at the junction of US Hwy 101 and the Donkey Creek Rd; NE along the Donkey Creek Rd (US Forest Service Rd 22) to its junction with the Donkey Creek-Grisdale Rd; continuing E on this road (US Forest Service Rd 22) to Camp Grisdale (south of Wynoochee Lake); S along the Wynoochee Rd (US Forest Service Rd 22) to US Forest Service Rd 2260 (Simpson Timber 600 line); E on US Forest Service Rd 2260 (Simpson Timber 600 line) to US Forest Service Rd 2368 (Simpson Timber 500 line); S on US Forest Service Rd 2368 (Simpson Timber 500 line) to Kelly Rd; S on Kelly Rd to Boundary Rd (Middle Satsop Rd); S on Boundary Rd (Middle Satsop Rd) to Cougar Smith Rd; W on Cougar Smith Rd to the west fork of the Satsop River; S down the west fork Satsop River to the Satsop River; S down the Satsop River to US Hwy 12; W along US Hwy 12 to its junction with US Hwy 101 in the town of Aberdeen; SE along US Hwy 101 to the north shore of the Chehalis River; W along the north shore of the Chehalis River to the north shore of Grays Harbor; W along the north shore of Grays Harbor to the mouth of the Hoquiam River; N up the Hoquiam River to US Hwy 101; W and N along US Hwy 101 to its junction with the Donkey Creek Rd (US Forest Service Rd 22) and the point of beginning. INCLUDES Rennie Island.

GMU 651-SATSOP (Grays Harbor, Mason and Thurston counties):

Beginning at the US Hwy 12 bridge on the Satsop River; N up the Satsop River to its junction with the west fork of the Satsop River; N up the west fork of the Satsop River to Cougar Smith Rd; E on Cougar Smith Rd to Boundary Rd (Middle Satsop Rd); N and E on Boundary Rd (Middle Satsop Rd) to Deckerville Rd; E on Deckerville Rd to Matlock-Brady Rd; N on Matlock-Brady Rd to the town of Matlock; E on Shelton-Matlock Rd to its junction with US Hwy 101 west of

the town of Shelton; S on US Hwy 101 to its junction with SR 8; W on SR 8 to its junction with US Hwy 12; W along US Hwy 12 to bridge over the Satsop River and the point of beginning.

GMU 652-PUYALLUP (Pierce and King counties):

Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; SE on Redondo Way South to SR 509; E on SR 509 to Pacific Hwy South (Old Hwy 99) (SR 99); S on Pacific Hwy South to SR 18 at the city of Auburn; E on SR 18 to SR 164; SE on SR 164 to SR 410 (Chinook Pass Hwy) at the town of Enumclaw; E on SR 410 to the second set of power transmission lines near the Mud Mountain Dam Rd; SW on the power transmission lines to the White River; NW along the White River to the ~~((Campbell Group))~~ Kapowsin Tree Farm ownership line ~~((Kapowsin Tree Farm))~~ (along west line of Section 6, T19N, R7E); W and S along the ~~((Campbell Group))~~ Kapowsin Tree Farm ownership line ~~((Kapowsin Tree Farm))~~ to South Prairie Creek (Section 14, T19N, R6E); S up South Prairie Creek to the first intersection with a power transmission line; SW on this power transmission line to Orville Rd East at the Puyallup River; S on Orville Rd East to SR 161; S on SR 161 to the Mashel River; down the Mashel River to the Nisqually River (Pierce-Thurston county line); NW along the Nisqually River, which is the Pierce-Thurston county line, to the Nisqually Reach in the Puget Sound; NW along the Thurston-Pierce county line in the Nisqually Reach to a point on the Thurston-Pierce county line southeast of Drayton Passage Channel; NE through Drayton Passage and Pitt Passage to Carr Inlet; E and S around McNeil Island to a point southwest of the Tacoma Narrows (including McNeil, Gertrude, Anderson and Ketron Islands); NE through the Tacoma Narrows to a point on the Pierce-King county line northeast of the main channel of the Tacoma Narrows; E on the Pierce-King county line to the point where the county line turns southeast, northwest of Dash Point; E to Redondo Junction on the eastern shore of the Puget Sound and the point of beginning ~~((except Private Lands Wildlife Management Area 401 (Campbell Group) (Kapowsin Tree Farm)))~~.

GMU 653-WHITE RIVER (King and Pierce counties):

Beginning at the lookout station at Grass Mountain mainline (US Forest Service Rd 7110) and the city of Tacoma Green River Watershed boundary; E on the Green River Watershed boundary to US Forest Service Rd 7032; E along US Forest Service Rd 7032 to US Forest Service Rd 7030; SE along US Forest Service Rd 7030 to Forest Service Rd 7036; SE along US Forest Service Rd 7036 to US Forest Service Rd 7038; SE on US Forest Service Rd 7038 to US Forest Service Trail 2000 (Pacific Crest Trail) at its closest point to US Forest Service Rd 7038 near Windy Gap north of Pyramid Peak; S on the (US Forest Service Trail 2000) Pacific Crest Trail to the Mount Rainier National Park boundary at Chinook Pass; N and W on the Mount Rainier National Park boundary to the Carbon River; NW down the Carbon River to the power transmission line; NE along the power transmission line to South Prairie Creek; N along South Prairie Creek to intersection with ~~((Campbell Group))~~ Kapowsin Tree Farm ownership line ~~((Kapowsin Tree Farm))~~ (Section 14, T19N, R6E); E and N along ~~((Campbell Group))~~ Kapowsin Tree Farm

ownership line (~~((Kapowsin Tree Farm))~~) to the White River (along west line of Section 6, T19N, R7E); SE along the White River to the power transmission lines on the north side of the White River near Mud Mountain Dam Rd; NE on the power transmission lines to SR 410; E on SR 410 to US Forest Service Rd 7110; N on US Forest Service Rd 7110 to the city of Tacoma Green River Watershed and the point of beginning(~~(, except Private Lands Wildlife Management Area 401 (Campbell Group) (Kapowsin Tree Farm))~~).

GMU 654-MASHEL (Pierce County):

Beginning at the power transmission line at the Puyallup River Bridge on Orville Rd East; NE on the power transmission line to the Carbon River; SE along the Carbon River to the west boundary of Mt. Rainier National Park; S on the Mt. Rainier National Park boundary to the Nisqually River; W down the Nisqually River to the mouth of the Mashel River; N up the Mashel River to the SR 161 bridge (Eatonville-LaGrande Rd); N on SR 161 through Eatonville to Orville Rd East (Kapowsin-Eatonville Rd); N on Orville Rd East to the Puyallup River bridge and the point of beginning(~~(, except Private Lands Wildlife Management Area 401 (Campbell Group) (Kapowsin Tree Farm))~~).

GMU 658-NORTH RIVER (Grays Harbor and Pacific counties):

Beginning at the Pacific Ocean and the south shore of Grays Harbor at the Westport Jetty; E along the south shore of Grays Harbor to the mouth of the Chehalis River at the town of Aberdeen; E up the Chehalis River to the US Hwy 101 bridge and US Hwy 101; S on US Hwy 101 to the Willapa River at the town of Raymond; W down the Willapa River to Willapa Bay; W along the north shore of Willapa Bay to the Pacific Ocean; N along the Pacific Ocean to the south shore of Grays Harbor at the Westport Jetty and the point of beginning.

GMU 660-MINOT PEAK (Grays Harbor and Pacific counties):

Beginning at the intersection of US Hwy 12 and US Hwy 101 at the town of Aberdeen; E and S on US Hwy 12 to North State St at the town of Oakville; S on North State St to South Bank Rd; W on South Bank Rd to Garrard Creek Rd; SW on Garrard Creek Rd to Oakville-Brooklyn Rd; W on Oakville-Brooklyn Rd to North River Valley Rd; W on North River Valley Rd to Smith Creek Rd; W on Smith Creek Rd to US Hwy 101; N on US Hwy 101 to US Hwy 12 at the town of Aberdeen and the point of beginning.

GMU 663-CAPITOL PEAK (Grays Harbor and Thurston counties):

Beginning at US Hwy 12 and SR 8 at the town of Elma; E on SR 8 to US Hwy 101; E on US Hwy 101 to Delphi Rd SW; S on Delphi Road SW to 110th Ave SW; E on 110th Ave SW to Littlerock Rd; S on Littlerock Rd to US Hwy 12; NW on US Hwy 12 to SR 8 at the town of Elma and the point of beginning.

GMU 666-DESCHUTES (Thurston County):

Beginning on US Hwy 101 at the Mason-Thurston county line southeast of Oyster Bay; NE on the Mason-Thurston county line, through Totten Inlet, Squaxin Passage and Dana

Passage, to the Pierce-Thurston county line in the Nisqually Reach; SE through the Nisqually Reach along the Pierce-Thurston county line to the mouth of the Nisqually River; SE on the Nisqually River to SR 507; SW on SR 507 to Old Hwy 99 SE (SR 99) at the town of Tenino; SW on Old Hwy 99 SE (SR 99) to I-5; W on SR 12 to Littlerock Rd; N on the Littlerock Rd to 110th Ave SW; W on 110th Ave SW to Delphi Rd SW; N on Delphi Rd SW to US Hwy 101; NW on US Hwy 101 to the Mason-Thurston county line southeast of Oyster Bay and the point of beginning.

GMU 667-SKOOKUMCHUCK (Thurston and Lewis counties):

Beginning at the SR 507 bridge on the Nisqually River; SE up the Nisqually River (Pierce-Thurston county line) SR 7 bridge at the town of Elbe on Alder Lake; S on SR 7 to SR 508 at the town of Morton; W on SR 508 to the Centralia-Alpha Rd; W and N on the Centralia-Alpha Rd to Salzer Valley Rd; W on Salzer Valley Rd to Summa St at the town of Centralia; W on Summa St to Kresky Rd; N on Kresky Rd to Tower St; N on Tower St to SR 507; W on SR 507 (Cherry St, Alder St, and Mellen St) to I-5; N on I-5 to Old Hwy 99 SE (SR 99); NE on Old Hwy 99 SE (SR 99) to SR 507; NE on SR 507 to the Nisqually River bridge and the point of beginning.

GMU 672-FALL RIVER (Pacific, Lewis and Grays Harbor counties):

Beginning at the intersection of US Hwy 101 and SR 6 at the town of Raymond; N on US Hwy 101 to Smith Creek Rd; NE on Smith Creek Rd to North River Valley Rd; E on North River Valley Rd to Oakville-Brooklyn Rd; E on the Oakville-Brooklyn Rd to Garrard Creek Rd; S on Garrard Creek Rd to Weyerhaeuser C line at mile post 5; W on the Weyerhaeuser C line to Weyerhaeuser 723 line; S on the Weyerhaeuser 723 line to the Weyerhaeuser 720 line; W on the Weyerhaeuser 720 line to Weyerhaeuser 7800 F line; S on Weyerhaeuser 7800 F line to Weyerhaeuser 7800 line; S and SE on Weyerhaeuser 7800 line to Weyerhaeuser 7000 line; SW on Weyerhaeuser 7000 line to Weyerhaeuser 7050 line; S on Weyerhaeuser 7050 line to Weyerhaeuser 7400 line; S and E on Weyerhaeuser 7400 line to Weyerhaeuser 7000 line; E on the Weyerhaeuser 7000 line to Elk Creek Rd; E on Elk Creek Rd to Stevens Rd at the town of Doty; E on Stevens Rd to SR 6; S, W and NW on SR 6 to US Hwy 101 at the town of Raymond and the point of beginning.

GMU 673-WILLIAMS CREEK (Pacific County):

Beginning at US Hwy 101 bridge crossing the Willapa River at the town of Raymond; S on US Hwy 101 to SR 6; SE on SR 6 to the Trap Creek A line; S and W on the Trap Creek A line to power transmission lines; S and SW on the power transmission lines to Weyerhaeuser 5800 line (Section 22, T11N, R8W); SW along the Weyerhaeuser 5800 line to Weyerhaeuser 5000 line (Deep River main line); SW on the Weyerhaeuser 5000 line (Deep River main line) to the Salmon Creek Rd; SW along the Salmon Creek Rd to SR 4; W on SR 4 to US Hwy 101 at Johnson's Landing; W on US Hwy 101 to the Naselle River bridge; W down the Naselle River to Willapa Bay; N along the east shore of Willapa Bay to the Willapa River; SE and NE up the Willapa River to the US Hwy 101 bridge and the point of beginning.

GMU 681-BEAR RIVER (Pacific and Wahkiakum counties):

Beginning at the US Hwy 101 bridge at the Naselle River; E on US Hwy 101 to SR 4; SE on SR 4 to Deep River bridge; S down the Deep River to the Columbia River; W along the shore of the Columbia River to the mouth of the Wallacut River (including all islands in the Columbia both north of the Washington-Oregon state line and between the Deep River and the Wallacut River); N up the Wallacut River to US Hwy 101; NW on US Hwy 101 to alternate US Hwy 101, north of the Ilwaco Airport; N on alternate US Hwy 101 to US Hwy 101; E and NE on US Hwy 101 to Bear River; N down Bear River to Willapa Bay; N along the eastern shore of Willapa Bay to the mouth of the Naselle River; SE up the Naselle River to the US Hwy 101 bridge and the point of beginning.

GMU 684-LONG BEACH (Pacific County):

Beginning at the mouth of Bear River on Willapa Bay; S up Bear River to US Hwy 101; W and SW on US Hwy 101 to alternate US Hwy 101 north of the Ilwaco Airport; S on alternate US Hwy 101 to US Hwy 101; W on US Hwy 101 to the Wallacut River; S along the Wallacut River to the Columbia River; W down the Columbia River to its mouth on the Pacific Ocean (including all islands in the Columbia River both north of the Washington-Oregon state line and between the Wallacut River and the mouth of the Columbia River); N, E, S, and E along the shoreline of the Long Beach peninsula to Bear River and the point of beginning.

GMU 699-LONG ISLAND (Pacific County):

Includes all of Long Island.

WSR 05-21-118**PROPOSED RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Filed October 18, 2005, 4:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-195.

Title of Rule and Other Identifying Information: WAC 232-28-332 Game management units (GMUs) boundary descriptions—Region two.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, at 8:00 a.m.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Monday, November 14, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 30, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A boundary adjustment is being proposed for game management units in Region two.

Reasons Supporting Proposal: The proposed amendment provides clarification to the existing boundaries to make them more discernable.

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: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules regulate recreational hunters and do not directly regulate small business.

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

October 18, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 03-175, filed 8/5/03, effective 9/5/03)

WAC 232-28-332 Game management units (GMUs) boundary descriptions—Region two.**GMU 203-PASAYTEN (Okanogan and Whatcom counties):**

Beginning at the western junction of the Pasayten Wilderness Area-Ross Lake National Recreational Area border and the US-Canadian border; E along the US-Canadian border to the eastern junction of the Pasayten Wilderness Area boundary and the US-Canadian border; S on the Pasayten Wilderness border to US Forest Service Trail 375; W on US Forest Service Trail 375 to US Forest Service Trail 341; SW on US Forest Service Trail 341 to its junction with US Forest Service Trail 533 and US Forest Service Trail 343; W on US Forest Service Trail 343 to US Forest Service Trail 342; SW on US Forest Service Trail 342 to Pasayten Wilderness boundary; W on the Pasayten Wilderness boundary to US Forest Service Trail 478 (Robinson Creek Trail); N on US Forest Service Trail 478 (Robinson Creek Trail) to US Forest Service Trail 575; S on US Forest Service Trail 575 to US Forest Service Trail 498; NW overland from the junction of US Forest Service Trails 575 and 498 to the junction of US Forest Service Trails 576 and 472; W on US Forest Service Trail 576 to US Forest Service Trail 2000 (Pacific Crest Trail); N on US Forest Service Trail 2000 (Pacific Crest Trail) to the Pasayten Wilderness Area border at Jim Pass; W on the Pasayten Wilderness Area border to Ross Lake National Recreational Area border; N on the Pasayten Wilderness Area-Ross Lake National Recreational Area border to the US-Canadian border and the point of the beginning.

GMU 204-OKANOGAN EAST (Okanogan and Ferry counties):

Beginning on the eastern shore of Osoyoos Lake and the US-Canadian border; E on the US-Canadian border to the Kettle

River near the Ferry Customs Office, north of the town of Toroda; S down the Kettle River to the mouth of Toroda Creek; W up Toroda Creek to Toroda Creek Rd (Ferry County Rd 502); SW on Toroda Creek Rd (Ferry County Rd 502 and Okanogan County Rd 9495) to SR 20 at the town of Wauconda; E on SR 20 to SR 21 at the town of Republic; S on SR 21 to the northern border of the Colville Indian reservation; W on the northern border of the Colville Indian reservation to the Okanogan River; N up the eastern shore of the Okanogan River and the eastern shore of Osoyoos Lake to the US-Canadian border and the point of beginning.

GMU 209-WANNACUT (Okanogan County):

Beginning where the Similkameen Rd (County Rd 4568) crosses the US-Canadian border; E on the US-Canadian border to the eastern shore of Lake Osoyoos; S along the eastern shore of Lake Osoyoos and the eastern shore of Okanogan River to the Fourth Street Bridge at the town of Tonasket; NW on Fourth Street on the Fourth Street Bridge to County Hwy 7; S on County Hwy 7 to North Pine Creek Rd (County Rd 9410); SW on North Pine Creek Rd (County Rd 9410) to the Horse Springs Coulee Rd (County Rd 4371), north of Aeneas Lake; north on Horse Springs Coulee Road (County Road 4371) to Loomis-Oroville Highway (County Road 9425) west of Spectacle Lake; W and N on Loomis-Oroville Hwy (County Rd 9425) to Similkameen Rd (County Rd 4568); N on the Similkameen Rd (County Rd 4568) to the US-Canadian border and the point of beginning.

GMU 215-SINLAHEKIN (Okanogan County):

Beginning at the eastern boundary of the Pasayten Wilderness border and the US-Canadian border; E on the US-Canadian border to the border station on Similkameen Rd (County Rd 4568); SE on the Similkameen Rd (County Rd 4568) to the Loomis-Oroville Rd (County Rd 9425); S on the Loomis-Oroville Rd (County Rd 9425), through the town of Loomis, then east to the Horse Springs Coulee Rd (County Rd 4371) west of Spectacle Lake; S on the Horse Springs Coulee Rd (County Rd 4371) to the North Pine Creek Rd (County Rd 9410); NE on the North Pine Creek Rd (County Rd 9410) to County Hwy 7; NE on County Hwy 7 to Fourth Street and the Fourth Street Bridge which crosses the Okanogan River into the town of Tonasket; SE onto the Fourth Street Bridge and the Okanogan River; S along the eastern shore of the Okanogan River to bridge crossing the Okanogan River at the town of Riverside; SW from said bridge to the junction of Riverside Cutoff Rd (County Rd 9260) and US Hwy 97; N on US Hwy 97 to the South Pine Creek Rd (County Rd 9410); W on the South Pine Creek Rd (County Rd 9410) to Fish Lake Rd (County Rd 4290); W on Fish Lake Rd (County Rd 4290) to South Fish Lake Rd (County Rd 4282), along the south shore of Fish Lake; SW on South Fish Lake Rd (County Rd 4282), to the Sinlahekin Rd (County Rd 4015); SW on the Sinlahekin Rd (County Rd 4015), along the north shore of Conconully Lake, to the Salmon Creek North Fork Rd (County Rd 2361), at the town of Conconully; N on US Forest Service Rd 38 (Salmon Creek North Fork Rd, County Rd 2361) to US Forest Service Rd 3820; N on US Forest Service Rd 3820 over Lone Frank Pass, to US Forest Service Rd 39; N on US Forest Service Rd 39 to the US Forest Service Rd 300 at Long Swamp trailhead; W on the US Forest Service 300 to US For-

est Service Trail 342; N on US Forest Service Trail 342 to US Forest Service Trail 343; E on US Forest Service Trail 343 to US Forest Service Trail 341; E on US Forest Service Trail 341 to US Forest Service Trail 375; E on US Forest Service Trail 375 to the eastern boundary of the Pasayten Wilderness Area; N on the Pasayten Wilderness Area boundary to the US-Canadian border and the point of beginning.

GMU 218-CHEWUCH (Okanogan County):

Beginning at Harts Pass on the US Forest Service Trail 2000 (Pacific Crest Trail); N on the US Forest Service Trail 2000 (Pacific Crest Trail) to US Forest Service Trail 576 at Buffalo Pass; E on US Forest Service Trail 576 to its junction with US Forest Service Trail 472; SE overland from the junction of US Forest Service Trails 576 and 472 to the junction of US Forest Service Trails 498 and 575; NE on US Forest Service Trail 575 to the US Forest Service Trail 478 (Robinson Creek Trail); SE on the US Forest Service Trail 478 (Robinson Creek Trail) to the Pasayten Wilderness Area boundary; E on the Pasayten Wilderness Area boundary to US Forest Service Trail 342; S on US Forest Service Trail 342 to US Forest Service Rd 300; SW on US Forest Service Rd 300 to the US Forest Service Rd 39 (Middle Fork Toats Coulee Creek Rd) at Long Swamp Trailhead; S on US Forest Service Rd 39 (Middle Fork Toats Coulee Creek Rd) to US Forest Service Rd 37 (Boulder Creek Rd); SW and S on US Forest Service Rd 37 (Boulder Creek Rd) to the Eastside Chewuch River Rd (County Rd 9137); S on the Eastside Chewuch River Rd (County Rd 9137) to SR 20 at the town of Winthrop; NW on SR 20 to the US Forest Service Trail 2000 (Pacific Crest Trail); N on US Forest Service Trail 2000 (Pacific Crest Trail) to Harts Pass and the point of beginning.

GMU 224-PEARRYGIN (Okanogan County):

Beginning at the US Forest Service Rd 39 and US Forest Service Rd 3820; S on US Forest Service Rd 3820, through Lone Frank Pass, to the North Fork Salmon Creek Rd (US Forest Service Rd 38); SE on the North Fork Salmon Creek Rd (US Forest Service Rd 38, County Rd 2361) to West Fork Rd (County Rd 2017) at the town of Conconully; SW on West Fork Rd (County Rd 2017) to US Forest Service Rd 42 (North Summit Rd); SW on US Forest Service Rd 42 (North Summit Rd) to SR 20 at Loup Loup Summit; W on SR 20, through the town of Twisp, to the Eastside Chewuch River Rd at the town of Winthrop; N on the Eastside Chewuch River Rd to US Forest Service Rd 37 (Boulder Creek Rd); NE on the US Forest Service Rd 37 (Boulder Creek Rd) to US Forest Service Rd 39 (Middle Fork Boulder Creek Rd); NE on US Forest Service Rd 39 (Middle Fork Boulder Creek Rd) to US Forest Service Rd 3820 and the point of beginning.

GMU 231-GARDNER (Okanogan County):

Beginning at the crossing of US Forest Service Trail 2000 (Pacific Crest Trail) and SR 20; S and E on SR 20 to the Twisp River Rd at the town (~~(off-ton))~~ of Twisp; W on the Twisp River Rd (County Rd 9114, US Forest Service Rd 44, US Forest Service Rd 4440) to US Forest Service Trail 432 (North Fork Twisp River Trail); N on US Forest Service Trail 432 (North Fork Twisp River Trail) to North Cascades National Park boundary at Twisp Pass; N and W on North Cascades National Park boundary US Forest Service Trail

2000 (Pacific Crest Trail); N on US Forest Service Trail 2000 (Pacific Crest Trail) to SR 20 and the point of beginning.

GMU 233-POGUE (Okanogan County):

Beginning at Sinlahekin Rd (County Rd 4015) and West Fork Rd (County Rd 2017) at the town of Conconully; north on the Sinlahekin Rd (County Rd 4015) to the South Fish Lake Rd (County Rd 4282); NE on the South Fish Lake Rd (County Rd 4282), along the south end of Fish Lake to Fish Lake Rd (County Rd 4290); E on Fish Lake Rd (County Rd 4290) to the South Pine Creek Rd (County Rd 9410); E on the South Pine Creek Rd (County Rd 9410) to US Hwy 97; S on US Hwy 97 to its junction with Riverside Cutoff Rd at the town of Riverside; NE from the junction of Riverside Cutoff Rd and US Hwy 97 to the bridge crossing the Okanogan River at the town of Riverside; S down the Okanogan River, through the town of Omak, to SR 20 at the town of Okanogan; W on SR 20 to US Forest Service Rd 42 (North Summit Rd), east of Loup Loup Summit; N on US Forest Service Rd 42 (North Summit Rd) to West Fork Rd (County Rd 2017); N on West Fork Rd (County Rd 2017) to the town of Conconully and the point of beginning.

GMU 239-CHILIWIST (Okanogan County):

Beginning at the intersection of SR 153 and SR 20, southeast of the town of Twisp; E on SR 20, past Loup Loup Summit, to the bridge crossing over the Okanogan River at the town of Okanogan; SE on to the bridge over the Okanogan River at the town of Okanogan; S along the Okanogan River to the Columbia River (Douglas-Okanogan county line); W along the Columbia River (Douglas-Okanogan county line) to a point on the county line due east of the US Hwy 97 bridge crossing the mouth of the Methow River at the town of Pateros; SE on US Hwy 97 to SR 153; NW and N on SR 153 to SR 20, southeast of the town of Twisp, and the point of beginning.

GMU 242-ALTA (Okanogan County):

Beginning at the junction of the Sawtooth Ridge line (Chelan-Okanogan county line) and US Forest Service Trail 432 at Twisp Pass; E on US Forest Service Trail 432 to Twisp River Rd at the Roads End Campground; E on the Twisp River Rd (US Forest Service Rd 4440, US Forest Service Rd 44, County Rd 9114) to SR 20 at the town of Twisp; S and E on SR 20 to SR 153; S and SE on SR 153 to US Hwy 97; N on the US Hwy 97 to the bridge crossing the mouth of the Methow River at the town of Pateros; E from the US Hwy 97 bridge to the Douglas-Okanogan county line in Lake Pateros (Columbia River); S along Douglas-Okanogan county line in Lake Pateros (Columbia River) to Wells Dam; NW from Wells Dam to the junction of Azwell Rd and US Hwy 97; S on US Hwy 97 to Apple Acres Rd; W on Apple Acres Rd to Antoine Creek Rd (Chelan County Rd 8140); NW on the Antoine Creek Rd (Chelan County Rd 8140) to US Forest Service Rd 8020 (Manastash Ridge); N on US Forest Service Rd 8020 to the Sawtooth Ridge line (Chelan-Okanogan county line) at Fox Peak; NW on the Sawtooth Ridge line (Chelan-Okanogan county line) to its intersection with US Forest Service Trail 432 at Twisp Pass and the point of beginning.

GMU 243-MANSON (Chelan County):

Beginning at the Chelan River in the town of Chelan, northwest to Lake Chelan; NW along the south shore of Lake Chelan to the Stehekin River; SE along the north shore of Lake Chelan to the Lake Chelan National Recreation boundary; NE along the National Recreation Area boundary to Sawtooth Ridge; SE along Sawtooth Ridge line (Chelan-Okanogan county line) to US Forest Service Rd 8020 at Fox Peak; SE on US Forest Service Rd 8020 to US Forest Service Rd 8140 (Antoine Creek Rd); SE on US Forest Service Rd 8140 (Antoine Creek Rd) to Apple Acres Rd; NE on Apple Acres Rd to US Hwy 97; NE on US Hwy 97 to its junction with Azwell Rd; SE from the junction of US Hwy 97 and Azwell Rd to Wells Dam on the Columbia River; SW down the Columbia River (Chelan-Douglas county line) to the Chelan River; NW up the Chelan River to the town of Chelan and the point of beginning.

GMU 244-CLARK (Chelan County):

Beginning at the mouth of Stehekin River on Lake Chelan; SE along the south shore of Lake Chelan to the Glacier Peak Wilderness boundary at Bearcat Ridge; S, W and N on the Glacier Peak Wilderness boundary to the Pacific Crest Trail (US Forest Service Trail 2000) at Kodak Peak; N on the Pacific Crest Trail (US Forest Service Trail 2000) to North Cascades National Park; N and E on the North Cascades National Park boundary to Lake Chelan National Recreation boundary at Hock Mountain; S along the Lake Chelan National Recreation Area boundary to the north shore of Lake Chelan; NW along the north shore of Lake Chelan to the Stehekin River and the point of beginning.

GMU 245-CHIWAWA (Chelan County):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and the Glacier Peak Wilderness boundary at Kodak Peak; SE and NE on the Glacier Peak Wilderness Area boundary to the Entiat River; SE down the Entiat River to US Forest Service Rd 5700 (Mad River Rd) at the town of Ardenvoir; NW on US Forest Service Rd 5700 (Mad River Rd) to the US Forest Service Rd 5800; SW on US Forest Service Rd 5800 to US Forest Service Rd 7520 (Eagle Creek Rd) at French Corral; SW on US Forest Service Rd 7520 (Eagle Creek Rd) to SR 209 (Chumstick Hwy) north of Leavenworth; S on SR 209 (Chumstick Hwy) to US Hwy 2; W and N on US Hwy 2 to US Forest Service Trail 2000 (Pacific Crest Trail) at Stevens Pass; N on US Forest Service Trail 2000 (Pacific Crest Trail) to Glacier Peak Wilderness boundary at Kodak Peak and the point of beginning.

GMU 246-SLIDE RIDGE (Chelan County):

Beginning on the south shore of Lake Chelan at the Glacier Peak Wilderness boundary at Bearcat Ridge; SE along the south shore of Lake Chelan to Twenty-five Mile Creek; SW up Twenty-five Mile Creek to US Forest Service Rd 8410 (Slide Ridge Rd); S and E on US Forest Service Rd 8410 (Slide Ridge Rd) to US Forest Service Trail 1448, at Stormy Mountain; NW on US Forest Service Trail 1448 to US Forest Service Trail 1445 (Fourmile Ridge Trail); W on US Forest Service Trail 1445 (Fourmile Ridge Trail) to US Forest Service Trail 1443; W on US Forest Service Trail 1443 to Lake Creek; SW down Lake Creek to the Entiat River; NW up the Entiat River to the Glacier Peak Wilderness Area boundary;

NE on the Glacier Peak Wilderness boundary to south shore of Lake Chelan at Bearcat Ridge and the point of beginning.

GMU 247-ENTIAT (Chelan County):

Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; SE along the south shore of Lake Chelan to the Chelan River; SE down the Chelan River to the Columbia River (Chelan-Douglas county line); SW along the Columbia River (Chelan-Douglas county line) to the mouth of the Entiat River; NW up the Entiat River to Lake Creek; NE up Lake Creek to US Forest Service Trail 1443; E on US Forest Service Trail 1443 to US Forest Service Trail 1445 (Fourmile Ridge Trail); E on US Forest Service Trail 1445 (Fourmile Ridge Trail) to US Forest Service Trail 1448; SE on US Forest Service Trail 1448 to the US Forest Service Rd 8410 (Slide Ridge Rd) at Stormy Mountain; N on US Forest Service Rd 8410 (Slide Ridge Rd) to Twenty-five Mile Creek; N down Twenty-five Mile Creek to the south shore of Lake Chelan and the point of beginning.

GMU 248-BIG BEND (Douglas and Grant counties):

Beginning on SR 17 at the Chalk Hills Rd (K N.E. Rd); N on the Chalk Hills Rd (K N.E. Rd) to Box Canyon Rd (L N.E. Rd); N on Box Canyon Rd (L N.E. Rd) to the first intermittent stream crossed in Section 30, T30N, R27E; N on the first intermittent stream crossed in Section 30 T30N, R27E by the Box Canyon Rd (L N.E. Rd) to the Columbia River; E up the Columbia River to the west end of the Grand Coulee Dam; W on the Grand Coulee Dam causeway access road (Limited Access) to SR 155; SW on SR 155 to SR 174; NE on SR 174 to the Grand Coulee Dam feeder canal; SW up the Grand Coulee Dam feeder canal to Banks Lake; S along the west shore of Banks Lake to a point due east from Mold Rd (Rd 9 N.E.); W from the point due east of Mold Rd on the west shore of Banks Lake to Mold Rd (Rd 9 N.E.); W on Mold Rd (Rd 9 N.E.) to SR 17; N along SR 17 to SR 172; W on SR 172, through the town of Mansfield, to Bridgeport Hill Rd (Mathieson Rd, B N.E. Rd); N on the Bridgeport Hill Rd (Mathieson Rd, B N.E. Rd) to West Foster Creek Rd; N on West Foster Creek Rd to SR 17; E on SR 17 to the Chalk Hills Rd (K N.E. Rd) and the point of beginning.

GMU 249-ALPINE (Kittitas and Chelan counties):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and the Alpine Lakes Wilderness boundary near Josephine Lake south of Stevens Pass; E, S, and W on the Alpine Lakes Wilderness boundary to US Forest Service Trail 2000 (Pacific Crest Trail) near Kendall Peak Lake; N on US Forest Service Trail 2000 (Pacific Crest Trail) to the Alpine Lakes Wilderness boundary near Josephine Lake and the point of beginning.

GMU 250-SWAKANE (Chelan County):

Beginning at the intersection of US Hwy 2 and Chumstick Hwy (SR 209); SE on US Hwy 2 to the Columbia River (Chelan-Douglas county line); NE on Chelan-Douglas county line (the Columbia River) to the Entiat River; NW up the Entiat River to the Mad River Rd (US Forest Service Rd 5700) at the town of Ardenvoir; N on the Mad River Rd (US Forest Service Rd 5700) to US Forest Service Rd 5800; SW on US Forest Service Rd 5800 to US Forest Service Rd 7520 at French Corral; S on US Forest Service Rd 7520 to US For-

est Service Rd 7520 (Eagle Creek Rd); SW on US Forest Service Rd 7520 (Eagle Creek Rd) to SR 209 (Chumstick Hwy); S on SR 209 (Chumstick Hwy) to US Hwy 2 and the point of the beginning.

GMU 251-MISSION (Kittitas and Chelan counties):

Beginning at US Hwy 2 and the Columbia River (Chelan-Douglas county line); S down the Columbia River (Chelan-Douglas county line) to Tarpiscan Creek; W up Tarpiscan Creek to North Fork Tarpiscan Creek; W up North Fork Tarpiscan Creek to WA Dept. of Fish and Wildlife Rd No. 14 (Tarpiscan Rd); N approximately 100 feet on WA Dept. of Fish and Wildlife Rd No. 14 (Tarpiscan Rd) to WA Dept. of Fish and Wildlife Rd No. 10.10 (North Fork Tarpiscan Creek Rd); W along WA Dept. of Fish and Wildlife Rd No. 10.10 (North Fork Tarpiscan Creek Rd) to the WA Dept. of Fish and Wildlife Rd 10 (Colockum Pass Rd); W along the WA Dept. of Fish and Wildlife Rd 10 (Colockum Pass Rd) to WA Dept. of Fish and Wildlife Rd 9 (Naneum Ridge Rd); NW on WA Dept. of Fish and Wildlife Rd 9 (Naneum Ridge Rd) to Naneum Ridge (Chelan-Kittitas county line) at Wenatchee Mountain; NW along Naneum Ridge (Chelan-Kittitas county line), past Mission Peak, to US Forest Service Rd 9712 (Liberty-Beehive Rd); NW on US Forest Service Rd 9712 (Liberty-Beehive Rd) to US Forest Service Rd 9716; N on US Forest Service Rd 9716 to US Hwy 97 at Swauk Pass; NW on the Wenatchee Mountain Range divide (Kittitas-Chelan county line) to the Alpine Lakes Wilderness Area boundary at Navaho Peak; N and E on Alpine Lakes Wilderness Area boundary to US Forest Service Trail 2000 (Pacific Crest Trail); N on US Forest Service Trail 2000 (Pacific Crest Trail) to US Hwy 2; E on US Hwy 2 to the Columbia River (Chelan-Douglas county line) and the point of beginning.

GMU 254-SAINT ANDREWS (Douglas and Grant counties):

Beginning at the town of Mansfield on SR 172; E on SR 172 to SR 17; S on SR 17 to Mold Rd (Rd 9 N.E.); E on the Mold Rd (Rd 9 N.E.) to the road's end; due E from the end of Mold Rd (Rd 9 N.E.) to the western shore of Banks Lake; S along the west shore of Banks Lake to US Hwy 2; W on US Hwy 2 to SR 172; N and E on SR 172 to the town of Mansfield and the point of beginning.

GMU 260-FOSTER CREEK (Douglas County):

Beginning at the town of Brewster and the Columbia River (Douglas-Okanogan county line); E on the Columbia River (Douglas-Okanogan county line), past the town of Bridgeport to the first intermittent stream crossed in Section 30, T30N, R27E by the Box Canyon Rd (L N.E. Rd); S up the first intermittent stream crossed in Section 30, T30N, R27E by the Box Canyon Rd to the Box Canyon Rd (L N.E. Rd); E and S on Box Canyon Rd (Rd L N.E.) to the Chalk Hills Rd (K N.E. Rd); SW on the Chalk Hills Rd (K N.E. Rd) to SR 17; W on SR 17 to the West Foster Rd; S on West Foster Rd to Dyer Hill Rd; W and N on Dyer Hill Rd to Gallaher Rd (20 N.E. Rd); W on Gallaher Rd to Dyer Hill Rd (North Division Rd); N on Dyer Hill Rd to Cold Springs Rd (Bonita Flats Rd) at the town of Dyer; W on Cold Springs Rd (Bonita Flats Rd) to the Columbia River then west to the Douglas-Okanogan county line on the Columbia River; N up the Columbia River

(Douglas-Okanogan county line) to town of Brewster and the point of beginning.

GMU 262-WITHROW (Douglas County):

Beginning at Cold Spring Rd and the Dyer Hill Rd at the town of Dyer; S on the Dyer Hill Rd (North Division Rd) to Gallaher Rd (20 N.E. Rd); E on Gallaher Rd (20 N.E. Rd) to Bridgeport Hill Rd (B N.E. Rd); S on the Bridgeport Hill Rd to SR 172; W and S on SR 172 to US Hwy 2; W on US Hwy 2, through the town of Waterville, to the Columbia River at the town of Orondo then west to the Chelan-Douglas county line in the Columbia River; N up the Columbia River (Chelan-Douglas county line), past the Wells Dam, to the point due west of the Cold Springs Rd; E from the point on the Columbia River (Chelan-Douglas county line) which is due east of Cold Springs Rd to Cold Springs Rd; E on the Cold Springs Rd to the town of Dyer and the point of beginning.

GMU 266-BADGER (Douglas County):

Beginning at US Hwy 2 at the town of Orondo; E on US Hwy 2, through the towns of Waterville and Douglas, to the Westerman Rd (K S.W. Rd); S on the Westerman Rd (K S.W. Rd) to Alstown Rd (3 S.W. Rd) at the town of Alstown; W on the Alstown Rd (3 S.W. Rd) to the Titchenal Canyon Rd; SW on the Titchenal Canyon Rd to the Sheehan Rd; S on the Sheehan Rd to the Rock Island Grade Rd; SW on the Rock Island Grade Rd to the Columbia River (Chelan-Douglas county line) at the Rock Island Dam; N up the Columbia River (Chelan-Douglas county line), through the town of Wenatchee, to a point in the Columbia due west of the town of Orondo; E to US Hwy 2 at the town of Orondo and the point of beginning (includes Turtle Rock Island).

GMU 269-MOSES COULEE (Douglas and Grant counties):

Beginning on US Hwy 2 and the Westerman Rd (K S.W. Rd); E on US Hwy 2 to the Moses Coulee Rd; S on Moses Coulee Rd to Coulee Meadows Rd; S on Coulee Meadows Rd to Rd J N.W. at the Douglas-Grant county line; S on Rd J N.W. to Rd 23 N.W.; E on Rd 23 N.W. to Sagebrush Flats Rd; S on Sagebrush Flats Rd to Rd J N.W.; S on Rd J N.W. to Overen Rd (Rd 20 N.W.); SW on the Overen Rd (Rd 20 N.W.) to Baird Springs Rd; SW on Baird Springs Rd across SR 28 to the Crescent Bar Rd; S along the Crescent Bar Rd to the Crescent Bar boat launch on the Columbia River; W from the Crescent Bar boat launch to the Douglas-Kittitas county line on the Columbia River; N up the Columbia River (Douglas-Kittitas county line) to the Rock Island Grade Rd at the Rock Island Dam; N on Rock Island Grade Rd to the Sheehan Rd; N on the Sheehan Rd to the Titchenal Canyon Rd; N on the Titchenal Road Canyon Rd to the Alstown Rd (3 S.W. Rd); E on the Alstown Rd (3 S.W. Rd), through the town of Alstown to the Westerman Rd (K Rd S.W.); N on the Westerman Rd to US Hwy 2 and the point of beginning.

GMU 272-BEEZLEY (Grant, Lincoln, and Douglas counties):

Beginning at the junction of SR 155 and SR 174 in the town of Grand Coulee; SE on SR 174 to Rd W N.E. (Grand Coulee Hill Rd); S on Rd W N.E. to Rd 52 N.E.; E on Rd 52 N.E. to X Rd N.E.; S on X Rd N.E. to Peterson Rd; S on Peterson Rd

to Douglas Rd; E on Douglas Rd to Old Coulee Rd; S on Old Coulee Rd to Maxwell Rd at the town of Almira; E on Maxwell Rd to SR 2; E on SR 2 to Kiner Rd; S on Kiner Rd to Rd X N.E.; S on Rd X N.E. to Rd W N.E. at the town of Marlin; S on Rd W N.E. to North Frontage Rd; W on North Frontage Rd to Rd U N.E.; S on Rd U N.E. to I-90; W on I-90 to the Columbia River (Grant-Kittitas county line) at the Vantage Bridge; N up the Columbia River (Grant-Kittitas county line) to a point due west of Crescent Bar boat launch; E from the Grant-Kittitas county line on the Columbia River to the Crescent Bar boat launch and Crescent Bar Rd; N on Crescent Bar Rd to SR 28; N across SR 28 to Baird Springs Rd; NE on Baird Springs Rd to Overen Rd; NE on Overen Rd to Rd J N.W.; N on Rd J N.W. to Sagebrush Flats Rd; N on Sagebrush Flats Rd to Coulee Meadows Rd at the Grant-Douglas county line; N on Coulee Meadows Rd to the Moses Coulee Rd; N on the Moses Coulee Rd to US Hwy 2; E on US Hwy 2 to the west shore of Banks Lake; N along the west shore of Banks Lake to the feeder canal for the Grand Coulee Dam; NE along the feeder canal to SR 174; SW on SR 174 to SR 155 and the point of beginning (~~((except Private Lands Wildlife Management Area 201, Wilson Creek))~~).

GMU 278-WAHLUKE (Grant, Franklin, and Adams counties):

Beginning at I-90 and the Columbia River (Grant-Kittitas county line) at the Vantage Bridge; NE and E on I-90 to Beverly Burke Rd; S on Beverly Burke Rd to Frenchman Hills Rd; E on Frenchman Hills Rd to SR 262; E on SR 262 to SR 17; N on SR 17 to I-90; E on I-90 to Rd U S.E.; S on Rd U S.E. to Booker Rd; S on Booker Rd to SR 26; W on SR 26 to SR 17; S on SR 17 to Scootney Rd; SW on Scootney Rd to Mail Rd; W on Mail Rd to Muse Rd; W on Muse Rd to SR 24; W on SR 24 to the Columbia River (Benton-Grant county line) at the Vernita Bridge; W and N along the Columbia River (Benton-Grant-Kittitas-Yakima county lines) to I-90 at the Vantage Bridge and the point of beginning.

GMU 284-RITZVILLE (Adams, Grant, Lincoln, and Whitman counties):

Beginning at I-90 and Rd U N.E.; N on Rd U N.E. to North Frontage Rd; E on North Frontage Rd to Rd W N.E.; N on Rd W N.E. to Rd 12 N.E.; E on Rd 12 N.E. to Davis Rd; E on Davis Rd to Marcellus Rd; S on Marcellus Rd to Tokio Rd; E on Tokio Rd to Danekas Rd; E on Danekas Rd to I-90; NE on I-90 to SR 23; S on SR 23 to Lamont Rd; SW on Lamont Rd to Revere Rd; S on Revere Rd to Rock Creek; S down Rock Creek to the Palouse River; S and W down the Palouse River to Old SR 26, west of the town of Hooper; W on Old SR 26, across the Palouse River to SR 26; W on SR 26 to Booker Rd; N on Booker Rd to Rd U S.E.; N on Rd U S.E. to I-90 and point of beginning.

GMU 290-DESERT (Grant County):

Beginning at I-90 and Beverly Burke Rd (Rd R S.W.), SW of the town of George; E on I-90 to SR 17; S on SR 17 to SR 262; W on SR 262 to Frenchman Hills Rd (Rd 7 S.W.); W on Frenchman Hills Rd (Rd 7 S.W.) to Beverly Burke Rd; N along Beverly Burke Rd to I-90 and the point of beginning.

WSR 05-21-123
PROPOSED RULES
DEPARTMENT OF HEALTH

(As delegated by the State Board of Health on September 6, 2005)

[Filed October 19, 2005, 8:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-117.

Title of Rule and Other Identifying Information: WAC 246-272A-0130 On-site sewage system, bacteriological reduction. On September 6, 2005, the State Board of Health (SBOH) adopted an emergency rule regarding the testing protocol for on-site sewage treatment systems (septic systems). This proposal will make permanent the changes adopted by the SBOH.

Hearing Location(s): Department of Health, Town Center East, Building 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on November 22, 2005, at 1:30 p.m.

Date of Intended Adoption: November 30, 2005.

Submit Written Comments to: John Eliasson, P.O. Box 47825, Olympia, WA 98504, e-mail [web site] <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2261, by November 22, 2005.

Assistance for Persons with Disabilities: Contact Kelly Cooper by November 15, 2005, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal permanently adopts an emergency rule that amended WAC 246-272A-0130. The emergency rule revised the protocol for bacteriological reduction testing required for proprietary on-site sewage treatment products. The previous protocol was determined to be overly burdensome and potentially unreliable. Manufacturers needed a reliable and practical protocol to begin testing their products, so the SBOH adopted an emergency rule to address these issues. The effect of this proposal is the same as the emergency rule, but wording of the section has been changed to address concerns expressed by members of the SBOH about the clarity of the emergency rule.

Reasons Supporting Proposal: The proposal will permanently create a reliable protocol so manufacturers may test their products to demonstrate that they meet established standards.

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: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting: John Eliasson, Tumwater, Washington, (360) 236-3325; Implementation and Enforcement: Brad Avy, Tumwater, Washington, (360) 236-3040.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DOH determined the proposal is a cost savings to business. Since it does not impose more than a minor impact on businesses, no small business economic impact statement is required.

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.

October 18, 2005

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

WAC 246-272A-0130 Bacteriological reduction. This section establishes the requirements for registering bacteriological reduction processes.

(1) Manufacturers shall, for the purpose of product registration as described in WAC 246-272A-0110 and 246-272A-0120 for meeting treatment levels A, B, or C, verify bacteriological reduction performance by sampling for fecal coliform.

(a) For products not yet tested according to ANSI/NSF Standard 40 testing protocol dated July 1996 or later, the requirements of both ANSI/NSF Standard 40 and the protocol specified in subsection (2) of this section for verifying bacteriological reduction must be met.

(b) For products that have been tested according to ANSI/NSF Standard 40 dated July 1996 or later but have not yet been tested for bacteriological reduction, treatment performance of the treatment product or sequence may be established based on test results for CBOD₅ and TSS obtained from the previous ANSI/NSF Standard 40 testing and bacteriological reduction performance based on testing according to the protocol in subsection (2) of this section. Provided that the testing entity must verify the influent wastewater stream throughout the bacteriological testing period meets the influent threshold levels for CBOD₅ and TSS required by ANSI/NSF Standard 40 testing protocol.

(2) All test data submitted for product registration shall be produced by an ANSI accredited, third-party testing and certification organization whose accreditation is specific to on-site wastewater treatment products. Bacteriological reduction performance must be determined while the treatment product or sequence is tested according to the ANSI/NSF Standard 40 testing protocol. During this testing the following requirements apply:

(a) Collect samples from both the influent and effluent streams, identifying the treatment performance achieved by the full treatment process (component or sequence);

(b) Obtain influent characteristics falling within a range of 10⁶ - 10⁸ fecal coliform/100 mL calculated as thirty-day geometric means during the test.

(c) Test the influent to any disinfection unit and report the following at each occasion of sampling performed in (d) of this subsection:

- (i) Flow rate;
- (ii) pH;
- (iii) Temperature;
- (iv) Turbidity; and
- (v) Color.

(d) Obtain samples for fecal coliform analysis (~~((throughout the testing period, including both design loading and stress loading recovery periods, as follows:~~

~~(i) Both an influent and an effluent grab sample must be taken during each of the three daily design loading periods on three separate days of each week; and~~

~~(ii) The three influent samples collected each day must be combined and analyzed as a single sample for that day. The effluent samples for each day must also be combined and analyzed as a single sample for that day)) during both the design loading and stress loading periods identified by NSF Standard 40. Grab samples shall be collected from both the influent and effluent on three separate days of the week. Each set of influent and effluent grab samples must be taken from a different dosing time frame (morning, afternoon, or evening) so that samples have been taken from each dosing time frame by the end of the week.~~

(e) Conduct analyses according to standard methods;

(f) Report the geometric mean of fecal coliform test results from all samples taken within thirty-day or monthly calendar periods;

(g) Report the individual results of all samples taken throughout the test period design and stress loading; and

(h) Report all maintenance and servicing conducted during the testing period, including for example, instances of cleaning a UV lamp, or replenishment of chlorine chemicals.

(3) Manufacturers may register products in treatment levels A and B using disinfection.

(4) Manufacturers may not register products for treatment level C using disinfection.

WSR 05-21-124

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 19, 2005, 8:53 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-282-005 Sanitary control of shellfish—Minimum performance standards, this rule making will amend the section to update the reference to the national consensus code for commercial shellfish operations. The reference will change from the 1999 National Shellfish Sanitation Program (NSSP) Model Ordinance to the 2003 NSSP Guide for the Control of Molluscan Shellfish.

The State Board of Health delegated this rule-making activity to the Department of Health at their meeting on July 13, 2005.

Hearing Location(s): Department of Health, Point Plaza East, 301 Israel Road, Rooms 152 and 153, Tumwater, WA, on November 29, 2005, at 10:00 a.m.

Date of Intended Adoption: December 16, 2005.

Submit Written Comments to: Office of Food Safety and Shellfish, Nancy Napolilli, P.O. Box 47824, Olympia, WA 98504-7824, e-mail [web site] <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2257.

Assistance for Persons with Disabilities: Contact Jan Jacobs by November 15, 2005, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, WAC 246-282-005 references the United States Food and Drug Administration's (FDA) 1999 National Shellfish Sanitation Program (NSSP) Model Ordinance, which all shellfish producing states are required to follow in order to place molluscan shellfish into interstate commerce. FDA has now adopted a 2003 version of the model ordinance, leaving the current rules out of date. This rule making will amend the section to update the reference to the correct code.

Reasons Supporting Proposal: The FDA oversees a cooperative program between the shellfish producing states and the shellfish industry for the production and processing of shellfish in a manner specified by the NSSP. The FDA evaluates each state's shellfish sanitation control program to ensure compliance with the NSSP. Therefore, an update to WAC 246-282-005 is needed to assure that Washington state remains in compliance with the NSSP, and that molluscan shellfish products from the state can continue to be placed into interstate commerce.

Statutory Authority for Adoption: RCW 69.30.030.

Statute Being Implemented: RCW 69.03.030 [69.30.-030].

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Napolilli, 111 Israel Road, Tumwater, WA, (360) 236-3325.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules that incorporate national consensus codes by reference and without material change are exempt from preparing a small business economic impact statement under RCW 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(b) because it incorporates a national consensus code by reference and without material change. The FDA requires shellfish producing states to follow this code in order to place molluscan shellfish into interstate commerce.

October 18, 2005

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 01-04-054, filed 2/5/01, effective 3/8/01)

WAC 246-282-005 Minimum performance standards. (1) Any person engaged in a shellfish operation or possessing a commercial quantity of shellfish or any quantity of shellfish for sale for human consumption must comply with and is subject to:

(a) The requirements of the ~~((1999))~~ 2003 National Shellfish Sanitation Program (NSSP) ((Model Ordinance)) Guide for the Control of Molluscan Shellfish, published by the United States Department of Health and Human Services,

Public Health Service, Food and Drug Administration (copies available through the U.S. Food and Drug Administration, Shellfish Sanitation Branch, and the Washington state department of health, office of food safety and shellfish programs);

(b) The provisions of 21 Code of Federal Regulations (CFR), Part 123 - Fish and Fishery Products, adopted December 18, 1995, by the United States Food and Drug Administration, regarding Hazard Analysis Critical Control Point (HACCP) plans (copies available through the U.S. Food and Drug Administration, Office of Seafood, and the Washington state department of health, office of food safety and shellfish programs); and

(c) All other provisions of this chapter.

(2) If a requirement of the NSSP Model Ordinance or a provision of 21 CFR, Part 123, is inconsistent with a provision otherwise established under this chapter or other state law or rule, then the more stringent provision, as determined by the department, will apply.

Statute Being Implemented: RCW 70.98.080, 43.20B-020, 43.70.110, and 43.70.250.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ellen Haars, TC2, 111 Israel Road, Tumwater, WA, (360) 236-3237.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from a small business economic impact statement under RCW 19.85.025(3) and 34.05.310 (4)(f), because the rule adjusts fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. Rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328 (5)(b)(vi).

October 18, 2005

Mary C. Selecky
Secretary

WSR 05-21-125
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed October 19, 2005, 8:55 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-254-053 Radiation machine facility registration fees, the department proposes the annual revision of the X-ray fee schedule for the X-ray control program in order cover anticipated increases in program costs.

Hearing Location(s): Department of Health, 311 Israel Road, Conference Room 152, Tumwater, WA (next to United States Post Office Building), on November 22, 2005, at 10:00 a.m.

Date of Intended Adoption: November 30, 2005.

Submit Written Comments to: Ellen G. Haars, P.O. Box 47827, Department of Health, Olympia, WA 98504-7827, e-mail [web site] <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2266, by November 22, 2005.

Assistance for Persons with Disabilities: Contact Kelly Cooper by November 15, 2005, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal increases fees for radiation machine facilities. The fees are found in WAC 246-254-053. Fees support the public health activities of the department's radiation protection program and need to be adjusted to cover increased program costs such as charges from other state agencies for services they provide, the need to update our data system and legislatively mandated salary increases are primary reasons for the fee increase.

Reasons Supporting Proposal: State law requires the programs that are fee funded to fully cover their costs through the payment of fees by the users.

Statutory Authority for Adoption: RCW 70.98.080, 43.20B.020, 43.70.110, and 43.70.250.

AMENDATORY SECTION (Amending WSR 04-12-125, filed 6/2/04, effective 7/3/04)

WAC 246-254-053 Radiation machine facility registration fees. (1) Radiation machine facility fees apply to each person or facility owning, leasing and using radiation-producing machines.

FEE TYPE	FEE
(a) Annual Base Registration Fee	\$((50)) <u>68</u>
(b) Late registration or re-registration	\$((50)) <u>68</u>
(c) Tube Fees	See Table 1

Group	First Tube	Each Additional Tube
(i) Group A: Dental, Podiatric, Veterinary, Bone Densitometers uses	\$((51)) <u>69</u>	\$((26)) <u>35</u>
(ii) Group B: Hospital, Medical, Chiropractic uses	\$((141)) <u>190</u>	\$((74)) <u>100</u>
(iii) Group C: Industrial, research, and other uses	\$((79)) <u>107</u>	\$((26)) <u>35</u>
(iv) Group D: Electron Microscopes, Mammographic X-ray Machines	NA	NA

(2) **X-ray shielding fees.**

(a) Facilities regulated under the shielding plan requirements of WAC 246-225-030 or 246-227-150 are subject to a

~~\$(94)~~ 255 X-ray shielding review fee for each X-ray room plan submitted. A registrant may request an expedited plan review for an additional \$500 for each X-ray room plan. Expedited plan means the department will complete the plan review within two business days of receiving all required information from the registrant.

(b) If a facility regulated under WAC 246-225-030 or 246-227-150 operates without submittal and departmental approval of X-ray shielding calculations and a floor plan it will be subject to a shielding design follow-up fee of ~~\$(50)~~ 1,000.

(3) **Radiation safety fee.** If a facility or group of facilities under one administrative control employs two or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility shall pay a flat, annual fee of ~~\$(3,290)~~ 4,441.

(4) **Consolidation of registration.** Facilities may consolidate X-ray machine registrations into a single registration after notifying the department in writing and documenting that a single business license applies if the geographical location (parcel number) is the same.

(5) **Inspection fees.**

(a) The cost of routine, periodic inspections, including the initial inspection, are covered under the base fee and tube registration fees as described in subsection (1) of this section.

(b) Facilities requiring follow-up inspections due to uncorrected noncompliances must pay an inspection follow-up fee of \$90.

(6) A facility's annual registration fee is valid for a specific geographical location and person only. It is not transferable to another geographical location or owner or user.

WSR 05-21-126

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed October 19, 2005, 8:57 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Radioactive materials license fees in WAC 246-254-070, 246-254-080, 246-254-090, 246-254-100 and 246-254-120, annual adjustment of fees to recover anticipated program costs.

Hearing Location(s): Department of Health, 311 Israel Road, Conference Room 152, Tumwater, WA (next to United States Post Office Building), on November 22, 2005, at 10:00 a.m.

Date of Intended Adoption: November 30, 2005.

Submit Written Comments to: Arden Scroggs, Office of Radiation Protection, Department of Health, P.O. Box 47827, Olympia, WA 98504-7827, e-mail [web site] <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2255, by November 22, 2005.

Assistance for Persons with Disabilities: Contact Kelly Cooper by November 15, 2005, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adjusts the fees associated with issuing and maintaining

licenses for possession and use of radioactive materials in the state of Washington. The fees found in WAC 246-254-070 Specialized radioactive materials licenses, 246-254-080 Medical and veterinary licenses, 246-254-090 Industrial licenses, 246-254-100 Laboratory licenses and 246-254-120 Licensing actions, are being increased to cover necessary program costs. Significant increases in program costs include legislatively mandated salary adjustments, a cost of living allowance increase for all staff, additional staff required for increased control of radioactive materials to strengthen homeland security, and needed upgrades to computer data systems. The 2005 budget approved by the legislature contained an exemption from the I-601 fiscal growth factor limitation.

Reasons Supporting Proposal: User fees are the sole source of support for the public health activities in the radiation protection program. Sufficient revenue is necessary to fulfill the department's public health obligations. The fee increase will allow the radioactive materials program to continue its current level of public health activities, i.e., inspecting facilities, performing safety reviews of license applications, responding to radiation incidents, and answering licensee and public concerns about radiation safety.

Statutory Authority for Adoption: RCW 70.98.080, 43.20B.020, 43.70.110, and 43.70.250.

Statute Being Implemented: RCW 70.98.080, 43.20B.-020, 43.70.110, and 43.70.250.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting: Terry C. Frazee, 111 Israel Road, Tumwater, (360) 236-3213; Implementation and Enforcement: Arden C. Scroggs, 111 Israel Road, Tumwater, WA, (360) 236-3221.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from a small business economic impact statement under RCW 19.85.025(3) and 34.05.310 (4)(f), because the rule adjusts fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. Rules that set or adjust fees pursuant to legislative standards are exempt from the analysis required in RCW 34.05.328 (5)(b)(vi).

October 19, 2005

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 04-12-124, filed 6/2/04, effective 7/3/04)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) ~~((Five thousand seven hundred thirty two dollars))~~ \$7,050 for operation of a single nuclear pharmacy.

(b) ~~((Nine thousand seven hundred seventy six dollars))~~ \$12,025 for operation of a single nuclear laundry.

(c) (~~Nine thousand seven hundred seventy-six dollars~~) \$12,025 for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) (~~Three thousand four hundred twenty-eight dollars~~) \$4,215 for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) (~~Eight hundred eighty-four dollars~~) \$1,085 for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) (~~Six thousand five hundred fifty-six dollars~~) \$8,065 for a license authorizing decontamination services operating from a single facility.

(g) (~~Three thousand one hundred dollars~~) \$3,815 for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) (~~One thousand three hundred eighty dollars~~) \$1,700 for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) (~~Two thousand five hundred eighty dollars~~) \$3,175 for a license authorizing health physics services, leak testing, or calibration services.

(j) (~~One thousand six hundred twenty dollars~~) \$1,995 for a civil defense license.

(k) (~~Four hundred eighty-eight dollars~~) \$600 for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) (~~Nineteen thousand four hundred dollars~~) \$23,860 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) (~~Eight thousand nine hundred sixty-eight dollars~~) \$11,030 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) (~~Seven thousand two hundred eight dollars~~) \$8,865 for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of (~~one hundred dollars~~) \$125 for each hour of direct staff time associated with issuing and

maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise non-refundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 04-12-124, filed 6/2/04, effective 7/3/04)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) (~~Four thousand eight hundred forty-four dollars~~) \$5,960 for operation of a mobile nuclear medicine program from a single base of operation.

(b) (~~Three thousand five hundred thirty-two dollars~~) \$4,345 for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) (~~Three thousand sixty dollars~~) \$3,765 for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) (~~Four thousand eight hundred seventy-six dollars~~) \$6,000 for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) (~~Two thousand six hundred twenty dollars~~) \$3,225 for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) (~~One thousand six hundred twenty dollars~~) \$1,995 for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) (~~Two thousand four hundred sixty-four dollars~~) \$3,030 for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) (~~One thousand nine hundred sixty dollars~~) \$2,410 for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two

hundred millicuries total possession of radioactive material at a single facility.

(i) (~~One thousand four hundred thirty six dollars~~) \$1,765 for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) (~~One thousand two hundred sixty four dollars~~) \$1,555 for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) (~~Seven hundred eighty eight dollars~~) \$970 for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending WSR 04-12-124, filed 6/2/04, effective 7/3/04)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) (~~Five thousand seven hundred eight dollars~~) \$7,020 for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) (~~Seven thousand six hundred fifty two dollars~~) \$9,410 for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) (~~Three thousand seven hundred forty eight dollars~~) \$4,610 for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) (~~Eight hundred eight dollars~~) \$995 for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) (~~Eight hundred eighty four dollars~~) \$1,085 for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) (~~Five hundred fifty six dollars~~) \$685 for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) (~~One thousand five hundred forty dollars~~) \$1,895 for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) (~~Eight thousand one hundred eighty dollars~~) \$10,060 for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) (~~Seven thousand one hundred twenty dollars~~) \$8,760 for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) (~~Two thousand two hundred eighty dollars~~) \$2,805 for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) (~~Three hundred sixty dollars~~) \$445 for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of (~~seventy four dollars~~) \$90 to the department.

(4) General licensees required to register in accordance with WAC 246-233-020 (3)(k) shall forward an annual fee of (~~two hundred fourteen dollars~~) \$265 to the department.

AMENDATORY SECTION (Amending WSR 04-12-124, filed 6/2/04, effective 7/3/04)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) (~~Three thousand nine hundred dollars~~) \$4,800 for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) (~~One thousand nine hundred twenty eight dollars~~) \$2,370 for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or
- (iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) (~~One thousand six hundred twenty dollars~~) \$1,995 for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or
- (ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or
- (iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) (~~Five hundred fifty six dollars~~) \$685 for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

- (i) Less than or equal to 0.01 millicurie of I-125 or I-131; or
- (ii) Less than or equal to one millicurie of H-3 or C-14; or
- (iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) (~~Seven hundred forty eight dollars~~) \$920 for a license authorizing possession at a single facility of large

quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of (~~seventy-four dollars~~) \$90 to the department.

AMENDATORY SECTION (Amending WSR 04-12-124, filed 6/2/04, effective 7/3/04)

WAC 246-254-120 Fees for licensing and compliance actions. (1) In addition to the fee for each radioactive material license as described under WAC 246-254-070, 246-254-080, 246-254-090, and 246-254-100, a licensee shall pay a service fee for each additional licensing and compliance action as follows:

(a) For a second follow-up inspection, and each follow-up inspection thereafter, a fee of (~~one hundred dollars~~) \$125 per hour of direct staff time associated with the follow-up inspection, not to exceed (~~one thousand dollars~~) \$1,250 per follow-up inspection. Hours are calculated in half-hour increments.

(b) For each environmental cleanup monitoring visit, a fee of (~~one hundred dollars~~) \$125 per hour of direct staff time associated with the environmental cleanup monitoring visit, not to exceed (~~two thousand five hundred dollars~~) \$3,125 per visit. Hours are calculated in half-hour increments.

(c) For each new license application, the fee of (~~one hundred sixty five dollars~~) \$200 in addition to the required annual fee.

(d) For each sealed source and device evaluation, a fee of (~~one hundred dollars~~) \$125 per hour of direct staff time associated with each sealed source and device evaluation, not to exceed (~~three thousand dollars~~) \$3,750 per evaluation.

(e) For review of air emission and environmental programs and data collection and analysis of samples, and review of decommissioning activities by qualified staff in those work units, a fee of (~~one hundred dollars~~) \$125 per hour of direct staff time associated with the review. The fee does not apply to reviews conducted by the radioactive materials section staff and does not apply unless the review time would result in a special service charge exceeding ten percent of the licensee's annual fee.

(f) For expedited licensing review, a fee of (~~one hundred dollars~~) \$125 per hour of direct staff time associated with the review. This fee only applies when, by the mutual consent of licensee and affected staff, a licensing request is taken out of date order and processed by staff during nonwork hours and for which staff is paid overtime.

(2) The licensee or applicant shall pay any additional service fees at the time of application for a new license or within thirty days of the date of the billing for all other licensing and compliance actions.

(3) The department shall process an application only upon receipt of the new application fee and the annual fee.

(4) The department may take action to modify, suspend, or terminate the license or sealed source and device registra-

tion if the licensee fails to pay the fee for additional licensing and compliance actions billed by the department.

WSR 05-21-127
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed October 19, 2005, 8:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-24-089.

Title of Rule and Other Identifying Information: Chapter 246-50 WAC, Coordinated quality improvement program (CQIP), in 2004 the Washington state legislature passed ESSB 6210 and enacted chapter 145, Laws of 2004 which states that five or more providers may apply for and maintain a CQIP.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Room 139, Tumwater, WA 98501, on November 30, 2005, at 9:30 a.m.

Date of Intended Adoption: December 5, 2005.

Submit Written Comments to: Jovi Swanson, P.O. Box 47890, Olympia, WA 98504, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-7424 by November 23, 2005.

Assistance for Persons with Disabilities: Contact Jovi Swanson by November 23, 2005, TTY (711) 1-800-833-6388 or (360) 236-4028.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to amend chapter 246-50 WAC to comply with chapter 145, Laws of 2004 which changes the number of providers who can apply and maintain a CQIP by reducing the number from ten or more providers to five or more providers. The change from five or more providers who may apply for CQIP may result in more coordinated quality improvement plans submitted to the department.

In addition, the proposed rule clarifies existing rules by combining definitions with the same statutory authority and separating sections resulting in three new sections.

Reasons Supporting Proposal: The proposal supports requirements under ESSB 6210, chapter 145, Laws of 2004, and improves the clarity of the rules.

Statutory Authority for Adoption: RCW 43.70.510, 70.41.200, and 4.24.250.

Statute Being Implemented: RCW 43.70.510, 70.41.200, and 4.24.250.

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

Name of Proponent: Washington State Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jovi Swanson, 101 Israel Road, Tumwater, WA 98501, (360) 236-4028; and Enforcement: Patti Rathbun, 101 Israel Road, Tumwater, WA 98501, (360) 236-4627.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030 [(5)](a) a small business economic impact statement is not

necessary since it does not impose more than minor costs on businesses and industry. It is a voluntary program.

A cost-benefit analysis is not required under RCW 34.05.328. A cost benefit analysis is not necessary under RCW 34.05.328 (5)(b)(iv)(v) since the proposed rule clarifies language without changing its effect and is specifically dictated by statute.

October 19, 2005

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 96-09-042, filed 4/11/96, effective 5/12/96)

WAC 246-50-001 Purpose and scope. (1) The purpose of the coordinated quality improvement program is to improve the quality of health care services by identifying and preventing health care malpractice under RCW 43.70.510. This chapter establishes the criteria and approval process for health care entities who choose to apply for a department of health approved coordinated quality improvement program ~~((pursuant to))~~ under RCW 43.70.510. Coordinated quality improvement programs approved by the department are provided discovery limitations ~~((pursuant to))~~ under RCW 43.70.510 (3) and (4). Information and documents ~~((created))~~ specifically created for, ~~((and))~~ collected, and maintained by an approved quality improvement committee are also exempt from disclosure under chapter 42.17 RCW.

(2) This chapter allows health care provider groups, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved ~~((pursuant to))~~ under chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the ~~((jurisdiction))~~ authority and ~~((regulation))~~ rules of any state agency or any subdivision ~~((thereof and))~~ such as health care institutions and medical facilities other than hospitals, to maintain a department-approved coordinated quality improvement program for the purpose of improving the quality of health care and identifying and preventing health care malpractice.

~~(3) ((Programs submitted for department approval should be consistent with the principles for the continuous improvement of the Washington state health care system published by the health care policy board.~~

~~(4))~~ This chapter does not apply to hospital quality improvement programs required by RCW 70.41.200.

NEW SECTION

WAC 246-50-005 Applicant eligibility. (1) The following health care entities may apply for the coordinated quality improvement program:

(a) Provider groups of five or more providers;

(b) Health care professional societies or organizations, including, but not limited to, state or local health care professional associations;

(c) Health care service contractors as defined in RCW 48.44.010;

(d) Health maintenance organizations as defined in RCW 48.46.020;

(e) Health carriers as defined in RCW 48.43.005;

(f) Health care institutions or medical facilities other than hospitals; and

(g) Any person or entity providing personal coverage under chapter 48.42 RCW, and is subject to the authority and rules of any state agency or subdivision.

(2) This chapter does not apply to hospital quality improvement programs required by RCW 70.41.200.

AMENDATORY SECTION (Amending WSR 96-09-042, filed 4/11/96, effective 5/12/96)

WAC 246-50-010 Definitions. The words and phrases in this chapter have the following meanings unless the context clearly indicates otherwise.

(1) "Alternative program" means a coordinated quality improvement program determined by the department to be substantially equivalent to RCW 70.41.200(1).

(2) "Department" means the Washington state department of health.

(3) "Governing body" means:

(a) The person, persons or board responsible for the health care entity; or

(b) In the case of a provider group where no person, persons or board is in charge of all providers; the person, persons or group identified by the provider group ~~((to be))~~ is responsible for the coordinated quality improvement program.

(4) "Health care entity" means a health care institution, medical facility, provider group, professional society or organization, health care service contractors, health maintenance organizations, health carriers approved ~~((pursuant to))~~ under chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction of any state agency or any subdivision thereof, authorized by RCW 43.70.510 to have a department-approved coordinated quality improvement program.

(5) "Health care institution" or "medical facility" includes the following:

(a) Adult residential rehabilitation centers regulated ~~((pursuant to))~~ under chapter 71.12 RCW;

(b) ~~((Alcoholism))~~ Alcohol and drug treatment facilities and hospitals regulated ~~((pursuant to))~~ under chapter ~~((s 71.12 and))~~ 70.96A RCW;

(c) ~~((Alcoholism hospitals regulated pursuant to chapters 71.12 and 70.96A RCW;~~

~~((d) Ambulance and aid services regulated pursuant to))~~ Emergency medical care and transportation services regulated under chapter 18.73 RCW;

~~((e))~~ (d) Boarding homes regulated ~~((pursuant to))~~ under chapter 18.20 RCW;

~~((f))~~ (e) Childbirth centers regulated ~~((pursuant to))~~ under chapter 18.46 RCW;

~~((g))~~ (f) Community mental health centers regulated ~~((pursuant to))~~ under chapter 71.05 or 71.24 RCW;

~~((h) Eye banks regulated pursuant to RCW 68.50.630;~~

~~((i))~~ (g) Home health agencies, home care agencies, hospice care centers, and hospice agencies regulated ~~((pursuant to))~~ under chapter 70.127 RCW;

~~((j) Hospice care centers regulated pursuant to chapter 70.41 RCW;~~

~~(k) Hospice agencies regulated pursuant to chapter 70.127 RCW;~~

~~(h)) (h) Medical test sites regulated ((pursuant to)) under chapter 70.42 RCW;~~

~~((m)) (i) Nursing homes regulated ((pursuant to)) under chapter 18.51 RCW;~~

~~((n)) (j) Pharmacies regulated ((pursuant to)) under chapter 18.64 RCW;~~

~~((o)) (k) Private psychiatric hospitals and residential treatment facilities for psychiatrically impaired children and youth regulated ((pursuant to)) under chapter 71.12 RCW;~~

~~((p) Residential treatment facilities for psychiatrically impaired children and youth regulated pursuant to chapter 71.12 RCW;~~

~~((q)) (l) Rural health care facilities regulated ((pursuant to)) under chapter 70.175 RCW;~~

~~((r)) (m) Organizations that provide designated trauma care services individually or jointly under chapter 70.168 RCW;~~

~~(n) Facilities owned and operated by a political subdivision or instrumentality of the state, including, but not limited to:~~

- ~~(i) Public health departments;~~
- ~~(ii) Fire districts and departments;~~
- ~~(iii) Soldiers' and veterans' homes;~~
- ~~(iv) State mental health institutions;~~
- ~~(v) Health clinics operated by educational institutions;~~
- ~~(vi) Department of corrections health care facilities;~~
- ~~(vii) County jail health clinics; ((and))~~
- ~~(viii) County drug and alcohol treatment facilities; and~~
- ~~(ix) Public hospital districts;~~

~~((s)) (o) Facilities required by federal law and implementing regulations, including, but not limited to:~~

- ~~(i) Native American health facilities; and~~
- ~~(ii) Veterans' affairs health services; and~~

~~((t)) (p) Other facilities ((determined by)) that the department ((to be within the parameters of the)) determines meet the definition of "health care facility" in RCW ((43.72-010)) 48.43.005.~~

~~(6) "Health care provider" or "provider" means:~~

~~(a) A person regulated under Title 18 RCW to practice health or health related services or otherwise practicing health care services in this state consistent with state law; or~~

~~(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of the employee's or agent's employment performing health care or auxiliary services.~~

~~(7) "Health care provider group" or "provider group" means an organized body or consortium of ((ten)) five or more providers in total.~~

~~(8) "Negative health care outcome" means a patient death or impairment of bodily function other than those related to the natural course of illness, disease or proper treatment in accordance with generally accepted health care standards.~~

~~(9) "Professional society or organization" means a group of health care professionals, including, but not limited to, state or local health care professional associations.~~

~~(10) "Program" means coordinated quality improvement program ((pursuant to)) under RCW 43.70.510.~~

AMENDATORY SECTION (Amending WSR 94-24-001, filed 11/23/94, effective 12/24/94)

WAC 246-50-030 Application and approval process~~(--Public disclosure)~~. ~~((1))~~ A health care entity seeking department approval of a program shall submit to the department:

~~((a)) (1) An application on forms provided by the department;~~

~~((b)) (2) The program plan, printed on 8 1/2 by 11 inch paper, including:~~

~~((i)) (a) A table of contents clearly denoting, at a minimum, where each component specified in WAC 246-50-020 is located within the program plan; and~~

~~((ii)) (b) A detailed description of every aspect of the program;~~

~~((c)) (3) The fee specified in WAC 246-50-990; and~~

~~((d)) (4) Other information as may be required by the department.~~

~~((2) To maintain department approval, a health care entity modifying the scope, components or operation of an approved program, shall submit to the department:~~

~~(a) An application package specified in subsection (1) of this section; and~~

~~(b) A detailed description of the modification and how it affects the program.~~

~~(3) The department shall review each application package submitted pursuant to this section, and:~~

~~(a) Send written notification of approval to a health care entity submitting a program with the components specified in WAC 246-50-020; or~~

~~(b) Provide the health care entity an opportunity for a brief adjudicative proceeding according to RCW 34.05.482 when the department declines to approve a program.~~

~~(4) The department shall retain a copy of the program plan. Material received by the department will be subject to the public disclosure law, chapter 42.17 RCW. Health care entities submitting material that they believe is exempt from public disclosure should conspicuously mark the portion or portions and state the basis for exemption. The department will give notice to the submitting entity of any request under the Public Disclosure Act for public disclosure of material that has been marked in accordance with this subsection at least ten working days in advance of releasing the information. This will allow the submitting party to invoke the provisions of RCW 42.17.330.)~~

NEW SECTION

WAC 246-50-035 Modification of an approved plan.

(1) To maintain department approval, a health care entity modifying the scope, components or operation of an approved program, shall submit to the department:

(a) An application package specified in WAC 246-50-030(1); and

(b) A detailed description of the modification and how it affects the program.

(2) The department shall review each application package submitted under this section, and:

(a) Send written notification of approval to a health care entity submitting a program with the components specified in WAC 246-50-020; or

(b) Deny the application and provide the health care entity an opportunity for a brief adjudicative proceeding according to RCW 34.05.482 when the department declines to approve a program.

(3) The department shall retain a copy of the program plan.

NEW SECTION

WAC 246-50-060 Public record disclosure. A program plan and all supplemental material are public records and are subject to the public record disclosure law, chapter 42.17 RCW, once the department receives them. Health care entities submitting material they believe is exempt from public record disclosure should clearly mark the portion or portions as "exempt" and state the specific statutory basis for exemption. The department will notify the health care entity of a public record disclosure request for material the entity marked "exempt" in accordance with this subsection. The department will allow the health care entity ten work days from when it receives department notice to deliver to the department proof that the entity has initiated formal action to secure an injunction under RCW 42.17.330. Upon receiving such proof, the department will notify the public record requester of the action the health care entity initiated under RCW 42.17.330, and take no further action pending a decision by the court. The health care entity must notify the department if it withdraws or takes any other action to terminate the judicial process under RCW 42.17.330. Absent proof from the health care entity that it has initiated action under RCW 42.17.330, the department will disclose the records consistent with state and federal law.

AMENDATORY SECTION (Amending WSR 94-24-001, filed 11/23/94, effective 12/24/94)

WAC 246-50-990 Fees. A health care entity (~~shall~~) must submit a fee with each application (~~for department approval~~) as follows:

- ~~((1) A coordinated quality improvement program pursuant to WAC 246-50-030(1) — two hundred fifty dollars;~~
- ~~(2) An alternative program pursuant to WAC 246-50-040 — forty dollars; and~~
- ~~(3) Modification of a department approved program pursuant to WAC 246-50-030(2) — sixty five dollars.))~~

<u>Title of Fee</u>	<u>Fee</u>
<u>Original application</u>	<u>\$250.00</u>
<u>Alternative application</u>	<u>40.00</u>
<u>Modification application of a department-approved program</u>	<u>65.00</u>

WSR 05-21-140
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed October 19, 2005, 10:47 a.m.]

Supplemental Notice to WSR 05-20-062.
Preproposal statement of inquiry was filed as WSR 05-10-006.

Title of Rule and Other Identifying Information: Scientific collection permits.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on December 2-3, 2005, begins at 8:00 a.m. on December 2, 2005.

Date of Intended Adoption: December 2, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by November 23, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by November 18, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Consolidate WAC 220-20-045 and 232-12-276, and establish a single rule for issuing scientific collection permits. Provide definitions for clarity.

Reasons Supporting Proposal: The department currently has two different rules for the same activity. An automated issuance system has been established, and standardized practices are needed.

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 and Implementation: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, (360) 902-2651 and Dave Britnell, (360) 902-2504, 1111 Washington Street, Olympia; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2370.

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: A final report will be required from each person obtaining a scientific collection permit (SCP). Zoos and aquariums that sell progeny of specimens taken under an SCP will be required to keep a record of such sales.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None. The report required of SCP holders is a list of species collected. Researchers are scientists and contract stream surveyors who know what species they are collecting.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative

Costs: The cost of the permit is \$12, set by statute. There are no costs associated with exercising the permit.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? There is no revenue from these permits, as the specimens may not be sold. There is no loss of sales of the progeny.

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.

Researchers are not businesses. Environmental consultants who do stream surveys will need to pay \$12 per project, which could encompass multiple stream surveys. If the consultant is a sole proprietorship, the cost is \$12 per employee.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The permit cost is set by statute. The department has preprinted the application form for ease of application, and will accept electronic filing.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department is having a copy of the proposal, together with the application form, permit form, and final report form, mailed to all person who held a permit in 2004.

8. A List of Industries That Will Be Required to Comply with the Rule: Any small business that does scientific collection.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, 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.

October 19, 2005

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 76-96, filed 9/23/76)

WAC 220-20-045 Scientific collection permits. (1) The following definitions apply to this section:

(a) "Collect" means to take control or to attempt to take control of fish, shellfish, wildlife, or the nests of birds. Collect does not include transitory holding of reptiles, amphibians and invertebrates solely for identification purposes.

(b) "Display" means to place or locate fish, shellfish, wildlife, or the nests of birds, so that public viewing is allowed.

(c) "Encountered" means targeted or nontargeted specimens captured, handled or physically affected by the collecting activity.

(d) "Project" means a planned undertaking of common temporal or geographical activities to reach a common objective.

(e) "Research" means scientific investigation, and includes education. Electrofishing is a form of scientific investigation.

(2) It (~~shall be~~) is unlawful for any person (~~(group, corporation, association, or governmental entity))~~ to (~~conduct any scientific study involving the handling, collection, or release of food~~) collect fish (~~(or)~~), shellfish, wildlife, or the nests of birds for research or display purposes on the (~~beaches~~) lands or in the waters of the state of Washington for species, by means, in amounts, or in such condition not authorized under personal use or commercial rules, or in violation of any rule prohibiting possession of unclassified wildlife, without first obtaining a permit from the department (~~(of fisheries, and))~~. It (~~shall be~~) is unlawful to fail to comply with any of the provisions of the permit and it is unlawful to buy or sell fish, shellfish, wildlife, or the nests of birds taken under the permit, and it is unlawful to consume or offer for human consumption any fish, shellfish, or wildlife taken under the permit.

(3) Application procedure:

(a) (~~A request for such a permit must be received 30 days prior to the date such study, collection, release, or research is started.~~) All applications for scientific collection must be submitted on a department application form and delivered to the department office in Olympia. Approval or denial of a scientific collection permit will be given within sixty days after receipt of a complete application.

(b) A separate permit application must be submitted for each project.

(c) Each request for a permit to collect for research purposes must be accompanied by the following information:

(i) A study title.

(ii) (~~An introduction describing the management problems to be addressed and why resolution is necessary.~~) A statement of the applicant's qualifications for conducting the project. A statement of the qualifications of anyone conducting activities under the permit, including experience with the methodology of the proposed collection, and the applicant's access to facilities and competence to care for the specimens to be collected, if the collected specimens will be retained in live form by the applicant.

(iii) (~~An~~) A study plan which includes: Specific objective(s) for the proposed project including defining an identifiable end point or conclusion toward which efforts are to be directed; the justification for the project; methodology of collection; project start and end dates; project location including county name; names of participants in the collection; names and numbers of species expected to be collected or encountered; and proposed final disposition of specimens collected.

(~~(iv)~~) A justification which identifies the user(s) of the information and indicates how the findings will be used.

(v) A procedure which explains the approach or plan of action and which provides the organizational framework and logical sequence of events that will lead to the attainment of the study objectives.

(vi) A location of the study area.

(vii) An identification of supervisory and technical personnel responsible for the study.

(~~e~~) (d) Each request for a permit to collect for display purposes must be accompanied by the following information:

(i) A statement of the qualifications of the applicant and all other persons conducting activities under the permit, including experience with the methodology of the proposed collection, and, if live fish, shellfish or wildlife are to be displayed, the name of the publically owned facility where the display will occur and the competence of the facility operators to care for the specimens.

(ii) A project description, which includes: Reason for display; project location including county name; methodology of collection; names of participants in the collection; names and numbers of species expected to be collected or encountered; display site; length of display; and proposed final disposition of specimens collected.

(e) Any application for a scientific collection permit using firearms must contain a statement that all persons who will use firearms are legally capable of possessing firearms.

(4) Permit periods: Permits are valid for the project period, but not to exceed one year from the date of issuance, except multiyear permits, at the discretion of the department, may be issued for public health purposes.

(5) Reporting: A final report as specified in the permit conditions must be submitted to the department upon completion of the ((study,)) research((,-collection,)) or ((release)) display project, and must be received by the department no later than 60 days after the expiration of the permit. Renewable annual permit holders must submit a report each year, and the report must be received by the department within 60 days of the anniversary date of the initial issuance date of the permit. In addition to the final or annual report, interim reports ((will)) may be required. Issuance of additional permits or permit renewals are subject to prior submission of a project report.

((4)) (6) Permit granting and denial: Permits will normally be granted for requests which ((increase the data base)) contribute to the body of fish, shellfish, or wildlife knowledge, increase or maximize the ((fishery)) fish, shellfish, and wildlife resource, avoid damage to the various resources, and do not unnecessarily duplicate previous research. Permits will not be granted if the project conflicts with existing activities or conservation goals. Permits will not be granted if the applicant was a prior permit holder and failed to submit required reports. Permits may be denied if the applicant or any other person involved in the collection has a history of fish or wildlife violations.

((e) Continuing studies or research or other scientific projects may be extended annually by concurrence of the director.

((f) An advisory committee of potentially affected groups will be established to provide technical input.)) (7) Miscellaneous permit provisions:

(a) A copy of the scientific collection permit must be in the physical possession of any person exercising the privileges authorized by the permit. Only collection participants named under subsection (3)(c)(iii) or (d)(iii) of this section may collect under the permit.

(b) A scientific collection permit does not authorize the release of specimens collected under the permit except for an immediate release to the exact site where the collection occurred unless release is specifically allowed as a condition of the permit. Release at any other site requires a transport,

release, or planting permit. The conditions of the permit may specify that no release of certain specimens will be allowed.

(c) If the scientific collection allows retention of specimens, an interim, final, or annual report for the period documenting when the specimen was collected must be retained for the period of retention of the specimen.

(d) As a condition of receiving a scientific collection permit, the applicant agrees that fish and wildlife officers may, at reasonable times and in a reasonable manner, inspect the specimens collected, as well as the permits, records and facilities of a permit holder.

(e) A scientific collection permit may be revoked for violating the conditions of the permit.

(8) Appeal procedure: A person who is denied a scientific collection permit, who disputes the conditions of a permit, or who has a permit revoked may appeal the department action. Appeals must be filed in writing, and delivered to Legal Services, Department of Fish and Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091. Specific grounds for contesting the revocation, denial, or permit conditions must be stated in the appeal. An appeal will be held under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

AMENDATORY SECTION (Amending Order 296, filed 8/24/87)

WAC 232-12-067 Sale of fish and wildlife by zoos and aquariums. (1) It is unlawful for publicly owned zoos or aquariums who lawfully acquired fish, shellfish, wildlife or the nests of birds under WAC 220-20-045 or 232-12-064 to offer for sale or sell ((that wildlife)) such animals or nests or the progeny of ((that wildlife)) such animals except outside the state or except within the state to other publicly owned zoos or aquariums or accredited institutional members of the American Zoo and Aquarium Association ((of Zoological Parks and Aquariums (AAZPA))) (AZA).

(2) ((It is unlawful for publicly owned zoos or aquariums who lawfully acquired wildlife under WAC 232-12-274 to offer for sale or sell that wildlife or the progeny of that wildlife except the progeny may be sold to other publicly owned zoos or aquariums or accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA).))

(3)) Publicly owned zoos and aquariums will keep accurate and current records of the sale of fish, shellfish and wildlife progeny as required by the director. These records will be maintained on a calendar year basis and retained for a period of 5 years.

((4)) (3) It is unlawful for any publicly owned zoo or aquarium to fail to complete and submit to the department by January 31 of each year a report containing information required by the director.

((5)) (4) Fish and wildlife ((agents)) officers may inspect at reasonable times and in a reasonable manner the fish, shellfish, wildlife, nests of birds, permits, records, and facilities of any publicly owned zoo or aquarium offering for sale or selling ((wildlife)) such animals or nests.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-276 Scientific permits.

WSR 05-21-141
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed October 19, 2005, 11:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-19-060.

Title of Rule and Other Identifying Information: The department is proposing to establish a crucifer seed quarantine in Washington state by adding new rule sections to chapter 16-301 WAC, General seed regulations. The new sections are in response to a petition that the department received from the Puget Sound Seed Growers Association. They have been developed with the help of an ad hoc work group representing the industry and higher education research institutions. The petition also asked the department to amend WAC 16-301-050 to add black mustard (*Brassica nigra*) and wild radish (*Raphanus raphanistrum*) to the list of restricted noxious weed seeds and to delete the words "in rapeseed only" from the black mustard and wild radish reference in WAC 16-301-105 Seed certification—Objectionable weeds, and the department is proposing amendments to comply with the request.

Hearing Location(s): WSU Extension Auditorium, 16650 State Route 536, Mt. Vernon, WA 98273, on Tuesday, December 6, 2005, at 10:00 a.m.; at the Washington State Department of Agriculture Office, 821 East Broadway, Suite #4, Moses Lake, WA 98837, on Friday, December 9, 2005, at 11:00 a.m.

Date of Intended Adoption: December 21, 2005.

Submit Written Comments to: Debbie Hacker, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail dhacker@agr.wa.gov, fax (360) 902-2085, by 5:00 p.m., November 10, 2005.

Assistance for Persons with Disabilities: Contact Virginia Walsh by December 1, 2005, TTY (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to address issues raised by the vegetable seed producers of western Washington regarding the increased planting of nonvegetable crucifer crops that have not been tested and found free of two specific diseases, black rot and black leg. If these diseases become established in their western Washington production area, they would severely threaten the existence of vegetable seed production. In addition, the nonvegetable crucifer crops often contain dormant seed that may persist into subsequent cropping years and become established as weeds. This proposal places a quarantine order on all seed planted in the regulated areas of western Washington and requires that all seed be tested and found free of the regulated diseases before planting. The proposal

also places restrictions on the content of dormant seed where appropriate. Finally, this proposal places two weeds on the restricted noxious weed list. These weeds are wild radish and black mustard. These contaminants are prevalent in nonvegetable crucifer crops. By placing these weeds on the restricted noxious weed list they will be listed on the label of seed offered for sale, thus informing the buyer of their presence.

Reasons Supporting Proposal: This proposal will ensure that all crucifer seed is tested before planting in the regulated area thus protecting a vital segment of Washington agriculture. Washington is a major world exporter of crucifer vegetable seeds. By increasing protection against the introduction of these diseases, export markets will remain open for Washington products. In addition, this proposal will also protect the emerging production of oil seed for bio-diesel by requiring disease free seed stock. The Puget Sound Seed Growers Association, the Columbia Basin Seed Growers Association, the Washington Canola Commission and individual seed growers and seed companies support this proposal.

Statutory Authority for Adoption: Chapters 15.49 and 34.05 RCW.

Statute Being Implemented: Chapter 15.49 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting: Victor Shaul, Yakima, Washington, (509) 225-2682; **Implementation and Enforcement:** Fawad Shah, Yakima, Washington, (509) 225-2636.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on the businesses in an industry. To determine if the costs imposed by the proposed crucifer quarantine were "more than minor," the department, with the help of industry and academic representatives, developed a list of 189 stakeholders that might be affected by the proposed quarantine. An economic impact survey was then mailed to each of the 189 stakeholders giving them two weeks to respond. In the past, the department has had very good response rates to the economic impact surveys that it has conducted. When responses to the crucifer quarantine survey were not received, the department telephoned each stakeholder on the mailing list and reminded them of the importance of completing the survey. Only two stakeholders responded to the survey (both past the two-week deadline) and neither was affected by the proposed quarantine. As a result, the department sent the survey by e-mail to twenty-five representative stakeholders on the original list. Again, the department received no responses. Based upon the expressed support, as well as input, that the department has received from the Puget Sound Seed Growers Association, the Columbia Basin Seed Growers Association, the Washington Canola Commission and individual seed growers and seed companies during the meetings of the crucifer working group and the apparent lack of interest in the economic impact survey, the department has concluded that the crucifer seed industry does not consider

the costs imposed by the proposed quarantine to be "more than minor" and, therefore, has not prepared a formal SBEIS.

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).

October 19, 2005
 Robert W. Gore
 Assistant Director

AMENDATORY SECTION (Amending WSR 02-12-060, filed 5/30/02, effective 6/30/02)

WAC 16-301-050 Restricted noxious weed seeds. Restricted (secondary) noxious weed seeds are the seeds of weeds which are objectionable in fields, lawns, and gardens of this state, but which can be controlled by cultural or chemical practices. Seed is deemed mislabeled if it consists of or contains any of the restricted noxious weed seeds listed below in excess of the number declared on the label. For the purpose of seed certification, see WAC 16-302-105 for the list of objectionable weeds.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Blackgrass	<i>Alopecurus myosuroides</i>
<u>Black mustard</u>	<u><i>Brassica nigra</i></u>
Blue lettuce	<i>Lactuca tatarica subsp. pulchella</i>
Docks and Sorrel	<i>Rumex spp.</i>
Dodder	<i>Cuscuta spp.</i>
Dyers woad	<i>Isatis tinctoria</i>
Field pennycress (fanweed)	<i>Thlaspi arvense</i>
Field sandbur	<i>Cenchrus incertus</i>
Gromwell (only in small grain)	<i>Buglossoides arvensis</i>
Halogeton	<i>Halogeton glomeratus C.A. Mey.</i>
Medusahead	<i>Taeniatherum caput-medusae</i>
Plantains	<i>Plantago spp.</i>
Poverty weed	<i>Iva axillaris Pursh.</i>
Puncturevine	<i>Tribulus terrestris L.</i>
St. Johnswort	<i>Hypericum perforatum L.</i>
Dalmation toadflax	<i>Linaria dalmatica (L.) Mill.</i>
Yellow toadflax	<i>Linaria vulgaris Hill.</i>
Western ragweed	<i>Ambrosia psilostachya DC.</i>
Wild mustard	<i>Sinapis arvensis subsp. arvensis</i>
Wild oat	<i>Avena fatua L.</i>
<u>Wild radish</u>	<u><i>Raphanus raphanistrum</i></u>

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

WAC 16-302-105 Seed certification—Objectionable weeds. The following weeds are considered objectionable noxious weeds for the purpose of seed certification.

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Blackgrass	<i>Alopecurus myosuroides</i>
Blue lettuce	<i>Lactuca tatarica</i>
Docks and Sorrel	<i>Rumex spp.</i>
Field pennycress (fanweed)	<i>Thlaspi arvense</i>
Field sandbur	<i>Cenchrus incertus</i>
Halogeton	<i>Halogeton glomeratus C.A. Mey.</i>
Medusahead	<i>Taeniatherum caput-medusae subsp. caputmedusae</i>
Plantains	<i>Plantago spp.</i>
Poverty weed	<i>Iva axillaris Pursh.</i>
Puncturevine	<i>Tribulus terrestris L.</i>
St. Johnswort	<i>Hypericum perforatum L.</i>
Dalmation toadflax	<i>Linaria dalmatica (L.) Mill.</i>
Yellow toadflax	<i>Linaria vulgaris Hill.</i>
Western ragweed	<i>Ambrosia psilostachya DC.</i>
Wild mustard	<i>Sinapis arvensis subsp. arvensis</i>
Wild oat	<i>Avena fatua L.</i>
Gromwell (in small grain)	<i>Buglossoides arvensis</i>
Bedstraw	<i>Galium spp. (in alfalfa only)</i>
Black mustard	<i>Brassica nigra ((in rapeseed only))</i>
Brown mustard	<i>Brassica juncea (in rapeseed only)</i>
Wild radish	<i>Raphanus raphanistrum ((in rapeseed only))</i>
Dyers woad	<i>Isatis tinctoria</i>

CRUCIFER SEED QUARANTINE

NEW SECTION

WAC 16-301-490 Why is the department establishing a crucifer seed quarantine? The production of crucifer vegetable seed is an important industry in Washington state. The economic well-being of that industry is threatened by the introduction of crucifer seed infected with certain bacterial and fungal pathogens. In addition, certain crucifer species produce dormant seed that, if present in a seed lot will persist into subsequent cropping years. The resulting "volunteer" plants have the potential to become established as weeds in Washington state.

The director has determined that a quarantine is needed to protect the Washington crucifer vegetable seed industry from the introduction of seed infected with certain pathogens

and from the introduction of crucifer seed containing dormant seed. The quarantine will provide the seed growers in this state with sources of crucifer seed that have been tested and proven to be free from harmful pathogens and, when appropriate, dormant seed.

NEW SECTION

WAC 16-301-495 What definitions are important to understanding this chapter? Definitions for some terms in this chapter can be found in chapter 15.49 RCW and chapter 16-301 WAC. In addition, the following definitions apply to this chapter:

"**Approved treatment methods**" include hot water, hot chlorine or any other methods that can eliminate the presence of regulated pathogens.

"**Crucifer**" means all plants in the family Brassicaceae (also known as Cruciferae) and specifically includes all *Brassica* species, *Raphanus sativus* - Radish, *Sinapis alba* and other mustards.

"**Crucifer production**" means any planting of crucifer seed or seedlings for the purpose of producing seed, oil, commercial vegetables or cover crops.

"**Crucifer seed**" includes any part of a plant capable of propagation including, but not necessarily limited to, seeds, roots, and transplants.

"**Department**" means the Washington state department of agriculture (WSDA).

"**Director**" means the director of the Washington state department of agriculture or the director's designee.

"**Dormant seed**" means viable true seed that displays a delay in or lack of germination when provided favorable germination conditions for the type of seed in question.

"**Owner**" means the person having legal ownership, possession or control over a regulated article covered by this chapter including, but not limited to, the owner, shipper, consignee, grower, seed dealer, landowner or their agent.

"**Person**" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

"**Regulated area**" means those geographic areas that are protected from the introduction of specified plant pests by the provisions of this quarantine.

"**Seed lot**" means a designated quantity of seed that is uniquely identified by a lot number.

"**Seed program**" means the Washington state department of agriculture seed program.

"**Trial ground**" means a specific parcel of land approved by the director for experimental or limited production or increase of crucifer seed and for planting seed lots whose quantity of seed is insufficient to allow for pathological testing.

"**True seed**" means a mature fertilized ovule consisting of an embryo, with or without an external food reserve enclosed by a seed coat.

NEW SECTION

WAC 16-301-500 What crucifer articles are regulated by this chapter? (1) With the exception of the exemptions listed in WAC 16-301-525(4), all crucifer seed, seed-

lings, roots, or transplants intended for seed production, oil production, commercial vegetable production or cover crop use are regulated under the provisions of this chapter.

(2) This chapter also regulates crop residue remaining from the harvest of infected crucifer plants.

NEW SECTION

WAC 16-301-505 What diseases are regulated by this chapter? (1) "**Regulated diseases**" means those bacterial and fungal diseases of crucifers listed in this section and any new variations or strains of these diseases.

(2) "**Regulated pathogens**" means those bacterial and fungal organisms identified as the casual agents for the diseases listed in this section.

(3) The following bacterial and fungal diseases of crucifers, and any new strains or variations of these diseases are regulated by this chapter:

Common Name	Scientific Name
Black leg of Crucifers	<i>Phoma lingam</i>
Black rot	<i>Xanthomonas campestris</i> <i>pv. campestris</i>

NEW SECTION

WAC 16-301-510 What seed must undergo dormancy testing? Any seed of a *Brassica* or *Sinapis* species whose primary uses for any nonvegetable use must be tested for the presence of dormant seed.

This testing must be done by either a single or paired germination test that demonstrates freedom of dormant seed.

NEW SECTION

WAC 16-301-515 What is the quarantined area for this crucifer seed quarantine? (1) The quarantine area for the crucifer seed quarantine includes all Washington state counties except Clallam, Island, Lewis, Skagit, Snohomish, and Whatcom counties.

(2) Regulated articles imported into Washington state must comply with the regulations of this chapter before transport into the regulated area. No additional requirements apply within the quarantine area but all regulated articles transported into the regulated area must comply with the regulations of this chapter.

NEW SECTION

WAC 16-301-520 What is the regulated area for this crucifer seed quarantine? The regulated area for this crucifer seed quarantine includes Clallam, Island, Lewis, Skagit, Snohomish, and Whatcom counties.

NEW SECTION

WAC 16-301-525 What are the exemptions to the crucifer seed quarantine that apply within the regulated area? This crucifer quarantine does not apply to:

(1) Experiments or trial grounds of the United States Department of Agriculture;

(2) Experiments or trial grounds of a university such as but not limited to the University of Idaho or Washington State University research stations; or

(3) Trial grounds of any person, firm or corporation that are approved by the director and established in accordance with WAC 16-301-550.

(4) Shipments, movements, or transportation of:

(a) Prepackaged crucifer seed in packages of 1/2 ounce or less if the seeds are free of diseases; or

(b) Vegetable seedlings offered for sale for home garden use in the regulated area if the seedlings are free of diseases.

(5) Research, variety development, variety maintenance or other crucifer production where the entire crop cycle is confined within a building or greenhouse.

NEW SECTION

WAC 16-301-530 What requirements apply to planting crucifer seed in the regulated area? (1)(a) It is a violation of this chapter to plant or establish crucifer seed that is infected with any regulated disease in the regulated area.

(b) Any seed of a *Brassica* or *Sinapis* species planted or established in the regulated area whose primary use is for any nonvegetable use must be tested for the presence of dormant seed as required by WAC 16-301-510.

(2) Any person who plans to ship, move, or transport any crucifer seed intended for planting purposes into or within the regulated area must file a Notice of Intent/Quarantine Compliance form with the seed program before planting or offering the seed for sale.

(3) The Notice of Intent/Quarantine Compliance form filed with the seed program must be accompanied by a copy of the:

(a) Laboratory analysis or some other proof (such as a phytosanitary certificate based upon laboratory testing issued from the state or country of production) demonstrating that the lot is free of regulated diseases; and

(b) Seed analysis certificate(s) showing that the lot is free from dormant seed, if required under WAC 16-301-510.

(4) It is a violation of this chapter for any crucifer seed intended for seed production, oil production, commercial vegetable production or cover crop use to be offered for sale within or into the regulated area unless each seed container bears a label issued by the seed program indicating that the seed is in compliance with the requirements of this chapter.

NEW SECTION

WAC 16-301-535 What requirements apply to boxes and racks used to ship crucifer seedlings? (1) Only boxes that have not previously contained crucifer seedlings may be used for shipping transplants into or within a regulated area.

(2) Racks used to ship transplanted crucifer seedlings must be thoroughly disinfected with an appropriate sanitizer before the seedlings are shipped.

NEW SECTION

WAC 16-301-540 What requirements apply to crucifer transplants grown in greenhouses in the regulated area? (1) All crucifer transplants produced in greenhouses in

the regulated area must be subjected to pest control procedures that reduce the presence of diseases or insects that may inhibit identifying regulated diseases.

(2) The interiors of greenhouses in the regulated area used to produce crucifer transplants must be free of crucifer weeds.

(3) One hundred meter buffers, free of crucifer weeds, must surround all greenhouses in the regulated area used to produce crucifer transplants.

NEW SECTION

WAC 16-301-545 What requirements apply to crucifer seed lots that test positive for any regulated disease?

(1) If a crucifer seed lot tests positive for any regulated disease, the infected seed lot may be treated with an approved seed treatment.

(2) After treatment, the seed lot must be tested for the presence of regulated diseases using appropriate pathological testing methods.

(3) If the pathological testing yields negative test results, the seed lot will be considered in compliance with this chapter.

(4) It is a violation of this chapter to plant seed in the regulated area that tests positive for any regulated disease subsequent to any approved treatment method.

NEW SECTION

WAC 16-301-550 If documentation verifying that crucifer seed is free from regulated diseases is not available, what protocols must be followed before the seed is planted in a regulated area? When no documentation exists verifying that a crucifer seed lot is free from regulated diseases, the following protocols must be followed before the seed is planted in the regulated area:

(1) A crucifer seed lot will be classified as a suspect seed lot if the seed lot lacks the documentation verifying that the lot complies with the crucifer seed quarantine requirements of this chapter.

(2) Suspect seed lots must:

(a) Not be offered for sale in the regulated area.

(b) Be treated by an approved treatment method.

(c) Be sown in a greenhouse and the seedlings must pass inspection by seed program inspectors before transplanting to the field.

(3) Any greenhouse operation used to grow crucifer seedlings for transplant must:

(a) Physically separate suspect seed lots from other crucifer production within that greenhouse.

(b) Monitor and document the location and identity of each suspect seed lot during production.

(4) It is a violation of this chapter for seedlings from a suspect seed lot to be topped, clipped, chopped or undergo any other treatment to toughen them or reduce their size.

(5) All seedlings from a suspect seed lot that exhibit symptoms of regulated diseases must be physically separated from asymptomatic transplants in that lot.

(6) Before shipping seedlings from a suspect seed lot, the seedlings must be inspected by seed program inspectors for the presence of regulated diseases.

(a) If no symptoms of regulated diseases are detected during this inspection, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the regulated area.

(b) If seedlings display symptoms of regulated diseases, laboratory testing for the diseases is mandatory.

(c) If seedlings from a suspect seed lot test negative for regulated pathogens after appropriate pathological testing, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the regulated area.

(d) If the presence of a regulated disease is confirmed by laboratory testing, all seedlings from a suspect seed lot may be subject to a quarantine order or destruction order under WAC 16-301-570.

(7) Any crucifer seed production fields, plant beds, or greenhouse production that will be planted with or receives production from suspect seed lots that are determined to be free from regulated diseases under subsection (6) of this section must be entered into the Washington state phytosanitary inspection program as required under WAC 16-301-235.

(8)(a) It is a violation of this chapter to plant seedlings from a suspect seed lot that tests positive for any regulated disease in the regulated area.

(b) Any suspect seed lot testing positive for any regulated disease may be subject to a quarantine order or a destruction order under WAC 16-301-570.

NEW SECTION

WAC 16-301-555 How are approved trial grounds established and what rules apply to them? (1) If a crucifer seed lot has not been tested to determine if it is disease free, and the quantity of seed in the lot is too small for testing to be practical, it must be planted in an approved trial ground that meets the requirements of the seed program.

(2) Trial grounds may be established for the purposes of, but not limited to, variety maintenance, variety development or other related research.

(3)(a) The seed program must approve a trial ground before it is established.

(b) Failure to obtain approval of a trial ground before it is established is a violation of this chapter and may subject the trial ground to a destruction order under WAC 16-301-570.

(4)(a) Trial grounds must be isolated from crucifer production crops according to the standards set in "*Seed Field Minimum Isolation Distances*" published by the Washington State University (WSU) cooperative extension.

(b) Copies of this publication can be obtained by contacting a WSU extension office.

(5) A person may plant crucifer seed in an approved trial ground after notifying the seed program, in writing, of their intent to plant for research purposes only. The notification will include an assurance that the person planting crucifer seed in an approved trial ground will comply with the inspection procedures in WAC 16-301-560, the isolation requirements prescribed by the WSU extension publication "*Seed Field Minimum Isolation Distances*", and any other requirements established by the director.

(6) The maximum planting in a trial ground is:

(a) One pound per variety for crucifer seed; and

(b) One-half acre for crucifer transplants.

NEW SECTION

WAC 16-301-560 What are the inspection requirements for trial grounds? (1) Applications for the phytosanitary field inspection of a trial ground must be submitted to the department before September 1 of the year the trial ground is established.

(2) A minimum of two phytosanitary field inspections of a trial ground must be conducted. These inspections must take place:

(a) During the seedling stage; and

(b) At the bloom stage.

(3) The phytosanitary field inspection application must include:

(a) A detailed varietal planting plan;

(b) A description of the exact location of the trial ground;

(c) The manner in which the trial ground will be isolated from other known crucifer production; and

(d) The distance by which the trial ground is isolated from other known crucifer production.

(4) If the field inspections detect any regulated pathogens, the trial ground is subject to destruction upon the order of the director.

(5) A disinfectant must be applied to the:

(a) Machinery used in the production of the crucifer crop;

(b) Footwear of all persons entering the trial grounds; and

(c) Footwear of all persons before traveling from a trial ground to other crucifer fields.

NEW SECTION

WAC 16-301-565 What are the testing requirements for seed harvested from an approved trial ground? (1) Seed harvested from an approved trial ground must be tested in an approved laboratory for the presence of regulated pathogens before it is planted in a regulated area.

(2) If the seed harvested from a trial ground tests positive for any regulated pathogens, it may not be released for general planting within a regulated area.

(3)(a) Seed harvested from a trial ground infected with a regulated pathogen must either be destroyed or shipped out of the regulated area.

(b) Written documentation of either the seed's destruction or shipment out of the regulated area must be submitted to the seed program within thirty days of the positive test for the regulated pathogen.

(c) Seed from a trial ground infected with a regulated pathogen that remains in a regulated area beyond thirty days may be subject to destruction upon the order of the director.

NEW SECTION

WAC 16-301-570 What are the penalties for violating the crucifer seed quarantine? (1) When the director determines that crucifer seed or production is infected with a

regulated disease, the director may issue a quarantine order or notice of destruction. A violation of this chapter may also result in either a quarantine order or notice of destruction as determined by the director and the rules regulating the crucifer quarantine. Any costs associated with complying with a notice of destruction or quarantine order is the sole responsibility of the owner and not the responsibility of the department.

(2) The director may issue a notice of destruction:

(a) The notice of destruction will identify the property or seed lot affected.

(b) The notice of destruction will order the destruction of regulated articles or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

(c) The notice of destruction may prescribe control measures or other requirements needed to prevent the infection of adjacent properties with a regulated disease.

(d) To ensure that the affected parties comply with the measures required to eliminate a disease caused by regulated pathogens, the director will notify the owner and seed company representatives, if known, regarding the methods of destruction to be used, the extent of the destruction and the safeguards being implemented to prevent the spread of the disease.

(3) The director may order the quarantine of any regulated article or planting area. The director will:

(a) Determine the quarantine conditions;

(b) Determine if a quarantine extension is warranted; and

(c) Prescribe sanitary precautions that will prevent the spread of the suspected regulated disease.

(4) To prevent the spread of the suspected regulated disease, persons entering the quarantined area must follow the sanitary precautions in WAC 16-301-560(5). Entry into the quarantined area is restricted to:

(a) The owner;

(b) Department employees;

(c) University personnel or other plant pathology specialists; and/or

(d) Persons authorized in writing by the director.

(5) Fields placed under a quarantine order:

(a) Must enter the Washington state phytosanitary inspection program as required under WAC 16-301-235 with all inspection costs borne by the owner.

(b) May be subject to additional inspection, control, isolation, or destruction requirements if the director determines they are needed to prevent the spread of regulated pathogens.

(6) Any owner violating the requirements of this crucifer quarantine is subject to the civil and/or criminal penalties as established in chapters 15.49 and/or 17.24 RCW.

(2) Any crucifer crop infected with a regulated pathogen must be reported to the seed program within seventy-two hours after the regulated pathogen is discovered.

(3)(a) The seed program may conduct inspections and tests to determine infection of any crucifer seed or production with a regulated disease.

(b) If a WSDA plant services program plant pathologist and a qualified plant pathologist representing a commercial company or owner disagree over the presence of a regulated disease, the company or owner may request a verification test for a regulated pathogen. A university plant pathologist may recommend the verification test. The verification test must use accepted scientific and professional techniques and will be at the owner's expense.

(c) The affected planting area will be placed under quarantine for at least thirty days or until verification testing is completed.

NEW SECTION

WAC 16-301-580 What regulations apply to diseased crucifer seeds and infected fields? (1) When the director determines that a field is infected with a regulated pathogen and threatens to infect other fields, the director may issue a notice of destruction prescribing control measures or other requirements needed to prevent the infection of adjacent properties.

(2) Unless the crop is within two weeks of harvest, any crucifer crop within the regulated area that is infected with a regulated pathogen may be subject to immediate destruction, in part or in total. The owner is responsible for the expenses incurred to destroy a diseased crucifer crop.

(3) The following requirements apply to crops that are within two weeks of harvest:

(a) Residues must be destroyed or incorporated into the ground immediately after harvest;

(b) Harvested seed must be isolated from other seed lots until it is treated with hot water and/or chlorine seed treatments;

(c) Harvest equipment must be steam cleaned before entering any other fields; and

(d) WSDA personnel in consultation with WSU extension personnel must monitor these post-harvest activities.

NEW SECTION

WAC 16-301-575 How are diseased crucifer seeds and infected fields identified? (1) So that timely investigations may be made, all interested parties, including owners, seed company representatives, and university extension personnel are encouraged to promptly report any suspected infected crucifer fields to the seed program.

