

**WSR 07-02-001**  
**PERMANENT RULES**  
**EXECUTIVE ETHICS BOARD**

[Filed December 20, 2006, 2:15 p.m., effective January 20, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To incorporate legislative changes; to provide clarity on reasonable cause determinations; to require production of documents by a date certain; to clarify the role of an administrative law judge.

Citation of Existing Rules Affected by this Order: Amending WAC 292-100-045, 292-100-050, 292-100-150, and 292-100-160.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Adopted under notice filed as WSR 06-20-039 on September 26, 2006, and WSR 06-22-096A on November 1, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 17, 2006.

Susan Harris  
Executive Director

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

**WAC 292-100-045 ((Executive director's)) Dismissal of complaints.** (1) If after a preliminary review or investigation the board or the board staff determines that:

(a) Any alleged violation that may have occurred is not within the jurisdiction of the board;

(b) The complaint is obviously unfounded or frivolous;  
or

(c) The complaint presents a violation of chapter 42.52 RCW, but any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter, the executive director may dismiss the complaint by issuing an order of dismissal.

(2) If the executive director dismisses the complaint, the preliminary review or investigation report and a written notice of the executive director's order of dismissal shall be provided to the complainant, respondent, and the board and shall include a statement of the complainant's right to appeal to the board. (See RCW 42.52.425.)

(3) If the board dismisses the complaint, written notice shall be provided to the complainant, respondent, and the board. (See RCW 42.52.425.)

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

**WAC 292-100-050 Determination on reasonable cause.** (1) Following the preliminary investigation, the board staff shall prepare a written investigation report and make a recommendation to the board on whether to find reasonable cause, including a recommendation as to whether the potential penalty ((may)) should be greater than \$500.

(2) Upon receipt of the board staff's investigation report and recommendation, the board shall determine whether or not there is reasonable cause to believe that a violation of chapter 42.52 RCW has occurred and whether any potential penalty should be greater than \$500.

(3) The board's reasonable cause determination shall be done in closed session.

(4) If ~~((the board finds))~~ after determining reasonable cause, the board ~~((shall consider whether the penalty and costs for the alleged violation may be greater than \$500. If the board may wish to impose))~~ further determines that the penalty and costs should be greater than \$500, the respondent shall be given the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. If the respondent is not given that option, the board may not impose penalty and costs greater than \$500. The board may, on its own initiative, choose to retain an administrative law judge to conduct any hearing.

(5) Upon receipt of an investigation report and recommendation on a complaint referred to the employing agency for investigation, the board shall either:

(a) Reject the report and recommendation and initiate its own investigation; or

(b) Concur with the report and recommendation and either initiate a hearing if the recommended penalty is a monetary fine or refer the matter to the employing agency for implementation of the recommendation if the recommendation is within the agency's authority to implement. The agency shall report implementation to the board and the board shall dismiss the complaint; or

(c) Concur with the report and recommendation, enter a finding of no reasonable cause and dismiss the complaint; or

(d) Concur with the report and recommendation, consider the report an investigative report, enter a finding of reasonable cause, and proceed under this section.

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

**WAC 292-100-150 Discovery—Production of documents and use at hearing.** (1) ~~((Upon request by either party, copies of all materials to be presented at the hearing shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.))~~ Any materials to be presented at the hearing shall be provided to the executive director and to the opposing party no less than ten days prior to the hearing.

~~(2) (When documents are to be offered into evidence at the hearing, the one offering the exhibit shall provide a minimum of ten copies.~~

~~(3) If) Upon agreement by both parties, additional documentary evidence (has not been exchanged prior to) may be presented at the hearing(;). The parties shall arrive at the hearing location or make documents available in sufficient time before the time scheduled for the hearing for the purpose of exchanging ((and making copies of)) exhibits to be introduced. When documents are to be offered into evidence at the hearing, the one offering the exhibit shall provide a minimum of ten copies.~~

~~(3) If the parties do not reach an agreement on the submission of additional documentary evidence, at the commencement of the hearing the presiding officer shall, after hearing argument, rule on the admissibility of the documents. The proponent of the documents proposed for submission must show good cause why the documents could not be submitted ten days prior to the hearing.~~

~~(4) "Good cause" is a substantial reason or legal justification for failing to appear, to act, or respond to an action. To show good cause, the presiding officer must find that a party had a good reason for what they did or did not do, using the provisions of Superior Court Civil Rule 60 as a guideline.~~

AMENDATORY SECTION (Amending WSR 01-13-033, filed 6/13/01, effective 7/14/01)

**WAC 292-100-160 Conduct of hearings.** (1) A hearing shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC), shall be followed unless modified by chapter 292-100 WAC.

(2) A hearing shall be conducted either by the board or by an administrative law judge. If an administrative law judge participates(~~(- either))~~ by request of a respondent (~~(or by request of the board)~~), the board may choose to sit with the administrative law judge to hear the matter (~~((and to enter a final order at the conclusions of the proceedings; or to have the administrative law judge hear the matter alone and prepare an initial order for review by the board))~~). If an administrative law judge sits with the board, he or she shall rule on procedural and evidentiary matters. If an administrative law judge hears the matter at the request of the board, the board may choose to sit with the administrative law judge or the board may request that the administrative law judge hear the matter alone and prepare an initial order.

(3) ~~((After the))~~ Following a hearing in which the board participates, the board may conclude that:

(a) The respondent(s) did not violate the act, as alleged, and dismiss the case; or

(b) The respondent(s) has (have) violated chapter 42.52 RCW; or

(c) The respondent(s) is (are) in violation of chapter 42.52 RCW, the board's remedy would be inadequate and the matter should be referred to the appropriate law enforcement agency as provided in RCW 42.52.470.

(4) Following a hearing in which the board participates, the board:

(a) Shall set forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(b) Shall serve each party, the complainant and the employing agency, a copy of the findings of fact, conclusions of law and decision.

(5) Following a hearing in which the board does not participate, the administrative law judge shall:

(a) Set forth written findings of fact, conclusions of law and decision on the merits of the case in an initial order;

(b) Shall serve each party and board staff a copy of the findings of fact, conclusions of law and decision, including a statement of the right to request review of the initial order by the board.

## WSR 07-02-015

### PERMANENT RULES

### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed December 21, 2006, 11:37 a.m., effective January 21, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Changes made to chapter 392-162 WAC address statute chapter 28A.165 RCW. Specific actions required of districts that accept learning assistance program (LAP) funds are clarified. Each section clarifies the procedures that districts must follow to gain LAP funds through office of the superintendent of public instruction's (OSPI) LAP application process.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-162-030, 392-162-035, 392-162-040, 392-162-043, 392-162-047, 392-162-049, 392-162-050, 392-162-052, 392-162-053, 392-162-057, 392-162-065, 392-162-067, 392-162-085, 392-162-090 and 392-162-095; and amending WAC 392-162-005, 392-162-010, 392-162-015, 392-162-020, 392-162-025, 392-162-032, 392-162-045, 392-162-060, 392-162-062, 392-162-075, 392-162-080, 392-162-100, 392-162-105, 392-162-110, 392-162-112, and 392-162-115.

Statutory Authority for Adoption: RCW 28A.300.070.

Adopted under notice filed as WSR 06-21-035 on October 10, 2006.

Changes Other than Editing from Proposed to Adopted Version: Eligibility and distribution of funds were clarified as directed by the legislature (WAC 392-42-054). Requirements for district advisory committee and board approval were repealed. Requirements to send evaluations to OSPI were eliminated as this information is already received.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 15, Repealed 15.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, Amended 15, Repealed 15.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 15, Repealed 15.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 21, 2006.

Dr. Terry Bergeson  
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-005 Authority.** The authority for this chapter is (~~chapter 478, Laws of 1987~~) RCW 28A.165.075 which authorizes the superintendent of public instruction to (~~promulgate~~) adopt rules and regulations for the (~~implementation~~) administration of a program designed to provide learning assistance to public school students in grades kindergarten through (~~nine~~) eleven (grade twelve beginning with the 2007-08 school year) who are deficient in basic skills achievement.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-010 Purpose.** The purpose of this chapter is to set forth policies and procedures for the administration of and to ensure district compliance with state requirements for a program designed to provide learning assistance to public school students in grades kindergarten through (~~nine~~) eleven (grade twelve beginning with the 2007-08 school year) who are deficient in basic skills achievement.

The learning assistance program requirements in this chapter are designed to:

(1) Provide the means by which a school district becomes eligible for learning assistance program funds and the distribution of those funds;

(2) Promote the use of assessment data when developing programs to assist underachieving students; and

(3) Guide school districts in providing the most effective and efficient practices when implementing programs to assist underachieving students.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-015 Definition—Basic skills.** As used in this chapter, the term "basic skills" means reading, writing, and mathematics, (~~language arts, and~~) as well as readiness (~~activities~~) associated with (~~such~~) these skills.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-020 Definition—Learning assistance program.** As used in this chapter, the term "learning assistance program" means a statewide program designed to enhance educational opportunities for public school students in grades kindergarten through (~~nine~~) eleven (grade twelve

beginning with the 2007-08 school year) who (~~are deficient in basic skills achievement~~) do not meet state standards.

"Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-025 Definition—(~~Objective measures~~) Assessments.** As used in this chapter, the term "~~(objective measures)~~ assessments" means (~~using a written or oral testing instrument that can be applied uniformly and consistently to determine in a comparable manner the educational achievement level of children~~) one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-032 Definition—Participating student(~~s~~).** As used in this chapter, the term "participating student(~~s~~)" means (~~eligible students in grades kindergarten through nine as determined by the district needs assessment and placement testing, and selected in accordance with this chapter to receive services in the learning assistance program~~) a student in kindergarten through grade eleven (grade twelve beginning with the 2007-08 school year) who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

Beginning with the 2007-08 school year, "participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

NEW SECTION

**WAC 392-162-033 Definition—Underachieving students.** As used in this chapter, the term "underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

NEW SECTION

**WAC 392-162-034 Accelerated learning plans.** Accelerated learning plans are to be developed and implemented for participating students. Accelerated learning plans may be developed as part of an existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(1) Achievement goals for students;

(2) Roles for the student(s), parents, or guardians and teachers in the plan;

- (3) Communication procedures regarding student(s) accomplishment; and
- (4) Plan review and adjustment processes.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-045 Definition—Approved program.** As used in this chapter, the term "approved program" means a program meeting the ~~((requirements))~~ required elements of this chapter and conducted pursuant to the program plan submitted by a district and approved by the superintendent of public instruction in accordance with WAC 392-162-075.

NEW SECTION

**WAC 392-162-054 Definition—District eligibility and distribution of funds.** Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the Biennial Appropriations Act. The distribution formula is for school district allocation purposes only. The distribution formula shall be based on one or more family income factors measuring economic need. In addition, increases in a school district's allocation above the 2004-05 school year level shall be directed as prescribed by the legislature (to grades nine and ten for the 2006-07 school year).

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-060 District application.** Each district that seeks an allocation from the state for a learning assistance program shall submit ~~((a biennial))~~ an annual application, including the district program plan outlined in WAC 392-162-070, and an annual expenditure plan for approval on electronic forms provided by the superintendent of public instruction ~~((: Provided, That if district program plan elements described in WAC 392-162-070 are changed for the second year of the biennium, an updated program plan shall be submitted to the superintendent of public instruction for approval on forms provided))~~.

AMENDATORY SECTION (Amending Order 95-08, filed 9/12/95, effective 10/13/95)

**WAC 392-162-062 Program plan revision.** A district may make periodic change(s) to the planning document during the school year if such change(s) ~~((are made with the "advisory committee" and are))~~ is submitted to and approved by the superintendent of public instruction ~~((on forms provided for that purpose))~~ through the electronic application and revision process.

NEW SECTION

**WAC 392-162-068 Program plan.** By July 1st of each year, a participating school district shall submit the district's plan for using learning assistance funds to the office of the

superintendent of public instruction for approval. Applications must be approved before funds are expended.

A school district must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in subsections (1) through (8) of this section. The school district plan shall include the following:

- (1) District and school-level data on reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;
- (2) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;
- (3) Assurance that accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of an existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students;
- (4) How state level and classroom assessments are used to inform instruction;
- (5) How focused and intentional instructional strategies have been identified and implemented;
- (6) How highly qualified instructional staff are developed and supported in the program and in participating schools;
- (7) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and
- (8) How a program evaluation will be conducted to determine direction for the following school year.

NEW SECTION

**WAC 392-162-072 Program plan—Approved activities.** Through the identification of best practices, which maximize the opportunities for student success, services and activities which support the learning assistance program include:

- (1) Extended learning time through extended day, week or year activities;
- (2) Professional development for certificated and classified staff that focuses on the needs of diverse student populations, specific literacy and mathematics content and instructional strategies, and the use of student work to guide effective instruction;
- (3) Consultant teacher to assist in implementing effective instructional practices by teachers serving participating students;
- (4) Tutoring support for participating students; and
- (5) Outreach activities and support for parents of participating students.

AMENDATORY SECTION (Amending Order 95-08, filed 9/12/95, effective 10/13/95)

**WAC 392-162-075 Program approval.** A participating school district shall annually submit a program plan to the office of the superintendent of public instruction for

approval. The program plan must address all of the elements in RCW 28A.165.025 and identify the program activities to be implemented from RCW 28A.165.035.

School districts achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW shall have their program approved once the program plan and activities submittal is completed.

School districts not achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW and that are not in a state or federal program of school improvement shall be subject to program approval once the plan components are reviewed by the office of the superintendent of public instruction for the purpose of receiving technical assistance in the final development of the plan.

School districts with one or more schools in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements.

The superintendent of public instruction shall review and approve each district's ~~((planning document))~~ program. A district's learning assistance program shall not be implemented prior to ~~((planning document))~~ approval.

AMENDATORY SECTION (Amending Order 95-08, filed 9/12/95, effective 10/13/95)

**WAC 392-162-080 Program requirement—Selection of students.** Students selected to participate in the learning assistance program shall be limited to those who:

(1) Are enrolled in grades kindergarten through ~~((nine))~~ eleven (grade twelve beginning with the 2007-08 school year);

(2) Are performing below the state standard for his or her grade level; ~~((provided, that all students in school-wide project schools will be eligible for services based on academic need;))~~

(3) Have been ~~((selected using multiple measures))~~ identified in the approved district plan to receive services; and

(4) Have been determined to have the greatest risk of not meeting the state's challenging content and performance standards.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-100 Program coordination.** School districts may coordinate federal, state, and local programs in order to serve the maximum number of students who are below grade level in basic skills. Students receiving assistance in another special needs program may also be served in the learning assistance program if they meet student eligibility and selection requirements ~~((under this chapter))~~ as identified in WAC 392-162-032 and 392-162-080.

AMENDATORY SECTION (Amending Order 95-09, filed 9/12/95, effective 10/13/95)

**WAC 392-162-105 Program requirement—Program evaluation.** ~~((The Title I))~~ Evaluation ((requirements)) procedures as outlined in WAC 392-162-110 shall be used annu-

ally by districts to evaluate the educational achievement of students receiving recommended services in the learning assistance program. ((Evaluation results shall be collected annually by the superintendent of public instruction.)) Such evaluation for school districts in district improvement, or with one or more schools in school improvement status, shall review and evaluate program success in alignment with state and federal program school improvement program requirements.

AMENDATORY SECTION (Amending Order 95-08, filed 9/12/95, effective 10/13/95)

**WAC 392-162-110 Program requirement—End of year report.** Districts shall submit to the superintendent of public instruction at the close of the state fiscal year an end of the year report on electronic forms provided by the superintendent of public instruction.

#### NEW SECTION

**WAC 392-162-112 Carry over of funds.** Districts may carry over from one year to the next up to ten percent of the LAP funds—state or education legacy trust funds allocated under this program; however, carry over funds shall be expended for the learning assistance program.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

**WAC 392-162-115 Monitoring of districts.** In order to insure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor district programs no less than once every ~~((three))~~ four years by using ~~((sampling procedures))~~ the state program review process. Individual student records shall be maintained at the school district.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-162-030	Definition—Eligible students.
WAC 392-162-035	Definition—Additional/supplemental services.
WAC 392-162-040	Definition—Placement testing.
WAC 392-162-043	Definition—School-wide project.
WAC 392-162-047	Definition—Basic skills test.
WAC 392-162-049	Definition—Needs assessment.
WAC 392-162-050	Definition—Accounting manual.

WAC 392-162-052	Definition—Indirect expenditures.
WAC 392-162-053	Definition—Direct expenditures.
WAC 392-162-057	Definition—Advisory committee.
WAC 392-162-065	School board approval.
WAC 392-162-067	Program requirement—Needs assessment.
WAC 392-162-085	Program requirement—Consultation with the "advisory committee."
WAC 392-162-090	Program requirement—Notification of parents.
WAC 392-162-095	Program requirement—Allowable expenditures.

**WSR 07-02-025A****PERMANENT RULES****WASHINGTON STATE PATROL**

[Filed December 22, 2006, 10:27 a.m., effective January 22, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update and clarify specific sections in chapter 204-91A WAC. The anticipated effect of the amendments are clarification of the procedures for screening employees of companies who tow on a rotational basis for Washington state patrol (WSP); streamline the disqualifiers of individuals wanting to tow for WSP, company personnel requirements; truck identification/markings; addition of informal settlement language; cleaning up spills/debris from collision sites; updating some equipment standards, and some language clean-up.

Citation of Existing Rules Affected by this Order: Amending WAC 204-91A-040, 204-91A-060, 204-91A-070, 204-91A-080, 204-91A-140, 204-91A-170, and 204-91A-180.

Statutory Authority for Adoption: RCW 46.37.005 and 46.55.115.

Adopted under notice filed as WSR 06-21-029 on October 9, 2006.

Changes Other than Editing from Proposed to Adopted Version: [No information supplied by agency.]

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Paul S. Beckley  
Deputy Chief  
for John R. Batiste  
Chief

**AMENDATORY SECTION** (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-040 Inspections.** Upon the request of a registered tow operator or applicant, the patrol shall conduct an inspection of the applicant's place of business, facilities, and equipment to determine if the applicant meets the requirements of chapter 46.55 RCW, or Titles 308 and/or 204 WAC. Verification must be shown to the inspector that the applicant complies with all applicable local laws and regulations as prescribed for the geographical area where the towing business will be established. If local zoning regulations are applicable, a copy of the certification of approval from the local zoning commission will be furnished to the inspector. This certification may be included in the department's application form for license. The certification will become a part of the permanent record maintained on each approved towing firm by the section.

(1) Reinspections will be conducted at least once a year. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of tow trucks, facilities, and business records.

(2) If reinspection of a previously-approved tow truck reveals equipment defects, one of the following procedures shall apply:

(a) In the event of a safety-related defect which would render the tow truck a safety hazard upon the public highway, a red "out-of-service" sticker shall be affixed immediately by the inspector.

(b) In the event of missing or defective equipment that does not constitute a safety hazard but is required, the inspector shall advise the operator of the defect. If after ten days the operator fails or refuses to repair the defect, the red out-of-service sticker shall be affixed.

(c) Upon confirming the satisfactory repair of the defect or defects that caused the tow truck to be taken out of service, the inspector shall remove the red sticker. In the event that the original inspector is not available to reinspect the equipment, another patrol officer appointed by the appropriate supervisor may do so. The reinspection shall be completed as soon as possible after the operator advises the patrol that the defect has been repaired. Whenever practicable this shall be done within three days and may require the operator to bring the truck to the inspector.

(d) Upon sale or other transfer of a tow truck from the business, the operator shall so advise the inspector who will request the issued cab card permit be forwarded to the inspector via U.S. mail or other arrangement agreed upon by the parties involved, within three days of any changes. The operator will remove any decals indicating truck class, district

and/or zone. The inspector will notify the department and the section of any changes in vehicles.

(e) Upon the purchase or acquisition of any additional or replacement tow truck(s) to be used pursuant to this chapter, the operator shall immediately notify the patrol and request an inspection of the new unit. The new unit shall not be used for public or private impound calls until satisfactory inspection is completed and a cab card permit and/or decals for the vehicle has been issued by the department and/or patrol.

(3) On original inspection, and subsequent reinspection, the inspector shall confirm the identities and status of driving privilege of all persons that operate the tow trucks. The inspector shall notify the operator if any person does not meet the minimum license requirements.

(a) In the event that an operator becomes aware that the driving privilege of an employee, or owner no longer meets the minimum requirements, the operator shall prohibit that person from operating any tow truck.

(b) An operator shall, within three days of employing a new driver, advise the inspector in writing, on a form provided by the inspector, of the identity, including name, address and date of birth, of the new employee. The check performed by the inspector is not to be used as part of the operator's preemployment screening processes. The inspector shall notify the operator if the new employee does not meet the minimum license requirements in a timely manner.

(c) An operator may not request a waiver for a new employee; the new employee must contact the inspector in writing to request a waiver.

AMENDATORY SECTION (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-060 Application for letter of appointment.** (1) An application for a letter of appointment to be placed on the rotational tow list, will not be considered or approved unless the owner/operator of the towing company can demonstrate that he/she has been a registered tow truck operator for a minimum of two years prior to the date of application with at least one approved "A" or "B" class tow truck, additional trucks are optional; or has worked as an employee of a tow company on the state patrol's rotational tow list and gained experience within the towing industry including, but not limited to, the operation of vehicles, complying with the state and federal standards and regulations, and processing of paperwork for auditing and other purposes; or will keep in place the existing management team/employees for a minimum of one year upon purchasing the business. The owner/operator shall submit a letter with the application outlining their experience within the towing industry and outline which requirement listed above fits their situation. If the owner/operator doesn't have the two years experience and is granted a waiver, it will be a probationary waiver for a period of one year.

Note: An exception may be made if an operator desires a letter of appointment for class "C" tows only. In such situations, only a class "C" truck is required.

Upon request, the section shall advise the applicant of the contents of the department's regulations and of the standards established for the issuance of a letter of appointment.

(2) An application for a letter of appointment to provide towing service for the patrol shall be filed by the applicant with the local state patrol district office on a form prescribed by the patrol. The state patrol may refuse to approve or may revoke a letter of appointment/contract if the applicant, partner, corporate officer involved in day-to-day operations, or any employee who operates a tow truck or assists in vehicle auctions has ~~((within the last ten years has misrepresented or concealed a fact in obtaining a letter of appointment, violated any state or federal statute or rule regulating the tow industry, or been convicted of any class "A" felony, or in the last ten years been convicted or found guilty of any lesser felony or misdemeanor involving assault, sexual abuse, theft, burglary, stealing, embezzlement, fraud, driving under the influence of alcohol and/or drug(s), or any violent or sexual act toward a man, woman, or minor child,))~~ been found guilty of or convicted of any felony or any crime involving moral turpitude regardless of type or class, or any individual who must register as or is a convicted sex offender, or within the last three years been convicted or found guilty of driving under the influence of alcohol and/or drug(s), or within the last five years have been found guilty of driving under the influence of alcohol and/or drugs two or more times as defined in the criminal code as they existed at the time of the violation, as they now exist or may later be amended in the state of Washington. In the case of a partnership, each partner shall apply on the form prescribed. In the case of a corporation, the patrol may require that each of the present and any subsequent officers, managers, and stockholders holding ten percent or more of the total issued and outstanding stock of the applicant corporation complete an application form. A signed "letter of contractual agreement" listing the maximum tow rates to be charged for services resulting from state patrol originated calls will be attached to the application.

(3) Only one application per year to tow on the Washington state patrol rotational tow list will be accepted and considered for an applicant who has had their previous application denied or had their letter/contract of appointment revoked. The year shall run from the date of application denial or the date of the letter of appointment's revocation.

(4) The district commander or designee shall complete tow zone portion of the form. He/she will enter "approved" or "disapproved" and will sign the form next to the zone designation. The application and "letter of contractual agreement" will be forwarded to the section.

(5) The application form will be assigned a docket number, by the section, which shall be its permanent identification number for all matters relating to appointments, granted or denied, and any other correspondence with the section thereafter.

(6) The filing of an application for a letter of appointment does not in itself authorize the operator to provide towing services pursuant to this chapter until a letter of appointment has been issued by the section. However, nothing herein shall prohibit the patrol from calling the towing business upon the specific request of a person responsible for a vehicle or his agent.

AMENDATORY SECTION (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-070 Issuance of a letter of appointment.** (1) No towing operator shall be called to perform a towing service at the request of the patrol unless such operator has a letter of appointment as described in this chapter. No such letter of appointment will be issued unless all qualifications set out in this chapter have either been met by the applicant, or a waiver of those qualifications not met has been granted by the section.

(2) The section commander shall have the authority to issue letters of appointment upon request after receiving certification from the inspector, an application for a letter of appointment endorsed by the district commander, and notice from the department that the requestor has been licensed as a registered tow truck operator.

If the section shall find the requestor does not or will not meet all requirements and is not qualified for a waiver of the requirements, then such request shall be denied. The section shall notify the requestor of its decision in writing, stating the reasons. If the request is approved, the section commander will issue the letter of appointment and forward it to the tow operator. The tow company will be admitted to the patrol's call list for the appropriate tow zone on the effective date of the letter.

If the district commander recommends denial of a request for a letter of appointment, the section commander shall notify the applicant and provide an opportunity for applicant to have a hearing as provided in chapter 34.05 RCW.

(3) A letter of appointment will be valid for one business, in a single tow zone, assigned by the district commander. Requests for additional letters of appointment in the same or another zone must be based on a complete and separate place of business capable of independent operation within the appropriate zone.

(a) Each business must be operated independently. One company cannot be dependent upon another for any required operation.

(b) If an individual, partnership, corporation, or other business entity owns more than one business, each business must have a different identifiable name, address, and telephone number, which are answered at the business location during normal business hours. There may, however, be a central dispatch center for multiple companies. At a minimum, the different identifiable name, city of address (even if included in the name of the company), registered tow truck operator license number, and truck number as assigned by the department, must be located on both sides of the truck. All required information must be plainly seen and able to be read at all times. All other required markings must also be located where they can be plainly seen and able to be read at all times and be of the size outlined in WAC 308-61-115(1). Companies must comply by December 31, 2007.

Note: A different identifiable name may include the parent company name but must also have an additional name to identify and separate that company. Example: Joe's Towing and Joe's Towing South. Joe's Towing I and Joe's Towing II ((will not be adequate for this purpose)).

(c) There must be ~~((separate personnel for each company. Employees of that company must adequately staff each business office during normal business office hours to answer all incoming phone calls and to release impounded vehicles))~~ adequate staffing for each company with personnel present to answer all incoming calls and who are able to release impounded vehicles during normal business hours 8:00 a.m. to 5:00 p.m. Monday through Friday excluding state recognized holidays. Each business ~~((must))~~ shall be staffed by a sufficient number of drivers for twenty-four hour day operation. ~~((Employees and drivers cannot work for more than one company at a time during a designated shift — must work the entire shift from beginning to end for only one company and there must be a separate time card for each business for an individual working for more than one company.))~~

(d) There must be adequate equipment for each company to operate independently. Tow trucks must only be used for the company for which they are registered and within the zone approved/assigned for use in, unless specifically requested by law enforcement. All trucks must be clearly marked with the company's identity as outlined in (b) of this subsection.

(e) Separate businesses in the same tow zone may be housed in one building; however, there must be a solid wall from floor to ceiling physically separating each business. Each business must have its own outside entrance, or when the building has one main entrance, the offices must have doors clearly marking and separating each business (not acceptable to walk in the main door and be hit with a counter or one office for the multiple tow companies housed in the building), with a sign at the front door and a sign plainly visible from the street indicating the company's name, phone number, and office hours. Companies currently not meeting these standards will have twelve months from July 1, 2004, to comply.

(f) Each business must maintain their own set of required records and books as outlined in RCW 46.55.150 including, but not limited to, a master log, vehicle transaction file, and billing invoices at its place of business. If there is a corporate accountant/bookkeeper for more than one company, all records and/or files for each company, other than those records, which are required to be maintained at the business location, must be maintained separately.

(g) Impound/storage areas must meet the requirements of WAC 308-61-026(2) at all times, including proper segregation.

All registered tow truck operators providing service to WSP must be in compliance with these requirements. Failure to comply will result in the cancellation of your letter of appointment to tow on the patrol's rotational tow list.

(4) A tow operator (or a district commander) may petition the section in writing for a waiver of one or more requirements. The section may grant a waiver if it finds that:

- (a) The towing service available to the patrol without the waiver is inadequate to meet the needs of the public;
- (b) The request is otherwise reasonable; and
- (c) The request has the district commander's approval.

In the event a qualified tow operator meeting all requirements and qualifications receives a letter of appointment in the same zone as a tow operator that had earlier been granted



a waiver, the tow operator with a waiver will have the letter of appointment rescinded by the section and after notification will not be called for patrol-initiated tows.

(5) Every letter of appointment shall be issued in the name of the applicant and the holder thereof shall not allow any other person or business to use the letter of appointment.

(6) The letter of appointment will only be valid for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid until suspended, superseded, or revoked by the section.

(8) The holder of each letter of appointment must maintain at least one tow truck meeting the minimum class "A," "B," or "C" standards as listed in WAC 204-91A-170.

(9) All storage areas, primary and secondary, for each place of business must be in the tow zone assigned to that place of business.

**AMENDATORY SECTION** (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-080 Suspension or revocation of letter of appointment.** (1) Upon receiving evidence that any appointee has failed to comply or no longer complies with any requirement or provision of law or this chapter, the section may deny, suspend, or revoke the letter of appointment. The appointee shall be given notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW, prior to denial, suspension, or revocation of the letter of appointment.

(a) Upon receiving notice of the action, the appointee may request a hearing on the denial, suspension or revocation of the letter of appointment. Such request must be made in writing within twenty days from the date of the notice. An adjudicative proceeding will be commenced within ninety days of the receipt of a hearing request. Failure to request a hearing, or failure to appear at a requested hearing, a prehearing conference, or any other stage of an adjudicative proceeding, shall constitute default and may result in the entry of a final order under RCW 34.05.440.

(b) Upon receiving a hearing request, the section may, at the request of the appointee, or on its own initiative, schedule an informal settlement conference which shall be without prejudice to the rights of the parties. The informal settlement conference will be held in the district where the company resides at a mutually agreed upon time and may result in a settlement agreement. If no agreement is reached, a hearing will be scheduled as outlined in chapter 34.05 RCW.

(c) The holder of a letter of appointment may voluntarily relinquish the letter. The section and the district commander will be advised in writing of this voluntary relinquishment. After receiving written notice, the district commander will cause the inspector to physically obtain the original letter of appointment and forward it to the section.

(2) The section may summarily suspend a letter of appointment without prior notification if it finds that there is danger to the public health, safety, or welfare which requires immediate action. In every summary suspension of a letter of appointment, the section shall enter an order, signed by the chief, which is in compliance with the provisions of RCW

34.05.479. Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action shall be promptly instituted and determined. The section shall give notice as is practicable to the appointee.

(3) A tow company may be immediately removed from the state patrol's rotational tow list for the following - revocation or cancellation of their registered tow truck operator license by the department or cancellation of the tow company's insurance certificate or bond.

**AMENDATORY SECTION** (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-140 Fees.** (1) All towing fees shall be based on a flat, hourly rate only and shall apply without regard for the hour of day, day of the week or whether the service was performed on a Saturday, Sunday, or holiday. The hourly rate for each class of truck shall be the only charge for services performed for initial tows and secondary tows performed during business hours. Charges for secondary tows performed during nonbusiness hours, on weekends or holidays, if different from the hourly rate, shall be negotiated and agreed upon with the vehicle owner/agent before the tow is made.

(2) The chief of the state patrol shall, prior to October 15 of each year, establish maximum hourly towing rates for each class of tow truck and maximum daily storage rates that tow operators may charge for services performed as a result of state patrol calls. The maximum rates shall be determined after consulting with members of the towing industry, review of current private towing rates, and such other economic factors as the chief may deem appropriate.

When signed by the chief (or his/her designee) and the tow operator, a contractual agreement to charge no more than the maximum rates shall become part of the operator's letter of appointment. The tow operator may, however, adopt a rate schedule charging less than the maximum rates established by the chief.

The hourly rate shall:

(a) Be the only basis used to compute total charges for towing services.

(b) Apply when the call is made by the state patrol, (~~for whatever reason,~~) including, but not limited to (~~accidents, incidents, disableds~~), collisions and impound requests.

(c) Include all ancillary activities such as, but not limited to, removal of glass and debris from the roadway and any other area referred to as the "scene or incident," necessary winching, dolly service, drive line removal, installing chains on the tow truck, installation of portable lights, vehicle hookup for towing or transporting, tire replacement (on vehicle to be towed) and standby time. Tow companies must advise the department of transportation and/or the local road department of all fluid spills before leaving the scene that they will not clean up. Tow companies must document and file information in the vehicle transaction file.

(d) Be considered to include one person per truck. When responding with a class "C" or a S-1 rotator truck to major collisions and incidents, a second person is allowed at the hourly labor rate per contract for an extra RTO employee. Any charges for additional labor and/or ancillary vehicles

(trailers, pickups, etc.), for removing debris, cargo, etc., must have prior authorization from the legal or registered owner/agent, or a member of the patrol at the scene.

(e) Be computed from the actual time the truck departs in response to a call until the truck returns to its normal area/zone, responds to another call, or the tow yard. The hourly rate shall be applied to the resulting net time and, after the first hour, shall be rounded to the nearest fifteen minutes. The operator may charge the hourly rate for the first hour or any portion thereof. After the first hour, no more than one-quarter of the hourly rate may be charged for each fifteen minutes of tow or service work performed.

(3) The basic storage fee: (Vehicles shall be measured bumper to bumper; trailers shall be measured tongue to bumper.)

(a) Shall be calculated on a twenty-four-hour basis clock and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area. Vehicles stored over twelve hours on any given day within the twenty-four-hour clock shall constitute a full day's storage. Vehicles stored for less than twelve hours on any give day, shall be charged for twelve hours of storage; and

(b) Shall be the same for all three and four-wheel vehicles (~~less than~~) twenty feet or less in length; and

(c) (~~For~~) Vehicles or combinations exceeding twenty feet, the storage fee shall be computed by multiplying each twenty feet of vehicle length, or any portion thereof, by the basic storage fee;

(d) (~~For~~) Two-wheel motorcycles shall be one-half the basic storage fee for three and four-wheel vehicles.

(4) After hours release fee. If an operator or employee is already present, for other reasons, at the storage facility after business hours when a customer arrives, the vehicle and/or property shall be released as if it were during business hours. No "after hours fee" may be assessed. If the operator or employee is called to the place of business specifically for the purpose of releasing the vehicle and/or property, an "after hours fee," equivalent to one-half of the maximum Class "A" hourly rate, may be assessed.

(5) Any tow operator who charges the general public (i.e., private citizens) rates lower than those identified in the contractual agreement for services listed below shall charge the same lower rate for similar services performed as a result of state patrol originated calls.

(a) Roadside mechanical service, including fuel transfer, tire and belt changes, etc.;

(b) Disabled vehicle tow/transportation;

(c) Storage;

(d) After hours release fees.

Any such price requirement shall not be imposed for unoccupied vehicle situations in which the owner/operator has had no prior contact with either the state patrol or the tow operator.

**AMENDATORY SECTION** (Amending WSR 04-20-021, filed 9/28/04, effective 10/29/04)

**WAC 204-91A-170 Minimum tow truck equipment standards.** All tow/recovery trucks used by a registered tow operator for public or private impounds or in response to

patrol requests shall meet the minimum standards as listed in this section.

Note: Equipment standards will be effective one year from the date of adoption.

**(1) Minimum standards:**

(a) All equipment used in conjunction with the tow truck winching system shall have a working load limit at least twenty-five percent more than the working load limit of the wire rope or equivalent material being used. All equipment shall comply with the Washington safety and health administration (WSHA) regulation if applicable.

Note: Industry standards set the working load limit of wire rope or equivalent material at 1/5 of its nominal or breaking strength.

(b) Each wire rope or equivalent material shall be capable of being fully extended from and fully wound onto its drum. Each wire rope or equivalent material shall meet the industry standards for specified type of use with equipment.

Note: OSHA (1410.179 (h)(2iia)) requires **no less** than two wraps of rope remain on drum when rope is "fully extended." This is to ensure the full load **never** bears on the rope to drum connection.

(c) All wire rope or equivalent material meeting industry standards for specified type of use with equipment shall be 6 X 19 or 6 X 37 classification graded "extra improved plow steel" (XIP).

Notes: Documentation from the supplier must be kept on file showing the type of wire rope installed and the date of installation for each truck.

6 X 19 wire rope classification includes wire ropes with six strands having wire combinations from fifteen through twenty-six wires per strand but not more than twelve outer wires in each strand.

6 X 37 wire rope classification includes wire ropes with six strands having wire combinations from twenty-seven through forty-nine wires per strand but not more than eighteen outer wires in each strand.

(d) All wire rope shall be in good working order. The following industry standards for **out-of-service** criteria shall apply:

(i) No more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay.

(ii) Excessive abrasion causing the loss of more than one-third the original diameter of an outside individual wire.

(iii) Evidence of rope deterioration from corrosion.

(iv) Kinking, crushing, or other damage that results in detrimental distortion of the rope structure.

(v) Any evidence of heat damage.

(vi) Any marked reduction in diameter either along the entire main length or in one section.

(vii) Unlaying or opening up of a tucked splice.

(viii) Core protrusion along the entire length.

(ix) End attachments that are cracked, deformed, worn, or loosened.

Note: Hooks must be replaced if the throat opening has increased beyond manufacturer recommendations, the load bearing point has been worn by ten percent, or the hook is twisted by more than ten degrees.

(x) Any indication of strand or wire slippage in end attachments.

(xi) More than one broken wire in the vicinity of fittings.

(e) Wire rope end connections shall be swaged or, if clamped, shall have a minimum of three forged clamps spaced a minimum of six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the cable. The "U" bolt will be placed over the short or "dead" end of the rope and will be of the proper size for the cable being clamped.

Note: Wire rope clamps must be installed and torqued per manufacturer specifications.

(f) All wire rope related equipment, sheaves, etc., must conform to the diameter of the wire rope being used or to the original tow truck equipment manufacturer specifications.

(g) All winching equipment, booms, snatch blocks, etc., shall have permanently affixed durable factory identification, stating working load limit (WLL). If this identification has been removed or is no longer readable, it is criteria for placing the item out-of-service. Equipment may be reinspected by a recognized recertification company. If the equipment is acceptable, it may be reidentified with a working load limit (WLL) and a recertification company identifier.

(h) All block and tackle equipment used in the winching system which shows signs of permanent deformation, significant wear or damage is criteria for placing the item out-of-service.

(i) All "J" hook chain assemblies must be grade "7" chain or better.

(j) Safety chains must only be used for the securing of vehicles to the truck. Must be minimum grade "4" chain or meet the original manufacturer's recommendations.

(k) Comply with legal lighting, equipment, and license requirements.

(l) Portable tail, stop, and turn signal lights for vehicles being towed.

(m) Have department of licensing registration and truck numbers painted or permanently affixed to both sides of the truck. Have firm's name, city of address, and phone number permanently affixed to both sides of the vehicle. Letters must be a minimum of three inches high with one-half inch strokes.

(n) Have a revolving/intermittent red light with three hundred sixty degrees visibility. May also be equipped with flashing amber and/or white lights which may be used in conjunction with the red lamps. Must also be equipped with a warning light visible from the driver seat which is energized when the red revolving light or flashing amber lights are activated.

(o) Have a broom, minimum twelve inches wide, handle four feet long.

(p) Have a scoop type shovel, minimum seven inches wide, overall length minimum three feet long and a minimum of a three-gallon (~~bucket for debris~~) hard/solid sided receptacle (trash bags of any type will not meet this requirement) able to contain debris typically found at collision scenes without breaking.

(q) Be maintained in a reasonably clean condition.

(r) Have two tempered steel pinch bars or equivalent devices, one tapered and one flattened; one at least three feet long and one at least four feet long, with a minimum diameter of three-quarters of an inch.

(s) Have a two-way radio or mobile telephone system capable of communicating with a base station. A citizen band radio does not suffice. A mobile telephone system is acceptable if:

(i) The equipment is of a recognized and established manufacture and is properly installed.

(ii) The equipment is in proper working order and functions correctly throughout the assigned tow areas.

(iii) The equipment does not utilize a siren to signal incoming calls.

(iv) The equipment is used in a correct and lawful manner.

(t) Have one 20 BC rated or two 10 BC rated fire extinguishers.

(u) Axle weight must comply with the requirements of RCW 46.37.351.

(2) **Class "A" tow trucks:** Trucks that are capable of towing and recovery of passenger cars, pickup trucks, small trailers, or equivalent vehicles. Class "A" tow trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A ten thousand minimum manufacturer's gross vehicle weight rating.

(b) Dual tires on the rear axle.

(c) A minimum of one hundred feet of three-eighths inch continuous length XIP wire rope on each drum, measured from the point of attachment at the drum to the hook.

(d) A minimum six-ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.

(e) A minimum of two snatch blocks.

(f) A tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles that are not otherwise towable.

(h) If equipped with a wheel lift system, it must have a fully extended working load rating of at least three thousand pounds and a seven thousand pound tow rated capacity.

(i) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be minimum grade "7" chain with matching fittings.

(3) **Class "B" tow trucks:** Trucks that are capable of towing and/or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles. Class "B" tow trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) Seventeen thousand pounds minimum manufacturer's gross vehicle rating.

(b) Minimum ten-ton boom rating, single or dual booms, with two independent winches and drums.

(c) A minimum of one hundred feet of seven-sixteenths inch continuous length XIP wire rope on each drum, measured from points of attachment at the drum to the hook.

(d) Minimum of four standard release tools (caging stud assemblies).

(e) A minimum of two snatch blocks.

(f) A tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles that are not otherwise towable when the class B tow truck is being used for class A tows.

(h) If equipped with a wheel lift system, it must have a fully extended working load limit of at least six thousand pounds and a twenty thousand pound tow rated capacity when operating as a class B truck. May be equipped with a three thousand pound fully extended working load wheel lift system with a seven thousand pound tow rated capacity if operating as a class A truck.

(i) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be grade "8" chain with matching fittings.

(4) Class B\*\* trucks are rated at 30,000 GVWR (or more) with air brakes. Class B\*\* trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have a minimum of one hundred fifty feet of seven-sixteenths inch continuous length XIP wire rope on each drum, measured from points of attachment at the drum to the hook.

Class B\*\* trucks shall also meet the requirements of subsection (3)(b), (d), (e), (f), (g), (h), and (i) of this section.

(5) **Class "C" tow trucks and class "C" rotator trucks:** Are trucks that are capable of towing and/or recovery of large trucks, trailers, buses, motor homes, or similar vehicles. Class "C" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A forty thousand pound manufacturer's gross vehicle weight rating or equivalent.

(b) Tandem rear axle truck chassis (both drive axles).

(c) A minimum of twenty-five-ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.

(d) A minimum of one hundred fifty feet of nine-sixteenths inch continuous length XIP wire rope on each drum measured from the point of attachment at the drum to the hook.

(e) Air brakes and a system capable of supplying air to towed vehicles.

(f) A minimum of four standard release tools (caging stud assemblies).

(g) If equipped with a wheel lift system, it must have a fully extended working load limit of at least twelve thousand pounds.

(h) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be grade "8" chain with matching fittings.

(i) A tow sling or other comparable device used in such a manner as to protect the vehicle being towed or recovered.

(j) A minimum of two snatch blocks.

(6) **Class "D" tow trucks:** Trucks that are equipped for and primarily used as "wheel lift" trucks.

Class "D" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A wheel lift assemble with a fully extended manufacturer's working load limit of three thousand pounds and a seven thousand pound tow rated capacity.

(b) One winch and drum with one hundred feet of three-eighths inch XIP wire rope meeting class "A" requirements.

(c) One snatch block.

(d) A minimum of one five-foot recovery chain for use in the winching system and must be a minimum of grade "7" chain with matching fittings.

(7) **Class "E" tow trucks:** Trucks that are primarily designed and intended to transport other vehicles by loading the vehicle entirely onto the truck. These vehicles may be a flatbed, slide back, tilt bed, or rail design truck. Class "E" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) Four securing devices with a minimum working load limit of three thousand nine hundred pounds. The devices may be chain (minimum grade "~~((4)) 7~~"), wire rope, nylon strap, or steel strap. The tie downs shall be attached to the axle or frame member of the transported vehicle both front and rear. All ends shall be secured to the truck bed or rail in a manner that will prevent movement of the transported vehicle. Factory style "T" hook tie-downs may also be used (front and rear).

(b) One snatch block.

(c) Dual tires on the rear axle.

(d) If used in a towing mode (as opposed to carrying), a sling, tow bar, and/or wheel lift assembly can be used and must have a manufacturers' rating appropriate to the vehicle being towed.

(e) Additional minimum requirements include:

(i) Gross vehicle weight rating	14,500
(ii) Purchased tonnage	14,500
(iii) Winch rating	4 ton
(iv) XIP wire rope	50 feet 3/8 inch
(v) One five-foot chain use in the winching system and must be a minimum of grade "7" chain with matching fittings.	
(vi) Car carrier (bed)	17 feet

Note: Bed may be shorter in a collapsed mode, but must be capable of telescoping to a minimum of seventeen feet.

(8) **Class "S" tow/recovery trucks:** Tow/recovery trucks that cannot meet the requirements of class "A," "B," "C," "D," or "E" and are not eligible for appropriate waiver as outlined in WAC 204-91A-070(4), may be approved as class "S" (special).

To have a truck designated as class "S" the tow operator must submit a request for approval through the district commander to the section. The written request shall indicate why the truck is needed, what it will be used for, its size, purchased tonnage (if appropriate), capability, and the equipment carried or used with the truck. Gross vehicle weight rating of the class "S" truck will determine the appropriate equipment required.

If the district commander approves the request, the request will be forwarded with recommendations for equipment and/or operation instructions or limitations to the patrol for review and final approval. If approval is granted, the equipment shall be inspected as outlined in WAC 204-91A-040 with reports forwarded in the normal manner.

Note: If the provisions of this section require a change in classification for a previously approved tow truck, such change may be made upon the next annual reinspection. In any case, all tow trucks

shall be correctly classified within one year of adoption of these rules.

**AMENDATORY SECTION** (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-180 Vehicle towing/operator qualifications, restrictions, and requirements.** In addition to the requirements contained in WAC 204-91A-170, tow truck operators appointed pursuant to this chapter shall conform to all laws and administrative rules pertaining to the tow industry and shall observe the following practices and procedures:

(1) When called by the patrol, the tow truck operator will dispatch a tow truck, from within the assigned zone, within five minutes during normal business hours. Tow trucks must be registered to and belong to the particular tow business that is called and assigned to that tow zone only. If the officer at the scene deems it necessary, additional assistance may be authorized from a registered tow truck operator outside of the tow zone.

(2) Tow trucks dispatched at the request of the patrol after normal business hours will be on the move within the assigned zone within fifteen minutes after receiving the call.

(3) The tow truck that is dispatched will arrive at the stated location within a reasonable time considering distance, traffic, and weather conditions.

(4) If for any reason a tow operator is unable to dispatch a tow truck within the stated time or if the dispatched truck will be delayed for any reason, the operator shall so advise the patrol stating the reason and estimated time of arrival. In the event the tow truck fails to arrive at the scene within a reasonable time, the patrol will contact another tow operator to respond to the scene and will cancel the original tow.

(5) A tow operator on rotation who is unable to dispatch or arrive within the times stated in subsections (1), (2), (3), and (4) of this section will forfeit his turn and be placed at the bottom of the rotation list as if he had responded.

(6) Consistent refusal or failure of the appointee to respond to calls from the patrol for towing services and/or to provide the requested services may result in the suspension or revocation of the tow operator's letter of appointment.

(7) The tow operator shall advise the appropriate patrol office when the tow company is temporarily unavailable to respond to rotational calls with a class "A," "B," or "C" tow truck. Unavailability may occur due to conditions such as, but not limited to, other tow truck commitments, tow truck disabled and/or under repair, unforeseen driver shortage due to illness, etc. The period of unavailability may last less than an hour or much longer. The tow operator will give the reason for unavailability and approximately when the company will be available to respond to calls.

The tow company will be removed from the rotational list and will not be called until the operator advises the patrol that the company is once again able to respond to calls with an "A," "B," or "C" class truck. In all such cases, the tow company will resume its normal position on the rotational list without regard to any missed calls or its position prior to being unavailable.

(8) The tow operator will advise the patrol whenever a private call is received for a tow with circumstances that indicate that the tow is for a vehicle which has been involved in

~~((an accident))~~ a collision, incident, or equipment breakdown on the public roadway. The tow operator also will advise the patrol of all private calls to motor vehicle ~~((accidents))~~ collisions on private property resulting in bodily injury or death.

(9) The tow operator will notify the patrol before moving any vehicle involved in ~~((an accident))~~ a collision on a public highway under the jurisdiction of the patrol as defined in the motor vehicle code, Title 46 RCW, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs, or is otherwise incapacitated.

Other than a service patrol established and funded by the department of transportation, a tow operator shall not solicit tow or roadside services by patrolling the public roadways searching for disabled vehicles or vehicles involved in a traffic ~~((accident))~~ collision.

(10) When the patrol is in charge of ~~((an accident))~~ a collision scene or other such incident, a tow operator shall not respond to such scene unless his services have been specifically requested by the patrol, the driver/owner, or his agent.

(11) The tow operator shall be available, or will ensure that specific employees are available, twenty-four hours a day for the purpose of receiving calls or arranging for the release of vehicles. Business hours will be posted conspicuously at the operator's place of business so they can be seen during business hours and nonbusiness hours. A copy will also be sent to the section and patrol district commander of the district in which the tow operator does business. Changes of business hours will be sent to the department, the section, and the patrol district commander ten days before their effective date.

~~((The tow operator will notify the appropriate patrol office of the release of stored vehicles within five working days after the release of such vehicle. Notification to the patrol will be made in such a manner as prescribed by the section commander.))~~

~~((13))~~ The operator shall post a current copy of tow and storage rates, on a form approved by the department and the patrol, in the following locations:

(a) At the entrance to the place of business, in a conspicuous location, plainly visible and readable by members of the public, whether the business is open or closed. If, in order to meet this requirement, the rate sheets must be placed in a location, exposed to the elements, they shall be protected so as to remain legible.

(b) Inside the business location, where business is commonly transacted. The rate sheets shall be posted in such manner as to be clearly and plainly visible and readable at all times by customers of the business.

(c) A copy of the current rates will be sent to the department, the section, and the patrol district commander of the district in which the tow operator has applied for a letter of appointment. Notice of any change(s) in service rates will be forwarded to the department, the section, and the district commander of the area ten days before the effective date of the changes. Charges made for towing services arising from calls initiated by the patrol shall be consistent with current posted towing rates and shall be based only upon services listed on the prescribed form.

(d) In the event that an operator has only a class "B" truck and utilizes it for class "A" and "B" type tows, the oper-

ator shall file a rate sheet that specifies the rates charged for the different types of tows.

Whenever any operator utilizes a larger truck than the towed vehicle warrants, the operator shall charge fees based on the size of the towed vehicle not the size of the truck used.

Example: A class "C" truck is used, at the operator's discretion, to tow a class "B" size vehicle. The fees charged shall be those for a class "B" truck NOT a class "C."

~~((14))~~ (13) Charges made for towing services arising from calls initiated by the patrol shall not exceed the maximum rates established by the chief.

~~((15))~~ (14) Unless other arrangements are made with commissioned patrol personnel at the scene, all impounded vehicles shall be taken to the tow operators nearest approved storage location.

~~((16))~~ (15) The tow operator will maintain, for three years, records on towed and released vehicles which were towed at the request of the patrol. This record will include, but not be limited to:

(a) An itemized receipt of all charges for the services provided.

(b) An inventory sheet or copy thereof made out by the trooper at the scene of the tow and signed by the operator.

(c) All other records required by the department.

Such records will be available for inspection by the patrol during normal business hours at the operator's place of business.

~~((17))~~ (16) The tow operator will sign an inventory sheet made out by the patrol officer at the scene.

~~((18))~~ (17) Tow operators will obtain and maintain current registration as a licensed tow truck operator pursuant to RCW 46.55.020.

~~((19))~~ (18) Tow operators shall perform towing tasks competently. The standard of competence shall be that quality of work which is accepted as efficient and effective within the towing industry.

~~((20))~~ (19) No tow operator, employee, or agent shall misappropriate, wrongfully convert to his/her own use, or abuse property belonging to another and entrusted to his/her care or storage.

~~((21))~~ (20) Tow truck operators will use emergency lights to warn other motorists only when at the scene of ~~((accidents))~~ collisions, disabled vehicles, and/or recoveries. Such lighting shall not be used when traveling to or from the scene.

Tow truck operators whose duties are performed in areas and under circumstances where they are exposed to the danger of moving vehicles shall wear work vests of highly visible materials, or equivalent distinguishing apparel as outlined in department of labor and industries, WAC 296-155-200(5).

~~((22))~~ (21) Tow truck operators shall be responsible for cleaning ~~((accident))~~ collision/incident scenes of all vehicle glass and debris.

~~((23))~~ (22) Specific operating restrictions and/or requirements, by truck class, are as follows:

(a) The standard air brake release tools (caging stud assemblies) required to be carried in the class "B" and "C" trucks shall be used, whenever necessary, to preserve potential evidence involving brake equipment or adjustment settings. When an operator is attempting to move a vehicle

equipped with locked spring parking brakes that cannot be released by external air supply, the caging assemblies shall be used to release the brake tension. Under no circumstances shall the towed vehicle's brake assemblies or adjustments be moved or disturbed in any way that will prevent later determination of the ~~((preaccident))~~ precollision or incident settings.

(b) Class "B" trucks in excess of twenty-three thousand pounds gross vehicle weight rating need not carry dollies when towing or recovering heavy vehicles.

(c) Class "D," "E," and "S" trucks shall not be used to respond to initial calls unless specifically authorized by patrol personnel at the scene or by local written policy approved by the district commander.

(d) Class "E" trucks shall:

(i) Have, when used for multiple vehicle towing/recovery (one on bed, one in tow) from the same location, all invoice charges evenly divided between the vehicles so transported;

(ii) Not be operated in excess of either gross vehicle weight rating or purchased tonnage weight limits;

(iii) Be required to carry its portable lights only when used in a towing mode.

~~((24))~~ (23) Whenever a "special event or overflow" storage lot is approved by the department, the patrol and appropriate city/county jurisdictions, the operator shall maintain personnel at the lot twenty-four hours per day for security and vehicle and/or personal property release. If necessary, reimbursement for such labor shall be part of the contract for the "special event" if appropriate or by amended storage rates with a waiver of the ten-day rate change notice requirement approved by the department and the patrol.

At the conclusion of a "special event or overflow" situation, all vehicles not reclaimed by the owner shall be towed to the operator's regular storage facility and processed in the normal fashion. No additional fee shall be charged for towing the vehicle from the overflow lot to the regular facility.

~~((25))~~ (24) All work performed by the operator and/or employee shall be in the most professional and expeditious manner. All invoices and other required forms shall be completed accurately and promptly.

~~((26))~~ (25) Tow operators shall, when required by the patrol or the department, cause to be displayed on each approved truck, decals indicating truck class, patrol district, and/or assigned tow zone.

## WSR 07-02-025B

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Filed December 22, 2006, 12:42 p.m., effective January 22, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the rule is to ensure efficient use of water by adding planning requirements for data collection, demand forecasting, evaluation of leakage, water use efficiency measures, a distribution leakage standard, requirements for goal-setting, and performance reporting. The rule will help preserve the state's water resources for future

growth, other beneficial uses, and enhance public health protection through improved system reliability.

Citation of Existing Rules Affected by this Order: Amending WAC 246-290-010, 246-290-100, 246-290-105, 246-290-132, 246-290-221, 246-290-420, 246-290-480, and 246-290-990.

Statutory Authority for Adoption: RCW 70.119A.180.

Adopted under notice filed as WSR 06-15-128 on July 19, 2006.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-290-010 Definitions.

Authorized consumption: Added "for municipal water supply purposes" based on comments received to clarify the intent of the application.

Cost effective: Deleted "present value of" based on comments received because there was confusion about what "present value" means.

Elected governing body: Changed "officials" to "officers" based on comments received.

Exported water: Deleted the definition because it is no longer used in the rule based on comments received. It is eliminated to give more flexibility when determining leakage without the need to subtract exported water.

Marginal costs: Deleted "change in" based on comments received because the intent is to analyze the actual costs not the change in costs.

Water demand efficiency: Changed "including but not limited" to "may include" to clarify that the measures identified in the definition are not the only measures that can be used.

Water supply characteristics: Deleted "supplier's" and added "water system's" to clarify that it is the water system's "water rights" that are the factor. "Supplier's" may be interpreted to be an entity other than the water system.

Water supply efficiency: Changed "including by [but] not limited to" to "may include" to clarify that the measures in the definition are not the only measures that can be used.

WAC 246-290-100 Water system plan.

Subsections (1)(b) and (4)(c): Deleted "watershed plans and water resource management plans" because it was determined that all local plans are covered through the review of water system plans.

Subsection (4)(f)(ii)(B): Deleted "potential" and added "foreseeable" to clarify that the intent is to look at likely future effects to a water system's source of supply and not necessarily all potential effects.

WAC 246-290-105 Small water system management program.

Subsection (4)(k)(ii): Deleted "watershed plans and water resource management plans" because it was determined that all local plans are covered through the review of water system plans.

WAC 246-290-496 Metering requirements.

Subsections (1)(c) and (e), and (f)(i)(A) and (B): Compliance effective dates are changed from specified dates to specified years after the effective date of the rule to allow the maximum amount of time to comply.

Subsection (2)(g): Added three types of connections (recreational vehicle sites, mobile homes, and complexes with multiple buildings) to clarify which types of connections

can use a single meter. This reduces the burden on small water systems.

WAC 246-290-810 Water use efficiency program.

Subsections (1) and (2): Compliance effective dates are changed from specified dates to specified years after the effective date of the rule to allow the maximum amount of time to comply.

Subsection (4)(d) and Table 1: Reduced the number of water use efficiency measures from three to one for systems with less than five hundred connections to reduce the burden on small water systems.

WAC 246-290-820 Distribution system leakage standard.

All references to "exported water" are deleted from this section based on comments received because it is considered an authorized consumption.

Subsection (3)(d): Deleted because it is not necessary for a professional engineer to certify an alternative method to calculate leakage.

Subsection (5): Added "technical or economic concerns" to system characteristics to justify a higher distribution system leakage rate of 20%. This will reduce the burden on small systems from potential costs of trying to meet the rate of 10%.

WAC 246-290-830 Water use efficiency goal setting.

Subsection (1): Compliance effective dates are changed from specified dates to specified years after the effective date of the rule to allow the maximum amount of time to comply.

Subsection (4)(d)(iv): Changed to clarify that a water system must provide a summary of the comments received on goal setting instead of a description of how comments affected the chosen goals.

WAC 246-290-840 Water use efficiency performance reports.

Subsections (1)(a) and (d): Clarified that performance reports need to be sent to the department of health and water system consumers only, and made available by other means to the public to reduce the burden and costs of mailing to the general public.

A final cost-benefit analysis is available by contacting Theresa Phillips, Washington State Department of Health, Office of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3147, fax (360) 236-2252, e-mail [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 8, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 22, 2006.

B. White  
for Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 04-04-056, filed 1/30/04, effective 3/1/04)

**WAC 246-290-010 Definitions.** Abbreviations and acronyms:

**ADD** - average day demand;  
**AG** - air gap;  
**ANSI** - American National Standards Institute;  
**APWA** - American Public Works Association;  
**ASCE** - American Society of Civil Engineers;  
**AVB** - atmospheric vacuum breaker;  
**AWWA** - American Water Works Association;  
**BAT** - best available technology;  
**BAT** - backflow assembly tester (for WAC 246-29-490);  
**C** - residual disinfectant concentration in mg/L;  
**CCS** - cross-connection control specialist;  
**CFR** - code of federal regulations;  
**CPE** - comprehensive performance evaluation;  
**CT** - the mathematical product in mg/L - minutes of "C" and "T";  
**CTA** - comprehensive technical assistance;  
**CWSSA** - critical water supply service area;  
**DBPs** - disinfection by-products;  
**DCDA** - double check detector assembly;  
**DCVA** - double check valve assembly;  
**EPA** - Environmental Protection Agency;  
**ERU** - equivalent residential unit;  
**gph** - gallons per hour;  
**gpm** - gallons per minute;  
**GAC** - granular activated carbon;  
**GAC10** - granular activated carbon with ten-minute empty bed contact time based on average daily flow and one hundred eighty-day reactivation frequency;  
**GW** - ground water under the direct influence of surface water;  
**HAA5** - haloacetic acids (five);  
**HPC** - heterotrophic plate count;  
**IAPMO** - International Association of Plumbing and Mechanical Officials;  
**kPa** - kilo pascal (SI units of pressure);  
**MCL** - maximum contaminant level;  
**MDD** - maximum day demand;  
**mg/L** - milligrams per liter (1 mg/L = 1 ppm);  
**mL** - milliliter;  
**mm** - millimeter;  
**MRDL** - maximum residual disinfectant level;  
**MRDLG** - maximum residual disinfectant level goal;  
**MTTP** - maximum total trihalomethane potential;  
**NSF** - National Sanitation Foundation;  
**NTNC** - nontransient **noncommunity**;  
**NTU** - nephelometric turbidity unit;  
**PAA** - project approval application;  
**pCi/L** - picocuries per liter;  
**PHD** - peak hourly demand;  
**ppm** - parts per million (1 ppm = 1 mg/L);

**psi** - pounds per square inch;  
**PVBA** - pressure vacuum breaker assembly;  
**RPBA** - reduced pressure backflow assembly;  
**RPDA** - reduced pressure detector assembly;  
**SAL** - state advisory level;  
**SCA** - sanitary control area;  
**SDWA** - Safe Drinking Water Act;  
**SEPA** - State Environmental Policy Act;  
**SOC** - synthetic organic chemical;  
**SMA** - satellite management agency;  
**SPI** - special purpose investigation;  
**SRF** - state revolving fund;  
**SUVA** - specific ultraviolet absorption;  
**SVBA** - spill resistant vacuum breaker assembly;  
**SWTR** - surface water treatment rule;  
**T** - disinfectant contact time in minutes;  
**TTHM** - total trihalomethane;  
**TNC** - transient **noncommunity**;  
**TNTC** - too numerous to count;  
**TOC** - total organic carbon;  
**UBC** - Uniform Building Code;  
**ug/L** - micrograms per liter;  
**UL** - Underwriters Laboratories, Inc.;  
**umhos/cm** - micromhos per centimeter;  
**UPC** - Uniform Plumbing Code;  
**UTC** - utilities and transportation commission;  
**VOC** - volatile organic chemical;  
**WAC** - Washington Administrative Code;  
**WFI** - water facilities inventory and report form; (~~and~~)  
**WHPA** - wellhead protection area; and  
**WUE** - water use efficiency.

"**Acute**" means posing an immediate risk to human health.

"**Alternate filtration technology**" means a filtration process for substantial removal of particulates (generally > 2 log *Giardia lamblia* cysts and ≥ 2-log removal of *Cryptosporidium* oocysts) by other than conventional, direct, diatomaceous earth, or slow sand filtration processes.

"**Analogous treatment system**" means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

"**Approved air gap**" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an air gap approved by the department, the separation must be at least:

Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and:

Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

"**Approved atmospheric vacuum breaker**" means an AVB of make, model, and size that is approved by the depart-



ment. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the local administrative authority are considered approved by the department.

**"Approved backflow preventer"** means an approved air gap, an approved backflow prevention assembly, or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490 do not apply to backflow preventers installed for other purposes.

**"Approved backflow prevention assembly"** means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

**"As-built drawing"** means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

**"Authorized agent"** means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

**"Authorized consumption"** means the volume of metered and unmetered water used for municipal water supply purposes by consumers, the purveyor, and others authorized to do so by the purveyor, including, but not limited to, fire fighting and training, flushing of mains and sewers, street cleaning, and watering of parks and landscapes. These volumes may be billed or unbilled.

**"Average day demand (ADD)"** means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day per ERU (gpd/ERU).

**"Backflow"** means the undesirable reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

**"Backflow assembly tester"** means a person holding a valid BAT certificate issued in accordance with chapter 246-292 WAC.

**"Backpressure"** means a pressure (caused by a pump, elevated tank or piping, boiler, or other means) on the consumer's side of the service connection that is greater than the pressure provided by the public water system and which may cause backflow.

**"Backsiphonage"** means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's water system.

**"Best available technology (BAT)"** means the best technology, treatment techniques, or other means that EPA finds, after examination for efficacy under field conditions, are available, taking cost into consideration.

**"Blended sample"** means a sample collected from two or more individual sources at a point downstream of the confluence of the individual sources and prior to the first connection.

**"C"** means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

**"Category red operating permit"** means an operating permit identified ((as such)) under chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

**"Chemical contaminant treatment facility"** means a treatment facility specifically used for the purpose of removing chemical contaminants.

**"Clarification"** means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

**"Closed system"** means any water system or portion of a water system in which water is transferred to a higher pressure zone closed to the atmosphere, such as when no gravity storage is present.

**"Coagulant"** means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

**"Coagulation"** means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

**"Combination fire protection system"** means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection; and

Is constructed of approved potable water piping and materials that serve both the fire sprinkler system and the consumer's potable water system.

**"Completely treated water"** means water from a surface or GWI source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

**"Composite sample"** means a sample in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

**"Comprehensive monitoring plan"** means a schedule that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

**"Comprehensive performance evaluation (CPE)"** means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The comprehensive performance evaluation must consist of at least the following components: Assessment of

plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

**"Comprehensive technical assistance (CTA)"** means technical assistance intended to identify specific steps that may help a water treatment plant overcome operational or design limitations identified during a comprehensive performance evaluation.

**"Confirmation"** means to demonstrate the accuracy of results of a sample by analyzing another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation is when analysis results fall within plus or minus thirty percent of the original sample results.

**"Confluent growth"** means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

~~("Conservation program" means policies and activities implemented to encourage or cause efficient use of water on a long-term basis. Conservation programs shall include identification of the conservation objectives of the purveyor, evaluation of conservation measures considered, and identification of specific conservation measures identified for implementation.)~~

**"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

- Project construction in accordance with this chapter and general standards of engineering practice;
- Physical capacity changes; and
- Satisfactory test results.

The completed form must be stamped with an engineer's seal, and signed and dated by a professional engineer.

**"Consumer"** means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

**"Consumer's water system,"** as used in WAC 246-290-490, means any potable and/or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

**"Contaminant"** means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic qualities of the water.

**"Contingency plan"** means that portion of the wellhead protection program section of the water system plan or small water system management program that addresses the replacement of the major well(s) or wellfield in the event of loss due to ground water contamination.

**"Continuous monitoring"** means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

**"Conventional filtration treatment"** means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal in compliance with Part 6 of this chapter.

**"Cost-effective"** means the benefits exceed the costs.

**"Critical water supply service area (CWSSA)"** means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in ~~((such))~~ a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

**"Cross-connection"** means any actual or potential physical connection between a public water system or the consumer's water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

**"Cross-connection control program"** means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

**"Cross-connection control specialist"** means a person holding a valid CCS certificate issued in accordance with chapter 246-292 WAC.

**"Cross-connection control summary report"** means the annual report that describes the status of the purveyor's cross-connection control program.

**"CT"** or **"CTcalc"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T."

**"CT<sub>99.9</sub>"** means the CT value required for 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts.

**"CTreq"** means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

**"Curtailement"** means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

**"Dead storage"** means the volume of stored water not available to all consumers at the minimum design pressure in accordance with WAC 246-290-230 (5) and (6).

**"Demand forecast"** means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected ~~((conservation))~~ water use efficiency savings from implementation of a ~~((conservation))~~ water use efficiency program, and other appropriate factors.

**"Department"** means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-290-030(1).

**"Design and construction standards"** means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

**"Diatomaceous earth filtration"** means a filtration process for substantial removal of particulates ( $> 2 \log$  *Giardia lamblia* cysts) in which:

A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

**"Direct filtration"** means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal in compliance with Part 6 of this chapter.

**"Direct service connection"** means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

**"Disinfectant contact time (T in CT)"** means: When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the C measurement point for which the particular T is being calculated.

**"Disinfection"** means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

**"Disinfection profile"** means a summary of *Giardia lamblia* inactivation through a surface water treatment plant.

**"Distribution coliform sample"** means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

**"Distribution-related projects"** means distribution projects such as storage tanks, booster pump facilities, transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

**"Distribution reservoir"** means a water storage structure that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

**"Distribution system"** means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

**"Domestic or other nondistribution system plumbing problem,"** means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

**"Drinking water state revolving fund (DWSRF)"** means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act.

**"Duplicate (verification) sample"** means a second sample collected at the same time and location as the first sample and used for verification.

**"Elected governing board"** means the elected officers with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

**"Emergency"** means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

**"Emergency source"** means any source that is approved by the department for emergency purposes only, is not used for routine or seasonal water demands, is physically disconnected, and is identified in the purveyor's emergency response plan.

**"Engineering design review report"** means a form provided by the department and completed for a specific distribution-related project to document:

- Engineering review of a project report and/or construction documents under the submittal exception process in accordance with WAC 246-290-125(3); and
- Design in accordance with this chapter and general standards of engineering practice.

The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

**"Equalizing storage"** means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

**"Equivalent residential unit (ERU)"** means a system-specific unit of measure used to express the amount of water consumed by a typical full-time single family residence.

**"Expanding public water system"** means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities that will enable the system to increase in size its existing service area and/or its number of approved service connections. Exceptions:

A system that connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

A distribution system extension in an existing service area identified in a current and approved water system plan or project report.

**"Filter profile"** means a graphical representation of individual filter performance in a direct or conventional surface water filtration plant, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

**"Filtration"** means a process for removal of particulate matter from water by passage through porous media.

**"Financial viability"** means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

**"Fire flow"** means the maximum rate and duration of water flow needed to suppress a fire under WAC 246-293-640 or as required under local fire protection authority standards.

**"Fire suppression storage"** means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

**"First consumer"** means the first service connection associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

**"Flocculation"** means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

**"Flow-through fire protection system"** means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection;

Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and

Terminates at a connection to a toilet or other plumbing fixture to prevent the water from becoming stagnant.

**"Forecasted demand characteristics"** means the factors that may affect a public water system's projected water needs.

**"Governing body"** means the individual or group of individuals with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

**"Grab sample"** means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

**"Ground water under the direct influence of surface water (GWI)"** means any water beneath the surface of the ground that the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or, *Cryptosporidium*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

**"Guideline"** means a department document assisting the purveyor in meeting a rule requirement.

**"Health officer"** means the health officer of the city, county, city-county health department or district, or an authorized representative.

**"Heterotrophic Plate Count (HPC)"** means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

**"High health cross-connection hazard"** means a cross-connection which could impair the quality of potable water and create an actual public health hazard through poisoning or spread of disease by sewage, industrial liquids or waste.

**"Human consumption"** means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

**"Hydraulic analysis"** means the study of a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

**"Inactivation"** means a process which renders pathogenic microorganisms incapable of producing disease.

**"Inactivation ratio"** means the ratio obtained by dividing  $CT_{calc}$  by  $CT_{req}$ .

**"Incompletely treated water"** means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

**"In-line filtration"** means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

**"In-premises protection"** means a method of protecting the health of consumers served by the consumer's potable water system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

**"Intertie"** means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

**"Legionella"** means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' Disease.

**"Limited alternative to filtration"** means a process that ensures greater removal and/or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

**"Local administrative authority"** means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

**"Low health cross-connection hazard"** means a cross-connection that could cause an impairment of the quality of potable water to a degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of ((sueh)) potable waters for domestic use.

**"Major project"** means all construction projects subject to SEPA in accordance with WAC 246-03-030 (3)(a) and include all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet and larger than eight inches in diameter located in new rights of way and major extensions to existing water distribution systems involving use of pipes greater than eight inches in diam-

eter, that are designed to increase the existing service area by more than one square mile.

**"Mandatory curtailment"** means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

**"Marginal costs"** means the costs incurred by producing the next increment of supply.

**"Maximum contaminant level (MCL)"** means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table 3.

**"Maximum contaminant level violation"** means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

**"Maximum day demand (MDD)"** means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, excluding unusual events or emergencies. MDD is typically expressed as gallons per day per ERU (gpd/ERU).

**"Monitoring waiver"** means an action taken by the department under WAC 246-290-300 (4)(g) or (7)(f) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination.

**"Municipal water supplier"** means an entity that supplies water for municipal water supply purposes.

**"Municipal water supply purposes"** means a beneficial use of water:

(a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year;

(b) For governmental or governmental proprietary purposes by a city, town, public utility, district, county, sewer district, or water district; or

(c) Indirectly for the purposes in (a) or (b) of this definition through the delivery of treated or raw water to a public water system for such use.

(i) If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this definition, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes; and

(ii) If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this definition, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

**"Nested storage"** means one component of storage is contained within the component of another.

**"Nonacute"** means posing a possible or less than immediate risk to human health.

**"Nonresident"** means a person having access to drinking water from a public water system, but who lives elsewhere. Examples include travelers, transients, employees, students, etc.

**"Normal operating conditions"** means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

**"Operational storage"** means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

**"Peak hourly demand (PHD)"** means the maximum rate of water use, excluding fire flow, that can be expected to occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

**"Peak hourly flow"** means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

**"Performance criteria"** means the level at which a system shall operate in order to maintain system reliability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

**"Permanent residence"** means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

**"Permanent source"** means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in operation for less than three consecutive months per year, their sources shall also be considered to be permanent.

**"Point of disinfectant application"** means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

**"Population served"** means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not ((such)) persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

**"Potable"** means water suitable for drinking by the public.

**"Potential GWI"** means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the well-

head and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

**"Premises isolation"** means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection or alternative location acceptable to the purveyor to isolate the consumer's water system from the purveyor's distribution system.

**"Pressure filter"** means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

**"Primary disinfection"** means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

**"Primary standards"** means standards based on chronic, nonacute, or acute human health effects.

**"Primary turbidity standard"** means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

**"Project approval application (PAA)"** means a department form documenting ownership of water system, design engineer for the project, and type of project.

**"Protected ground water source"** means a ground water source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

**"Public forum"** means a meeting open to the general public that allows for their participation.

**"Public water system"** is defined and referenced under WAC 246-290-020.

**"Purchased source"** means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's consumers.

**"Purveyor"** means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of ~~((such))~~ these entities.

**"Reclaimed water"** means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

**"Record drawings"** means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

**"Recreational tract"** means an area that is clearly defined for each occupant, but has no permanent structures with internal plumbing, and the area has been declared ~~((as such))~~ in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

**"Regional public water supplier"** means a water system that provides drinking water to one, or more, other public water systems.

**"Regularly"** means four hours or more per day for four days or more per week.

**"Removal credit"** means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

**"Repeat sample"** means a sample collected to confirm the results of a previous analysis.

**"Resident"** means an individual living in a dwelling unit served by a public water system.

**"Residual disinfectant concentration"** means the analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

**"Same farm"** means a parcel of land or series of parcels that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a **Group A** public water system.

**"Sanitary survey"** means a review, inspection, and assessment of a public water system by the department or department designee including, but not limited to: Source, facilities, equipment, administration and operation, maintenance procedures, monitoring, recordkeeping, planning documents and schedules, and management practices. The purpose of the survey is to evaluate the adequacy of the water system for producing and distributing safe and adequate drinking water.

**"Satellite management agency (SMA)"** means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between ~~((such))~~ the systems.

**"Seasonal source"** means a public water system source used on a regular basis, that is not a permanent or emergency source.

**"Secondary standards"** means standards based on factors other than health effects.

**"Service connection"** means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection provides water to a residential population without clearly defined single family residences, the following formulas shall be used in determining the number of services to be included as residential connections on the WFI form:

Divide the average population served each day by two and one-half; or

Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

In no case shall the calculated number of services be less than one.

**"Significant noncomplier"** means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health. ~~((Such))~~ The violations include, but are not limited to, repeated violations of monitoring requirements,

failure to address an exceedance of permissible levels of regulated contaminants, or failure to comply with treatment technique standards or requirements.

**"Simple disinfection"** means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

**"Slow sand filtration"** means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft<sup>2</sup>) that results in substantial particulate removal (> 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

**"Societal perspective"** means a point of view that includes a broad spectrum of public benefits, including, but not limited to, enhanced system reliability; savings that result from delaying, deferring, or minimizing capital costs; and environmental benefits such as increased water in streams, improvements in aquifer recharge and other environmental factors.

**"Source meter"** means a meter that measures total output of a water source over specific time periods.

**"Source water"** means untreated water that is not subject to recontamination by surface runoff and:

For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

**"Special purpose investigation (SPI)"** means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

**"Special purpose sample"** means a sample collected for reasons other than the monitoring compliance specified in this chapter.

**"Spring"** means a source of water where an aquifer comes in contact with the ground surface.

**"Standard methods"** means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

**"Standby storage"** means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

**"State advisory level (SAL)"** means a level established by the department and state board of health for a contaminant without an existing MCL. The SAL represents a level that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

**"State board of health"** and **"board"** means the board created by RCW 43.20.030.

**"Subpart H System"** see definition for **"surface water system."**

**"Surface water"** means a body of water open to the atmosphere and subject to surface runoff.

**"Surface water system"** means a public water system that uses in whole, or in part, source water from a surface supply, or ground water under the direct influence of surface water (GWI) supply. This includes systems that operate surface water treatment facilities, and systems that purchase "completely treated water" (as defined in this subsection). A "surface water system" is also referred to as a "Subpart H System" in some federal regulatory language adopted by reference and the two terms are considered equivalent for the purposes of this chapter.

**"Susceptibility assessment"** means the completed Susceptibility Assessment Survey Form developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's overall susceptibility to contamination from surface activities.

**"Synthetic organic chemical (SOC)"** means a manufactured carbon-based chemical.

**"System capacity"** means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

**"System physical capacity"** means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

**"Time-of-travel"** means the time required for ground water to move through the water bearing zone from a specific point to a well.

**"Too numerous to count (TNTC)"** means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

**"Tracer study"** means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

**"Transmission line"** means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined ((as such)) on the plans and no service connections are allowed along the transmission main.

**"Treatment technique requirement"** means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A "treatment technique requirement" is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

**"Trihalomethane (THM)"** means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. THMs may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection by-products.

**"Turbidity event"** means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

**"T10"** means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or from published engineering reports or guidance documents for similarly configured tanks.

**"Unapproved auxiliary water supply"** means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

**"Uncovered distribution reservoir"** means a distribution reservoir that is open, without a suitable water-tight roof or cover, where the potable water supply is exposed to external contaminants, including but not limited to people, birds, animals, and insects and will undergo no further treatment except for residual disinfection.

**"Uniform Plumbing Code"** means the code adopted under RCW 19.27.031(4) and amended under chapter 51-46 WAC. This code establishes statewide minimum plumbing standards applicable within the property lines of the consumer's premises.

**"Used water"** means water which has left the control of the purveyor.

**"Verification"** means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

**"Virus"** means a virus of fecal origin which is infectious to humans and transmitted through water.

**"Volatile organic chemical (VOC)"** means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

**"Voluntary curtailment"** means a curtailment of water use requested, but not required of consumers.

**"Waterborne disease outbreak"** means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

**"Water demand efficiency"** means minimizing water use by the public water system's consumers through purveyor sponsored activities that may include, but are not limited to distributing water saving devices, providing rebates or incentives to promote water efficient technologies or by providing water audits to homes, businesses, or landscapes.

**"Water facilities inventory (WFI) form"** means the department form summarizing each public water system's characteristics.

**"Water right"** means a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

**"Water right assessment"** means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. ~~((Such an))~~ The assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

**"Watershed"** means the region or area that:

Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

**"Water shortage"** means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

**"Water shortage response plan"** means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

**"Water supply characteristics"** means the factors related to a public water system's source of water supply that may affect its availability and suitability to provide for both short-term and long-term needs. Factors include, but are not limited to, source location, name of any body of water and water resource inventory area from which water is diverted or withdrawn, production capacity, the source's natural variability, the system's water rights for the source, and other legal demands on the source such as water rights for other uses, conditions established to protect species listed under the Endangered Species Act in 50 CFR 17.11; instream flow restrictions established under Title 173 WAC, and any conditions established by watershed plans approved under chapter 90.82 RCW and RCW 90.54.040(1) or salmon recovery plans under chapter 77.85 RCW.

**"Water supply efficiency"** means increasing a public water system's transmission, storage and delivery potential through activities that may include, but are not limited to system-wide water audits, documenting authorized uses, conducting leak surveys and repairs on meters, lines, storage facilities, and valves.

**"Water use efficiency (WUE)"** means increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

**"Water use efficiency program"** means policies and activities focusing on increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

**"Well field"** means a group of wells one purveyor owns or controls that:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

**"Wellhead protection area (WHPA)"** means the portion of a well's, wellfield's or spring's zone of contribution



defined as such using WHPA criteria established by the department.

"**Zone of contribution**" means the area surrounding a pumping well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

**WAC 246-290-100 Water system plan.** (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with relevant local, state, and federal plans and regulations;

(b) Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;

(c) Establish eligibility for funding under the drinking water state revolving fund (SRF).

(2) Purveyors of the following categories of community public water systems shall submit a water system plan for review and approval by the department:

(a) Systems having one thousand or more services;

(b) Systems required to develop water system plans under the Public Water System Coordination Act of 1977 (chapter 70.116 RCW);

(c) Any system experiencing problems related to planning, operation, and/or management as determined by the department;

(d) All new systems;

(e) Any expanding system; and

(f) Any system proposing to use the document submittal exception process in WAC 246-290-125.

(3) The purveyor shall work with the department and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size, complexity, water supply characteristics, forecasted demand characteristics, past performance, and use of the water system. Project reports may be combined with a water system plan.

(4) In order to demonstrate system capacity, the water system plan shall address the following elements, as a minimum, for a period of at least twenty years into the future:

(a) Description of the water system, including:

(i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;

(ii) System history and background;

(iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, ground water management plans, and basin plans;

(iv) Service area map, characteristics, agreements, and policies; and

(v) Satellite management, if applicable.

(b) Basic planning data, including:

(i) Current population, service connections, water use, and equivalent residential units; and

(ii) Sufficient water production and consumption data to identify trends including the following elements:

(A) Monthly and annual production totals for each source, including water purchased from another public water system;

(B) Annual usage totals for each customer class as determined by the purveyor;

(C) Annual usage totals for water supplied to other public water systems; and

(D) For systems serving one thousand or more total connections, a description of the seasonal variations in consumption patterns of each customer class defined by the purveyor.

(iii) Projected land use, future population, and water demand for a consecutive six-year and ~~((final))~~ twenty-year planning period within the system's service area.

(c) Demand forecasts, developed under WAC 246-290-221, for a consecutive six-year and twenty-year planning period. These shall show future use with and without savings expected from the system's water use efficiency program.

(d) For systems serving one thousand or more total connections, a demand forecast projecting demand if the measures deemed cost-effective per WAC 246-290-810 were implemented.

(e) System analysis, including:

(i) System design standards;

(ii) Water quality analysis;

(iii) System inventory description and analysis; and

(iv) Summary of system deficiencies.

~~((d))~~ (f) Water resource analysis, including:

~~((Development and implementation of a cost-effective conservation program, which includes evaluation of conservation-oriented water rate structures;~~

~~(ii) Water demand forecasts;~~

~~(iii) Water use data collection;~~

~~(iv))~~ A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810:

(ii) Source of supply analysis, which includes:

(A) An evaluation of water supply alternatives if additional water rights will be pursued within twenty years; and

~~((iv))~~ (B) A narrative description of the system's water supply characteristics and the foreseeable effect from current and future use on the water quantity and quality of any body of water from which its water is diverted or withdrawn based on existing data and studies;

(iii) Water shortage response plan if a water system experiences a water shortage, or anticipates it will experience a water shortage within the next six-year planning period;

~~((iv))~~ (iv) Water right self assessment;

~~((v))~~ (v) Water supply reliability analysis; ~~(and~~

~~(vi))~~ (vi) Interties; and

(vii) For systems serving one thousand or more total connections, an evaluation of opportunities for the use of reclaimed water, where they exist, as defined in RCW 90.46.010(4).

~~((g))~~ (g) Source water protection in accordance with WAC 246-290-135.

~~((h))~~ (h) Operation and maintenance program in accordance with WAC 246-290-415 and 246-290-654(5), as applicable.

~~((g))~~ (i) Improvement program, including a six-year capital improvement schedule.

~~((h))~~ (j) Financial program, including demonstration of financial viability by providing:

(i) A summary of past income and expenses;

(ii) A one-year balanced operational budget for systems serving one thousand or more connections or a six-year balanced operational budget for systems serving less than one thousand connections;

(iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and

(iv) ~~((A rate structure))~~ An evaluation that has considered:

(A) The affordability of water rates; and

(B) The feasibility of adopting and implementing a rate structure that encourages water ~~((conservation))~~ demand efficiency.

~~((i))~~ (k) Other documents, such as:

(i) Documentation of SEPA compliance;

(ii) Agreements; and

(iii) Comments from the county and adjacent utilities.

(5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:

(a) Standard construction specifications for distribution mains; and/or

(b) Design and construction standards for distribution-related projects, including:

(i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;

(ii) Construction-related policies and requirements for external parties, including consumers and developers;

(iii) Performance and sizing criteria; and

(iv) General reference to construction materials and methods.

(6) The department, at its discretion, may require reports from purveyors identifying the progress in developing their water system plans.

(7) Purveyors shall transmit water system plans to adjacent utilities and local governments having jurisdiction, to assess consistency with ongoing and adopted planning efforts.

(8) For community systems, the purveyor shall hold an informational meeting for system consumers prior to departmental approval of a water system plan or a water system plan update. The purveyor shall notify consumers in a way that is appropriate to the size of the system.

(9) Department approval of a water system plan shall be in effect for six years from the date of written approval unless:

(a) Major projects subject to SEPA as defined in WAC 246-03-030 (3)(a) are proposed that are not addressed in the plan;

(b) Changes occur in the basic planning data significantly affecting system improvements identified; or

(c) The department requests an updated plan or plan amendment.

(10) The purveyor shall update the plan and submit it for approval at least every six years. If the system no longer meets the conditions of subsection (2) of this section, the purveyor shall as directed by the department, submit either a plan amendment the scope of which will be determined by the department, or a small water system management program under WAC 246-290-105.

AMENDATORY SECTION (Amending WSR 03-08-037, filed 3/27/03, effective 4/27/03)

**WAC 246-290-105 Small water system management program.** (1) The purpose of a small water system management program is to:

(a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations; and

(b) Establish eligibility for funding under the drinking water state revolving fund (SRF).

(2) All noncommunity and all community systems not required to complete a water system plan as described under WAC 246-290-100(2) shall develop and implement a small water system management program.

(3) The purveyor shall submit this program for review and approval to the department when:

(a) A new NTNC public water system is created; or

(b) An existing system has operational, technical, managerial, or financial problems, as determined by the department.

(4) Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:

(a) System management;

(b) Annual operating permit;

(c) Water facilities inventory form;

(d) Service area and facility map;

(e) ~~((Documentation of water rights, through a))~~ Water right self assessment;

(f) ~~((Record of source water pumped;))~~ Description of the system's source(s) including the name and location of any body of water from which its water is diverted or withdrawn;

(g) ~~((Water usage;~~

~~(h) Water conservation program;))~~ A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810;

(h) Water production and consumption data including each of the following:

(i) Monthly and annual production for each source, including water purchased from another public water system;

(ii) Annual consumption totals for residential and non-residential connections;

(iii) Total annual volume of water supplied to other public water systems;

(i) Average daily demand;

(j) Current population served;

(k) The forecast of average daily demand based on the system's approved number of connections that considers:

(i) Water use trends based on actual water use records;  
and

(ii) Applicable land use plans;

(l) An evaluation that has considered the feasibility of adopting and implementing a rate structure that encourages water demand efficiency;

(m) Source protection;

~~((j))~~ (n) Component inventory and assessment;

~~((k))~~ (o) List of planned system improvements;

~~((h))~~ (p) Water quality monitoring program;

~~((m))~~ (q) Operation and maintenance program;

~~((n))~~ (r) Cross-connection control program;

~~((o))~~ (s) Emergency response plan; and

~~((p))~~ (t) Budget.

(5) The department may require changes be made to a small water system management program if necessary to effectively accomplish the program's purpose.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-132 Interties.** (1) No interties shall be used and/or constructed as a public water supply without department approval.

(2) Interties shall not be eligible for submittal exceptions pursuant to WAC 246-290-125.

(3) Prior to department approval, purveyors proposing nonemergency interties shall ensure that the intertie is addressed:

(a) In an approved coordinated water system plan, water system plan, water system plan update, water system plan amendment, or small water system management program including:

(i) Location of the proposed intertie;

(ii) Date it is proposed to be utilized;

(iii) The purpose, physical capacity, service area, and proposed usage of the intertie;

(iv) Copy of the intertie agreement between purveyors;

(v) Description of how the intertie:

(A) Improves overall system reliability;

(B) Enhances the manageability of the system;

(C) Provides opportunities for conjunctive use; or

(D) Delays or avoids the need to develop new water sources;

(vi) Identification of any potential public health or safety concerns;

(vii) Discussion of any water quality and treatment issues;

(viii) Demonstration of the source capacity and hydraulic capacity of the supplying and receiving systems at the designed flow rate through the intertie;

(ix) Water right assessment;

(x) Identification of alternative sources that will be utilized when the intertie agreement expires if the water is not being provided in perpetuity; and

(xi) Identification and comparison of alternatives if any.

(b) In construction documents in accordance with WAC 246-290-120 including:

(i) Demonstration of the installation of a source meter to measure water exchanged; and

(ii) Water right assessment, if not previously provided to the department. Where RCW 90.03.383 requires a water right or water right change to be issued by the department of ecology, construction work on the intertie shall not begin, notwithstanding any prior approval of the intertie by the department in a water system plan, until the department of ecology issues the required water right document.

(4) Emergency use interties are interconnections between public water systems permitting the temporary exchange or delivery of water between those systems only in cases of emergency that result in permanent supplies being unavailable for use. Prior to department approval, purveyors proposing emergency use interties shall ensure that the emergency intertie is addressed:

(a) In an approved coordinated water system plan, water system plan, water system plan update, water system plan amendment, or small water system management plan including:

(i) Description of the intended use of the emergency intertie;

(ii) Location of the proposed intertie;

(iii) Date the intertie is intended to be operational;

(iv) Copy of the intertie agreement between purveyors detailing the conditions and limitations of ~~((such))~~ the intertie; and

(v) Hydraulic analysis conducted to identify the impacts upon each water system.

(b) In a project report in accordance with WAC 246-290-110 or in a construction document in accordance with WAC 246-290-120.

(5) Purveyors proposing interties shall apply to the department of ecology for water right changes as provided in RCW 90.03.383. Except as provided in RCW 90.03.383(7) and 90.03.390, no interties may be constructed without department of ecology action on the proposed change.

(6) The purveyor may be required to have emergency interties approved as nonemergency interties where ~~((such))~~ the interties are used frequently or on a long-term basis. If the department makes ~~((such))~~ a determination, the intertie will require approval in accordance with subsection (3) of this section.

(7) Intertie agreements between purveyors shall include:

(a) Identification of specific time periods in which water will be provided;

(b) Identification of the volume of water available for use, including any seasonal or other restrictions; and

(c) Identification of how water ~~((conservation))~~ use efficiency programs, data collection, water demand forecasting, and other operational matters will be coordinated.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-221 Water demand design criteria.** (1) Except as provided in this section, expanding systems shall use water demand design for average day demand (ADD), and peak periods of demand such as maximum day demand (MDD), and peak hourly demand (PHD) that are based upon actual metered water use records. The data collected shall be sufficient to account for seasonal or other cyclic changes in

water demand, and shall correlate to the maximum number of full-time or part-time equivalent residential units in service at any time.

(2) For seasonally used, transitory noncommunity, or recreational developments the design for ADD, MDD, and PHD shall be based upon metered water uses whenever such data is available. The data must account for the daily population using the water over the time that records are collected, and must reflect the uses associated with maximum occupancy for the development. The design demands for these developments apply only to part-time uses, and may not be applied to structures or dwellings that can be permanently occupied.

(3) In the absence of metered use or other comparable information, the following sources of design information may be used:

(a) Comparable metered water use data from analogous water systems. Analogous systems are those with similar characteristics, such as demographics, housing sizes, income levels, lot sizes, climate, water pricing structure, ~~((conservation))~~ water use efficiency practices, use restrictions, and soils and landscaping; or

(b) Design criteria or guidelines in the most recent edition of the department manual for design of Group A public water systems.

(4) The design for water systems based upon metered water use records shall have an MDD no lower than three hundred fifty gallons per day per equivalent residential unit (ERU), except for the design of any expansion to an existing water system that has a minimum of two years of meter records that clearly demonstrate that a lower design value for MDD may be used without significant risk of pressure loss. The meter records must correlate the demand data to the actual level of occupancy for the periods covered by the records.

(5) The minimum water demand and duration required for fire flow and/or fire suppression storage shall be determined by the local fire control authority, or chapter 246-293 WAC for systems within the boundaries of a designated critical water supply service area (CWSSA). Public water systems that are not required to comply with minimum fire flow standards shall coordinate with the local fire control authorities to ensure that any hydrants on the system, if they can possibly be used in the course of fire suppression activities, do not create adverse pressure problems within the water system as a result of fire control actions.

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-420 Reliability and emergency response.** (1) All public water systems shall provide an adequate quantity and quality of water in a reliable manner at all times consistent with the requirements of this chapter.

(2) During normal operating conditions, for both average and peak demand periods, water pressure at the consumer's service meter, or property line if a meter is not used, shall be maintained at the approved design pressure, but in no case be less than 20 psi (140 kPa). Water quality shall be maintained as required in Part 4 and Part 6 of this chapter.

(3) When fire flow is required, 20 psi (140 kPa) at the operating hydrant and at least positive pressure shall be maintained throughout the system under fire flow conditions.

(4) The purveyor shall address abnormal operating conditions, such as those associated with fires, floods, unscheduled power outages, facility failures, and system maintenance, by using measures consistent with applicable regulations and industry standards to ensure the system is constructed, maintained, and operated to protect against the risk of contamination by cross-connections as a result of loss of system pressure.

(5) For operations during abnormal conditions, the purveyor shall establish the level of reliability, in accordance with consumer expectations, to ensure prevention of loss of pressure or prompt restoration of pressure when a loss of pressure has occurred. Consumer expectations may be established by a simple majority of the affected consumers within the system's service area, or within specific, definable pressure zones when different levels of service may be encountered. A simple majority of consumers can be associated with either a vote of the consumers for privately owned and operated systems, or of the system's governing body, such as council, board, or commission, for publicly governed systems. Consumer expectations shall not be used by a purveyor to justify a failure to address routine or repeated loss of pressure within the system, or within specific, definable pressure zones, because of the purveyor's failure to properly construct, maintain, or operate the system. The level of reliability established under this subsection, and measures for achieving such reliability, shall be identified in the operations and maintenance program and incorporated into the water system design, and shall be approved by the department. The level of reliability shall not affect the purveyor's obligations under subsections (1) through (4) of this section.

(6) The purveyor shall implement all appropriate measures necessary to meet the identified level of reliability for normal and abnormal operating conditions. Procedures for system operation during normal and abnormal operating conditions shall be documented in an operations and maintenance and emergency response program in accordance with WAC 246-290-415 and shall be implemented in a timely and reasonable manner.

(7) If a purveyor is unable to satisfactorily address departmental concerns or consumer complaints regarding the level of reliability associated with normal or abnormal operating conditions, the purveyor may be required to prepare a project report pursuant to WAC 246-290-110 that addresses an evaluation of the problem, impacts on affected consumers, and recommended corrective action. Unless the department determines that public health protection requires otherwise, improvements related to abnormal operating conditions described under subsection (5) of this section will be required commensurate with the established level of reliability for abnormal operating conditions.

(8) Restrictions on designed, or historically documented, normal water uses shall not be allowed except under the following conditions:

(a) Whenever there is clear evidence that, unless limitations are imposed, water use at normal levels will lead to a

relatively rapid depletion of water source reserves, such as in drought situations or when significant facility failures occur;

(b) Whenever a water system observes that demands for water exceed the available supply, as a result of such events as miscalculated planning, inattentive operation, or unforeseen problems with sources and that limitations would be necessary to insure basic levels of service while additional sources were being sought or developed, or the situation was being otherwise remedied; or

(c) Whenever the water system institutes restrictions as part of a water ((~~conservation~~)) use efficiency program which has been accepted by the system consumers through appropriate public decision-making processes within existing governance mechanisms, or has been mandated under state regulatory authority.

(9) A purveyor shall provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information. The purveyor shall also maintain twenty-four-hour phone availability and shall respond to consumer concerns and service complaints in a timely manner.

**AMENDATORY SECTION** (Amending WSR 04-04-056, filed 1/30/04, effective 3/1/04)

**WAC 246-290-480 Recordkeeping and reporting.** (1)

Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results shall be kept for five years. Chemical analysis results shall be kept for as long as the system is in operation. Records of ((~~daily~~)) source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. Systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water standards. For each violation, records of actions taken to correct the violation, and copies of public notifications shall be kept for no less than three years after the last corrective action taken.

(c) Copies of any written reports, summaries, or communications relating to sanitary surveys or SPIs of the system conducted by system personnel, by a consultant or by any

local, state, or federal agency, shall be kept for ten years after completion of the sanitary survey or SPI involved.

(d) Copies of project reports, construction documents and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, ((~~daily~~)) records of the following shall be kept for a minimum of three years:

(i) Chlorine residual;

(ii) Fluoride level;

(iii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity;

(B) Amount of water treated; and

(C) Results of analyses.

(iv) Turbidity;

(v) Source meter readings; and

(vi) Other information as specified by the department.

(f) The purveyor shall retain copies of public notices made in accordance with Part 7, Subpart A of this chapter and certifications made to the department under 40 CFR 141.33(e) for a period of at least three years after issuance.

(g) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within their treatment plant shall, beginning no later than June 8, 2004, collect and retain on file the following information for review and evaluation by the department:

(i) A copy of the recycle notification and information submitted to the department in accordance with WAC 246-290-660 (4)(a)(i).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(h) Purveyors required to conduct disinfection profiling and benchmarking in accordance with 40 CFR 141.530 through 141.544 shall retain the results on file indefinitely.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours the failure to comply with any national primary drinking water regulation (including failure to comply with any monitoring requirements) as set forth in this chapter. For violations assigned to Tier 1 in WAC 246-290-71001, the department must be notified as soon as possible, but no later than twenty-four hours after the violation is known.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) The purveyor shall submit to the department copies of any written summaries or communications relating to the status of monitoring waivers during each monitoring cycle or as directed by the department.

(d) Source meter readings shall be made available to the department.

(e) Water facilities inventory form (WFI).

(i) Purveyors of **community** and **NTNC** systems shall submit an annual WFI update to the department;

(ii) Purveyors of **TNC** systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

~~((v) Purveyors shall provide in the WFI total annual water production and use, including:~~

~~(i) Total annual water production for each source;~~

~~(ii) Monthly and annual totals for water purchased from or sold to other purveyors; and~~

~~(iii) For purveyors with more than one thousand service connections, monthly and annual totals for purveyor consumer classes. Monthly data may be estimated if the water system bills less frequently than monthly-))~~

(f) Bacteriological.

~~((h))~~ The purveyor shall notify the department of the presence of:

~~((A))~~ (i) Coliform in a sample, within ten days of notification by the laboratory; and

~~((B))~~ (ii) Fecal coliform or E. coli in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

(g) Systems monitoring for unregulated contaminants in accordance with WAC 246-290-300(9), shall send a copy of the ~~((results of such))~~ monitoring results to the department within thirty days of receipt of analytical results.

(h) Systems monitoring for disinfection by-products in accordance with WAC 246-290-300(7) shall report information to the department as specified in 40 CFR 141.134.

(i) Systems monitoring for disinfectant residuals in accordance with WAC 246-290-300(7) shall report information to the department as specified in subsection (2)(a) of this section, and 40 CFR 141.134(c).

(j) Systems required to monitor for disinfection by-product precursor removal in accordance with WAC 246-290-300(7) shall report information to the department as specified in 40 CFR 141.134(d).

(k) Systems shall submit to the department, in accordance with 40 CFR 141.31(d), a certification that the system has complied with the public notification regulations (Part 7, Subpart A of this chapter) when a public notification is required. Along with the certification, the system shall submit a representative copy of each type of notice.

## NEW SECTION

**WAC 246-290-496 Metering requirements.** (1) Production:

(a) The volume of water produced or purchased must be measured using a source meter or other meter installed upstream of the distribution system.

(b) The requirements of this section do not alter any source metering regulations adopted by either the department of health or the department of ecology.

(c) The requirements of this section do not apply to volumes of water delivered to a public water system through an emergency intertie.

(2) Consumption:

(a) The requirements of this section apply to public water systems that supply water for municipal water supply purposes.

(b) Except as provided in (g) of this subsection, the volume of water delivered to consumers must be measured by meters installed on all direct service connections.

(c) Meters must be installed on all existing direct service connections and clustered entities as provided in (g) of this subsection within ten years of the effective date of this rule.

(d) Meters must be installed on all new direct service connections when the service connection is activated.

(e) Meters must be installed on all interties used as permanent or seasonal sources within ten years of the effective date of this rule.

(f) If a system is not fully metered, the municipal water supplier shall complete the following:

(i) Develop a meter installation schedule consistent with this section.

(A) For systems serving one thousand or more total connections, submit the schedule to the department by July 1, 2008.

(B) For systems serving less than one thousand total connections, submit the schedule to the department by July 1, 2009.

(C) The schedule must include milestones demonstrating steady and continuous progress toward compliance with the requirements of this section.

(ii) Implement activities to ensure distribution system leakage is minimized (e.g., periodic leak detection and repair) until the system is fully metered.

(iii) Report the status of meter installation and all actions taken to minimize leakage in annual performance reports developed under WAC 246-290-840 and water use efficiency programs developed under WAC 246-290-810.

(g) The volume of water may be measured through a single meter for the following clustered entities:

(i) A campground;

(ii) A recreational vehicle park;

(iii) A designated mobile home park;

(iv) A building with multiple units; and

(v) A complex with multiple buildings served as a single connection.

(3) Meters must be selected, installed, operated, calibrated, and maintained following generally accepted industry standards and information from the manufacturer.

**PART 8.  
WATER USE EFFICIENCY**

NEW SECTION

**WAC 246-290-800 Purpose and applicability.** (1) The purpose of Part 8 is to:

- (a) Define requirements for water use efficiency programs in water system plans developed under WAC 246-290-100 and small water systems management programs developed under WAC 246-290-105.
  - (b) Establish a water distribution system leakage standard.
  - (c) Define process requirements for water use efficiency goal setting.
  - (d) Establish water use efficiency performance reporting requirements.
- (2) The requirements of Part 8 of this chapter apply to public water systems that supply water for municipal water supply purposes.

NEW SECTION

**WAC 246-290-810 Water use efficiency program.** (1) Water system plans and small water system management programs submitted for approval for the first year after the effective date of this rule, must describe the municipal water supplier's existing water use efficiency program. The municipal water supplier must continue existing levels of water use efficiency.

(2) Subsections (3) and (4) of this section apply to:

- (a) Water system plans submitted to the department for approval under WAC 246-290-100 one year after the effective date of this rule.
- (b) Small water system management programs developed and implemented or submitted to the department for approval one year after the effective date of this rule.

- (3) Municipal water suppliers shall develop and implement a water use efficiency program which includes sufficient cost-effective water use efficiency measures to meet the water use efficiency goals developed under WAC 246-290-830.
- (4) Municipal water suppliers shall complete the following items in the water use efficiency program:
  - (a) Describe the current water use efficiency program;
  - (b) For systems serving one thousand or more total connections, estimate the amount of water saved through implementation of the water use efficiency program over the last six years;
  - (c) Describe the chosen water use efficiency goals and document the goals were established in accordance with WAC 246-290-830;
  - (d) Evaluate water use efficiency measures to determine if they are cost-effective as follows:
    - (i) Evaluate or implement, at a minimum, the number of water use efficiency measures specified in Table 1 based on the system's total number of connections.
    - (ii) Evaluate or implement water use efficiency measures from the following categories of measures if they are applicable: Indoor residential, outdoor, and industrial/commercial/institutional.
    - (iii) For systems serving less than one thousand total connections, describe the evaluation process used to select water use efficiency measures.
    - (iv) For systems serving one thousand or more total connections, include the following criteria when evaluating water use efficiency measures:
      - (A) Quantitatively evaluate water use efficiency measures to determine if they are cost-effective from the system's perspective including the marginal costs of producing water.
      - (B) Address whether the water use efficiency measures are cost-effective if the costs are shared with other entities.
      - (C) Quantitatively or qualitatively evaluate water use efficiency measures to determine if they are cost-effective from the societal perspective.

Table 1

Number of connections	Less than 500	500-999	1,000-2,499	2,500-9,999	10,000-49,999	50,000 or more
Water use efficiency measures	1	4	5	6	9	12

- (e) Describe all water use efficiency measures to be implemented within the next six years including a schedule and a budget that demonstrates how the water use efficiency measures will be funded;
- (f) Describe how consumers will be educated on water use efficiency practices;
- (g) Estimate projected water savings from selected water use efficiency measures;
- (h) Describe how the water use efficiency program will be evaluated for effectiveness;
- (i) Evaluate water distribution system leakage as follows:
  - (i) Include distribution system leakage totals in accordance with WAC 246-290-820 for the past six years.
  - (ii) If necessary, include a copy of the water loss control action plan in accordance with WAC 246-290-820(4).

(ii) If all or portions of transmission lines are excluded when determining distribution system leakage, estimate the amount of leakage from the excluded portion of the transmission mains and describe how it is maintained to minimize leakage.

NEW SECTION

**WAC 246-290-820 Distribution system leakage standard.** (1) Municipal water suppliers shall determine distribution system leakage annually in accordance with subsection (2) of this section or an alternative methodology in accordance with subsection (3) of this section.

- (a) Municipal water suppliers shall include (i), (ii), or (iii) of this subsection in water use efficiency performance

reports developed under WAC 246-290-840 and water use efficiency programs developed under WAC 246-290-810:

(i) Distribution system leakage totals calculated in accordance with subsection (2) of this section shall be recorded in annual percent and volume;

(ii) Distribution system leakage totals calculated in accordance with subsection (3) of this section shall include annual figures and the chosen methodology's numerical standard(s); and

(iii) For systems not fully metered, the status of meter installation and any actions taken to minimize leakage.

(b) Municipal water suppliers will be considered in compliance with this section if any of the following conditions are satisfied:

(i) Distribution system leakage calculated in accordance with subsection (2) of this section is ten percent or less for the last three-year average;

(ii) Distribution system leakage calculated in accordance with subsection (3) of this section meets the compliance level(s) established under subsection (3)(c) of this section for the last three-year average;

(iii) For systems serving less than five hundred total connections, distribution system leakage calculated in accordance with subsection (2) of this section is less than twenty percent for the last three-year average and the steps outlined in subsection (5) of this section are completed; or

(iv) A water loss control action plan has been developed and implemented in accordance with subsection (4) of this section and the system is meeting the implementation schedule.

(2) Calculate the percent of distribution system leakage annually using the following equation:

$$DSL = [(TP - AC)/(TP)] \times 100$$

Where:

DSL	=	Percent of Distribution System Leakage (%)
TP	=	Total Water Produced and Purchased
AC	=	Authorized Consumption

(a) Total water produced and purchased, and authorized consumption must be calculated using data from meters installed under WAC 246-290-496. Elements of authorized consumption that cannot be metered, such as fire flow, must be estimated.

(b) All or portions of transmission lines may be excluded when determining distribution system leakage.

(c) Any water that cannot be accounted for shall be considered distribution system leakage.

(3) Municipal water suppliers may use an alternative methodology to calculate distribution system leakage if both (a) and (b) of this subsection are satisfied.

(a) The alternative methodology is contained in published standards or specifications of the department, Environmental Protection Agency, American Water Works Association, American Public Works Association, or American Society of Civil Engineers.

(b) The alternative methodology is approved for state-wide use by the department, to provide a better evaluation of distribution system leakage than percent of total water pro-

duced and purchased, is appropriate for the system requesting to use it, and uses numerical standards so that compliance and action levels can be determined.

(4) If the average distribution system leakage for the last three years does not meet the standard calculated in accordance with subsection (1)(b)(i), (ii), or (iii) of this section, the municipal water supplier shall develop and implement a water loss control action plan. Municipal water suppliers shall submit the water loss control action plan to the department as part of a water use efficiency program under WAC 246-290-810 and upon request by the department. The control methods described in a water loss control action plan shall be commensurate with the level of leakage reported. The following items shall be included in the water loss control action plan:

(a) The control methods necessary to achieve compliance with the distribution system leakage standard;

(b) An implementation schedule;

(c) A budget that demonstrates how the control methods will be funded;

(d) Any technical or economic concerns which may affect the system's ability to implement a program or comply with the standard including past efforts and investments to minimize leakage;

(e) If the average distribution system leakage calculated under subsection (2) of this section is greater than ten and less than nineteen percent of total water produced and purchased, the water loss control action plan must assess data accuracy and data collection;

(f) If the average distribution system leakage calculated under subsection (2) of this section is between twenty and twenty-nine percent of total water produced and purchased, the water loss control action plan must include elements listed under (e) of this subsection and implementation of field activities such as actively repairing leaks or maintaining meters within twelve months of determining standard exceedance;

(g) If the average distribution system leakage calculated under subsection (2) of this section is at thirty percent or above the total water produced and purchased, the water loss control action plan must include elements listed under (e) and (f) of this subsection and include implementation of control methods to reduce leakage within six months of determining standard exceedance; and

(h) If the average distribution system leakage calculated under subsection (3) of this section is over the methodology's numerical standard, the department will take appropriate compliance actions and work collaboratively with the municipal water supplier to ensure the control methods and level of activity are commensurate with the level of leakage.

(5) Systems serving less than five hundred total connections may submit a request to the department for approval of an average distribution system leakage up to twenty percent. The following information must be submitted to the department with the request:

(a) Production volume;

(b) Distribution system leakage volume;

(c) Evidence documenting that:



(i) A leak detection survey using best available technologies has been completed on the system within the past six years;

(ii) All leaks found have been repaired;

(iii) The system is unable to locate additional leaks; and

(iv) Ongoing efforts to minimize leakage are included as part of the system's water use efficiency program; and

(d) Any technical concerns or economic concerns, or other system characteristics justifying the higher distribution system leakage.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### **WAC 246-290-830 Water use efficiency goal setting.**

(1) The elected governing board or governing body of the public water system shall establish water use efficiency goals within one year of the effective date of this rule for systems serving one thousand or more total connections, and within two years of the effective date of this rule for systems serving less than one thousand total connections.

(2) Water use efficiency goals must be designed to enhance the efficient use of water by the system and/or its consumers.

(3) If a municipal water supplier determines that further reductions over current consumption levels are not reasonably achievable, the municipal water supplier shall provide justification that considers historic water use efficiency performance and investment and any other factors that support that determination. Justification must be provided in water use efficiency programs developed under WAC 246-290-810 and in water use efficiency performance reports developed under WAC 246-290-840.

(4) Municipal water suppliers must provide documentation when requested by the department and in water use efficiency programs developed under WAC 246-290-810 that demonstrates the following goal setting requirements have been met:

(a) Goals shall be set in a public forum that provides opportunity for consumers and the public to participate and comment on the water use efficiency goals;

(b) Public notice must occur at least two weeks prior to the public forum. Public notice must include the purpose, date, time, and place of the forum, and where materials supporting the rationale for the proposed goals can be reviewed;

(c) The elected governing board or governing body of the public water system shall review and consider all comments received;

(d) The following must be made available to the public for the purpose of fully documenting the basis for each goal:

(i) The information listed under WAC 246-290-810(4);

(ii) Annual water use efficiency performance reports prepared under WAC 246-290-840;

(iii) Water supply characteristics description in accordance with WAC 246-290-100 (4)(f)(iii)(B) or source description in accordance with WAC 246-290-105 (4)(f); and

(iv) A summary of the comments received and how they were considered.

(5) Existing public processes may be used if all requirements listed under subsection (4) of this section are met.

(6) Water use efficiency goals must include:

(a) Consideration of the system's forecasted demand and water supply characteristics;

(b) Measurable outcomes in terms of reduced or maintained water production or usage. Outcomes may be expressed on a per capita, per connection, total system, or other basis as deemed appropriate by the municipal water supplier;

(c) A schedule for achieving the water use efficiency goals; and

(d) Implementation schedule for each water use efficiency measure selected under WAC 246-290-810(4).

(7) The elected governing board or governing body of the public water system shall evaluate and reestablish water use efficiency goals following the process identified in subsection (4) of this section at least every six years and as part of a water system plan approval under WAC 246-290-100 or small water system management program approval under WAC 246-290-105.

(8) Water use efficiency goals may be changed at any time in accordance with subsection (4) of this section. Changes to goals must be identified in the next performance report.

(9) Water use efficiency programs must be modified if any water use efficiency goal is not met. Program modifications must be designed to achieve the system's water use efficiency goals.

## NEW SECTION

**WAC 246-290-840 Water use efficiency performance reports.** (1) Municipal water suppliers shall develop an annual water use efficiency performance report and must:

(a) Send the water use efficiency performance reports to the department and the consumers by July 1st of each year for the previous year and make them available to the public;

(b) For systems serving one thousand or more total connections, develop the first water use efficiency performance report by July 1, 2008;

(c) For systems serving less than one thousand total connections, develop the first water use efficiency performance report by July 1, 2009; and

(d) Municipal water suppliers shall submit performance reports in a manner specified by the department.

(2) Water use efficiency performance reports shall include:

(a) Total annual production. Systems with multiple sources may provide aggregate data;

(b) Annual water distribution system leakage totals in accordance with WAC 246-290-820;

(c) A description of the system's water use efficiency goals set in accordance with WAC 246-290-830;

(d) A schedule for achieving the goals;

(e) A narrative description of progress toward achieving the goals; and

(f) Report the status of meter installation and all actions taken to minimize leakage.

**AMENDATORY SECTION** (Amending WSR 04-12-123, filed 6/2/04, effective 7/3/04)

**WAC 246-290-990 Water system evaluation and project review and approval fees.** (1) The fees for the review and approval of water system plans, project reports, construction documents, existing systems, and related evalu-

ations required under chapters 246-290, 246-291, 246-293, 246-294, and 246-295 WAC are:

(a) Water system plans required under WAC 246-290-100, 246-290-105, 246-291-140, 246-293-220, and 246-293-230.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Water system plan (New and Updated)	\$134	\$475	\$1,167	\$2,206	\$3,584	\$5,305
Minor water system plan alteration	\$30	\$112	\$284	\$547	\$889	\$1,305

(b) Satellite management agency (SMA) plans for Group A and Group B water systems required under WAC 246-295-040.

Project Type	Total Active or Approved Services					
	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services	
SMA plan for ownership (New and Updated)	\$475	\$1,167	\$2,206	\$3,584	\$5,305	
SMA approval amendment	\$99 per hour or appropriate fee from category above, whichever is less					
SMA plan for operation only (New and Updated)	\$1,167	\$1,167	\$1,167	\$1,167	\$1,167	\$1,167

Note: SMAs owning water systems and submitting planning documents to the department for review shall be charged only the SMA fee.

(c) New plan elements required under WAC 246-290-100, 246-290-105, 246-290-125, 246-290-132, 246-290-135, 246-290-691, and 246-291-140 including:

- (i) ~~(Conservation))~~ Water use efficiency; and
- (ii) Wellhead protection, shall be reviewed separately by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on ninety-

nine dollars per hour. After the initial submittal, updated information shall be reviewed as part of the updated water system plan and the review fee shall be included in the applicable updated plan review fee listed under (a) or (b) of this subsection.

(d) Project reports required under WAC 246-290-110 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$337	\$687	\$1,067	\$1,546	\$2,132	\$2,827
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$99	\$199	\$337	\$508	\$719	\$962
Complete water system (an additional fee shall be assessed for review of treatment facility, if any)	\$199	\$475	\$753	\$1,100	\$1,513	\$1,994
System modifications requiring a detailed evaluation to determine whether the system, as modified, will comply with regulations (an additional fee shall be assessed for review of treatment facility, if any)	\$134	\$337	\$547	\$824	\$1,167	\$1,573

Note: In accordance with WAC 246-290-125, project reports are not required for minor projects that are described in sufficient detail in an approved water system plan, and have been reviewed as part of the process for approving the water system plan.

(e) Special reports or plans required under WAC 246-290-230, 246-290-235, 246-290-250, 246-290-470, 246-290-636, 246-290-640, 246-290-654, 246-290-676, 246-291-230 including:

- (i) Corrosion control recommendation report;
- (ii) Corrosion control study;
- (iii) Plan to cover uncovered reservoirs;
- (iv) Predesign study;

- (v) Uncovered reservoir plan of operation;
- (vi) Tracer study plan;
- (vii) Surface water or GWI treatment facility operations plan;
- (viii) Filtration pilot study; or
- (ix) GWI determination reports, shall be reviewed by the department and the fee assessed shall reflect the time spent

for this review and shall be calculated based on ninety-nine dollars per hour.

(f) Construction documents required under WAC 246-290-120 and design reports required under WAC 246-291-120.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	\$337	\$687	\$1,067	\$1,546	\$2,132	\$2,827
Chemical addition only, such as ion exchange, hypochlorination, or fluoridation	\$99	\$199	\$337	\$508	\$719	\$962
Complete new water system except treatment (an additional fee shall be assessed for review of treatment facility, if any)	\$272	\$613	\$889	\$1,238	\$1,654	\$2,132
New source only (an additional fee shall be assessed for review of treatment facility, if any)	\$199	370	\$508	\$687	\$889	\$1,134
One or more of the following submitted as a package and not requiring a detailed evaluation as determined by the department: Water line installation, booster pump station, modifications to source pumping, piping-valving, controls or storage reservoir (an additional fee shall be assessed for review of treatment facility, if any)	\$134	\$234	\$370	\$547	\$753	\$994
Documents submitted for projects such as water line installation, booster pump stations, modifications to source pumping, piping-valving, controls or storage reservoirs as determined by the department where such projects: Comply with design standards established by the department; Are prepared by a professional engineer in accordance with WAC 246-290-040; and Do not require a detailed evaluation by the department.	\$62	\$115	\$192	\$272	\$377	\$496

(g) Existing system approval required under WAC 246-290-140 and 246-291-130. For the purpose of this subsection the department shall determine whether a system is expanding or nonexpanding.

Project Type	Group A					
	Group B	<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
NONEXPANDING system not requiring a detailed evaluation by the department	\$260	\$522	\$785	\$1,048	\$1,311	\$1,573
NONEXPANDING system requiring a detailed evaluation as determined by the department	\$391	\$785	\$1,189	\$1,573	\$1,968	\$2,362
EXPANDING system not requiring a detailed evaluation by the department	\$522	\$1,048	\$1,573	\$2,099	\$2,626	\$3,150
EXPANDING system requiring a detailed evaluation as determined by the department	\$654	\$1,311	\$1,968	\$2,626	\$3,281	\$3,939

(h) Monitoring waivers requested under WAC 246-290-300.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Inorganic chemical monitoring waiver	Not applicable	\$86 per source	\$119 per source	\$150 per source	\$182 per source	\$214 per source
Organic chemical monitoring waiver	Not applicable	\$156 per source	\$219 per source	\$285 per source	\$348 per source	\$412 per source
Use waiver	Not applicable	\$187 per source	\$252 per source	\$324 per source	\$380 per source	\$444 per source
Area wide waiver renewal	Not applicable	\$187 per source	\$233 per source	\$278 per source	\$324 per source	\$357 per source
Inorganic chemical monitoring waiver renewal	Not applicable	\$47 per source	\$60 per source	\$73 per source	\$86 per source	\$99 per source
Organic chemical monitoring waiver renewal	Not applicable	\$92 per source	\$131 per source	\$171 per source	\$208 per source	\$246 per source
Use waiver renewal	Not applicable	\$131 per source	\$176 per source	\$219 per source	\$265 per source	\$310 per source
Coliform monitoring waiver including departmental inspection requested by purveyor	Not applicable	\$401	\$496	\$631	\$803	Not applicable
Coliform monitoring waiver with third-party inspection report	Not applicable	\$124	\$124	\$124	\$124	Not applicable

(i) Other evaluations and approvals. As applicable, these fees will be charged in addition to the basic fees assessed under (a) through (h) of this subsection.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Well-site evaluation and approval including the site inspection and hydrogeologic information review.	\$199	\$299	\$352	\$437	\$547	\$687
Regulatory monitoring plan <sup>1</sup>	No plan required	\$192	\$260	\$326	\$391	\$456
Unfiltered system annual comprehensive report	Not applicable	\$391	\$654	\$917	\$1,179	\$1,441
Water system compliance report	\$112	\$112	\$112	\$112	\$112	\$112

<sup>1</sup>A comprehensive document containing coliform, inorganic chemical and organic chemical monitoring plans in accordance with WAC 246-290-300.

(2) To determine the appropriate fee for a noncommunity system, calculate the service equivalent by taking the average population served each day of operation and dividing by twenty-five for a transient noncommunity (TNC) system and two and one-half for nontransient noncommunity (NTNC) system. Use the number of service equivalents to find out what Group A size category to look under and submit the appropriate fee. (All noncommunity systems are Group A systems as described in WAC 246-290-020.)

(3) Additional review and approval fees may be assessed as follows:

(a) The basic fee covers an evaluation, or the review of an initial submittal and one resubmittal if required. If addi-

tional resubmittals are required, an additional twenty-five percent of the original fee will be assessed for each additional resubmittal. For water system plan and SMA plan preparation the basic fee also covers a preplanning conference. When the department is asked to participate in other meetings involving the plan such as community meetings, public hearings, or meetings with elected officials, the department is authorized to charge additional fees at the rate of ninety-nine dollars per hour;

(b) Fees for department project approval based on local technical review will be determined on a case-by-case basis as outlined in the applicable memorandum of understanding between the department and the respective local agency;

(c) Fees for services which the department determines are not described under subsection (1) of this section, will be calculated based on a rate of ninety-nine dollars per hour.

Examples of these services include, but are not limited to:

- (i) Review and inspection of water reuse projects;
- (ii) Collection of water quality samples requested by purveyor;
- (iii) Review of alternate technologies requested by purveyor, manufacturer or authorized representative;
- (iv) Sanitary surveys, including the time spent as part of the annual on-site inspections for systems under WAC 246-290-690(3) that is in addition to the time necessary to assess watershed control and disinfection treatment;
- (v) Well field designations; or
- (vi) Transfers of ownership under WAC 246-290-035 or 246-294-060.

(d) Additional fees assessed by the department shall be billed to the purveyor using an itemized invoice.

(4) If the legislature revises the water system operating permit fee under RCW 70.119A.110 to incorporate into it one or more fees for service currently assessed separately under this section, and the purveyor has paid that consolidated fee, the department shall not assess or collect a separate fee under this section for any such service.

(5) All fees required under this section except as noted in subsection (3) of this section, shall be submitted prior to the department's approval. Payment of fees shall be in the form of a check or money order made payable to: The Department of Health, P.O. Box 1099, Olympia, Washington 98507-1099. Payment of a fee shall not guarantee approval of the submitted document or evaluation request.

(6) Purveyors unable to determine the appropriate fee payment to submit should contact the department.

### WSR 07-02-033

#### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed December 26, 2006, 9:45 a.m., effective January 26, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal outdated pedestrian regulations. New regulations are not required because traffic and parking requirements are explicitly and specifically dictated by RCW 46.61.235, 46.61.055, and 46.61.060.

Citation of Existing Rules Affected by this Order: Repealing WAC 504-15-940.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 06-20-033 on September 25, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 19, 2006.

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

### Chapter 504-15 WAC

#### CAMPUS TRAFFIC AND PARKING REGULATIONS

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-15-940 Pedestrians.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

### WSR 07-02-034

#### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed December 26, 2006, 9:47 a.m., effective January 26, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This housekeeping revision removes a dead link and replaces it with active links to rules regarding appeals of parking violations.

Citation of Existing Rules Affected by this Order: Amending WAC 504-04-010.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 06-20-032 on September 25, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 19, 2006.

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

### Chapter 504-04 WAC

#### PRACTICE AND PROCEDURE

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

**WAC 504-04-010 Matters subject to brief adjudication.** The following proceedings are matters to be treated as brief adjudications pursuant to RCW 34.05.482 through 34.05.491:

(1) Student conduct proceedings. The procedural rules of chapter 504-25 WAC apply to these proceedings.

(2) Appeals of residency determinations. If a hearing is required by law or constitutional right, appeals of residency determinations under RCW 28B.15.013 are brief adjudicative proceedings conducted by the office of admissions.

(3) Appeals of parking violations. Appeals of parking violations are brief adjudicative proceedings conducted pursuant to applicable rules. See WAC ((504-17-240)) 504-14-860, 504-15-860, ((and)) 504-18-170, and 504-19-860.

(4) Hearings on student records. Hearings pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g are to be brief adjudicative proceedings conducted pursuant to the rules of chapter 504-21 WAC.

(5) Hearings on denial of financial aid. Any hearings required by state or federal law regarding granting, modification or denial of financial aid are brief adjudicative proceedings conducted by the office of scholarships and financial aid.

(6) Emergency withdrawal of students. Proceedings to disenroll students for medical or psychological reasons are brief adjudicative proceedings conducted by the office of student affairs.

(7) Discipline and termination of student employees. When required by law, hearings for the termination of or imposition of disciplinary measures on student employees shall be brief adjudicative proceedings.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

### WSR 07-02-035

#### PERMANENT RULES

#### WASHINGTON STATE UNIVERSITY

[Filed December 26, 2006, 9:49 a.m., effective January 26, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal outdated smoking regulations. New regulations are not required because smoking requirements are explicitly and specifically dictated by chapter 70.160 RCW.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 504-36-010.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 06-19-110 on September 20, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 19, 2006.

Ralph T. Jenks, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

### Title 504 WAC

#### WASHINGTON STATE UNIVERSITY

#### Chapter 504-36 WAC

#### HEALTH AND SAFETY REGULATIONS

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 504-36-010	Smoking regulations for campus buildings.
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### WSR 07-02-038

#### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed December 26, 2006, 2:10 p.m., effective January 1, 2007]

Effective Date of Rule: January 1, 2007.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The forest land value rule is required by statute (RCW 84.33.140) to be effective on January 1, 2007.

Purpose: WAC 458-40-540 contains the forest land values, which must be adjusted annually by a statutory formula contained in RCW 84.33.140(3). This rule has been amended to provide county assessors with property tax land values for the 2007 assessment year.

Citation of Existing Rules Affected by this Order:  
Amending WAC 458-40-540 Forest land values.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 06-22-063 on October 30, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 26, 2006.

Janis P. Bianchi  
Assistant Director  
Interpretations and Technical  
Advice Division

**AMENDATORY SECTION** (Amending WSR 06-02-006, filed 12/22/05, effective 1/1/06)

**WAC 458-40-540 Forest land values—((2006)) 2007.**

The forest land values, per acre, for each grade of forest land for the ((2006)) 2007 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2006)) 2007 VALUES ROUNDED
1	1	\$ ((200)) 201
	2	((198)) 199
	3	((187)) 188
	4	136
2	1	169
	2	164
	3	157
	4	113
3	1	133
	2	129
	3	128
	4	97
4	1	101
	2	98
	3	97
	4	75
5	1	74
	2	67
	3	66
	4	45

LAND GRADE	OPERABILITY CLASS	((2006)) 2007 VALUES ROUNDED
6	1	37
	2	34
	3	34
	4	32
7	1	17
	2	17
	3	16
	4	16
8		1

**WSR 07-02-039**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed December 26, 2006, 2:11 p.m., effective January 1, 2007]

Effective Date of Rule: January 1, 2007.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage value rule is required by statute (RCW 84.33.091) to be effective on January 1, 2007.

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the first half of 2007.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 06-22-085 on October 31, 2006.

A final cost-benefit analysis is available by contacting Roseanna Hodson, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-5543, e-mail roseannah@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 26, 2006.

Janis P. Bianchi  
 Assistant Director  
 Interpretations and Technical  
 Advice Division

**AMENDATORY SECTION** (Amending WSR 06-14-064, filed 6/30/06, effective 7/1/06)

**WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.** (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July)) January 1 through ((December 31, 2006)) June 30, 2007:

((**TABLE 1—Proposed Stumpage Value Table  
 Stumpage Value Area 1**  
 July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$632	\$625	\$618	\$611	\$604
		2	469	462	455	448	441
		3	463	456	449	442	435
		4	412	405	398	391	384
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock <sup>(3)</sup>	WH	1	383	376	369	362	355
		2	347	340	333	326	319
		3	302	295	288	281	274
		4	302	295	288	281	274
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

((**TABLE 1—Proposed Stumpage Value Table  
 Stumpage Value Area 1**  
 July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- <sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Alaska Cedar.
- <sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- <sup>(4)</sup> Stumpage value per ton.
- <sup>(5)</sup> Stumpage value per cord.
- <sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table  
 Stumpage Value Area 2**  
 July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$632	\$625	\$618	\$611	\$604
		2	505	498	491	484	477
		3	490	483	476	469	462
		4	474	467	460	453	446
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock <sup>(3)</sup>	WH	1	383	376	369	362	355
		2	361	354	347	340	333
		3	334	327	320	313	306
		4	334	327	320	313	306
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	174	167	160	153	146



**TABLE 2 Proposed Stumpage Value Table  
Stumpage Value Area 2**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Alaska Cedar.

<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(4)</sup> Stumpage value per ton.

<sup>(5)</sup> Stumpage value per cord.

<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 3 Proposed Stumpage Value Table  
Stumpage Value Area 3**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir <sup>(2)</sup>	DF	1	\$542	\$535	\$528	\$521	\$514
		2	457	450	443	436	429
		3	402	395	388	381	374
		4	402	395	388	381	374
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355
		2	347	340	333	326	319
		3	288	281	274	267	260
		4	247	240	233	226	219
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas Fir Poles	DFL	1	796	789	782	775	768

**TABLE 3 Proposed Stumpage Value Table  
Stumpage Value Area 3**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4 Proposed Stumpage Value Table  
Stumpage Value Area 4**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir <sup>(2)</sup>	DF	1	\$632	\$625	\$618	\$611	\$604
		2	528	521	514	507	500
		3	465	458	451	444	437
		4	465	458	451	444	437
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355

**TABLE 4 Proposed Stumpage Value Table  
Stumpage Value Area 4**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		2	320	313	306	299	292
		3	316	309	302	295	288
		4	316	309	302	295	288
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(5)</sup> Includes Western Larch.

<sup>(6)</sup> Includes Alaska Cedar.

<sup>(7)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(8)</sup> Stumpage value per ton.

<sup>(9)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 5 Proposed Stumpage Value Table  
Stumpage Value Area 5**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$655	\$648	\$641	\$634	\$627
		2	534	527	520	513	506

**TABLE 5 Proposed Stumpage Value Table  
Stumpage Value Area 5**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	493	486	479	472	465
		4	493	486	479	472	465
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	559	552	545	538	531
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	383	376	369	362	355
		2	348	341	334	327	320
		3	331	324	317	310	303
		4	328	321	314	307	300
Red Alder	RA	1	367	360	353	346	339
		2	268	261	254	247	240
Black Cottonwood	BC	1	34	27	20	13	6
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles	DFL	1	796	789	782	775	768
Western Redcedar Poles	RCL	1	1373	1366	1359	1352	1345
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(5)</sup> Includes Western Larch.

<sup>(6)</sup> Includes Alaska Cedar.

<sup>(7)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(8)</sup> Stumpage value per ton.

<sup>(9)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table  
Stumpage Value Area 6**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir <sup>(2)</sup>	DF	1	\$357	\$350	\$343	\$336	\$329
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(3)</sup>	RC	1	480	473	466	459	452
True Firs and Spruce <sup>(4)</sup>	WH	1	253	246	239	232	225
Western White Pine	WP	1	320	313	306	299	292
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	480	473	466	459	452
Small Logs <sup>(5)</sup>	SML	1	37	36	35	34	33
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
<sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir <sup>(2)</sup>	DF	1	\$402	\$395	\$388	\$381	\$374
Lodgepole Pine	LP	1	265	258	251	244	237
Ponderosa Pine	PP	1	321	314	307	300	293
		2	200	193	186	179	172
Western Redcedar <sup>(3)</sup>	RC	1	480	473	466	459	452
True Firs and Spruce <sup>(4)</sup>	WH	1	285	278	271	264	257
Western White Pine	WP	1	320	313	306	299	292
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	480	473	466	459	452
Small Logs <sup>(5)</sup>	SML	1	33	32	31	30	29
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
<sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10**  
July 1 through December 31, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$618	\$611
		2	514	507	500	493	486
		3	451	444	437	430	423
		4	451	444	437	430	423
Lodgepole Pine	LP	1	221	214	207	200	193
Ponderosa Pine	PP	1	317	310	303	296	289
		2	211	204	197	190	183
Western Redcedar <sup>(2)</sup>	RC	1	545	538	531	524	517
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	369	362	355	348	341
		2	306	299	292	285	278
		3	302	295	288	281	274
		4	302	295	288	281	274
Red Alder	RA	1	353	346	339	332	325
		2	254	247	240	233	226
Black Cottonwood	BC	1	20	13	6	1	1
Other Hardwood	OH	1	151	144	137	130	123
Douglas-Fir Poles	DFL	1	782	775	768	761	754
Western Redcedar Poles	RCL	1	1359	1352	1345	1338	1331
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	174	167	160	153	146
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 1—Proposed Stumpage Value Table  
Stumpage Value Area 1**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir	DF	1	\$612	\$605
		2	510	503	496	489	482
		3	473	466	459	452	445
		4	468	461	454	447	440
Western Redcedar <sup>(2)</sup>	RC	1	631	624	617	610	603
Western Hemlock <sup>(3)</sup>	WH	1	339	332	325	318	311
		2	330	323	316	309	302
		3	317	310	303	296	289
		4	315	308	301	294	287
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Alaska-Cedar.

<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

<sup>(4)</sup> Stumpage value per ton.

<sup>(5)</sup> Stumpage value per cord.

<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table**  
**Stumpage Value Area 2**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$612	\$605	\$598	\$591	\$584
		2	522	515	508	501	494
		3	502	495	488	481	474
		4	502	495	488	481	474
Western Redcedar <sup>(2)</sup>	RC	1	631	624	617	610	603
Western Hemlock <sup>(3)</sup>	WH	1	351	344	337	330	323
		2	351	344	337	330	323
		3	351	344	337	330	323
		4	335	328	321	314	307
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(4)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska-Cedar.  
<sup>(3)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table**  
**Stumpage Value Area 3**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$612	\$605	\$598	\$591	\$584
		2	519	512	505	498	491
		3	489	482	475	468	461
		4	429	422	415	408	401
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	346	339	332	325	318
		2	346	339	332	325	318
		3	346	339	332	325	318
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table  
Stumpage Value Area 4**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$612	\$605	\$598	\$591	\$584
		2	546	539	532	525	518
		3	502	495	488	481	474
		4	502	495	488	481	474
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	339	332	325	318	311
		2	338	331	324	317	310
		3	338	331	324	317	310
		4	336	329	322	315	308
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table  
Stumpage Value Area 5**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$661	\$654	\$647	\$640	\$633
		2	513	506	499	492	485
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	631	624	617	610	603
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	339	332	325	318	311
		2	336	329	322	315	308
		3	336	329	322	315	308
		4	327	320	313	306	299
Red Alder	RA	1	356	349	342	335	328
		2	211	204	197	190	183
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	177	170	163	156	149
Douglas-Fir Poles & Piles	DFL	1	786	779	772	765	758
Western Redcedar Poles	RCL	1	1383	1376	1369	1362	1355
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table  
Stumpage Value Area 6**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$361	\$354	\$347	\$340	\$333
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	489	482	475	468	461
True Firs and Spruce <sup>(4)</sup>	WH	1	239	232	225	218	211
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs <sup>(5)</sup>	SML	1	42	41	40	39	38
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- <sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska-Cedar.
- <sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- <sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$400	\$393	\$386	\$379	\$372
Lodgepole Pine	LP	1	278	271	264	257	250
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	489	482	475	468	461
True Firs and Spruce <sup>(4)</sup>	WH	1	302	295	288	281	274
Western White Pine	WP	1	281	274	267	260	253
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	489	482	475	468	461
Small Logs <sup>(5)</sup>	SML	1	36	35	34	33	32
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- <sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska-Cedar.
- <sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- <sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table**  
**Stumpage Value Area 10**  
 January 1 through June 30, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$598	\$591
		2	532	525	518	511	504
		3	488	481	474	467	460
		4	488	481	474	467	460
Lodgepole Pine	LP	1	208	201	194	187	180
Ponderosa Pine	PP	1	285	278	271	264	257
		2	204	197	190	183	176
Western Redcedar <sup>(3)</sup>	RC	1	617	610	603	596	589
Western Hemlock and Other Conifer <sup>(4)</sup>	WH	1	325	318	311	304	297
		2	324	317	310	303	296
		3	324	317	310	303	296
		4	322	315	308	301	294
Red Alder	RA	1	342	335	328	321	314
		2	197	190	183	176	169
Black Cottonwood	BC	1	55	48	41	34	27
Other Hardwood	OH	1	163	156	149	142	135
Douglas-Fir Poles & Piles	DFL	1	772	765	758	751	744
Western Redcedar Poles	RCL	1	1369	1362	1355	1348	1341
Chipwood <sup>(5)</sup>	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	164	157	150	143	136
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((July)) January 1 through ((December 31, 2006)) June 30, 2007:

**TABLE 9—Harvest Adjustment Table**  
**Stumpage Value Areas 1, 2, 3, 4, 5, and 10**  
 ((July)) January 1 through ((December 31, 2006)) June 30, 2007

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		



Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table  
Stumpage Value Areas 6 and 7  
(July) January 1 through ((December 31, 2006)) June 30, 2007**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	- \$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

**TABLE 11—Domestic Market Adjustment**

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

**(4) Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

**WSR 07-02-050  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 06-301—Filed December 27, 2006, 3:34 p.m., effective January 27, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend fishing rules. The fish and wildlife commission adopted a rule to make it unlawful to fish for, possess, or retain green sturgeon taken with commercial gear statewide. Any green sturgeon taken incidentally to another fishery must be immediately returned to the water unharmed.

This rule is necessary because of the recent federal listing of the southern population of green sturgeon as "threatened" under the Endangered Species Act. We received no public testimony on this proposal.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-020.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 06-19-022 on September 11, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2006.

Susan Yeager  
for Ron Ozment, Chair  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 06-134, filed 6/13/06, effective 7/14/06)

**WAC 220-20-020 General provisions—Lawful and unlawful acts—Food fish other than salmon.** (1) It is unlawful to fish for or possess for commercial purposes any round, undressed sturgeon less than 48 inches or greater than 60 inches in length.

(2) It is unlawful to fish for, possess, or retain green sturgeon taken with commercial gear. Any green sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(3) It is unlawful to fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

~~((3))~~ (4) It is unlawful to fish for or possess for commercial purposes sturgeon taken from any of the waters of Puget Sound or tributaries, and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

~~((4))~~ (5) It is unlawful to fish for food fish for commercial purposes in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

~~((5))~~ (6) It is unlawful to fish for or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

~~((6))~~ (7) It shall be unlawful to harvest herring eggs naturally deposited on marine vegetation or other substrate, unless a person has a permit issued by the director.

~~((7))~~ (8) It is unlawful to fish for or possess carp taken for commercial purposes except as authorized by written permit from the director, except that carp taken incidental to a commercial fishery for other species may be retained for commercial purposes. Failure to comply with the provisions of the carp permit constitutes unlawful use of the carp commercial fishery license

~~((8))~~ (9) It is unlawful to fin sharks in Washington state waters, and it is unlawful to possess shark fins in the field unless the carcass of the shark is retained, except that once a commercially taken shark carcass has been delivered to a licensed wholesale dealer or a person acting in that capacity, and the sale of the shark has been recorded on a fish receiving ticket, the shark fins need not be retained with the shark carcass.

**WSR 07-02-055**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**  
(Community Health Services)

[Order 06-07—Filed December 28, 2006, 11:08 a.m., effective January 28, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends chapter 182-20 WAC and establishes rules regarding the administration and implementation of the community health care collaborative grant program pursuant to E2SSB 6459 in chapter 67, Laws of 2006. The rule will allow for community health services, under the direction of the administrator of the authority, to administer the program, determine eligibility, and allocate grant funds.

Citation of Existing Rules Affected by this Order: Amending WAC 182-20-001.

Statutory Authority for Adoption: RCW 41.05.160, 41.05.220, and 41.05.230.

Other Authority: Chapter 67, Laws of 2006.

Adopted under notice filed as WSR 06-23-099 on November 16, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 28, 2006.

Jason Siems  
Rules Coordinator

AMENDATORY SECTION (Amending Order 00-06, filed 2/7/01, effective 3/10/01)

**WAC 182-20-001 Purpose.** The purpose of this chapter is to establish procedures at the Washington state health care authority for determining eligibility and distribution of funds for:

(1) Medical, dental, and migrant services to community health clinics under section 214(3), chapter 19, Laws of 1989 1st ex. sess., including other state general fund appropriations for medical, dental, and migrant services in community health clinics since 1985; and

(2) Other grant programs assigned to the authority. The authority shall disburse grant awards to community-based organizations to develop innovative health care delivery models that address:

(a) Access to medical treatment;

(b) Efficient use of health care resources; or

(c) Improve quality of care.

NEW SECTION

**WAC 182-20-600 Community health care collaborative program.** The community health care collaborative grant program was established July 1, 2006, to develop innovative health care delivery models. The funding covers a two-year cycle; half of the award to be distributed throughout the first year and the final half distributed throughout the second year upon evidence of successful program progress and achieving grant objectives, based upon available funding.

NEW SECTION

**WAC 182-20-610 Administration.** The authority is responsible for:

(1) Preaward development.

(a) Develop criteria for the selection of community-based organizations to receive grant funding;

(b) Develop equitable standards governing the granting of awards;

(c) Determine nature and format of the application and process.

(2) Award determinations.

(a) Consult with representatives, appointed by the secretary of the department of health, the assistant secretary of health and recovery services administration within the department of social and health services, and the office of the insurance commissioner to make recommendations for final applicant selection and grant determination;

(b) The administrator will review recommendations and make final determination based upon recommendations, funds available and utilization of resources to meet the goals of the program;

(c) Conduct on-site visits to ensure applicant's ability to achieve grant objectives and performance measures identified in the application;

(d) Contract with successful applicants; and

(e) Disburse grant funds according to program policy.

(3) Post-award actions.

(a) Review periodic progress reports from contractors;

(b) Conduct on-site visits of contractors to provide assistance and ensure compliance of grant objectives;

(c) Consult with representatives from department of health, the assistant secretary of health and recovery services administration within the department of social and health services, and office of the insurance commissioner, one year following initial disbursement, to make recommendations to administrator for disbursement of the second half of grant funds, based upon performance measures identified in the application and evidence of successful program progress and achieving grant objectives;

(d) The administrator will review and make final determination for grant disbursements; and

(e) Compile a report to the governor and legislature on July 1, 2008, which:

(i) Describes organizations and programs funded;

(ii) Describes and analyzes results achieved;

(iii) Makes recommendations for improvements to the program; and

(iv) Highlights best practices that can be replicated statewide.

NEW SECTION

**WAC 182-20-620 Application process.** (1) Eligibility.

(a) Applicants must provide the following in the application format prescribed by the authority:

(i) Evidence of private, nonprofit, tax exempt status incorporated in Washington state or public agency status under the jurisdiction of a local, county, or tribal government;

(ii) Evidence of the specific geographic region served and a formal collaborative governing structure by documentation that may include, but is not limited to:

(A) Bylaws;

(B) Agreements;

(C) Contracts;

(D) Memorandum of understanding;

(E) Minutes;

(F) Letters; or

(G) Other communications;

(iii) Amount of funds requested and how the dollars will be spent;

(iv) Data to evaluate program progress and grant objectives.

(b) Applicants will be evaluated competitively on their ability to:

(i) Address documented health care needs in the specific region served;

(ii) Engage key community members;

(iii) Show evidence of matching funds of at least two dollars for each grant dollar requested. All matching fund contributions, including cash and in-kind, shall meet the criteria determined by the administrator and included in the application guidelines;

(iv) Ability to meet the documented health care needs and address sustainability of programs;

(v) Show innovation in program approaches that could be replicated throughout the state;

(vi) Make efficient and cost-effective use of funds by simplifying administration affecting the health care delivery system;

(vii) Clearly describe size of organization, program objectives, and populations served; and

(viii) Meet the reporting requirements of the authority.

(c) Application access.

(i) The call for grant applications will be made by posting the announcement to the authority's official web site and by notification sent to interested parties.

(ii) To be placed on the interested parties distribution list, send contact information, including mailing and e-mail addresses to community health care collaboration at Washington State Health Care Authority, P.O. Box 42721, Olympia, Washington 98504-2721.

(2) The guidelines and application forms will be available on the authority's official web site and included with the published guidelines distributed by e-mail to those who request an application. The application will be available in hard copy and sent by United States mail upon request. Applications must be completed and submitted in the format and filed by the deadlines prescribed by the authority and published in the guidelines.

#### WSR 07-02-066

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

(Medical Assistance)

[Filed December 29, 2006, 8:48 a.m., effective January 29, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The federal Deficit Reduction Act of 2005 (Public Law 109-171, Section 6036) requires states to obtain documentation of citizenship and identity for all applicants for and recipients of Medicaid.

Citation of Existing Rules Affected by this Order: Amending WAC 388-490-0005.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090, 74.09.530, and Public Law 109-171, Section 6036.

Adopted under notice filed as WSR 06-22-031 on October 25, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 26, 2006.

Andy Fernando, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-21-029, filed 10/7/03, effective 11/1/03)

**WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and Basic Food.** This rule applies to cash, medical, and Basic Food.

(1) When you first apply for benefits, the department may require you to provide proof of things that help us decide if you are eligible for benefits. This is also called "verification." The types of things that need to be proven are different for each program.

(2) After that, we will ask you to give us proof when:

(a) You report a change;

(b) We find out that your circumstances have changed;

or

(c) The information we have is questionable, confusing, or outdated.

(3) Whenever we ask for proof, we will give you a notice as described in WAC 388-458-0020.

(4) You must give us the proof within the time limits described in:

(a) WAC 388-406-0030 if you are applying for benefits;

and

(b) WAC 388-458-0020 if you currently receive benefits.

(5) We will accept any proof that you can easily get when it reasonably supports your statement or circumstances. The proof you give to us must:

(a) Clearly relate to what you are trying to prove;

(b) Be from a reliable source; and

(c) Be accurate, complete, and consistent.

(6) We cannot make you give us a specific type or form of proof.

(7) If the only type of proof that you can get costs money, we will pay for it.

(8) If the proof that you give to us is questionable or confusing, we may:

(a) Ask you to give us more proof, which may include providing a collateral statement. A "collateral statement" is from someone outside of your residence who knows your situation;

(b) Schedule a visit to come to your home and verify your circumstances; or

(c) Send an investigator from the Division of Fraud Investigations (DFI) to make an unannounced visit to your home to verify your circumstances.

(9) By signing the application, eligibility review, or change of circumstances form, you give us permission to contact other people, agencies, or institutions.

(10) If you do not give us all of the proof that we have asked for, we will determine if you are eligible based on the information that we already have. If we cannot determine that

you are eligible based on this information, we will deny or stop your benefits.

(11) For all Medicaid programs, you must provide proof of citizenship and identity as specified at Section 6036 of the Deficit Reduction Act of 2005 (PL 106-171 amending USC 1396b). Exempt from this requirement are recipients of:

(a) SSI cash benefits; or

(b) Medicare.

**WSR 07-02-071**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed December 29, 2006, 10:15 a.m., effective January 29, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules contained in chapter 460-11A WAC were adopted by the securities division in 1991. The NASAA model rules on which these rules are based were updated in 2005. These rules promote uniformity with respect to securities offerings by Canadian issuers, which furthers the uniformity goals of RCW 21.20.450. The securities division has amended these rules to maintain their uniformity in light of the 2005 amendments to the NASAA model rule.

Citation of Existing Rules Affected by this Order: Amending WAC 460-11A-020.

Statutory Authority for Adoption: RCW 21.20.450, [21.20].240.

Adopted under notice filed as WSR 06-23-161 on November 22, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: December 28, 2006.

Scott Jarvis  
Director

AMENDATORY SECTION (Amending WSR 91-18-014, filed 8/26/91, effective 9/26/91)

**WAC 460-11A-020 Time for taking effect of multi-jurisdictional registration statement.** The period of time under RCW 21.20.190(2) a registration statement must be on file before it becomes automatically effective shall be

reduced from ten full business days to ~~((seven full business))~~ three days for a multijurisdictional offering.

NEW SECTION

**WAC 460-11A-050 Exemption for secondary trading of certain multijurisdictional registered securities.** After a multijurisdictional offering has been declared effective by the SEC, a nonissuer transaction in any class of the issuer's securities is exempt from registration, whether or not the transaction is effected through a broker-dealer.

**WSR 07-02-072**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**

[Filed December 29, 2006, 10:52 a.m., effective January 29, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-131 (Rule 131) provides detailed information about the applicability of business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating contests of chance and amusement games. It includes names of games that are considered contests of chance and those considered amusement games. The rule directs readers to other RCWs and WACs for additional information on several issues including nonprofit fundraising, coin-operated games, which are not amusement games, and for sales of foods and beverages.

Rule 131 has been revised to recognize statutory changes. The name of the rule has been changed from "games of chance" to "gambling activities" to more accurately describe the contents. Changes include new tax classifications that apply to contests of chance income (less than \$50,000 and \$50,000 or more) and parimutuel wagering income. Reporting instructions for periods prior to April 1, 1999, have been removed.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-131 Gambling activities.

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

Adopted under notice filed as WSR 06-22-084 on October 31, 2006.

Changes Other than Editing from Proposed to Adopted Version: In subsection (3)(a) "Taxability of contests of chance on or after July 1, 2005," language has been added to explain that income from amusement games should not be combined with income from contests of chance for purposes of determining whether the "less than fifty thousand dollar" threshold for determining the tax classification for gambling contests of chance is met.

The language above replaces language removed from subsection (4) "Amusement games," which explained that income from amusement games should not be included when computing income from contests of chance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 29, 2006.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 99-08-090, filed 4/6/99, effective 5/7/99)

**WAC 458-20-131 ((Games of chance.)) Gambling activities.** (1) **Introduction.** This ~~((rule))~~ section explains the business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating contests of chance such as pull-tab and punch board games~~((It also explains the application of tax to persons conducting amusement games))~~, card games, bingo games, ~~((and))~~ raffles, and persons operating amusement games such as dart-toss games, ball-throw or ball-roll games, and crane games. It also explains the B&O tax reporting requirements of persons engaged in the business of conducting parimutuel wagering, which became effective July 1, 2005. Nonprofit organizations conducting ~~((these games as a part of their))~~ activities for fund-raising ((activities)) purposes should also refer to RCW 82.04.3651, 82.08.02573, and WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops) to determine if a B&O, retail sales, or use tax exemption is available for their activities.

Persons ~~((operating or selling these types of games))~~ conducting the types of activities described above should also be aware that the Washington state gambling commission regulates these activities. These persons should refer to chapter 9.46 RCW (Gambling—1973 Act), Title 230 WAC (Gambling commission), and/or contact the Washington state gambling commission with any questions regarding their licensing and reporting responsibilities with the commission. Persons engaging in the business of parimutuel wagering should refer to chapter 67.16 RCW (Horse racing) and/or contact the Washington horse racing commission for additional reporting responsibilities.

(2) ~~((Measure of tax. The business and occupation (B&O) and retail sales taxes apply to income as described below. These guidelines apply equally whether the game is mechanically or electronically operated.~~

~~((a) Pull-tab, punch board, and bingo games.))~~ **Parimutuel wagering.** Effective July 1, 2005, persons engaging within this state in the business of conducting race meets for which a license must be obtained from the Washington horse racing commission are taxable under the parimutuel wagering B&O tax classification. Chapter 369, Laws of 2005. This tax is in addition to any tax imposed under chapter 67.16 RCW. Unlike the parimutuel tax, the

B&O tax applies to both in-state and out-of-state parimutuel wagering. The measure of tax is the gross income of the business derived from parimutuel wagering. For purposes of this classification, "gross income" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW (i.e., RCW 67.16.102 owners bonus, RCW 67.16.105 fair fund, RCW 67.16.175 breeders award).

**(3) Contests of chance.** Contests of chance means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punch board games, and pull-tabs as those terms are defined in chapter 9.46 RCW. Contests of chance does not include race meets for the conduct of which a license must be secured from the Washington horse racing commission, or "amusement game" as defined in RCW 9.46.0201.

**(a) Taxability of contests of chance on or after July 1, 2005.** Effective July 1, 2005, persons operating contests of chance are taxable under one of two new B&O tax classifications on their total gross income for all contests of chance. Chapter 369, Laws of 2005. Persons whose gross income from contests of chance is less than fifty thousand dollars in a calendar year will report all such income under the "gambling contests of chance (less than \$50,000 a year)" tax classification. Income from amusement games should not be combined with income from contests of chance for purposes of determining if the "less than fifty thousand dollar" threshold is met. (See subsection (4) of this section for tax-reporting information about amusement games.)

Persons whose gross income from contests of chance is fifty thousand dollars or more in a calendar year will report all such income under the "gambling contests of chance (\$50,000 a year or greater)" tax classification.

**(b) Taxability of contests of chance before July 1, 2005.** Before July 1, 2005, persons operating contests of chance were taxable on their gross income under the service and other activities B&O tax classification.

**(c) Measure of tax.** Persons operating contests of chance are subject to B&O tax on the gross income of the business derived from contests of chance. With respect to income from contests of chance, "gross income" of the business does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes. In the case of donated merchandise, the operator may deduct the fair-market value of the merchandise. Costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.

**(d) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(i) Example 1. Persons operating ~~((pull-tab, punch board, or))~~ for-profit weekly bingo games at the Town & Country Social Club are taxable ~~((under the service and other activities B&O tax classification))~~ upon ~~((all "increases"))~~ gross income arising from the ~~((conduct))~~ operation of ~~((such))~~ their games. ~~((The term "increases" as used in this subsection, means gross gambling receipts less the monetary value or, in the case of merchandise, the actual cost, of any prizes that are awarded. The actual cost of the merchandise is the amount actually paid by the operator without any markup. In the case of donated merchandise, the operator may deduct the fair market value of the merchandise. While the cost of merchandise prizes may be deducted, other costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.~~

Prior to April 1, 1999, operators of pull-tab and punch board games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. As a result, this income was subject to the retailing B&O and retail sales taxes.

(b) Card games. The fees charged to card players as a condition for their participation in card games, whether the fees are based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"), are subject to the service and other activities B&O tax. In those cases where the operator of the card room participates in the card game as a house or central bank, the measure of tax is the amount of winnings less the amount of losses.

(c) Raffles. Effective April 1, 1999, persons conducting raffles are subject to the service and other activities B&O tax upon all "increases" (as defined in subsection (2)(a) above) arising from the conduct of the raffles. Prior to this date, the measure of tax was the gross income from the sale of raffle tickets or chances without any deduction for the value or cost of any prizes awarded.

(d)) As their annual gross income from the bingo games is \$30,000, they will report under the gambling contests of chance (less than \$50,000 a year) tax classification.

(ii) Example 2. The Lucky Card Room (LCR) charges a fee to all card players as a condition for participating in their card games. Depending on the game, the LCR may charge a fee based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"). Their annual gross income from card game fees and percentages of wagers is \$120,000, and thus they will report under the gambling contests of chance (\$50,000 a year or greater) tax classification.

(iii) Example 3. Take A Chance (TAC) is a business offering customers several types of gambling activities, such as pull-tabs, bingo, and punch board games. Based on last year's income and this year's anticipated income, TAC started the year out reporting their gross income under the gambling contests of chance (less than \$50,000 a year) tax classification. As their income from gambling activities was better than anticipated, they passed the \$50,000 threshold. TAC must now start reporting their gross income under the gambling contests of chance (\$50,000 a year or greater) tax classification. They must also reclassify, by filing amended

excise tax returns, all income reported for the year under the tax classification for less than \$50,000 a year to \$50,000 a year or greater.

(4) Amusement games. Chapter 369, Laws of 2005, made no change to the taxability of income derived from amusement games as defined in RCW 9.46.0201. The gross receipts derived from the operation of ~~((amusement games as defined in RCW 9.46.0201))~~ these games are subject to the service and other activities B&O tax. The cost of any prizes awarded may not be deducted from the measure of tax.

((+)) For example. The Flying High Club provides amusement games for customers to play. Prizes, such as free or discounted meal vouchers or home appliances, are awarded to the winners. The cost of these prizes is not allowed as an adjustment to computing the Flying High Club's gross income.

(a) What is an amusement game? The term "amusement game" is defined in RCW 9.46.0201 ~~((defines amusement games to be))~~ as a game played for entertainment in which:

- ((A)) (i) The contestant actively participates;
- ((B)) (ii) The outcome depends in a material degree upon the skill of the contestant;
- ((C)) (iii) Only merchandise prizes are awarded; ~~((and~~
- ((D)) (iv) The outcome is not in the control of the operator;

(v) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(vi) The game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules adopted by the gambling commission under chapter 9.46 RCW.

((+)) (b) Examples of amusement games. Crane machines, coin-toss and dart-toss games at fairs and carnivals, and skill-stop games are examples of games qualifying as amusement games under RCW 9.46.0201. For additional examples of amusement games, refer to WAC 230-20-508 (Authorized amusement games—Types, standards and classifications) issued by the gambling commission.

(c) Coin-operated games are not amusement games. Persons operating coin-operated games that do not qualify under the definition of amusement games in RCW 9.46.0201 (e.g., pinball, video, and pool games) should refer to WAC 458-20-187 (Coin-operated vending machines, amusement devices and service machines) for an explanation of their tax reporting responsibilities.

((+)) (5) Sales of foods and beverages. Sales of foods, beverages, and other tangible personal property by persons operating or conducting any of the activities described above are retail sales and subject to the retailing B&O and retail sales taxes, unless a specific exemption applies (e.g., see WAC 458-20-124 regarding sales of food and beverages by restaurants, taverns, and similar businesses and WAC 458-20-244 for exemptions available for certain food products). Persons conducting dice games to determine the amount that the customer will pay for food or beverages are subject to tax upon the amount the customer actually pays for the food or drink.

~~((3))~~ **(6) Merchandise prizes.** Persons operating or conducting any of the activities described ~~((in subsection (2)(a) through (d) of this rule))~~ above are the consumers of any merchandise delivered to the players in the form of prizes or awards. Purchases of this merchandise are purchases at retail and subject to the retail sales tax, unless a specific exemption applies (e.g., see WAC 458-20-244 for exemptions available for certain food products). Purchases of supplies, devices, and other equipment used in the conduct of these ~~((games))~~ activities are also subject to the retail sales tax.

~~((a))~~ If retail sales tax is not collected by the seller, the person conducting these ~~((games))~~ activities must remit the retail sales tax (often referred to as deferred retail sales tax) or use tax directly to the department of revenue. See also WAC 458-20-178 (Use tax).

~~((b) Prior to April 1, 1999, operators of punch board and pull tab games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. The purchase of the merchandise prizes by the operators of these games were purchases at wholesale and not subject to either the retail sales or use tax.~~

~~For the purposes of determining the taxability of merchandise prizes awarded by operators of punch board and pull tab games that were in operation both before and after April 1, 1999, the operator should remit retail sales or use tax on the value of the prizes awarded on or after April 1, 1999.)~~

#### WSR 07-02-074

#### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed December 29, 2006, 10:55 a.m., effective January 29, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: In order to take certain tax credits, deferrals, and exemptions ("tax adjustments"), taxpayers must file an annual survey with the department of revenue (the "department") containing information about their business activities and employment. This rule explains the survey requirements for the various tax adjustments. This rule also explains who is required to file an annual survey, how to file a survey, and what information must be included in the survey.

The department adopted WAC 458-20-268 Annual surveys for certain tax adjustments, to incorporate provisions from the following: (a) Chapter 2, Laws of 2004, (b) chapter 25, Laws of 2004, (c) chapter 513, Laws of 2005, (d) chapter 514, Laws of 2005, (e) chapter 112, Laws of 2006, (f) chapter 177, Laws of 2006, (g) chapter 178, Laws of 2006, (h) chapter 300, Laws of 2006, and (i) chapter 354, Laws of 2006. These provisions require completion of an annual survey by a person claiming the following tax adjustments:

- B&O tax credit for research and development spending under RCW 82.04.4452,
- Rural counties' sales and use tax deferral under chapter 82.60 RCW,
- High technology sales and use tax deferral under chapter 82.63 RCW,

- Sales and use tax deferral for biotechnology product manufacturing under chapter 82.75 RCW,
- Sales and use tax deferral for dairy product manufacturing, seafood product manufacturing, and fresh fruit and vegetable processing under chapter 82.74 RCW,
- B&O tax exemption for dairy products under RCW 82.04.4268, seafood products under RCW 82.04.4269, and fruits and vegetables under RCW 82.04.4266,
- B&O tax credit for aerospace preproduction development under RCW 82.04.4487,
- Reduced B&O tax rate for certain FAR part 145 certificated repair stations under RCW 82.04.250(3),
- B&O tax credit for customized employment training under RCW 82.04.449, and
- Reduced B&O tax rates for timber products under RCW 82.04.260(12).

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

Adopted under notice filed as WSR 06-22-064 on October 30, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: December 29, 2006.

Alan R. Lynn  
Rules Coordinator

#### NEW SECTION

**WAC 458-20-268 Annual surveys for certain tax adjustments.** (1) **Introduction.** In order to take certain tax credits, deferrals, and exemptions ("tax adjustments"), taxpayers must file an annual survey with the department of revenue (the "department") containing information about their business activities and employment. This section explains the survey requirements for the various tax adjustments. This section also explains who is required to file an annual survey, how to file a survey, and what information must be included in the survey.

Refer to WAC 458-20-267 (Annual reports for certain tax adjustments) for more information on the annual report requirements for certain tax incentive programs.

This section provides examples that identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.



(2) **Who is required to file the annual survey?** The following persons must file an annual survey:

(a) A person claiming the B&O tax credit provided by RCW 82.04.4452 for engaging in qualified research and development. A separate annual survey must be filed for each tax reporting account. If the person has assigned its entire B&O tax credit provided by RCW 82.04.4452 to another person, the assignor is not required to file an annual survey. In such an instance, the assignee of the B&O tax credit is required to file an annual survey. If the person has assigned a portion of its B&O tax credit to another person, both the assignor and the assignee are required to file an annual survey. Refer to WAC 458-20-24003 (Tax incentives for high technology businesses) for more specific information about this tax adjustment.

(b) An applicant for deferral of taxes under chapter 82.60 RCW for sales and use taxes on an eligible investment project in rural counties. Refer to WAC 458-20-24001 (Sales and use tax deferral—Manufacturing and research/development activities in rural counties—Applications filed after March 31, 2004) for more specific information about this tax adjustment.

(c) An applicant for deferral of taxes under chapter 82.63 RCW for sales and use taxes on an eligible investment project in high technology. Refer to WAC 458-20-24003 (Tax incentives for high technology businesses) for more specific information about this tax adjustment.

(d) An applicant for deferral of taxes under chapter 82.75 RCW for sales and use taxes on an eligible investment project in biotechnology products.

(e) A lessee of an eligible investment project under chapters 82.60, 82.63, and 82.75 RCW (as defined in RCW 82.60.020 (4)(b)(ii), 82.63.010 (7)(b), or 82.75.010 (5)(b)(ii)) who receives the economic benefit of the deferral and agrees in writing with the department to complete the annual survey. A lessor, by written contract, must agree to pass the economic benefit of the deferral to its lessee. The economic benefit of the deferral to the lessee must be no less than the amount of tax deferred by the lessor as evidenced by written documentation of any type, whether by payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee. An applicant who is a lessor of an eligible investment project that received a deferral of taxes under chapters 82.60, 82.63, and 82.75 RCW and who meets these requirements is not required to complete and file an annual survey.

(f) A person claiming the B&O tax exemption provided by RCW 82.04.4268 for dairy products, RCW 82.04.4269 for seafood products, and RCW 82.04.4266 for fruits and vegetables.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax exemption. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax exemption.

(g) An applicant for deferral of taxes under chapter 82.74 RCW for sales and use taxes on an eligible investment project for dairy product manufacturing, seafood product manufac-

turing, or fresh fruit and vegetable processing. This tax adjustment is effective July 1, 2007.

(h) A lessee of an eligible investment project under chapters 82.74 RCW (as defined in RCW 82.74.010 (4)(b)) who receives the economic benefit of the deferral and agrees in writing with the department to complete the annual survey. A lessor, by written contract, must agree to pass the economic benefit of the deferral to its lessee. The economic benefit of the deferral to the lessee must be no less than the amount of tax deferred by the lessor as evidenced by written documentation of any type, whether by payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee. An applicant who is a lessor of an eligible investment project that received a deferral of taxes under chapter 82.74 RCW and who meets these requirements is not required to complete and file an annual survey. This tax adjustment is effective July 1, 2007.

(i) A person claiming the B&O tax credit provided by RCW 82.04.4487 for persons engaged in qualified preproduction development in the field of aeronautics. A separate annual survey must be filed for each tax reporting account. If the person has assigned its entire B&O tax credit provided by RCW 82.04.4487 to another person, the assignor is not required to file an annual survey. In such an instance, the assignee of the B&O tax credit is required to file an annual survey. If the person has assigned a portion of its B&O tax credit to another person, both the assignor and the assignee are required to file an annual survey.

(j) A person claiming the B&O tax rate provided by RCW 82.04.250(3) for FAR part 145 certificated repair stations.

(k) A person claiming the B&O tax credit provided by RCW 82.04.449 for customized employment training.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax credit. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax credit.

(l) A person claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products.

The first survey filed under this subsection must also include employment, wage, and benefit information for the twelve-month period immediately before first use of the B&O tax rate. In order to meet this requirement, a person must complete a survey for the calendar year immediately preceding the first use of the B&O tax rate.

### (3) **How to file annual surveys.**

(a) **Required form.** The department has developed a survey form that must be used to complete the annual survey unless a person obtains prior written approval from the department to file the annual survey in an alternative format.

(b) **Electronic filing.** A survey is filed electronically when the department receives the survey in an electronic format. The department may waive the electronic filing requirement for good cause shown. Any person not statutorily required to electronically file the survey has the option of filing the annual survey electronically.

Persons that claim the following tax adjustments must file the survey electronically with the department:

(i) B&O tax credit for qualified research and development under RCW 82.04.4452 (subsection (2)(a) of this section);

(ii) B&O tax exemptions for dairy products, seafood products or fruits and vegetables under RCW 82.04.4268, 82.04.4269, and 82.04.4266 (subsection (2)(f) of this section);

(iii) Sales and use tax deferral for dairy product manufacturing, seafood product manufacturing, or fresh fruit and vegetable processing under chapter 82.74 RCW (subsection (2)(g) and (h) of this section);

(iv) B&O tax credit for qualified preproduction development in the field of aeronautics under RCW 82.04.4487 (subsection (2)(i) of this section);

(v) B&O tax rate for FAR part 145 certificated repair stations under RCW 82.04.250(3) (subsection (2)(j) of this section); and

(vi) B&O tax rate for timber products under RCW 82.04.260(12) (subsection (2)(l) of this section).

(c) **How to obtain the form.** The form may be filed electronically online or obtained by downloading it from the department's web site ([www.dor.wa.gov](http://www.dor.wa.gov)). It may also be obtained from the department's district offices, by telephoning the telephone information center (800-647-7706), or by contacting the department's special programs division at:

Department of Revenue  
Special Programs Division  
Post Office Box 47477  
Olympia, WA 98504-7477  
Fax: 360-586-2163

(d) **Due date.** For persons claiming any B&O tax credit, tax exemption, or tax rate listed under this section, the survey must be filed or postmarked by March 31st following any calendar year in which the tax credit, tax exemption, or tax rate is claimed.

For applicants of any sales tax deferrals listed under this section, the survey must be filed or postmarked by March 31st of the year following the calendar year in which an eligible investment project is certified by the department as being operationally complete and each of the seven succeeding calendar years.

(e) **Examples.**

(i) Advanced Computing, Inc. qualifies for the B&O tax credit provided by RCW 82.04.4452 and applied it against taxes due in calendar year 2006. Advanced Computing, Inc. must electronically file an annual survey with the department by March 31, 2007.

(ii) In 1999, Biotechnology, Inc. applied for and received a sales and use tax deferral under chapter 82.63 RCW for an eligible investment project in qualified research and development. The investment project was certified by the department as being operationally complete in 2001. Biotechnology, Inc. must file its annual survey with the department for the 2005 calendar year by March 31, 2006. A survey is due from Biotechnology, Inc. by March 31st each following year, with its last survey due March 31, 2008.

(iii) Advanced Materials, Inc. has been conducting manufacturing activities in a building leased from Property Management Services since 2002. Property Management Ser-

vices is a recipient of a deferral under chapter 82.60 RCW, and the building was certified by the department as operationally complete in 2002. In order to pass on the entire economic benefit of the deferral, Property Management Services charges Advanced Materials, Inc. \$5,000 less in rent each year. Prior to the 2004 calendar year, Advanced Materials, Inc. is not required under chapter 82.60 RCW to file an annual survey. Advanced Materials, Inc., however, must file its annual survey with the department for the 2004 calendar year by March 31, 2005, assuming all the requirements of RCW 82.60.020 (4)(b)(ii) are met. A survey is due from Advanced Materials, Inc. by March 31st each following year, with its last survey due by March 31, 2009.

(iv) Fruit Canning, Inc. claims the B&O tax exemption provided in RCW 82.04.4266 for the gross proceeds of sales derived from the canning of fruit for the first time in 2006. Fruit Canning, Inc. must file two annual surveys with the department by March 31, 2007, one covering calendar year 2005 and one covering calendar year 2006. If Fruit Canning, Inc. claims the B&O tax exemption during subsequent years, it must file an annual survey for each of those years by March 31 of each following year.

(4) **What information does the annual survey require?** The annual survey requests information about the following:

(a) Amount of tax deferred, the amount of B&O tax exempted, the amount of B&O tax credit taken, or the amount of B&O tax reduced under the preferential rate;

(b) The number of new products or research projects by general classification;

(c) The number of trademarks, patents, and copyrights associated with activities at the investment project.

(d) The following information for employment positions in Washington:

(i) The total number of employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment. Refer to subsection (7) of this section for information about full-time, part-time, and temporary employment positions;

(iii) The number of employment positions according to the wage bands of less than \$30,000; \$30,000 or greater, but less than \$60,000; and \$60,000 or greater. A wage band containing fewer than three individuals may be combined with the next lowest wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands; and

(e) Additional information the department requests that is necessary to measure the results of the tax adjustments.

(i) The department is required to report to the state legislature summary descriptive statistics by category and the effectiveness of the tax adjustments, such as job creation, company growth, and such other factors as the department selects or as the statutes identify. The department has included questions related to measuring these effects.

(ii) In addition, the department has included questions related to:

(A) The person's use of the sales and use tax exemption for machinery and equipment used in manufacturing provided in RCW 82.08.02565 and 82.12.02565; and

(B) The Unified Business Identifier used with the Washington state employment security department and all employment security department reference numbers used on quarterly tax reports that cover the employment positions reported in the annual survey.

**(5) What is total employment in the annual survey?**

(a) The annual survey requires information on all full-time, part-time, and temporary employment positions located in Washington state on December 31st of the calendar year covered by the report. Total employment includes persons who are on leaves of absence such as sick leave, vacation, disability leave, jury duty, military leave, and workers compensation leave, regardless of whether those persons are receiving wages. Total employment does not include separation from employment such as layoffs or reductions in force. Vacant positions are not included in total employment.

(b) **Examples.** Assume these facts for the following examples. National Construction Equipment (NCE) manufactures bulldozers, cranes, and other earth-moving equipment in Ridgefield, WA and Kennewick, WA. NCE received a deferral of taxes under chapter 82.60 RCW for sales and use taxes on its new manufacturing site in Kennewick, WA.

(i) NCE employs two hundred workers in Ridgefield manufacturing construction cranes. NCE employs two hundred fifty workers in Kennewick manufacturing bulldozers and other earth-moving equipment. Although NCE's facility in Ridgefield does not qualify for any tax adjustments, NCE's annual survey must report a total of four hundred fifty employment positions. The annual survey includes all Washington state employment positions, which includes employment positions engaged in activities that do not qualify for tax adjustments.

(ii) On November 20th, NCE lays off seventy-five workers. NCE notifies ten of the laid off workers on December 20th that they will be rehired and begin work on January 2nd. The seventy-five employment positions are excluded from NCE's annual survey, because a separation of employment has occurred. Although NCE intends to rehire ten employees, those employment positions are vacant on December 31st.

(iii) On December 31st, NCE has one hundred employees on vacation leave, five employees on sick leave, two employees on military leave, one employee who is scheduled to retire as of January 1st, and three vacant employment positions. The employment positions of employees on vacation, sick leave, and military leave must be included in NCE's annual survey. The one employee scheduled to retire must be included in the annual survey because the employment position is filled on December 31st. The three vacant positions are not included in the annual survey.

(iv) In June, NCE hires two employees from a local college to intern in its engineering department. When the academic year begins in September, one employee ends the internship. The other employee's internship continues until the following June. NCE must report one employment position on the annual survey, representing the one intern employed on December 31st.

**(6) When is an employment position located in Washington state?** The annual survey seeks information about

Washington employment positions only. An employment position is located in Washington state if:

(a) The service of the employee is performed entirely within the state;

(b) The service of the employee is performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state;

(c) The service of the employee is performed both within and without the state, and the employee's base of operations is within the state;

(d) The service of the employee is performed both within and without the state, but the service is directed or controlled in this state; or

(e) The service of the employee is performed both within and without the state and the service is not directed or controlled in this state, but the employee's individual residence is in this state.

(f) **Examples.** Assume these facts for the following examples. Acme Computer, Inc. develops computer software and claims the B&O tax credit provided by RCW 82.04.4452 for its research and development spending. Acme Computer, headquartered in California, has employees working at four locations in Washington state. Acme Computer also has offices in Oregon and Texas.

(i) Ed is a software engineer in Acme Computer's Vancouver office. Ed occasionally works at Acme Computer's Portland, Oregon office when other software engineers are on leave. Ed's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Ed performs services both within and without the state, but the services performed without the state are incidental to the employee services within Washington state.

(ii) John is an Acme Computer salesperson. John travels throughout Washington, Oregon, and Idaho promoting sales of new Acme Computer products. John's activities are directed by his manager in Acme Computer's Spokane office. John's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. John performs services both within and without the state, but the services are directed or controlled in Washington state.

(iii) Jane, vice-president for product development, works in Acme Computer's Portland, Oregon office. Jane regularly travels to Seattle to review the progress of research and development projects conducted in Washington state. Jane's position must not be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Although Jane regularly performs services within Washington state, her activities are directed or controlled in Oregon.

(iv) Roberta, a service technician, travels throughout the United States servicing Acme Computer products. Her activities are directed from Acme Computer's corporate offices in California, but she works from her home office in Tacoma. Roberta's position must be included in the number of total employment in Washington state that Acme Computer reports on the annual survey. Roberta performs services both within and without the state and the service is not directed or

controlled in this state, but her residence is in Washington state.

(7) **What are full-time, part-time and temporary employment positions?** The survey must separately identify the number of full-time, part-time, and temporary employment positions as a percent of total employment.

(a) **Full-time and part-time employment positions.** A position is considered full-time or part-time if the employer intends for the position to be filled for at least fifty-two consecutive weeks or twelve consecutive months, excluding any leaves of absence.

(i) A full-time position is a position that requires the employee to work, excluding overtime hours, thirty-five hours per week for fifty-two consecutive weeks, four hundred fifty-five hours a quarter for four consecutive quarters, or one thousand eight hundred twenty hours during a period of twelve consecutive months.

(ii) A part-time position is a position in which the employee may work less than the hours required for a full-time position.

(iii) In some instances, an employee may not be required to work the hours required for full-time employment because of paid rest and meal breaks, health and safety laws, disability laws, shift differentials, or collective bargaining agreements. If, in the absence of these factors, the employee would be required to work the number of hours for a full-time position to receive their current wage, the position must be reported as a full-time employment position.

(b) **Temporary positions.** There are two types of temporary positions.

(i) **Employees of the person required to complete the survey.** In the case of a temporary employee directly employed by the person required to complete the survey, a temporary position is a position intended to be filled for a period of less than fifty-two consecutive weeks or twelve consecutive months. For example, seasonal employment positions are temporary positions. These temporary positions must be included in the information required in subsections (5), (8), and (9) of this section.

(ii) **Workers furnished by staffing companies.** A temporary position also includes a position filled by a worker furnished by a staffing company, regardless of the duration of the placement. These temporary positions must be included in the information required in subsections (5), (8), and (9) of this section. In addition, the person filling out the annual survey must provide the following additional information:

(A) Total number of staffing company employees furnished by staffing companies;

(B) Top three occupational codes of all staffing company employees; and

(C) Average duration of all staffing company employees.

(c) **Examples.** Assume these facts for the following examples. Worldwide Materials, Inc. is a developer of materials used in manufacturing electronic devices at a facility located in Everett, WA. Worldwide Materials claims the B&O tax credit provided by RCW 82.04.4452 for its research and development spending. Worldwide Materials has one hundred employees.

(i) On December 31st, Worldwide Materials has five employees on workers' compensation leave. At the time of

the work-related injuries, the employees worked forty hours a week and were expected to work for fifty-two consecutive weeks. Worldwide Materials must report these employees as being employed in a full-time position. Although the five employees are not currently working, they are on workers' compensation leave and Worldwide Materials had intended for the full-time positions to be filled for at least fifty-two consecutive weeks.

(ii) In September, Worldwide Materials hires two employees on a full-time basis for a two-year project to design composite materials to be used in a new airplane model. Because the position is intended to be filled for a period exceeding twelve consecutive months, Worldwide Materials must report these positions as two full-time positions.

(iii) Worldwide Materials has two employees who clean laboratories during the evenings. The employees regularly work 5:00 p.m. to 11:00 p.m., Monday through Friday, fifty-two weeks a year. Because the employees work less than thirty-five hours a week, the employment positions are reported as part-time positions.

(iv) On November 1st, a Worldwide Materials engineer begins twelve weeks of family and medical leave. The engineer was expected to work forty hours a week for fifty-two consecutive weeks. While the engineer is on leave, Worldwide Materials hires a staffing company to furnish a worker to complete the engineer's projects. Worldwide Materials must report the engineer as a full-time position on the annual report. Worldwide Materials must also report the worker furnished by the staffing company as a temporary employment position and include the information as required in (b) of this subsection.

(v) Worldwide Materials allows three of its research employees to work on specific projects with a flexible schedule. These employees are not required to work a set amount of hours each week, but are expected to work twelve consecutive months. The three research employees are paid a comparable wage as other research employees who are required to work a set schedule of forty hours a week. Although the three research employees may work fewer hours, they are receiving comparable wages as other research employees working forty hours a week. Worldwide Materials must report these positions as full-time employment positions, because each position is equivalent to a full-time employment position.

(vi) Worldwide Materials has a large order to fulfill and hires ten employees for the months of June and July. Five of the employees leave at the end of July. Worldwide Materials decides to have the remaining five employees work on an on-call basis for the remainder of the year. As of December 31st, three of the employees are working for Worldwide Materials on an on-call basis. Worldwide Materials must report three temporary employment positions on the annual survey and include these positions in the information required in subsections (5), (8), and (9) of this section.

(8) **What are wages?** For the purposes of the annual survey, "wages" means compensation paid to an individual for personal services, whether denominated as wages, salary, commission, or otherwise as reported on the W-2 forms of employees. Stock options granted as compensation to

employees are wages to the extent they are reported on the W-2 forms of the employees and are taken as a deduction for federal income tax purposes by the employer. The compensation of a proprietor or a partner is determined in one of two ways:

(a) If there is net income for federal income tax purposes, the amount reported subject to self-employment tax is the compensation.

(b) If there is no net income for federal income tax purposes, reasonable cash withdrawals or cash advances is the compensation.

(9) **What are employer-provided benefits?** The annual survey requires persons to report the number of employees that have employer-provided medical, dental, and retirement benefits, by each of the wage bands. An employee has employer-provided medical, dental, and retirement benefits if the employee is currently eligible to participate or receive the benefit. A benefit is "employer-provided" if the medical, dental, and retirement benefit is dependent on the employer's establishment or administration of the benefit. A benefit that is equally available to employees and the general public is not an "employer-provided" benefit.

(a) **What are medical benefits?** "Medical benefits" means compensation, not paid as wages, in the form of a health plan offered by an employer to its employees. A "health plan" means any plan, fund, or program established, maintained, or funded by an employer for the purpose of providing for its employees or their beneficiaries, through the purchase of insurance or otherwise, medical and/or dental care services.

(i) Health plans include any:

(A) "Employee welfare benefit plan" as defined by the Employee Retirement Income Security Act (ERISA);

(B) "Health plan" or "health benefit plan" as defined in RCW 48.43.005;

(C) Self-funded multiple employer welfare arrangement as defined in RCW 48.125.010;

(D) "Qualified health insurance" as defined in Section 35 of the Internal Revenue Code;

(E) "Archer MSA" as defined in Section 220 of the Internal Revenue Code;

(F) "Health savings plan" as defined in Section 223 of the Internal Revenue Code;

(G) "Health plan" qualifying under Section 213 of the Internal Revenue Code;

(H) Governmental plans; and

(I) Church plans.

(ii) "Health care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(b) **What are dental benefits?** "Dental benefits" means a dental health plan offered by an employer as a benefit to its employees. "Dental health plan" has the same meaning as "health plan" in (a) of this subsection, but is for the purpose of providing for employees or their beneficiaries, through the purchase of insurance or otherwise, dental care services. "Dental care services" means services offered or provided by health care facilities and health care providers relating to the

prevention, cure, or treatment of illness, injury, or disease of human teeth, alveolar process, gums, or jaw.

(c) **What are retirement benefits?** "Retirement benefits" means compensation, not paid as wages, in the form of a retirement plan offered by an employer to its employees. An employer contribution to the retirement plan is not required for a retirement plan to be employer-provided. A "retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for retirement income or deferred income to employees for periods after employment is terminated. The term includes pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other plan or program, without regard to its source of funding, and without regard to whether the retirement plan is a qualified plan meeting the guidelines established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code.

(d) **Examples.** Assume these facts for the following examples. Medical Resource, Inc. is a pharmaceutical manufacturer located in Spokane, WA. Medical Resource, Inc. claims the B&O tax credit provided by RCW 82.04.4452 for its research and development spending. It employs two hundred full-time employees and fifty part-time employees. Medical Resource, Inc. also hires a staffing company to furnish seventy-five workers.

(i) Medical Resource, Inc. offers its employees two different health plans as a medical benefit. Plan A is available at no cost to full-time employees. Employees are not eligible to participate in Plan A until completing thirty days of employment. Plan B costs employees \$200 each month. Full-time and part-time employees are eligible for Plan B after six months of employment. One hundred full-time employees are enrolled in Plan A. One hundred full-time and part-time employees are enrolled in Plan B. Forty full-time and part-time employees chose not to enroll in either plan. Ten part-time employees are not yet eligible for either Plan A or Plan B. Medical Resource, Inc. must report two hundred employees as having employer-provided medical benefits, because this is the number of employees enrolled in the health plans it offers.

(ii) Medical Resource, Inc. does not offer medical benefits to the employees of the staffing company. However, twenty-five of these workers have enrolled in a health plan through the staffing company. Medical Resource, Inc. must report these twenty-five employment positions as having employer-provided medical benefits.

(iii) Medical Resource, Inc. does not offer its employees dental insurance, but has arranged with a group of dental providers to provide all employees with a 30% discount on any dental care service. No action, other than Medical Resource, Inc. employment, is required by employees to receive this benefit. Unlike the medical benefit, employees are eligible for the dental benefit as of the first day of employment. This benefit is not provided to the workers furnished by the staffing company. Medical Resource, Inc. must report two hundred and fifty employment positions as having dental bene-

fits, because this is the number of employees enrolled in this dental plan.

(iv) Medical Resource, Inc. offers a 401(k) Plan to its full-time and part-time employees after six months of employment. Medical Resource, Inc. makes matching contributions to an employee's 401(k) Plan after two years of employment. On December 31st, two hundred and twenty-five workers are eligible to participate in the 401(k) Plan. Two hundred workers are enrolled in the 401(k) Plan. One hundred of these workers receive matching contributions. Medical Resource, Inc. must report two hundred employment positions as having employer-provided retirement benefits, because this is the number of employees enrolled in the 401(k) Plan.

(v) Medical Resource, Inc. coordinates with a bank to insert information in employee paycheck envelopes on the bank's Individual Retirement Account (IRA) options offered to bank customers. Employees who open an IRA with the bank can arrange to have their contributions directly deposited from their paychecks into their accounts. Fifty employees open IRAs with the bank. Medical Resource, Inc. cannot report that these fifty employees have employer-provided retirement benefits. IRAs are not an employer-provided benefit because the ability to establish the IRA is not dependent on Medical Resource, Inc.'s participation or sponsorship of the benefit.

**(10) Is the annual survey confidential?** The annual survey is subject to the confidentiality provisions of RCW 82.32.330. However, information on the amount of tax adjustment taken is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request. More confidentiality provisions in regards to the annual surveys are as follows:

**(a) Failure to timely file a complete annual survey subject to disclosure.** If the following taxpayers fail to timely file a complete annual survey for claiming the tax adjustment, then the fact that such taxpayers fail to timely file a complete annual survey is not confidential:

(i) Persons receiving deferral of taxes under chapter 82.75 RCW on an eligible investment project in biotechnology products (RCW 82.32.645(6));

(ii) Persons claiming the B&O tax exemption provided by RCW 82.04.4266 for fruits and vegetables, RCW 82.04.-4268 for dairy products, and RCW 82.04.4269 for seafood products (RCW 82.32.610(5)); and

(iii) Persons claiming the B&O tax credit provided by RCW 82.04.449 for customized employment training (RCW 82.32.650(5)).

**(b) Amount reported in annual survey is different from the amount claimed or allowed.** If the following taxpayers report a tax adjustment amount on the annual survey that is different than the amount actually claimed on the taxpayers' tax returns or otherwise allowed by the department, then the amount actually claimed or allowed may be disclosed:

(i) Persons claiming the high technology B&O tax credit provided by RCW 82.04.4452 (RCW 82.04.4452 (6)(d)(i));

(ii) Persons claiming the B&O tax credit provided by RCW 82.04.4487 for engaging in qualified preproduction

development in the field of aeronautics (RCW 82.32.635 (2)(c));

(ii) Persons claiming the B&O tax rate provided by RCW 82.04.250(3) for FAR part 145 certificated repair stations (RCW 82.32.640 (2)(c)); and

(iv) Persons claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products (RCW 82.32.630 (2)(d)).

**(c) Tax adjustment is less than ten thousand dollars.** If the tax adjustment of the following taxpayers is less than ten thousand dollars during the period covered by the annual survey, then such taxpayers may request the department to treat the tax adjustment as confidential under RCW 82.32.-330. The request must be made for each survey in writing, dated and signed by the owner, corporate officer, partner, guardian, executor, receiver, administrator, or trustee of the business, and filed with the department's special programs division at the address provided above in subsection (3) of this section.

(i) Persons claiming the high technology B&O tax credit provided by RCW 82.04.4452 (RCW 82.04.4452 (6)(d)(ii));

(ii) Persons claiming the B&O tax credit provided by RCW 82.04.4487 for engaging in qualified preproduction development in the field of aeronautics (RCW 82.32.635 (2)(d));

(iii) Persons claiming the B&O tax rate provided by RCW 82.04.250(3) for FAR part 145 certificated repair stations (RCW 82.32.640 (2)(d)); and

(iv) Persons claiming the B&O tax rate provided by RCW 82.04.260(12) for timber products (RCW 82.32.630 (2)(e)).

**(11) What are the consequences for failing to timely file a complete annual survey?**

**(a) What is a "complete annual survey"?** An annual survey is complete if:

(i) The annual survey is filed on the form required by this section or in an electronic format as required by law; and

(ii) The person makes a good faith effort to substantially respond to all survey questions required by this section.

Responses such as "varied," "various," or "please contact for information" are not good faith responses to a question.

**(b) High technology business and occupation (B&O) tax credit.** If a person claiming the B&O tax credit provided by RCW 82.04.4452 for persons engaged in qualified research and development fails to timely file a complete annual survey by the date due, the person is not eligible to take or assign the credit in the year the person failed to timely complete the annual survey. See RCW 82.04.4452. For example, if a person claims the credit in 2006 but fails to file a complete annual survey by March 31, 2007, then the person is not eligible to take or assign the credit in 2007. If a person claims the B&O tax credit during this period of ineligibility, the department will declare the amount of taxes for which the credit was claimed during the period of ineligibility to be immediately due and payable with interest and penalties, as provided in chapter 82.32 RCW.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circum-

stances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(c) **Tax deferrals for investment projects in rural counties.** If a recipient of the deferral fails to timely file a complete annual survey required under RCW 82.60.070 by the date due, 12.5% of the total deferred tax is immediately due. See RCW 82.60.070. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.020 (4), the lessee is responsible for payment to the extent the lessee has received the economic benefit. No penalties or interest will be assessed on the deferred sales/use tax; however, all other penalties and interest applicable to excise tax assessment may be assessed and imposed. For example, if a person fails to file a complete annual survey by March 31, 2007, then 12.5% of the total deferred tax is immediately due, with applicable penalties and interest beginning to accrue on the due date.

(d) **Tax deferrals for investment projects for high technology businesses.** If a recipient of the deferral fails to timely file a complete annual survey required under RCW 82.63.020 by the date due, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.63.045. Interest is computed retroactively to the date the tax deferral was claimed and accrues until the liability is paid in full. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.63.010(7), the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(e) **Business and occupation (B&O) tax exemption for fruit and vegetable, dairy product, and seafood product businesses.** If a person fails to timely file a complete annual survey for the B&O tax exemption under RCW 82.04.4266, 82.04.4268, or 82.04.4269 by the due date, the amount of taxes exempted for the previous calendar year is immediately due and payable. See RCW 82.32.610. Interest, but not penalties, applies to the amounts due under this subsection. The amount due must be calculated using a rate of 0.138%. Interest is computed retroactively to the date the tax exemption was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(f) **Tax deferrals for investment projects for fruit and vegetable, dairy product, and seafood product businesses.** If a recipient of the deferral fails to file a complete annual survey required under RCW 82.74.040 by the date due, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.74.040. Interest begins to accrue on the due date and accrues until the liability is paid in full. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010(4), the lessee must be responsible for payment to the extent the lessee has received the economic benefit.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(g) **Tax deferrals for investment projects for biotechnology products.** If a recipient of the deferral fails to file a complete annual survey required under RCW 82.32.645 by the due date, 12.5% of the total deferred tax is immediately due with interest, but not penalties, as provided in chapter 82.32 RCW. See RCW 82.32.645. Interest begins to accrue on the due date and accrues until the liability is paid in full.

(h) **Business and occupation (B&O) tax credit for qualified preproduction development in the field of aeronautics under RCW 82.04.4487.** If a person fails to timely file a complete annual survey for the B&O tax credit under RCW 82.04.4487 by the due date, the amount of tax credit claimed for the previous calendar year is immediately due and payable. See RCW 82.32.635. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the tax credit was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

A person is not required to file a complete annual survey under this subsection if the person is required to and timely files the annual report under RCW 82.32.545.

(i) **Reduced business and occupation (B&O) tax rate for FAR part 145 certificated repair stations.** If a person fails to timely file a complete annual survey for the reduced B&O tax rate under RCW 82.04.250(3) by the due date, the amount of tax reduced for the previous calendar year is immediately due and payable. See RCW 82.32.640. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the reduced taxes were due and accrues until the liability is paid in full.

If a person fails to file the survey by due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(j) **Business and occupation (B&O) tax credit for customized employment training.** If a person fails to timely file a complete annual survey for the B&O tax credit under RCW 82.04.449 by the due date, the amount of tax credit claimed for the previous calendar year is immediately due and payable. See RCW 82.32.650. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the tax credit was claimed and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

(k) **Reduced business and occupation (B&O) tax credit for timber products.** If a person fails to timely file a complete annual survey for the reduced B&O tax rate under RCW 82.04.260(12) by the due date, the amount of tax reduced for the previous calendar year is immediately due and payable. See RCW 82.32.630. Interest, but not penalties, applies to the amounts due under this subsection. Interest is computed retroactively to the date the reduced taxes were due and accrues until the liability is paid in full.

If a person fails to file the survey by the due date as the result of circumstances beyond the control of the taxpayer, the person may request a thirty-day extension of the due date. See WAC 458-20-228 for more information on circumstances beyond the control of the taxpayer. The request must be made in writing before the due date to the address provided in subsection (3)(c) of this section.

### WSR 07-02-076

#### PERMANENT RULES

#### LIQUOR CONTROL BOARD

[Filed December 29, 2006, 11:57 a.m., effective January 29, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To bring existing rules into compliance with recently adopted legislation. ESB 6537 allows Washington wineries and wineries licensed in other states to ship their wine directly to Washington consumers. 2SSB 6823 expands the self-distribution privilege of in-state wineries and breweries to out-of-state wineries and breweries.

Citation of Existing Rules Affected by this Order: Amending WAC 314-19-005, 314-19-010, 314-19-015, 314-19-020, 314-20-050, 314-20-100, 314-24-040, 314-24-150, 314-24-190, 314-60-105, 314-05-030, and 314-13-010.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270.

Adopted under notice filed as WSR 06-16-138 on August 2, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 13, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 13, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 20, 2006.

Lorraine Lee  
Chair

AMENDATORY SECTION (Amending WSR 04-22-078, filed 11/2/04, effective 12/3/04)

**WAC 314-05-030 Guidelines for special occasion license events.** (1) The special occasion license must be posted at the event.

(2) Special occasion licensees may get alcohol for the event only from the following sources:

(a) Spirits must be purchased from a Washington state-run or contract liquor store;

(b) Beer and wine must be purchased at retail ((~~or~~)) from a licensed retailer, from a beer or wine distributor, from a domestic brewery, microbrewery, or winery, acting as a distributor of its own product, or from a certificate of approval holder with a direct shipping to Washington retailer endorsement; and

(c) Per RCW 66.28.040, in state breweries and wineries and out-of-state breweries and wineries holding a certificate of approval license may donate beer and wine to special occasion licensees that are 501 (c)(3) charitable organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.010, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(5) Per RCW 66.28.380, the sale, service, and consumption of alcohol must be confined to a designated location(s).

(6) If a special occasion license function is held at an establishment that has a liquor license:

(a) The special occasion function must be held in an area of the premises separate from areas open to the general public, and the licensed premises' liquor cannot be sold or served in the same area(s) as the special occasion license function.

(b) The liquor licensee cannot charge for the liquor purchased by the special occasion licensee for service at the special occasion event, but can charge for room usage, services, etc. The liquor licensee must sign the special occasion application giving permission for the special occasion licensee to bring their alcohol onto the liquor licensed premises.

(c) Special occasion licensees will not be issued for use at premises whose liquor license will be suspended on the date(s) of the scheduled event.



AMENDATORY SECTION (Amending WSR 01-06-015, filed 2/26/01, effective 3/29/01)

**WAC 314-13-010 Who can retail licensees purchase beer, wine, and spirits from?**

	Definition	Who licensees can purchase from
<b>Beer</b>	RCW 66.04.010 <del>((2))</del> (3) <del>((RCW 66.04.010 (21)))</del>	<ul style="list-style-type: none"> <li>• A licensed Washington distributor (including a licensed Washington brewery that distributes its own product)</li> <li>• <u>A licensed certificate of approval holder with a direct shipping to Washington retailer endorsement</u></li> <li>• Washington State Liquor Control Board store or agency</li> </ul>
<b>Wine</b>	RCW 66.04.010 <del>((37))</del> (39)	<ul style="list-style-type: none"> <li>• A licensed Washington distributor (including a licensed Washington winery that distributes its own product)</li> <li>• <u>A licensed certificate of approval holder with a direct shipping to Washington retailer endorsement</u></li> <li>• Washington State Liquor Control Board state-run or contract liquor store</li> </ul>
<b>Spirits</b>	RCW 66.04.010 <del>((32))</del> (35)	A Washington State Liquor control board state-run or contract liquor store

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

**WAC 314-16-160 Purchases—Reports.** (1) Failure by licensees to keep accurate accounting records which result in the extension of or receipt of credit from a manufacturer, importer, or distributor through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

(2) ~~((A retail licensee shall purchase beer from a beer distributor pursuant to RCW 66.28.070 and shall purchase wine from a state liquor store or agency or from a duly licensed distributor except as provided in chapter 314-70 WAC. All beer purchased must be at the posted price in accordance with WAC 314-20-100 and all wine purchased must conform to the posted price as filed under WAC 314-24-190. No retail licensee may return wine to a wine distributor except in accordance with the provisions of WAC 314-24-210, nor shall any retail licensee return beer to a beer distributor except in accordance with the provisions of WAC 314-20-070.~~

(3)) Prior to license delivery, a new beer and/or wine licensee or transferee may, with board authorization, be sold beer and/or wine for the purpose of stocking the premises. No retail sale of beer and/or wine shall take place until the applicant premises have been inspected by the board and the liquor license is delivered.

AMENDATORY SECTION (Amending WSR 04-24-007, filed 11/19/04, effective 12/20/04)

**WAC 314-19-005 What is the purpose of chapter 314-19 WAC?** The purpose of this chapter is to outline the

beer and wine tax reporting and payment requirements for the following liquor licensees and permittees:

Type of liquor license	Laws that outline tax rates and requirements
(a) Washington beer and/or wine distributor	RCW 66.24.210, 66.24.230, 66.24.290, 66.24.305
(b) Washington beer and/or wine importer	RCW 66.24.230
(c) Domestic brewery	RCW 66.24.270, 66.24.290, 66.24.305
(d) Domestic brewery/brand owner	RCW 66.24.270, 66.24.290, 66.24.305
(e) Microbrewery	RCW 66.24.270, 66.24.290, 66.24.305
(f) Domestic winery	RCW 66.24.210, 66.24.215, 66.24.230, 66.24.305
(g) Public house	RCW 66.24.290, 66.24.580
(h) Beer certificate of approval holder	RCW 66.24.270
(i) Wine certificate of approval holder	RCW 66.24.210, 66.24.206
(j) Authorized representative certificate of approval holder—U.S. produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(k) Authorized representative certificate of approval holder—foreign produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(l) Authorized representative certificate of approval holder—U.S. produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(m) Authorized representative certificate of approval holder—foreign produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(n) <u>Retailer with an endorsement to receive direct shipments of beer and wine from breweries, microbreweries, or wineries</u>	<u>RCW 66.24.210, 66.24.290, 66.24.270</u>
(o) <u>Wine shipper permit holder</u>	<u>RCW 66.24.210</u>

AMENDATORY SECTION (Amending WSR 00-17-065, filed 8/9/00, effective 9/9/00)

**WAC 314-19-010 Definitions.** The following definitions are to clarify the purpose and intent of the rules and laws governing beer and wine tax reporting and payment requirements. Additional definitions can be found in RCW 66.04-010.

(1) "Late." A monthly tax payment is considered late if it is unpaid on the due date and remains unpaid until the twentieth day of the following month.

(2) "Missing." A monthly tax report ~~((or))~~ and tax payment, if taxes are owed, is considered missing if it is more than thirty days past the required filing date. ~~((Required filing dates are outlined in RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290 and WAC 314-19-015.~~

~~(2))~~ (3) "Samples" are beer and/or wine furnished to retail licensees for the purpose of negotiating a sale, per RCW 66.28.040. See WAC 314-64-080 for sampling procedures.

~~((3))~~ (4) "Tastings" are beer and/or wine products provided to customers at no charge for the purpose of promoting a sale, that are consumed on the premises of a domestic brewery, microbrewery, winery, or additional winery locations as authorized by RCW 66.24.170(4). Tastings are not taxable under this title.

**AMENDATORY SECTION** (Amending WSR 04-24-007, filed 11/19/04, effective 12/20/04)

**WAC 314-19-015 What are the monthly reporting and tax payment requirements?** (1) The required monthly beer and/or wine tax reports must be:

(a) On a form furnished by the board or in a format approved by the board;

(b) Filed every month, including months with no activity or taxes due;

(c) Submitted, with the tax due, to the board on or before the twentieth day of each month, for the previous month (for example, a report listing transactions for the month of January is due by February 20). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each type of liquor license ~~((that the licensee holds))~~ or permit held.

Type of Licensee	Tax Payment Requirements
(2) Washington beer and/or wine distributor	<p>(a) Distributors must pay taxes on all beer and/or wine received during the preceding calendar month, including samples received at no charge (see WAC 314-64-080 and 314-64-090 for more information). The total tax due (per barrel for beer and per liter for wine) is to be paid by the first distributor to receive the product and must be included with the monthly report.</p> <p>(b) Distributors do not pay taxes on beer and/or wine received from another in-state licensed distributor who has already paid the Washington state tax on the product.</p> <p>(c) Distributors may claim a tax refund or credit, provided that they have paid the taxes prior to claiming the credit, for the following (see WAC 314-19-030 for information on claiming a tax refund or credit):</p> <p>(i) Shipments exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(ii) Sales to any military reservation in Washington state;</p>

Type of Licensee	Tax Payment Requirements
	<p>(iii) Product that is deemed unsalable due to freight damage, product quality, or other causes that occurred prior to receipt by the distributor, subject to the following conditions:</p> <p>(A) The unsalable product must be destroyed within the state of Washington (per RCW 66.24.305);</p> <p>(B) The licensee must notify their local liquor enforcement officer in advance for destruction of more than fifty cases of wine or two hundred cases of beer;</p> <p>(C) The licensee must report the destroyed product on the next required monthly report;</p> <p>(D) The licensee must keep records showing the reason for the destruction and an inventory of products destroyed. These records must be kept on the licensed premises and available for inspection by board employees for a period of two years; and</p> <p>(E) The licensee must provide documentation from the freight company with the report if they are claiming a credit due to freight damage.</p>
(3) Washington beer and/or wine importers	<p>Importers must pay taxes on samples received during the preceding calendar month, as follows:</p> <p>(a) If the samples are used by the importer within the state of Washington, the importer must pay the tax.</p> <p>(b) If samples are provided to a distributor, the distributor must pay the tax.</p>
(4) Domestic breweries, microbreweries, and domestic wineries	<p>(a) Domestic breweries, microbreweries, and domestic wineries must list production for the current month only. The brewery that the domestic brewery/brand owner contracts with is required to include any products they produce for the brand owner in their production count.</p> <p>(b) Domestic breweries, microbreweries, and domestic wineries must pay taxes on beer and/or wine that is:</p> <p>(i) Sold at retail on the licensed premises (or shipped to additional winery locations as authorized by RCW 66.24.170(4)), including retail sales to out-of-state residents;</p> <p>(ii) Sold to retail licensees;</p> <p>(iii) Furnished as samples to retail licensees as authorized by RCW 66.28.040, WAC 314-64-080, and 314-64-090 (does not include samples provided to distributors);</p> <p>(iv) Provided as donations to qualifying 501 (c)(3) nonprofit organizations per RCW 66.28.040 or to the Washington wine commission per RCW 66.12.180 and 66.24.210<del>((+))</del>;</p> <p>(v) Received via an interplant transfer if used as outlined in above subsections (i), (ii), (iii), or (iv); or</p> <p><del>((+))</del>(vi) Sold at farmers markets as authorized by RCW 66.24.170(5), 66.24.240(4) and/or 66.24.244(5).</p> <p>(c) Domestic breweries, microbreweries, and domestic wineries do not pay tax on beer and/or wine that is:</p>

Type of Licensee	Tax Payment Requirements
	<p>(i) Sold to distributors;</p> <p>(ii) Shipped out of a particular location for an interplant transfer;</p> <p>(iii) Exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(iv) Sold to the Washington state liquor control board;</p> <p>(v) Sold to any military reservation in Washington state; or</p> <p>(vi) Provided as a tasting on the brewery or winery premises or at additional winery locations at no charge, as authorized by RCW 66.24.170(4). See WAC 314-19-010(3) for the definition of "tastings."</p>
(5) Domestic brewery—Brand owners	<p>(a) Domestic brewery-brand owners must file a report showing the quantity of all beer sold or delivered to each licensed beer distributor, or beer exported directly to a point outside the state of Washington, during the preceding month.</p> <p>(b) Domestic brewery-brand owners are not responsible for the tax on beer that is contract produced.</p>
(6) Out-of-state beer and/or wine certificate of approval holders	<p>(a) Certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples, during the preceding month.</p> <p>(b) Tax is due from the certificate of approval holder (<del>(only)</del>):</p> <p>(i) On samples shipped to licensed agents (<del>, directly to retailers per WAC 314-64-080 and 314-64-090</del>), and</p> <p>(ii) On donations to the Washington wine commission per RCW 66.12.180 and 66.24.210 or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
(7) Out-of-state United States beer and/or wine certificate of approval holders with a direct shipping to Washington retailer endorsement	<p>(a) Certificate of approval holders with this endorsement must file an addendum report showing the quantity of beer and/or wine sold or delivered to each licensed retailer, including samples, during the preceding month.</p> <p>(b) Tax is due from the certificate of approval holder on beer and/or wine sold or delivered to retail licensees and on sales to nonprofit charitable associations.</p>
(8) Out-of-state United States wine certificate of approval holders with a direct shipping to consumers endorsement	<p>(a) A certificate of approval holder with this endorsement must report the total quantity of wine sold to consumers in Washington state during the preceding month.</p> <p>(b) Tax is due from the certificate of approval holder on wine sold or delivered to Washington state residents.</p>
(9) Authorized representative certificate of approval holders-US and/or foreign produced beer or wine	<p>(a) Authorized representative certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples. They must list the brewery and/or winery that they represent and that had shipments into Washington state during the preceding month.</p>

Type of Licensee	Tax Payment Requirements
	<p>(b) Tax is due from the authorized representative beer and/or wine certificate of approval holders only on samples shipped to licensed agents, directly to retailers per WAC 314-64-080 and 314-64-090, donations to the Washington wine commission per RCW 66.12.180 and 66.24.210, or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
<del>((8))</del> (10) Public house licensees	Public house licensees must pay taxes on all sales of their own product during the preceding calendar month.
(11) Retailer with an endorsement allowing receipt of direct shipment of beer or wine from a United States brewery, microbrewery, or winery	<u>A Washington retailer who receives shipments directly from a United States brewery, microbrewery, or winery, either inside or outside Washington, must file a report showing the quantity of beer and wine received by direct shipment from each licensed beer or wine producer, including samples, during the preceding month.</u>
(12) Wine shipper permit holder	<p>(a) <u>An out-of-state winery must file a report showing the total quantity of wine sold or delivered to consumers during the preceding month.</u></p> <p>(b) <u>Pay the tax due for sales of wine to Washington state residents.</u></p>

**AMENDATORY SECTION** (Amending WSR 04-24-007, filed 11/19/04, effective 12/20/04)

**WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late?** The board may take the following actions against a licensee or permittee in order to collect any of the reports or taxes due that are outlined in this title.

(1) <b>Suspension or revocation of license</b>	<p>(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270).</p> <p>(b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").</p>
(2) <b>Penalties</b>	A penalty of two percent per month will be assessed on any tax payments postmarked after the twentieth day of the month following the month of sale (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.
(3) <b>Surety bond requirements</b>	<p>(a) <b>What is a surety bond?</b> A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be:</p> <p>(i) Executed by a surety company authorized to do business in the state of Washington;</p>

	<p>(ii) On a form and in an amount acceptable to the board;</p> <p>(iii) Payable to the Washington state liquor control board; and</p> <p>(iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290.</p> <p>(v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.</p> <p><b>(b) When will the board require a surety bond?</b> <u>The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege.</u> If any of the following occur (<del>at one or more licensed locations</del>), the board (<del>will</del>) <u>may</u> require the licensee <u>or permittee</u> to obtain a surety bond or assignment of savings account (<del>for each licensed location</del>), within twenty-one days <u>after an administrative violation notice is issued</u>:</p> <p>(i) A report or tax payment is missing, as defined in WAC 314-19-010(<del>(+)</del>), for two or more consecutive months; or</p> <p>(ii) A report or tax payment is missing, as defined in WAC 314-19-010(<del>(+)</del>), two or more times within a two year period.</p> <p><b>(c) What will happen if the licensee does not acquire the surety bond or savings account?</b> Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established.</p> <p><b>(d) In what amount and for how long will the board require a surety bond?</b> The amount of a surety bond or savings account required by this chapter must be either \$3,000, or the total of the highest four months' worth of tax liability for the previous twelve month period, whichever is greater.</p> <p>(i) The licensee <u>or permittee</u> must maintain the bond for at least two years. After the two year period the licensee <u>or permittee</u> may request an exemption as outlined in subsection (f) of this rule.</p> <p>(ii) Surety bond and savings account amounts (<del>will</del>) <u>may</u> be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee <u>or permittee</u> will be required to increase the bond amount or amount on deposit within twenty-one days.</p>
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	<p><b>(e) What action will the board take when a licensee <u>or permittee</u> holds a surety bond and does not pay taxes due or pays late?</b> If a licensee <u>or permittee</u> holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales.</p> <p><b>(f) Can a licensee <u>or permittee</u> request an exemption to the surety bond or savings account requirement?</b> A licensee <u>or permittee</u> may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met (<del>for each of the requesting licensee's locations</del>):</p> <p>(i) The licensee <u>or permittee</u> has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and</p> <p>(ii) There have been no late or missing reports or tax payments during the previous two years.</p> <p>(iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).</p>
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**AMENDATORY SECTION** (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

**WAC 314-20-050 Beer distributors—Importers—Brewers—Records—Preservation.** (1) Breweries, microbreweries, beer certificate of approval holders, and beer distributors must keep beer accounts separate and independent from other accounts and maintain proper records in a form approved by the board, showing all transactions in beer(~~and~~).

(2) Breweries, microbreweries, beer distributors, and beer importers must in case of beer exported or beer sold, transferred or shipped to another distributor, preserve all bills of lading or other evidence of shipment for a period of two years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least two years after each sale.

~~((2))~~ (3) Each brewery, beer distributor, and beer importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

~~((3))~~ (4) If the brewery, beer distributor, or beer importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

~~((4))~~ (5) The provisions contained in subsections ~~((2))~~ (3) and ~~((3))~~ (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

**AMENDATORY SECTION** (Amending WSR 04-19-155, filed 9/22/04, effective 10/23/04)

**WAC 314-20-100 Beer supplier and distributor price postings.** RCW 66.28.180 requires beer distributors and suppliers to file price postings with the board.

(1) **Definitions**—For the purposes of this chapter:

(a) A "beer price posting" or "price posting" means a declaration of the price of beer sold from a supplier to a distributor or from a distributor to a retailer, in effect as filed with the liquor control board either electronically or hard-copy, under the provisions of RCW 66.28.180 and Title 314 WAC.

(b) A "beer supplier" means a microbrewery, domestic brewery, certificate of approval holder, beer importer, beer distributor acting as the first United States importer, or a distributor selling beer to another distributor.

(c) A "beer distributor" means a distributor selling to a retailer, a domestic brewery acting as a distributor, a microbrewery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling beer of its own production to a retailer.

(2) Filing deadlines.

(a) Beer supplier filing deadlines	(b) Beer distributor filing deadlines
All price postings, distributor appointments, written contracts, and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of filing.	All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of filing.

(c) The board will allow up to an additional five days for revisions of filings to correct errors and omissions filed during the current price posting period. The board may in individual cases, for good cause shown, extend the filing date.

(d) When a price posting has been deposited in the United States mail addressed to the board, it will be considered filed or received on the date shown by the United States post office cancellation mark on the envelope, or on the date it was mailed if it is established to the satisfaction of the board that the actual mailing occurred on an earlier date.

(3) **Filing date exceptions**—Whenever a filing deadline falls on Saturday, Sunday, or a legal holiday, a price posting may be filed not later than midnight the next business day.

(4) **No changes from previous month**—If a beer supplier or distributor makes no changes in any items or prices listed in the last filed and approved price posting, the prices will remain in effect for each succeeding posting period until a revised price posting is filed and approved.

(5) **Temporary price reductions**—If a beer supplier or distributor files price postings that list selected items on which prices are temporarily reduced for one posting period only, these price postings must clearly reflect all items, the selling price, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which the reductions were in effect, the special price posting will become void and the last regularly filed and effective price posting will again become effective.

(6) **Distributor changes**—

(a) The following guidelines apply when a beer supplier makes a distributor change outside of the regular distributor appointment timelines outlined in subsection (2) of this rule:

(i) The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

(ii) The new distributor must agree to take the currently posted prices of the old distributor until the new distributor is able to post his/her own prices during the next regular posting period.

(iii) If a beer supplier has a territory or brand agreement with a distributor and wants to change a distributor appointed to a certain brand(s) or territory(ies), the board may allow the new distributor to assume the prior distributor's price postings for the brand and/or territory in order to avoid disruption of the market.

(b) A beer supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party. The board may immediately authorize a price posting if a beer distributor assumes the wholesale price postings from the previously appointed distributor.

(c) Prices and other conditions of price postings in effect at the time of the distributor change may not be changed until subsequent filings are submitted to the board and become effective.

(7) **Price postings for new distributors**—When the board issues a new beer distributor license, the licensee may file an initial price posting and request that the price posting be placed into effect immediately. The board may grant this immediate approval if the price posting is in compliance with this rule and with all other applicable laws and rules.

(8) **Accommodation sales**—The provisions of this rule do not apply, and filings are not required, when a beer distributor makes an accommodation sale to another beer distributor and this sale is made at a selling price that does not exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the distributor purchasing the beer is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

**WAC 314-24-040 Wine labels—Certificate of label approval required—Labels to be submitted.** No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have obtained from the board a certificate of label approval for such wine.

(1) A request for certificate of label approval must be submitted to the board on forms prescribed by the board, together with the following:

(a) One label of the brand and type for which approval is requested for wines under seven percent alcohol by volume; and

(b) One copy of the federal certificate of label approval for such wine which has been issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(2) Any change in label or product which requires reissuance of federal approval under the provisions of 27 CFR Part 4, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) Every producer, importer, bottler, distributor, or wine certificate of approval holder shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the quality standards set by the board in WAC 314-24-060 and conforms with commercial standards.

(4) No label shall be used that is misleading.

(5) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion

of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(6) Wineries are not required to obtain a certificate of label approval from the board for wine sold directly to Washington consumers under a direct shipper's permit. Wine labels may not be misleading and may not be designed to appeal especially to persons under the age of twenty-one.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

**WAC 314-24-150 Wine records—Preservation.** (1) Every domestic winery, wine distributor, wine certificate of approval holder, wine shipper permit holder, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least two years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least two years after each shipment.

(4) ~~((In the case of sales, transfers or shipments of wine between a domestic winery and a wine distributor, or between two domestic wineries, or between two wine distributors, or between a wine importer and a wine distributor,))~~ Both the shipping and receiving licensees and permittees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least two years after each sale, transfer or shipment.

(5) ~~((Each winery, wine distributor, and wine importer))~~ Licensees and permittees may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

(a) Records proposed to be reproduced.

(b) Reproduction process.

(c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee or permittee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the ~~((winery, wine distributor, or wine importer))~~ licensee or permittee keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

**AMENDATORY SECTION** (Amending WSR 04-19-155, filed 9/22/04, effective 10/23/04)

**WAC 314-24-190 Wine supplier and distributor price postings.** RCW 66.28.180 requires wine distributors and suppliers to file price postings with the board.

(1) **Definitions**—For the purposes of this chapter:

(a) A "wine price posting" or "price posting" means a declaration of the price of wine sold from a supplier to a distributor or from a distributor to a retailer, in effect as filed with the liquor control board either electronically or hard copy, under the provisions of RCW 66.28.180 and Title 314 WAC.

(b) A "wine supplier" means a domestic winery, certificate of approval holder, wine importer, wine distributor acting as the first United States importer, or a distributor selling wine to another distributor.

(c) A "wine distributor" means a distributor selling to a retailer, a domestic winery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling wine of its own production to a retailer.

(2) Filing deadlines.

<b>(a) Wine supplier filing deadlines</b>	<b>(b) Wine distributor filing deadlines</b>
All price postings, distributor appointments, written contracts, and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of filing.	All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of filing.

(c) The board will allow up to an additional five days for revisions of filings to correct errors and omissions filed during the current posting period. The board may in individual cases, for good cause shown, extend the filing date.

(d) When a price posting has been deposited in the United States mail addressed to the board, it will be considered filed or received on the date shown by the United States post office cancellation mark on the envelope, or on the date it was mailed if it is established to the satisfaction of the board that the actual mailing occurred on an earlier date.

(3) **Filing date exception**—Whenever a filing deadline falls on Saturday, Sunday, or a legal holiday, a price posting may be filed not later than the close of business the next business day.

(4) **No changes from previous month**—If a wine supplier or distributor makes no changes in any items or prices listed in the last filed and approved price posting, the prices will remain in effect for each succeeding posting period until a revised price posting is filed and approved.

(5) **Temporary price reductions**—If a wine supplier or distributor files price postings that list selected items on which prices are temporarily reduced for one posting period only, these price postings must clearly reflect all items, the selling price, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which the reductions were in effect, the special price posting will become void and the last regularly filed and effective price posting will again become effective.

(6) **Distributor changes**—

(a) The following guidelines apply when a wine supplier makes a distributor change outside of the regular distributor appointment timelines outlined in subsection (2) of this rule:

(i) The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

(ii) The new distributor must agree to take the currently posted prices of the old distributor until the new distributor is able to post his/her own prices during the next regular posting period.

(iii) If a wine supplier has a territory or brand agreement with a distributor and wants to change a distributor appointed to a certain brand(s) or territory(ies), the board may allow the new distributor to assume the prior distributor's price postings for the brand and/or territory in order to avoid disruption of the market.

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party. The board may immediately authorize a price posting if a wine distributor assumes the wholesale price postings from the previously appointed distributor.

(c) Prices and other conditions of price postings in effect at the time of the distributor change may not be changed until subsequent filing are submitted to the board and become effective.

(7) **Price postings for new distributors**—When the board issues a new wine distributor license, the licensee may file an initial price posting and request that the price posting be placed into effect immediately. The board may grant this immediate approval if the price posting is in compliance with this rule and with all other applicable laws and rules.

(8) **Accommodation sales**—The provisions of this rule do not apply, and filings are not required, when a wine distributor makes an accommodation sale to another wine distributor and this sale is made at a selling price that does not

exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

#### NEW SECTION

**WAC 314-24-231 What is a wine shipper's permit and who may hold this permit?** (1) A wine shipper's permit may be issued to a winery located in another state and licensed by that state to manufacture wine.

(2) A wine shipper's permit authorizes the permittee to ship wine of its own production to Washington residents who are over the age of twenty-one years.

AMENDATORY SECTION (Amending WSR 94-03-060, filed 1/14/94, effective 2/14/94)

**WAC 314-60-105 General guidelines—Exempt records.** The following general guidelines relate to the board's records, or portions thereof, that are, or may be, considered as exempt from public disclosure under the provisions of the Public Disclosure Law, chapter ((42-17)) 42.56 RCW.

A general rule in connection with the application of any of the exemptions set forth below is that such exemptions shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption will be construed to permit the non-disclosure of statistical information which is not descriptive of any readily identifiable person or persons.

The list of records and material generally considered exempt from disclosure by the board includes, but is not limited to, the following:

(1) Personal information of the board members and its entire staff as may be contained in the personnel records of each member or employee, including all applications for public employment, resumes, and other materials submitted relating to the applicant, and residential addresses of members, employees or volunteers, with the exception that the employee's name, job title, and rate of pay for said job title, will be furnished. (See RCW ((42-17-310(1)(b), (t) and (u))) 42.56.230(2), and 42.56.250(2) and (3).)

(2) Audits of, and investigation reports concerning, individual licensees, except when cited by the board as the basis for disciplinary action taken against the licensee. (See RCW ((42-17-310(1)(d))) 42.56.240(1).)

(3) Intelligence information and investigative data and reports pertaining to the enforcement of the liquor laws and the board's regulations, the nondisclosure of which is essential to law enforcement or to the protection of any person's right to privacy. (See RCW ((42-17-310(1)(d))) 42.56.240(1).)

(4) Special order requests and records of purchases by any person or persons, including ((class H)) spirits, beer, and wine restaurant licensees. (See RCW 66.16.090.)

(5) The board's records during the process of lease negotiations, when it would be both unfair and inequitable to dis-

close to contending parties what another party may have bid or offered. (See RCW ((42-17-310(1)(g))) 42.56.260.)

(6) The names of complainants in connection with alleged liquor violations, if disclosure would endanger any person's life, physical safety, or property except when the complainant authorizes the release of his or her name at the time the complaint is submitted. (See RCW ((42-17-310(1)(e))) 42.56.240(2).)

(7) Computer program and research data of the board within five years of the request for disclosure when disclosure would produce private gain and public loss. (See RCW ((42-17-310(1)(h))) 42.56.270(1).)

(8) Preliminary drafts, notes, recommendations, and intraagency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by the board in connection with board action. (See RCW ((42-17-310(1)(i))) 42.56.280.)

(9) Financial or proprietary information supplied to the board by a domestic winery, brewery, or microbrewery, acting as its own distributor, or certificate of approval holder with a direct shipping to Washington retailer endorsement, containing the identity and amount of beer or wine sold directly to licensed Washington retailers. (See RCW 66.24.206(1)(a), 66.24.270(2)(a), and 42.56.270.)

(10) Financial or proprietary information supplied to the board by a licensed Washington liquor retailer containing the identity and amount of beer or wine purchased directly from a domestic winery, brewery, microbrewery, or a certificate of approval holder with a direct shipping to Washington retailer endorsement. (See RCW 66.24.210, 66.24.290, and 42.56-270.)

### WSR 07-02-077

#### PERMANENT RULES

#### DEPARTMENT OF LICENSING

[Filed January 2, 2007, 8:32 a.m., effective February 2, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Rule making is a result to correct language in these rules to comply with the way the department does business.

Citation of Existing Rules Affected by this Order: Amending WAC 308-88-020 and 308-96A-180.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 06-22-058 on October 30, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.



Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.  
Date Adopted: January 2, 2007.

Elizabeth A. Luce  
Director

AMENDATORY SECTION (Amending WSR 04-01-162, filed 12/22/03, effective 1/22/04)

**WAC 308-88-020 Application and registration of rental vehicle businesses. (1) What is required to become a rental vehicle business?**

(a) Applicants must apply for a rental vehicle business license by submitting a completed master ~~((license))~~ business application to the department of licensing's master license service.

(b) A separate master ~~((license))~~ business application must be filed for each place of business operated as a rental vehicle business. For the purposes of this section, "place of business" means a physical location at which arrangements to rent a rental vehicle may be made.

(c) Businesses operating in the form of a corporation, limited liability company, limited liability partnership, or similar form of legal entity must register their legal entity through the office of the secretary of state before applying for a rental vehicle business license.

**(2) What will I receive as proof that I qualified as a vehicle rental business?** A rental vehicle business registration number will be issued to your business and displayed on the master license.

**(3) Can I transfer my business registration number to another company?** No. The rental vehicle business registration number issued through the master license service is not assignable or transferable, and is valid only for the rental vehicle business to which the registration number (R-number) was issued ~~((to))~~.

~~((Rental vehicles must be registered in Washington unless:~~

~~(a) Rented by a customer at a location outside of the state of Washington;~~

~~(b) The vehicle was dropped off at a Washington rental vehicle business by its previous renter and is being rented for a one-way trip out of Washington; or~~

~~(c) The vehicle is part of a properly registered International Registration Plan (IRP) rental vehicle business fleet.~~

~~**(4) Does the current certificate of registration issued by the department need to be carried in the rental vehicle?** A photocopy of the current certificate of registration may be carried in a rental vehicle in lieu of the original certificate of registration.~~

~~**(5) Who may operate a rental vehicle?** Rental vehicles may only be used by rental customers, unless the rental vehicle is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.~~

~~**(6) What does a rental vehicle business do when they remove a rental vehicle from their fleet?** The rental vehicle business may submit a vehicle seller's report of sale that pro-~~

~~tecs the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or change in ownership has occurred.))~~

AMENDATORY SECTION (Amending WSR 04-01-162, filed 12/22/03, effective 1/22/04)

**WAC 308-96A-180 Registration of rental vehicles.**

**(1) What is a rental vehicle?**

A rental vehicle is defined in RCW 46.04.465.

**(2) Who registers a rental vehicle?**

Any Washington vehicle licensing office registers rental vehicles.

**(3) How will I register my rental vehicles?**

Annual renewal of rental vehicle registration may be processed through any Washington vehicle licensing office or by mail by meeting the qualifications and paying the appropriate fees. The rental vehicle business registration number must be included on the vehicle registration. The name of the legal or registered owner on a rental vehicle registration must be identical to the business name displayed on the master license.

**(4) Do rental vehicles operated in Washington need to be registered in Washington?**

Rental vehicles must be registered in Washington unless:

(a) Rented by a customer at a location outside of the state of Washington; or

(b) The vehicle was dropped off at a Washington rental vehicle business by its previous renter and is being rented for a one-way trip out of Washington; or

(c) The vehicle is part of a properly registered International Registration Plan (IRP) rental vehicle business fleet.

**(5) Does the current certificate of registration issued by the department need to be carried in the rental vehicle?**

A photocopy of the current certificate of registration may be carried in a rental vehicle in lieu of the original certificate of registration.

**(6) Who may operate a rental vehicle?**

Rental vehicles may only be used by rental customers, unless the rental vehicle is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.

**(7) What does a rental vehicle business do when they remove a rental vehicle from their fleet?**

The rental vehicle business may submit a vehicle seller's report of sale that protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change in ownership has occurred.

**WSR 07-02-086**

**PERMANENT RULES**

**DEPARTMENT OF ECOLOGY**

[Order 05-12—Filed January 2, 2007, 4:05 p.m., effective February 2, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend Shoreline Management Act rules to ensure conformity with existing statutes, hearing board cases, court decisions, and federal guidance; and clarify the process for updating shorelines of the state. Ecology has initiated the process of updating local shoreline master programs, which will include maps and text that update shorelines of the state (i.e. the area regulated by the act within each city and county). The rule amendment resolves any potential conflict between updated shoreline master programs and the existing rule, through specifying that approved updated shoreline master programs will be utilized to delineate shorelines of the state.

Citation of Existing Rules Affected by this Order: Amending WAC 173-18-040, 173-18-044, 173-18-046, 173-20-044, 173-20-046, 173-20-640, 173-22-030, 173-22-040, 173-22-050, 173-22-055, 173-22-060, 173-27-040, 173-27-045, 173-27-060, 173-27-070, 173-27-090, 173-27-100, and 173-27-130.

Statutory Authority for Adoption: RCW 90.58.030 (3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147, 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460, chapters 70.105D, 80.50 RCW.

Adopted under notice filed as WSR 06-16-059 on July 28, 2006.

Changes Other than Editing from Proposed to Adopted Version: WAC 173-27-060 was revised to clarify permitting processes related to federal lands and activities, in accord with federal agency guidance on procedures to determine consistency between federal activities and a state's coastal zone management program.

A final cost-benefit analysis is available by contacting Tryg Hoff, Department of Ecology, P.O. Box 47600, Olympia, WA 9504-7600 [98504-7600], phone (360) 407-6865, fax (360) 407-6989, e-mail thof461@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 15, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 2, 2007.

Jay J. Manning  
Director

AMENDATORY SECTION (Amending Order 73-14, filed 8/27/73)

**WAC 173-18-040 Streams and rivers.** The following provisions of this chapter delimit(~~(, by county,)~~) the streams and rivers which constitute shorelines of the state as follows:

(1) Streams which constitute shorelines.

(a) Western Washington. (~~The following provisions describe the~~) Streams in Western Washington from the point at which the stream reaches a mean annual flow of twenty cubic feet per second down to the mouth of said stream or river: Provided, that the stream falls at said point, within the jurisdiction of chapter 90.58 RCW.

(b) Eastern Washington. (~~The following provisions describe the~~) Streams in Eastern Washington from the point at which the stream reaches a mean annual flow of twenty cubic feet per second down to the mouth of said stream or river: Provided, That the stream falls at said point, within the jurisdiction of chapter 90.58 RCW.

(2) Rivers which constitute shorelines of statewide significance.

(a) Western Washington. (~~The following provisions describe the point on those rivers in Western Washington where the mean annual flow reaches one thousand cubic feet per second and lists said river in all counties below said point through which said river passes with a mean annual flow in excess of one thousand cubic feet per second:~~) Any rivers west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more. Provided, That the river falls at said point within the jurisdiction of chapter 90.58 RCW.

(b) Eastern Washington. (~~The following provisions describe~~) Either of the following points on (~~those~~) rivers in Eastern Washington, whichever is farther upstream;

(i) The point at which the mean annual flow exceeds two hundred cubic feet per second(;) or

(ii) The lowest extremity of the first three hundred square miles of drainage area east of the crest of the Cascade Range; provided that either of said points which is utilized is within the jurisdiction of chapter 90.58 RCW.

(~~iii~~) The following provisions additionally list said river in all counties below said point through which said river passes:

(3) (~~Streams or rivers outside the jurisdiction of chapter 90.58 RCW. In those cases where the above described points on streams or rivers fall in geographical areas outside of the jurisdiction of chapter 90.58 RCW. The following provisions list said streams or rivers in all counties downstream from the boundaries of said geographical areas. In such listing, if the body of water is a shoreline of statewide significance below said geographical area, such will be indicated in the description and by asterisk.~~)

(4) Until superseded as provided in WAC 173-18-044, rivers constituting shorelines of the state are listed in WAC 173-18-050 through 173-18-430. Other data related to these lists.

(a) Wherever a river of statewide significance falls within a county, it is followed by an asterisk.

(b) The following provisions set forth the name of the quadrangle maps where the stream or river is shown. The quadrangle in which the shoreline delimitation begins and the

first quadrangle downstream from the county line is underlined. The quadrangle in which the shoreline of statewide significance begins is followed by an asterisk. The size, in minutes, of all quadrangle maps is designated.

(c) Where quadrangle maps are unavailable, photomaps have been used as indicated.

AMENDATORY SECTION (Amending Order DE 80-20, filed 6/30/80)

**WAC 173-18-044 Review and update of designations.** ((The department shall review all the designations made herein at least once in every five year period following the effective date of chapter 90.58 RCW or as frequently before then as is deemed advisable by the department, and prepare the necessary revisions to ensure that the designations conform to the policies of chapter 90.58 RCW and of chapter 173-18 WAC in the manner and form prescribed for adopting and amending rules and regulations in chapter 34.04 RCW (the Administrative Procedure Act).)) Each local government master program shall include a list of streams constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030 (2)(d). When such master program is approved by the department, subsequent to the effective date of this provision, the list within the master program shall be the official list for that jurisdiction and shall supercede the list contained herein.

AMENDATORY SECTION (Amending Order DE 80-20, filed 6/30/80)

**WAC 173-18-046 Conflicts between designations and criteria.** In the event that any of the designations set forth in this chapter or a shoreline master program approved under WAC 173-18-044, conflict with the criteria set forth in RCW 90.58.030(2) or in WAC 173-18-040 the criteria shall control. The designation of the stream or river shall be governed by the criteria, except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

AMENDATORY SECTION (Amending Order DE 73-13, filed 8/27/73)

**WAC 173-20-040 List of lakes coming under purview of chapter 90.58 RCW until superceded.** Volumes I and II of the book *Lakes of Washington* by Ernest E. Wolcott and updated information from ((the United States Geological Survey)) various sources were used as reference material for ((this)) the listings in WAC 173-20-050 through 173-20-810. These listings are in effect until superceded by an approved shoreline master program as described in WAC 173-20-044.

This listing includes only those lakes coming under purview of chapter 90.58 RCW.

Use designations are taken directly from Lakes of Washington as follows:

R - Recreation-wildlife, general public use, beautification, fishing, etc.

D - Domestic-private use, farm pond, fire protection, stock, garden, etc.

PS - Public supply, municipal use, civic, industrial use, etc.

P - Power hydroelectric.

I - Irrigation.

Acreeage given includes only water surface acres and not contiguous wetlands.

AMENDATORY SECTION (Amending Order DE 80-21, filed 6/30/80)

**WAC 173-20-044 Review and update of designations.** ((The department shall review all the designations made herein at least once in every five year period following the effective date of chapter 90.58 RCW or as frequently before then as is deemed advisable by the department, and prepare the necessary revisions to ensure that the designations conform to the policies of chapter 90.58 RCW and of chapter 173-20 WAC in the manner and form prescribed for adoption and amending rules and regulations in chapter 34.04 RCW (the Administrative Procedure Act).)) Each local government master program shall include a list of lakes constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030 (2)(d). When such master program is approved by the department subsequent to the effective date of this provision, the list within the master program shall be the official list for that jurisdiction and shall supercede the list contained herein.

AMENDATORY SECTION (Amending Order DE 80-21, filed 6/30/80)

**WAC 173-20-046 Conflicts between designations and criteria.** In the event that any of the designations set forth in this chapter or a shoreline master program approved under WAC 173-20-044, conflict with the criteria set forth in RCW 90.58.030(2) or in WAC 173-20-030 the criteria shall control. The designation of the lake shall be governed by the criteria, except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

AMENDATORY SECTION (Amending Order 97-40, filed 4/22/98, effective 5/23/98)

**WAC 173-20-640 Lakes coming under purview of chapter 90.58 RCW—Snohomish County lakes.**

	Location	Section	Name	Area (Acres)	Use
(1)	T27N-R4E	1-SW1/4	Martha Lk.	59.3	R
(2)	T27N-R4E	32-SW1/4	Ballinger Lk.	103.2	R
(3)	T27N-R5E	36-SE1/4	Crystal Lk. (Res.)	39.1	R
(4)	T27N-R7E	22-A/B	Fontal Lk.	37.2	R
(5)	T27N-R7E	23-SW1/4	Hannan Lk.	48.4	R
(6)	T27N-R8E	21-B/C	Tomtit Lk.	27.9	R
(7)	T27N-R8E	21-E/M	Dagger Lk.	27.7	R
(8)	T27N-R11E	21-NE1/4	Sunset Lk.	38.4	R
(9)	T28N-R4E	34-S1/2	Serene Lk.	42.3	R
(10)	T28N-R4E	35-A/B	Stickney Lk.	25.7	R
(11)	T28N-R5E	24-E1/4	Hanson Slough	35.0	R

	Location	Section	Name	Area (Acres)	Use
(12)	T28N-R5E	30-H	Silver Lk.	102.3	R
(13)	<del>(T28N-R5E)</del>	<del>32&amp;34</del>	<del>Thomas Lk.</del>	<del>100</del>	<del>PS</del>
(14))	T28N-R6E	1-SE1/4	Storm Lk.	78.1	R
((15))	T28N-R6E	2-A	Flowing Lk.		
(14)				134.8	R
((16))	T28N-R6E	2-C/D	Panther Lk.		
(15)				46.7	R
((17))	T28N-R6E	7-NW1/4	Blackmans Lk.		
(16)				60.1	R
((18))	T28N-R6E	24-A	Chain Lk.		
(17)				22.8	R
((19))	T28N-R7E	12-J	Woods Lk.		
(18)				20.5	R
((20))	T28N-R7E	16-A	Cochran Lk.		
(19)				33.6	R
((21))	T28N-R8E	6-G	Chaplain Lk. (Res.)		
(20)				443.7	PS
((22))	T28N-R8E	22-G/H	Kellogg Lk.		
(21)				20.2	R
((23))	T28N-R9E	20-NE1/4	Wallace Lk.		
(22)				55.3	R
((24))	T28N-R10E	5-G/H	Boulder Lk.		
(23)				21.7	R
((25))	T28N-R11E	1-W1/2	Blanca Lk.		
(24)				179.0	R
((26))	T29N-R7E	15-NE1/4	Purdy Creek Ponds		
(25)				20.0	R
((27))	T29N-R7E	27-N/P	Hughes Lk.		
(26)				20.2	R
((28))	T29N-R7E	28-E	Roesiger Lk.		
(27)				352.2	R
((29))	T29N-R8E	21-D	Echo Lk.		
(28)				24.6	R
((30))	T29N-R9E	9-M/N	East Boardman Lk.		
(29)				24.7	R
((31))	T29N-R9E	36-J/R	Greider Lks. Upper		
(30)				58.4	R
((32))	T29N-R10E	4	Copper Lk.		
(31)				60.8	R
((33))	T30N-R6E	31-C/D	Cassidy Lk.		
(32)				124.6	R
((34))	T30N-R6E	36-E1/2	Bosworth Lk.		
(33)				95.4	R
((35))	T31N-R4E	18-SE1/4	Martha Lk.		
(34)				58.4	R
((36))	T31N-R4E	20-L/P	Howard Lk.		
(35)				27.1	R
((37))	T31N-R4E	23-L	Ki Lk.		
(36)				97.4	R
((38))	T31N-R4E	33-G	Goodwin Lk.		
(37)				546.8	R
((39))	T31N-R4E	33-P	Shoecraft Lk.		
(38)				136.8	R
((40))	T31N-R4E	34-H	Crabapple Lk.		
(39)				36.3	R
((41))	T31N-R4E	35-A/H	Loma Lk.		
(40)				21.1	R
((42))	T32N-R4E	26-K/L	Sunday Lk.		
(41)				38.7	R

	Location	Section	Name	Area (Acres)	Use
((43))	T32N-R5E	26-SE1/4	Armstrong Lk.		
(42)				30.7	R
((44))	T32N-R5E	27-F/G	Bryant Lk.		
(43)				20.2	R
((45))	T32N-R6E	26-C	Little Lk.		
(44)				23.4	R
((46))	T32N-R7E	19-H/J	Riley Lk.		
(45)				30.0	R
((47))	T32N-R10E	28	Evangeline Lk.		
(46)				25.0	

AMENDATORY SECTION (Amending Order 96-12, filed 2/5/97, effective 3/8/97)

**WAC 173-22-030 Definitions.** As used herein, the following words have the following meanings:

(1) "Associated wetlands" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act;

(2) "Atypical situation" as used herein, refers to areas in which one or more parameters (vegetation, soil, and/or hydrology) have been sufficiently altered by recent human activities or natural events to preclude the presence of wetland indicators of the parameter. Recent refers to the period of time since legal jurisdiction of an applicable law or regulation took effect;

(3) "Duration (inundation/soil saturation)" means the length of time during which water stands at or above the soil surface (inundation), or during which the soil is saturated. As used herein, duration refers to a period during the growing season;

(4) "Flood plain" is synonymous with one hundred-year floodplain and means that land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act;

(5) "Floodway" (~~means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limit of the floodway is that which has been established in flood regulation ordinance maps or by a reasonable method which meets the objectives of the act~~) has the meaning provided in RCW 90.58.030;

(6) "Growing season" means the portion of the year when soil temperatures at 19.7 inches below the soil surface are higher than biologic zero (5°C);

(7) "Hydrophytic vegetation" means the sum total of macrophytic plant life growing in water or on a substrate that

is at least periodically deficient in oxygen as a result of excessive water content. When hydrophytic vegetation comprises a community where indicators of hydric soils and wetland hydrology also occur, the area has wetland vegetation;

(8) "Hydric soil" means soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part;

(9) "Lake" means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream;

(10) "Long duration" means a period of inundation from a single event that ranges from seven days to one month.

(11) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. The following criteria clarify this mark on tidal waters, lakes, and streams:

(a) Tidal waters.

(i) In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide;

(ii) In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand;

(b) Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;

(c) Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs;

(12) "Prevalent vegetation" means the plant community or communities that occur in an area during a given period. The prevalent vegetation is characterized by the dominant macrophytic species that comprise the plant community;

(13) "River delta" means those lands formed as an aggradational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels;

(14) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology. Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

(15) A "stream" is a naturally occurring body of periodic or continuously flowing water where:

(a) The mean annual flow is greater than twenty cubic feet per second; and

(b) The water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stockwatering channels;

(16) "Tidal water" includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream;

(17) "Typically adapted" is a term that refers to a species being normally or commonly suited to a given set of environmental conditions, due to some feature of its morphology, physiology, or reproduction;

(18) "Very long duration" means a period of inundation from a single event that is greater than one month.

(19) "Wetlands" or "wetland areas" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands; and

(20) The definitions set forth in chapter 90.58 RCW shall also apply as used herein.

AMENDATORY SECTION (Amending Order 96-12, filed 2/5/97, effective 3/8/97)

**WAC 173-22-040 Shoreland area designation criteria.** The following criteria contain the standards for the department's designation of shoreland areas associated with shorelines of the state which are subject to the jurisdiction of chapter 90.58 RCW:

(1) Tidal waters. The shoreland area shall include:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and

(b) Those wetlands which are in proximity to and either influence or are influenced by the tidal water. This influence includes but is not limited to one or more of the following: Periodic tidal inundation; hydraulic continuity; formation by tidally influenced geohydraulic processes; or a surface connection through a culvert or tide gate;

(2) Lakes. The shoreland area shall include:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark; and

(b) Those wetlands which are in proximity to and either influence or are influenced by the lake. This influence includes but is not limited to one or more of the following: Periodic inundation or hydraulic continuity;

(3) Streams. The shoreland area shall include the greater of:

(a) Those lands which extend landward two hundred feet as measured on a horizontal plane from the ordinary high water mark;

(b) Those floodplains which extend landward two hundred feet as measured on a horizontal plane from the floodway: Provided, That local government may, at its discretion, include all or a larger portion of the one hundred-year floodplain within the associated shorelands. Designation of this shoreland area shall be in accordance with chapter ~~((173-19))~~ 173-26 WAC, the state master program. If the applicable master program does not designate the shoreland area for a stream, it shall be designated under the rules which applied at the time of adoption by the department;

(c) Those wetlands which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a floodplain; or hydraulic continuity; and

(d) Those lands within a river delta floodplain except for those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

AMENDATORY SECTION (Amending Order 86-06, filed 5/23/86)

**WAC 173-22-050 Review and update of designations.** ~~((The department shall review all the designations made herein at least once in every five-year period following the effective date of chapter 90.58 RCW or as frequently as is deemed advisable by the department, and prepare the necessary revisions to ensure that the designations conform to the policies of chapter 90.58 RCW and of chapter 173-22 WAC in the manner and form prescribed for adopting and amending rules and regulations in chapter 34.04 RCW (the Administrative Procedure Act).))~~ Each local government master program shall include a map of shorelands constituting shorelines of the state within the jurisdiction of the master program that complies with the requirements of RCW 90.58.030 (2)(d). When such master program is approved by the depart-

ment subsequent to the effective date of this provision, the list within the master program shall be the official list for that jurisdiction and shall supercede the list contained herein.

AMENDATORY SECTION (Amending Order 86-06, filed 5/23/86)

**WAC 173-22-055 Conflicts between designations and criteria.** In the event that any of the ~~((wetland))~~ shoreland designations shown on the maps adopted in WAC 173-22-060 or a shoreline master program approved under WAC 173-22-050, conflict with the criteria set forth in this chapter the criteria shall control. The boundary of the designated ~~((wetland))~~ shoreland areas shall be governed by the criteria set forth in WAC 173-22-040 except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

AMENDATORY SECTION (Amending Order 86-06, filed 5/23/86)

**WAC 173-22-060 Shoreline designation maps until superceded.** Shoreline designation maps are those maps which have been prepared and adopted by the department in a manner consistent with chapter 34.04 RCW (the Administrative Procedure Act) that designate the location of shorelines of the state and their ~~((associated wetland))~~ shoreland areas. ~~((Wetland))~~ Shoreland area designations are applied under the criteria contained in WAC 173-22-040. Due to the bulk of the maps designating the ~~((wetland))~~ shoreland areas, they are not included in the text of this chapter, but rather are incorporated herein as an appendix hereto, having full legal force and effect as if published herein. Copies of the appendix are available to the public at all reasonable times for inspection in the headquarters of the department of ecology in ~~((Olympia))~~ Lacey, the Washington state code reviser's office, the appropriate county auditor and city clerk. Copies of portions thereof, or of the complete set, will be available from the department at the expense of the party requesting the same. Volumes I, II, and III entitled *Shorelines under the Shoreline Management Act of 1971* (chapter 90.58 RCW, chapter 286, Laws of 1971 1st ex. sess.) were adopted by reference on June 30, 1972. These maps are in effect until superceded by an approved shoreline master program as described in WAC 173-22-050.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-040 Developments exempt from substantial development permit requirement.** (1) Application and interpretation of exemptions.

(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

(b) An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses and developments

must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

(c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

(d) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

(e) Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and the local master program.

(2) The following developments shall not require substantial development permits:

(a) Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~((two))~~ five thousand ~~((five hundred))~~ dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

(b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not lim-

ited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

(c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

(d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

(e) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(f) Construction or modification (~~(, by or under the authority of the Coast Guard or a designated port management authority,))~~ of navigational aids such as channel markers and anchor buoys;

(g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner ~~((s)),~~ lessee, or contract purchaser of ~~((a))~~ single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

(ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

(i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

(j) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on ~~((June 4))~~ September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

(l) Any project with a certification from the governor pursuant to chapter 80.50 RCW;

(m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(i) The activity does not interfere with the normal public use of the surface waters;

(ii) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(iii) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(v) The activity is not subject to the permit requirements of RCW 90.58.550;

(n) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

(o) Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

(i) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(A) A project that involves less than ten miles of stream-reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(B) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(C) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two



hundred square feet in floor area and is located above the ordinary high water mark of the stream.

(ii) "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

(p) A public or private project (~~(, the primary purpose of which is))~~ that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

(i) The project has been approved in writing by the department of fish and wildlife (~~(as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose))~~;

(ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter (~~(75.20))~~ 77.55 RCW; and

(iii) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

~~((3) Hazardous substance remedial actions. The procedural requirements of chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of chapter 90.58 RCW, chapter 173-26 WAC and the local master program.))~~

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:

(A) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (p)(iii)(A)(I) and (II) of this subsection:

(I) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

• Elimination of human-made fish passage barriers, including culvert repair and replacement;

• Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

• Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department of fish and wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process cre-

ated in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(II) A fish habitat enhancement project must be approved in one of the following ways:

• By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;

• By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

• By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;

• Through the review and approval process for the jobs for the environment program;

• Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;

• Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and

• Through other formal review and approval processes established by the legislature.

(B) Fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

(C)(I) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(II) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may

formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.

(D) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(A) of this subsection and that are reviewed and approved according to the provisions of this section.

#### NEW SECTION

**WAC 173-27-045 Developments not subject to the Shoreline Management Act.** Certain developments are not required to meet requirements of the Shoreline Management Act as follows:

(1) Pursuant to RCW 90.58.390, certain secure community transition facilities are not subject to the Shoreline Management Act. An emergency has been caused by the need to expeditiously site facilities to house sexually violent predators who have been committed under chapter 71.09 RCW. To meet this emergency, secure community transition facilities sited pursuant to the preemption provisions of RCW 71.09.342 and secure facilities sited pursuant to the preemption provisions of RCW 71.09.250 are not subject to the provisions of this chapter.

This section expires June 30, 2009.

(2) Pursuant to RCW 90.58.045 regarding environmental excellence program agreements, notwithstanding any other provision of law, any legal requirement under the Shoreline Management Act, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW.

(3) Pursuant to RCW 90.58.355 regarding hazardous substance remedial actions, the procedural requirements of the Shoreline Management Act shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of chapter 90.58 RCW, chapter 173-26 WAC and the local master program through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

(4) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under chapter 90.58 RCW.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-060 Applicability of chapter 90.58 RCW to federal lands and agencies.** ~~((The policies and provisions of chapter 90.58 RCW including the permit system shall be applied in the following manner to federal agencies on lands meeting the criteria of the Shoreline Management Act for shorelines of the state.~~

~~(1) Within the coastal counties:))~~ (1) Direct federal agency ~~((actions and projects))~~ activities in or affecting Washington's coastal zone shall be consistent to the maxi-

imum extent practicable with the enforceable policies of the most recent federally approved Washington state coastal zone management program ~~((subject to certain limitations set forth in))~~ pursuant to the Federal Coastal Zone Management Act, 16 U.S.C. 1451 et seq. (CZMA) and federal regulations adopted pursuant thereto. ~~((Other applicable federal law governing the federal agency actions may determine whether the permit system of chapter 90.58 RCW is applicable.))~~

Washington's coastal zone, as established in the state's approved coastal zone management program, includes the following coastal counties: Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce, Thurston, Mason, Kitsap, Jefferson, Clallam, Grays Harbor, Pacific and Wahkiakum.

The Shoreline Management Act is incorporated into the Washington state coastal zone management ~~((plan))~~ program and, thereby, those direct federal ~~((actions occurring on lands))~~ agency activities affecting the uses or resources subject to the act must be consistent to the maximum extent practicable ~~((extent))~~ with the enforceable provisions of the act, regulations adopted pursuant to the act and ~~((with))~~ the local master program. ~~((Local government is in the best position to determine the appropriate procedure for review of federal development activities at the local level while the state must take action on federal consistency determinations submitted to it.))~~

(a) When the department receives a consistency determination for ~~((a development))~~ an activity proposed by the federal government ~~((on land subject to the act))~~, it shall request that local government review the proposal and ~~((respond in writing that the local government:~~

(i) ~~Cannot make a determination of the consistency of the project with the master program without reviewing the project in the regular permit process; or~~

(ii) ~~Has reviewed the project for consistency with the local master program without using the permit system. Local government may recommend that the project be approved, approved only under certain specified conditions or denied.~~

(iii) ~~Defers review of the project to the state.~~

(b) ~~Upon receipt of a response from local government that a permit is required to make a determination, the department shall inform the requesting agency of the local government finding and shall indicate that concurrence with the consistency determination cannot be granted until a permit is issued. If the local government chooses to review and make a recommendation without using the permit system it shall so notify the department and submit its recommendation to the department within thirty days unless a longer period of time is agreed to by the federal agency and the department. If no response is received from local government within thirty days they shall be deemed to have deferred review of the project.~~

(c) ~~Nothing in this section shall be deemed to preclude independent review of the project by the state pursuant to any appropriate authority consistent with the approved coastal zone management plan.~~

(d) ~~The coastal counties, as established in Washington's approved coastal zone management plan, consist of the following counties: Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce, Thurston, Mason, Kitsap, Jefferson, Clallam, Grays Harbor, Pacific and Wahkiakum.~~

~~(2) Outside of the coastal counties.~~

~~(a) Direct federal agency actions that are reasonably likely to affect any coastal use or resource shall be consistent with the approved coastal zone management plan to the maximum extent practicable subject to limitations set forth in the Federal Coastal Zone Management Act, 16 U.S.C. 1451 et seq. (CZMA) and regulations adopted pursuant thereto. Other applicable federal law governing the federal agency actions may determine whether the permit system of chapter 90.58 RCW is applicable.~~

~~(b) Except as provided in (a) of this subsection, federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government or on easements obtained by the federal government for a specified purpose where the proposed development is consistent with the specified purpose, unless under either circumstance the federal government grants or reserves to the state or local government substantial jurisdiction over activities on those lands.~~

~~(c) Except as provided in (a) of this subsection, the permit system shall apply to developments undertaken on lands not federally owned but under lease, license, or other similar federal property rights short of fee ownership, to the federal government)) provide the department with its views regarding the consistency of the activity or development project with the enforceable policies of the local master program.~~

~~(b) The CZMA federal consistency decision-making process for federal agency activities is prescribed in the Coastal Zone Management Act (16 U.S.C. 1456 (c)(1) and (2), in federal regulations at 15 C.F.R. part 930, subpart C, and in Washington's most recent federally approved CZM program document.~~

~~(2) Federal agency activities may be required by other federal laws to meet the permitting requirements of chapter 90.58 RCW.~~

~~(3) The policies and provisions of chapter 90.58 RCW, including the permit system, shall apply statewide to all non-federal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.~~

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-070 Application of the permit system to substantial development undertaken prior to the effective date of the act.** (1) Substantial development undertaken on the shorelines of the state prior to the effective date of the act, including changes in shoreline jurisdiction as described in subsection (2) of this section, shall not require a permit except under the following circumstances:

(a) When the activity was unlawful prior to the effective date of the act.

(b) When there has been an unreasonable period of dormancy in the project between its inception and the effective date of the act.

(c) When the development is not completed within two years after the effective date of the act.

(d) When substantial development occurred prior to the effective date of the act on a shoreline and continued on to a different lake, river or tributary after the effective date, a permit shall be required for the development undertaken after the effective date.

(e) Substantial development undertaken prior to the effective date of the act shall not continue without a permit into other phases that were not part of the plan being followed at the time construction commenced.

(2) The effective date of the act is determined by one of the following procedures:

(a) When a change in the area subject to the jurisdiction of the act occurs as a result of a determination of jurisdiction by the department based on the provisions of RCW 90.58.030 (2)(d) or (e), the effective date of the act shall be the date the department provides written notice of the change to the local government(s) in which the affected area is located.

(b) When a change in the area subject to the jurisdiction of the act occurs as a result of an updated shoreline master program that supersedes the jurisdiction lists in chapter 173-18, 173-20 and 173-22 WAC, the effective date of the act shall be the date the department approves the updated master program.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-090 Time requirements of permit.** (1) The ~~((following))~~ time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. ~~((+))~~ Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and ~~((the act))~~ this chapter, local government may adopt ~~((appropriate))~~ different time limits from those set forth in subsections (2) and (3) of this section as a part of action on a substantial development permit ~~((and local government, with the approval of the department, may adopt appropriate time limits as a part of action on a conditional use or variance permit: "Good cause based on the requirements and circumstances of the project," shall mean that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources)).~~

~~((Where neither local government nor the department include specific provisions establishing time limits on a permit as a part of action on the permit, the following time limits shall apply:~~

~~((a))~~ Construction activities shall be commenced or, where no construction ~~((is))~~ activities are involved, the use or activity shall be commenced within two years of the effective date of a ~~((shoreline))~~ substantial development permit. ~~((Provided, that))~~ However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension.

sion is given to parties of record on the substantial development permit and to the department.

~~((b))~~ (3) Authorization to conduct development activities shall terminate five years after the effective date of a ~~((shoreline))~~ substantial development permit. ~~((Provided, that))~~ However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

~~((3))~~ The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.

(4) When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: Provided, That an alternative compliance limit may be specified in the permit. (4) The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (2) and (3) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

(5) Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired ~~((under subsection (2) of this section))~~: Provided, That this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

(6) Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by ~~((this section))~~ RCW 90.58.143 as amended shall require a new permit application.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-100 Revisions to permits.** A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter

90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.

(2) "Within the scope and intent of the original permit" means all of the following:

(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

(b) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

(c) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;

(d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

(e) The use authorized pursuant to the original permit is not changed; and

(f) No adverse environmental impact will be caused by the project revision.

(3) Revisions to permits may be authorized after original permit authorization has expired under ~~((WAC 173-27-080(2)))~~ RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

(4) If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (2) of this section, local government shall require that the applicant apply for a new permit.

(5) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the department. In addition, local government shall notify parties of record of their action.

(6) If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to the department for the department's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen

days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.

(7) The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection (6) of this section, upon final action by the department.

(8) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of receipt of the local government's action by the department or, when appropriate under subsection (6) of this section, the date the department's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

**WAC 173-27-130 Filing with department.** (1) All applications for a permit or a permit revision shall be submitted to the department upon a final decision by local government. Final decision by local government shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

(2) When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

(3) A complete submittal shall consist of the following documents and information:

(a) A copy of the complete application pursuant to WAC 173-27-180;

(b) Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable master program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s) as established in WAC 173-27-140 through 173-27-170;

(c) The final decision of the local government;

(d) The permit data sheet required by WAC 173-27-190; and

(e) Where applicable, local government shall also file the applicable documents required by chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under chapter 43.21C RCW.

(4) When the project has been modified in the course of the local review process, plans or text shall be provided to the department that clearly indicate the final approved plan.

(5) Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is

complete when all of the documents required pursuant to subsections (3) and (4) of this section have been received by the department. If the department determines that the submittal does not contain all of the documents and information required by this section, the department shall identify the deficiencies and so notify local government and the applicant in writing. ~~((The)) Ecology will not act on conditional use permit or variance submittal ((and permit are void unless and))~~ until the material requested in writing is submitted to the department.

(6) "Date of filing" of a local government final decision involving approval or denial of a substantial development permit ~~((, or involving a denial of a variance or conditional use permit,))~~ is the date of actual receipt by the department of a ((complete submittal by the department)) local government's final decision on the permit.

(7) "Date of filing" ~~((of a permit for a conditional use or variance approved by local government, and such permits which also involve concurrent submittal by local government of a substantial development))~~ involving approval or denial of a variance or conditional use permit, is the date of transmittal of the department's final decision on the variance or conditional use permit to local government and the applicant.

(8) The department shall provide a written notice to the local government and the applicant of the "date of filing."

(9) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general.

(10) When a permit has been appealed pursuant to RCW 90.58.180, upon conclusion of all review proceedings, a copy of the final order shall be provided ~~((to))~~ by the local government ((and)) to the department. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the local government, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan and the local government shall reissue the permit accordingly and submit a copy of the reissued permit and supporting documents consistent with subsection (3) of this section to the department for completion of the file on the permit. The purpose of this provision is to assure that the local and department files on the permit are complete and accurate and not to provide a new opportunity for appeal of the permit.

#### WSR 07-02-100

#### PERMANENT RULES

#### SECRETARY OF STATE

(Elections Division)

[Filed January 3, 2007, 9:27 a.m., effective February 3, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: United States district court for the western district of Washington issued a preliminary injunction on August 1, 2006, enjoining the enforcement of RCW 29A.08.107. *Washington Association of Churches, et. al. v.*

*Sam Reed* No. C06-0726RSM. These rules implement the injunction.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-253-055; and amending WAC 434-253-024, 434-253-047, 434-262-031, 434-324-010, 434-324-040, 434-324-055, and 434-324-085.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 06-22-008 on October 20, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 7, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Dear Voter:

[date]

Based on your recent registration, federal law requires that you provide identification with your ballot. **If you fail to provide identification, your ballot will not be counted.**

Please provide a copy of one of the following:

- Valid photo identification;
- A valid enrollment card of a federally recognized tribe in Washington;
- A current utility bill;
- A current bank statement;
- A current government check;
- A current paycheck; or
- A government document that shows both your name and address.

You may return the photocopy with your ballot but, in order to protect the secrecy of your ballot, do not place the photocopy inside the security envelope.

**If you do not provide a copy of your identification, your ballot will not be counted.**

If you have any questions, please feel free to contact the \_\_\_\_\_ County Auditor's Office at \_\_\_\_\_.

(3) If the voter provides one of the acceptable forms of identification no later than the day before certification of the election, the flag on the voter registration record must be removed and the ballot must be counted.

(4) If the voter fails to provide one of the acceptable forms of identification by the day prior to certification of the election, the ballot may not be counted. If the voter provides one of the acceptable forms of identification at a later date, the ballot cast in that election may not be counted but the flag on the voter registration record must be removed.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Number of Sections Adopted Using Negotiated Rule Making: New 3, Amended 7, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 3, 2007.

Steve Excell  
Assistant Secretary of State

#### NEW SECTION

**WAC 434-250-045 Voters requiring verification of identity.** (1) If the voter registration record of an absentee voter is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

(2) The notice to the absentee voter must be in substantially the following form:

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

**WAC 434-253-024 (~~Contents of~~) Poll book of registered voters.** (1) Poll books must be printed utilizing information from the official statewide voter registration data base. The poll book of registered voters must contain the name, residence address, sex, month and day of birth, and county voter registration number of each voter in the precinct, a listing of the districts in which that voter resides, and a designation of the applicable county, legislative district, and precinct, or a ballot code identifying this information. The names must be listed alphabetically by last name. The

list must contain a space for each voter to sign his(✓) or her name and to verify his(✓) or her current address, and a space for the inspector or judge to credit the voter with having participated in a particular election.

(2) The auditor may eliminate from poll books ongoing absentee voters and voters requesting absentee ballots for that election. The poll book must clearly indicate whether or not absentee voters are included on the list. If they are included, a notation must be made next to each absentee voter's name.

(3) The list must include a notation for each registered voter who failed to satisfy the identity verification requirement during the registration process. Such a voter must be issued a provisional ballot, and the reason for the provisional ballot must be marked on the outer envelope, unless the voter first shows one of the following forms of identification, in which case the voter may be issued a regular ballot:

(a) Valid photo identification;

(b) A valid enrollment card of a federally recognized tribe in Washington;

(c) A current utility bill;

(d) A current bank statement;

(e) A current government check;

(f) A current paycheck; or

(g) A government document that shows both the voter's name and address, other than a voter registration card.

(4) All voters must show one of the following forms of identification before signing the poll book:

(a) Valid photo identification, such as a driver's license, state identification card, student identification card, or tribal identification card;

(b) A voter registration card;

(c) A current utility bill;

(d) A current bank statement;

(e) A current paycheck;

(f) A government check; or

(g) Another government document.

Any individual who cannot provide one of the above forms of identification must be issued a provisional ballot.

**AMENDATORY SECTION** (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-253-047 Provisional ballots—Disposition.**

Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election.

A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record.

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.

(2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.

(4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.

(5) If the voter is a registered voter in another county, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the supervisor of elections for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date.

(6) If an absentee voter who voted a provisional ballot at the polls has already returned a voted absentee ballot, the provisional ballot is not counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.

(7) If the voter voted a provisional ballot because he or she failed to produce identification as required by RCW 29A.44.205 and pursuant to WAC 434-253-024(4), the ballot is counted if the signature on the envelope matches the signature in the voter registration record.

(8) If the voter voted a provisional ballot because the voter's registration record is flagged as requiring verification of identity, and the voter failed to provide identification pursuant to WAC 434-253-024(3) or 434-261-055, the provisional ballot is not counted.

(9) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 434-253-055 Identification.

**NEW SECTION**

**WAC 434-261-055 Returned ballot lacking verification of identity.** If a voter who still must verify his or her identity as part of the registration process votes an absentee or provisional ballot without providing adequate identification, the ballot cannot be counted unless the voter provides adequate identification no later than the day before certification of the election.

**AMENDATORY SECTION** (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

**WAC 434-262-031 Rejection of ballots or parts of ballots.** Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(1) Where two ballots are found folded together, or where a voter has voted more than one ballot;

(2) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;

(3) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent;

(4) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(5) Where the voter has voted for more candidates for an office than are permissible;

(6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-250-040 unless the voter provides written instructions directing how the vote should be counted;

(7) In the case of a partisan primary:

(a) For physically separate ballots:

(i) A log must be kept of all voted ballots rejected and included as part of the county canvassing board minutes.

(ii) When a voted nonpartisan ballot and a voted party ballot are both returned, and the nonpartisan section of the party ballot was not voted, the votes from both ballots must be duplicated onto a blank ballot of the same party the voter originally voted for.

(iii) When a party ballot and nonpartisan ballot both have been returned with the nonpartisan offices and ballot measures voted on both ballots, the nonpartisan votes that are the same on each ballot and the party votes shall be duplicated and counted.

(iv) Write-in votes for a partisan candidate on a nonpartisan ballot must not be counted in the final write-in tally.

(v) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy, thereby affiliating with a major party, must not be counted in the final write-in tally.

(vi) If physically separate ballots are used and a voter returns more than one voted partisan ballot, no votes cast for candidates for partisan office shall be counted. If votes are cast for nonpartisan offices and/or ballot measures on only one of the partisan ballots, the nonpartisan votes must be counted. If votes are cast for nonpartisan offices and/or ballot measures on more than one party ballot, only those votes which are the same on each ballot shall be duplicated onto a nonpartisan ballot and counted.

(vii) If more than one ballot is returned but only one ballot is voted, the voted ballot must be counted.

(b) For consolidated ballots:

(i) When voting a consolidated ballot, if the voter does not mark the party checkbox, votes cast for candidates for partisan office must not be counted but votes cast on the nonpartisan portion of the ballot shall be counted.

(ii) Write-in votes for a partisan candidate in a partisan office on the nonpartisan section of the ballot must not be counted in the final write-in tally.

(iii) Write-in votes for a partisan candidate who has not filed a write-in declaration of candidacy shall not be counted in the final write-in tally.

(iv) If the voter marks one party checkbox, only those votes for candidates of that party shall count. Votes cast for candidates of other political parties must not be counted and do not cause over-votes.

Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee ballots where such rejection is required by law or administrative rule. The disposition of provisional ballots is governed by WAC 434-253-047.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-010 County election management system—Applications for voter registration.** (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration form in a format compatible with the official statewide voter registration data base:

(a) Name;

(b) Complete residential address;

(c) Complete mailing address;

(d) County registration number;

(e) State registration number;

(f) Gender;

(g) Date of birth;

(h) Date of registration;

(i) Applicable district and precinct codes;

(j) Dates upon which the individual has voted, if available;

(k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number (~~if he or she does not have a Washington state driver license or Washington state identification card~~); and

(1) A scanned image file (format .tiff) of the applicant's signature.

(2) In the case of an applicant who applies for voter registration by mail and sends a copy of ~~((an))~~ one of the alternative forms of identification listed in RCW 29A.08.113 for registration purposes, ~~((pursuant to RCW 29A.08.113,))~~ the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was ~~((sent))~~ provided to the auditor. Pursuant to RCW 29A.08.-710, a scanned image of the identification is not available for public inspection or copying.

(3) Upon entry of an applicant's information, the auditor must check for duplicate entries.

(4) Each auditor must have a quality assurance program to maintain accurate data entry into the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

**WAC 434-324-040 Data transfer to secretary and registration status.** (1) Following entry into the county election management system, all information in the application



for voter registration must be transferred electronically to the secretary for identity verification (~~(, outlined in RCW 29A.08.107)~~). The secretary must assign the application a state identification number (~~(, and the application must remain in the county election management system in pending status until the applicant's identity has been verified)~~).

(2) If the applicant provided a Washington driver license number or state identification card number, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of his or her Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

(3) If the applicant's identity is not verified (~~(automatically)~~) in the computerized verification process, the secretary must notify the county election management system accordingly. The county auditor must first confirm the accuracy of the information entered in the county election management system from the voter registration application. The county auditor must correct any errors and again attempt to verify the applicant's identity automatically.

(4) If the applicant provided a Washington driver license number or state identification number and the identity is not verified (~~(automatically)~~) in the computerized verification process, the information on the application may be considered a "match" (~~(for purposes of RCW 29A.08.107)~~) if the number on the application exactly matches a number issued by the department of licensing, and it is clear to the county auditor that the information on the application describes the person on the department of licensing record. Reasons that the county auditor may conclude that the information on the application ((matches)) describes the person on the department of licensing record ((#)) include, but are not limited to, the following:

(a) The first (~~((#))~~) middle, or last name on the application is a variation of the first ((#)) middle, or last name in the department of licensing record;

(b) The first, middle, or last name has transposed letters or another typographical error on the application or in the department of licensing record;

(c) The first and last names are transposed on the application or in the department of licensing record;

(d) The first and middle names are transposed on the application or in the department of licensing record;

(e) The applicant has a compound or hyphenated name which is not accurately or completely set forth on the application or in the department of licensing record;

(f) The first or middle name is abbreviated with initials on the application or in the department of licensing record; (~~((#~~

(~~((#))~~) (g) The last name on the application and the last name in the department of licensing record are not the same but, based on other information, the county auditor concludes that one of the names is a maiden name or a former name of the same person; or

(h) The month and day of the applicant's date of birth are transposed on the application or in the department of licensing record.

If the county auditor concludes that the information on the application (~~((matches the information maintained by the~~

~~department of licensing)) describes the person on the department of licensing record, the county auditor ((may)) must override the ((automated)) computerized failure to verify and must note the reason it is considered a match. The county auditor must place the applicant on the official list of registered voters in active status.~~

(5) (~~(If the applicant's driver's license or state identification number cannot be considered a match, the county auditor must attempt to contact the applicant to resolve the discrepancy, as required by RCW 29A.08.107. At a minimum, the county auditor must send a verification notice, as required by RCW 29A.08.030, 29A.08.110, and 29A.08.210, and may attempt to contact the applicant by phone or e-mail. The county auditor may attempt to confirm the applicant's driver's license number or state identification number, obtain the last four digits of the applicant's Social Security number, or obtain an alternative form of identification as allowed by RCW 29A.08.113.~~

(6) ~~(If the applicant provided the last four digits of his or her Social Security number and the identity is not verified automatically, the county auditor must contact the applicant to resolve the discrepancy, as required by RCW 29A.08.107. At a minimum, the county auditor must send a verification notice, as required by RCW 29A.08.030, 29A.08.110, and 29A.08.210, and may attempt to contact the applicant by phone or e-mail. The county auditor may attempt to confirm the last four digits of the applicant's Social Security number, obtain a Washington driver's license number or state identification number, or obtain an alternative form of identification as allowed by RCW 29A.08.113.~~

(7) ~~Once the applicant's identity has been verified, the county auditor must change the voter's registration code in the county election management system from pending status to active. Consistent with RCW 29A.08.110, the applicant is considered registered as of the original date of mailing or date of delivery, whichever is applicable.) If the applicant's identity is not verified in the computerized verification process, the applicant must be placed on the official list of registered voters in active status, but the registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.~~

#### NEW SECTION

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant's identity is not verified in the computerized verification process outlined in WAC 434-324-040, the county auditor must verify the applicant's identity before counting the applicant's ballot. The county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to verify the applicant's identity by contacting the applicant by phone, e-mail or other means.

(2) If the county auditor has not successfully verified the applicant's identity, the county auditor must send the applicant an identity verification notice that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identity verification notice must be in substantially the following form:

Dear Voter:

[date]

Thank you for submitting a voter registration application. You are now registered to vote.

However, federal law requires that you provide identification either before or when you vote. **If you fail to provide identification, your ballot will not be counted.**

Please provide one of the following:

- The number on your Washington driver's license or state ID card: \_\_\_\_\_  
Your name and date of birth as it appears on your driver's license or state ID card:

_____	_____	_____	_____
First	M.I.	Last	date of birth

- The last four digits of your Social Security number: \_\_\_\_\_  
Your name and date of birth as maintained by the Social Security Administration:

_____	_____	_____	_____
First	M.I.	Last	date of birth

- A copy of one of the following:
  - Valid photo identification;
  - A valid enrollment card of a federally recognized tribe in Washington;
  - A current utility bill;
  - A current bank statement;
  - A current government check;
  - A current paycheck; or
  - A government document that shows both your name and address.

Please provide this documentation as soon possible. **If it is not provided, your ballot will not be counted.**

If you have any questions, please feel free to contact the \_\_\_\_\_ County Auditor's Office at \_\_\_\_\_.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. If the applicant votes absentee, he or she must be notified that the ballot will not be counted unless he or she provides adequate verification of identity.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-055 Duplicate voter registration search conducted by secretary.** Upon receipt of an applicant's electronic voter registration record from the auditor, and on a monthly basis (~~((pursuant to WAC 434-324-113(3)))~~), the secretary must search for potential duplicate registration

records in the official statewide voter registration data base(~~(; required in RCW 29A.08.651,))~~) by comparing the applicant's name and date of birth or other identifying information provided by the applicant on the voter registration form. Duplicates will be determined by comparing the signatures on all available records. If a voter is transferring his or her registration to a new county or if any other information on the application has been updated, the auditor of the new county must update the registration record (~~((pursuant to RCW 29A.08.107 (4)))~~) in the state data base. A duplicate registration record must not be (~~(entered)~~) maintained as a new registration record.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

**WAC 434-324-085 Notice of new registration or transfer.** (1) The auditor must send (~~((notification))~~) an acknowledgement notice to an individual by nonforwardable, address correction requested mail if an individual:

- (a) Registers to vote;
- (b) Transfers his(~~(s)~~) or her registration record within the county;

(c) Transfers his or her registration record from another county within Washington state; or

(d) Changes from one precinct to another because of a change in precinct boundaries.

(2) The notice must acknowledge that the request of the individual has been processed and must include:

(a) Voter's full name;

(b) Mailing address;

(c) County name;

(d) Precinct name and/or number; and

(e) The date the voter registered.

#### WSR 07-02-104

##### PERMANENT RULES

#### DEPARTMENT OF LICENSING

[Filed January 3, 2007, 10:24 a.m., effective February 3, 2007]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Updates policies and procedures relating to the requirement, scoring, and consequences of vision tests taken by applicants for driver's licenses and instruction permits. Policies and procedures are being updated to improve traffic safety based on the results of an internal study of the current rule and its effects.

Citation of Existing Rules Affected by this Order: Amending WAC 308-104-010.

Statutory Authority for Adoption: RCW 46.20.130, 46.20.041.

Adopted under notice filed as WSR 06-21-129 on October 18, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 2, 2007.

Becky Loomis  
Assistant Director

AMENDATORY SECTION (Amending WSR 04-20-012, filed 9/24/04)

**WAC 308-104-010 Vision test.** (1) A person applying for a driver's license or (~~renewal~~) instruction permit shall be required to take a vision test administered by the department.

(a) Any person (~~having less~~) with visual acuity worse than ((a)) 20/40 Snellen ((vision acuity)) with both eyes combined either corrected or uncorrected, or (~~having~~) with

some apparent significant visual limitation, must have an eye examination by (~~an ophthalmologist or optometrist~~) a competent vision authority.

(b) If an applicant's vision cannot be corrected so (~~that~~) it will be (~~within the~~) 20/40 Snellen (~~range for visual acuity or other vision problems cannot be corrected, then~~) for visual acuity and if the applicant's vision is between 20/50 Snellen and 20/100 Snellen, or if an applicant's other vision problems cannot be corrected, he or she must submit to a ((special examination in order to determine if a license shall be issued and whether limitations or restrictions should be imposed)) re-examination.

(c) An applicant whose vision cannot be corrected to at least 20/100 Snellen range will be deemed to have failed the portion of the driver's license examination specified by RCW 46.20.130 (1)(a) pertaining to eyesight and ability to see, and will be deemed to have failed to demonstrate that he or she is qualified to drive.

(d) An applicant whose optometrist or ophthalmologist answers "no" to the question "In your professional opinion, can this individual see adequately to safely operate a vehicle at night," will be deemed to have failed to demonstrate that he or she is qualified to drive at night.

(2) The department may waive the requirement for a vision test for any person applying to renew his or her driver's license by mail or electronic commerce if the person certifies on the application that his or her vision acuity is no less than 20/40 (~~as measured on the~~) Snellen (~~test~~) for visual acuity, either corrected or uncorrected, and that there are no other vision problems.

(3) The department shall refer for re-examination any person who uses bioptic or telescopic licenses to meet licensing standards for the issuance of any driver's license or instruction permit.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.