

WSR 07-22-051
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed November 1, 2007, 9:02 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The United States Secretary of Agriculture must concur by December 24, 2007, that the rules concerning special management areas are consistent with the management plan for the national scenic area.

Purpose: The purpose of this rule making is to put into effect recent amendments to the management plan for the Columbia River Gorge National Scenic Area. This rule making incorporates the recent amendments into the commission's land use ordinance for scenic area land within Klickitat County. The commission did not adopt any substantive changes to the provisions already adopted into the management plan.

Citation of Existing Rules Affected by this Order: Amending 350-81-0020, 350-81-0032, 350-81-0042, 350-81-0050, 350-81-0052, 350-81-0060, 350-81-0074, 350-81-0082, 350-81-0108, 350-81-0112, 350-81-0126, 350-81-0190, 350-81-0200, 350-81-0232, 350-81-0270, 350-81-0280, 350-81-0340, 350-81-0370, 350-81-0380, 350-81-0420, 350-81-0490, 350-81-0520, 350-81-0530, 350-81-0540, 350-81-0550, 350-81-0560, 350-81-0580, 350-81-0590, 350-81-0600, and 350-81-0630.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: O.R.S. 196.150; 16 U.S.C. 544e(c), 544f(1).

Adopted under notice filed as WSR 07-14-101 on July 18 [2], 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 28, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 28, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: September 11, 2007.

Nancy A. Andring
Rules Coordinator

AMENDATORY SECTION

350-81-020

Definitions

As used in Commission Rule 350-81, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory structure/building: A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Addition: An extension or increase in the area or height of an existing building.

(5) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(6) Agricultural specialist (SMA): A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

(7) Agricultural structure/building: A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(8) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture-related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

(9) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(10) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(11) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(12) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(13) Archaeological resources: See cultural resource.

(14) Archival research: Research in primary documents that is likely to yield information regarding human occupa-

tion of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(15) **Bed and breakfast inn:** An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(16) **Best management practices:** Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(17) **Biodiversity (SMA):** A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(18) **Boat landing:** Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(19) **Buffer zone:** An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(20) **Building:** Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

(21) **Camping or recreational vehicle:** A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(22) **Campsite:** Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(23) **Capability:** The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(24) **Canopy closure (SMA):** For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

(25) **Cascadian architecture (SMA):** Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(26) **Catastrophic situations (SMA):** Forces such as fire, insect and disease infestations, and earth movements.

(27) **Childcare center:** A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(28) **Columbia River Gorge National Scenic Area Graphic Signage System:** Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(29) **Commercial development/use:** Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(30) **Commercial forest products:** These include timber for lumber, pulp, and firewood for commercial purposes.

(31) **Commercial recreation:** Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(32) **Community facility:** Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(33) **Consulting parties (cultural resources):** Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(34) **Contiguous land:** Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(35) **Counties:** The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(36) **Created opening (SMA):** A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

(37) **Creation (wetlands):** A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(38) **Cultivation:** Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(39) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(40) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(41) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(42) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(43) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(44) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(45) Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(46) Developed road prism (SMA): The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other devel-

oped features. Does not include the natural appearing portions of cut and fill slopes.

(47) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(48) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(49) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(50) Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

(51) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(52) Earth materials: Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

(53) Effect on treaty rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(54) Emergency/disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

(55) Emergency/disaster response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

(56) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(57) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(58) Ephemeral streams (SMA): streams that contain flowing water only during, and for a short duration after, precipitation events.

(59) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(60) Existing use or structure: Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

(61) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(62) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(63) Finished grade: The final elevation of the ground level of a property after construction is completed.

(64) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(65) Footprint: The area that falls directly beneath and shares the same perimeter as a structure.

(66) Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(67) Foreground (SMA): One-half mile on either side of a traveled road or trail.

(68) Forest health (SMA): A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

(69) Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

(70) Forest practice (GMA): Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(71) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(72) Forest stand structure (SMA): The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

(73) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(74) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(75) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(76) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(77) Hazard tree (SMA): A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

(78) Height of building: The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

(79) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(80) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(81) Historic buildings and structures: See cultural resource.

(82) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(83) Horses, boarding of (GMA): The stabling, feeding, and grooming ~~for a fee~~, or the ~~use~~ renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

(84) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(85) In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These

sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

(86) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

(87) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(88) Industrial uses: Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(89) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(90) Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(91) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway

Crown Point

Highway I-84, including rest stops

Multnomah Falls

Washington State Route 14

Beacon Rock

Panorama Point Park

Cape Horn

Dog Mountain Trail

Cook-Underwood Road

Rowena Plateau and Nature Conservancy Viewpoint

Portland Women's Forum State Park

Bridal Veil State Park

Larch Mountain

Rooster Rock State Park

Bonneville Dam Visitor Centers

Columbia River

Washington State Route 141

Washington State Route 142

Oregon Highway 35

Sandy River

Pacific Crest Trail

SMA only:

Old Washington State Route 14 (County Road 1230)

Wyeth Bench Road

Larch Mountain Road

Sherrard Point on Larch Mountain

(92) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(93) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(94) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

(95) Lot line adjustment: Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

(96) Maintenance: Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

(97) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(98) Mosaic (SMA): The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(99) Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

(100) Native species: Species that naturally inhabit an area.

(101) Natural grade: The undisturbed elevation of the ground level of a property before any excavation or construction operations.

(102) Natural resources: Naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.

(103) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(104) Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

(105) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(106) Not visually evident (SMA): A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

(107) Old growth (SMA): A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

(108) Operational (SMA): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

(109) Ordinary high water mark: The mark on all streams, ponds, and lakes 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 vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(110) Other related major structure (SMA): A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

(111) Overstory (SMA): For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

(112) Parcel:

(a) Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all

planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land solely created to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(113) Practicable: Able to be done, considering technology and cost.

(114) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(115) Previously disturbed: An area of land where the natural surface has been graded, excavated, paved and/or graveled.

(116) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(117) Public use facility: Recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(118) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(119) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(120) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, sub-surface testing, and ethnographic research.

(121) Recreation opportunity spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) **Roaded Natural:** Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) **Rural:** Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) **Suburban:** Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) **Urban:** Highly accessible, roaded areas dominated by human encounters and human-related structures.

(122) **Recreation resources:** Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

(123) **Regularly maintained:** An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

(124) **Rehabilitation (natural resources):** A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(125) **Remnant old forest (SMA):** Large trees in the overstory that are well into the mature growth state (older than 180 years).

(126) **Repair:** Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure.

Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

(127) **Resource-based recreation:** Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(128) **Restoration (wetlands):** A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(129) **Review uses:** Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(130) **Riparian area:** The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water

body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(131) **Road:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right-of-way, such as bridges.

(132) **Scenic Area:** The Columbia River Gorge National Scenic Area.

(133) **Scenic travel corridor:** Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(134) **Secretary:** The Secretary of Agriculture.

(135) **Sensitive plant species:** Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(136) **Sensitive wildlife species:** Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(137) **Service station:** A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(138) **Serviceable:** Presently useable.

(139) **Shall:** Action is mandatory.

(140) **Should:** Action is encouraged.

(141) **Shrub:** A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(142) **Sign:** Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting,

pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(143) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

(144) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(145) Soil capability class: A classification system developed by the U.S. Department of Agriculture, Natural Resources Conservation Service to group soils as to their capability for agricultural use.

(146) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(147) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(148) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(149) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(150) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(151) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, build-

ings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(152) Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

(153) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(154) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155) Thinning (SMA): A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156) Total canopy closure (SMA): For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158) Treatment (SMA): For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161) Understory (SMA): For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings

include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)2(⊕)].

(163) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(164) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167) Vested right: The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168) Viewshed: A landscape unit seen from a key viewing area.

(169) Visual quality objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170) Visually subordinate: A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171) Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

(172) Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173) Wetlands: Areas that are inundated or saturated by surface or groundwater 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. This does not include riparian areas, rivers, streams, and lakes.

(174) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and non-game birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175) Winery: An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176) Wine sales/tasting room: A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-81-108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

350-81-032

Application for Review and Approval

(1) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-81-032.

(2) The Executive Director shall accept and review the application pursuant to 350-81-030 through 350-81-046 for consistency with the appropriate guidelines of this rule.

(3) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(4) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices and the Forest Service.

(5) Applications for the review and approval of a proposed use or development shall provide the following information:

- (a) The applicant's name, address and telephone number;
- (b) The land owner's name, address and telephone number (if different from applicant's);
- (c) The county in which the proposed use or development would be located;
- (d) The section, quarter section, township and range in which the proposed development would be located;

(e) The street address of the proposed use or development;

(f) The tax lot number(s) and size in acres of the parcel(s) involved;

(g) A description of the current land use for the parcel(s) involved and adjoining lands;

(h) A written description of the proposed use or development, including details on the height, exterior color(s), and construction materials of the proposed structures.

(i) A list of Key Viewing Areas from which the proposed use would be visible.

(j) A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the Executive Director to determine the location and extent of the proposed use or development and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not need to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

(A) North arrow.

(B) Map scale.

(C) Boundaries, dimensions, and size of the subject parcel.

(D) Significant terrain features or landforms.

(E) Groupings and species of trees or other vegetation on the parcel.

(F) Location and species of vegetation that would be removed or planted.

(G) Bodies of water and watercourses.

(H) Location and width of existing and proposed roads, driveways, and trails.

(I) Location and size of existing and proposed structures.

(J) Location of existing and proposed services including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(K) Location and depth of all proposed grading and ditching.

(k) Elevation drawings, which shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

(l) A list of names and addresses of the adjacent property owners within a distance of the subject parcel as determined in 350-81-630.

(m) Any additional information that the applicant feels will assist in the evaluation of the proposal, including but not limited to, maps, drawings, and development plans.

(n) The signature of the applicant and property owner or a statement from the property owner indicating that he is aware of the application being made on his property.

(o) The signature of the property owner on a statement that authorizes the Executive Director or the Executive Director's designee reasonable access to the site in order to evaluate the application.

(6) Applications for the following uses or developments shall include additional information as required by the appropriate guidelines in Commission Rule 350-81 or by the Executive Director:

(a) In the General Management Area, for all buildings visible from key viewing areas, pursuant to 350-81-520 (2)(n).

(b) In the General Management Area, production and/or development of mineral resources and expansion of existing quarries pursuant to 350-81-520 (1)(f), (2)(o), and (2)(bb).

(c) A grading plan that complies with the requirements of 350-81-520 (2)(aa)(A) and (B) is required for the following:

(A) In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes over 10 percent shall include a grading plan;

(B) In the General Management Area, all proposed structural development on sites visible from key viewing areas and involving more than 200 cubic yards of grading, regardless of slope; and

(C) In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan.

(d) In the General Management Area, vegetation management projects in public rights of way along Scenic Travel Corridors, pursuant to 350-81-520 (4)(d).

(e) Large-scale uses as defined by guideline 350-81-540 (1)(c)(C) shall include reconnaissance survey reports, pursuant to 350-81-540 (1)(c)(F), and (G).

(f) Proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are 50 years old or older, pursuant to 350-81-540 (1)(c)(H)(iii).

(g) In the General Management Area, new uses located in, or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to 350-81-084 (1)(a)(A).

(h) In the General Management Area, any review use in a wetland or within a wetland buffer zone, pursuant to 350-81-560 (1)(b).

(i) In the General Management Area, any review use in a stream, pond, lake, or within their buffer zones, pursuant to 350-81-570 (1)(b).

(j) In the General Management Area, any review use within 1000 feet of a sensitive wildlife area or site, pursuant to 350-81-580 (1)(b). Large-scale uses as defined by 350-81-580(2) shall also include field survey information, pursuant to 350-81-580 (2)(e).

(k) In the General Management Area, any review use within 1000 feet of a sensitive plant, pursuant to 350-81-590 (1)(b). Large-scale uses as defined by 350-81-590(2) shall also include field survey information, pursuant to Commission Rule 350-81-590 (2)(e).

(l) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to 350-81-190 (1)(h), and if applicable, 350-81-190 (1)(i).

(m) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling not

in conjunction with agricultural use, pursuant to Commission Rule 350-81-190 (1)(q).

(n) In the General Management Area, on lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Commission Rule 350-81-190 (1)(k).

(o) In the General Management Area, on lands designated Large-Woodland, a single-family dwelling, pursuant to 350-81-270 (1)(a).

(p) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, a single-family dwelling, pursuant to 350-81-270 (2)(j).

(q) In the Special Management Area, on lands designated Agriculture, Forest, Residential, or Public Recreation, clearing trees for new agricultural use, pursuant to 350-81-270 (2)(x).

(r) In the Special Management Area, on lands designated Agriculture, Forest, Residential, or Public Recreation, forest practices, pursuant to 350-81-270 (2)(y).

(s) In the Special Management Area, on lands designated Open Space, any new use or development, pursuant to 350-81-340(4).

(t) In the General Management Area, on lands designated Agriculture-Special, a single-family dwelling pursuant to 350-81-232 (1)(g).

(u) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, a single-family dwelling necessary and accessory to agricultural use, pursuant to 350-81-190 (2)(c).

(v) In the Special Management Area, on lands designated Agriculture, Forest, or Public Recreation, farm labor housing, pursuant to 350-81-190 (2)(d).

(w) In the General Management Area, on lands designated Small Woodland, a single-family dwelling pursuant to 350-81-270 (1)(b).

(x) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to 350-81-270 (1)(c).

(y) In the General Management Area, on lands designated Commercial Forest, Large Woodland, or Small Woodland, agricultural labor housing, pursuant to 350-81-270 (1)(~~e~~)(s) and on lands designated Large-Scale Agriculture or Small-Scale Agriculture, pursuant to 350-81-190 (1)(p).

(z) In the General Management Area, on lands designated Agriculture-Special, new livestock grazing, new fences, livestock watering facilities, and corrals; or soil, water, and vegetation conservation activities, pursuant to 350-81-240.

(aa) In the General Management Area and Special Management Area, agricultural buildings, pursuant to 350-81-090(2).

(bb) Other uses as deemed necessary by the Executive Director.

(7) Completed application forms shall be submitted directly to the office of the Columbia River Gorge Commission.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-042

Decision of the Executive Director

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81 within 72 days after acceptance of the application except in one or more of the following situations:

(a) The applicant consents to an extension of time.

(b) The Executive Director determines that additional information is required pursuant to Commission Rule 350-81-040.

(c) The Executive Director determines that additional information is necessary to evaluate land use issues and the impacts of the proposed use to scenic, cultural, natural, and recreation resources.

(d) Unforeseen circumstances including, but not limited to, weather, illness, etc.

(4) The Executive Director shall ~~mail~~ send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**350-81-050****Development Eligible for Expedited Review**

(1) The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines contained in this section.

(a) Except in Open Space and Agriculture-Special, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

(b) Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

(c) Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.

(d) Wire-strand fences other than those allowed outright, provided the fence complies with 350-81-580(6) if it is inside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency.

(e) In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.

(f) Decks that are: (1) uncovered; (2) attached and accessory to existing dwellings; and (3) 500 square feet or less in area and 30 inches or less in height above existing grade.

(g) Road closure gates.

(h) Signs, other than those allowed outright.

(i) Outdoor lights.

(j) Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(k) Lot line adjustments in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to 350-81-126(1), except all lot line adjustments for parcels designated Open Space, Agriculture-Special, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.

(l) Lot line adjustments in the Special Management Area, subject to 350-81-126(2).

(m) ~~Removal/~~Demolition of structures that are less than 50 years old, including wells, septic tanks and fuel tanks.

(n) Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.

(o) Trail reconstruction involving up to 1,000 feet of trail re-route.

(p) The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):

(A) New guardrails and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.

(B) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.

(C) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.

(D) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

(q) Except in Agriculture-Special, ~~the~~ the following underground utility facilities:

(A) New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no ditch for linear facilities would be more than 36 inches wide and (2) no excavation for non-linear facilities would exceed 20 cubic yards.

(r) The following aboveground and overhead utility facilities:

(A) Modify existing aboveground and overhead utility facilities or, except in Agriculture-Special, develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.

(B) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.

(C) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.

(s) Replace an existing mobile home in a mobile home space within a mobile home park, provided: (1) the mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of *existing use or structure* and 350-81-082 (1) through (4); (2) the replacement mobile home shall be in the same location as the mobile home to be replaced; (3) the height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced, and (4) the mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.

(t) Retaining walls accessory to existing dwellings less than or equal to 2 feet in height and less than or equal to 100 feet in length.

(u) In the Special Management Area, wind machines for frost control in conjunction with agricultural use.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-052

Resource and Treaty Rights Protections Guidelines

(1) Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

(a) Scenic

(A) In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

(B) Except signs. The colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

(C) Except signs. Structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

(D) Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(E) Signs shall comply with 350-81-112.

(F) Structures within one-half mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).

(b) Cultural

(A) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey, pursuant to 350-81-540 (1)(c)(A) or historic survey, pursuant to 350-81-540 (1)(c)(B).

(B) The GMA guidelines that protect cultural resources and human remains discovered during construction [350-81-540 (6) and (7)] shall be applied as conditions of approval for all development approved under the expedited development review process.

(c) Recreation

(A) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

(d) Natural

(A) Wetlands, Streams, Rivers, Ponds, and Lakes

(i) The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

(B) Sensitive Wildlife and Sensitive Plants

(i) The development meets one of the following:

(I) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or

(II) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

(III) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon or Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined that the development would be at least 200 feet from the sensitive plants.

(ii) Development eligible for expedited review shall be exempt from the field survey requirements for sensitive wildlife or sensitive plants [350-81-580 (1)(b) and (2); 350-81-590 (1)(b) and (2)].

(2) Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

(a) Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

(b) The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

(c) Except as provided in 2.b above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Chapter 3, Section IV of the Management Plan shall not apply to proposed developments reviewed under the expedited review process.

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.

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AMENDATORY SECTION

350-81-060

Emergency/Disaster Response Actions

(1) General Guidelines

(a) Actions taken in response to an emergency/disaster event, as defined in Commission Rule 350-81-020(54), are allowed in all GMA/SMA land use designations, subject to the notification requirements in "Notification Requirements" (subsection 2, below).

(b) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

(c) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two years may be granted by the Executive Director or the Forest Service for federal agency actions.

(d) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

(e) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(2) Notification Requirements

(a) Actions taken in response to an emergency/disaster event, as defined in Commission Rule 350-81-020(54), are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

(A) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(B) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(C) Notification shall be furnished to the Executive Director or the Forest Service for federal agency actions.

(D) At a minimum, the following information shall be required at the time of notification:

(i) Nature of emergency/disaster event.

(ii) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).

(iii) Location of emergency/disaster response activities.

(iv) Estimated start and duration of emergency/disaster response activities.

(v) Contact person and phone number for the parties conducting emergency/disaster response actions.

(E) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

(b) Upon notification of an emergency/disaster response action, the Executive Director, or Forest Service shall, as soon as possible:

(A) Review its natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(B) Notify the Oregon or Washington Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;

(C) Notify the Forest Service, the Oregon Historic Preservation Office or the Office of Washington Office of Archeology and Historic Preservation, and the tribal governments of all emergency/disaster response activities. The Forest Service will review their cultural resource inventory data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

(c) Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

(3) Post-Emergency/Disaster Response Development Review Application Requirements

(a) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Executive Director, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the party providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and not more than two (2) extensions shall be granted.

(b) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(c) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).

(d) Applications shall include the following information:

(A) Applicant's name and address.

(B) Location of emergency/disaster response.

(C) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

(D) A map of the project area drawn to scale, at a scale of 1 inch = 200 feet or a scale providing greater detail. The map shall include:

(i) North arrow and scale.

(ii) Boundaries, dimensions and size of subject parcel(s).

(iii) Bodies of water, watercourses, and significant landforms.

(iv) Existing roads and structures.

(v) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(E) An exception to the scale requirements in subsection (3)(d)(D) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1 inch = 200 feet or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

(e) Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:

(A) Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties.

(B) A written decision with findings of fact and conclusions of law.

(C) An opportunity to request a hearing.

(4) Post-Emergency/Disaster Response Development Review

Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.

(a) Scenic Resources

(A) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in 350-81-520 (3)(k). In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

(B) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

(C) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with

native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one year.

(D) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

(E) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.

(F) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(i) The spoil materials shall either be:

(I) Removed from the NSA,

(II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance, or

(III) (Re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

(ii) The Executive Director shall decide whether an applicant removes the spoil materials [350-81-060 (4)(a)(F)(i)(I)], deposits the spoil materials [subsection (4)(a)(F)(i)(II)], or (re)contours the spoils materials [subsection (4)(a)(F)(i)(III)]. The applicant does not make this decision.

(iii) The Executive Director shall select the action in 350-81-060 (4)(a)(F)(i) that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.

(iv) Disposal sites created according to 350-81-060 (4)(a)(F)(i)(~~III~~)(II) shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

(G) In the Special Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(i) The spoil materials shall either be:

(I) Removed from the NSA, or

(II) Deposited at a site within the NSA permitted by an agency administering a Scenic Area land use ordinance within two years of the emergency.

(ii) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

(iii) All grading (i.e., recontouring) shall be completed within 30 days after the spoils materials are removed.

(iv) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

(v) All revegetation shall take place within one (1) year of the date an applicant completes the grading.

(vi) This provision shall take effect two years after the date of Management Plan concurrence by the U.S. Secretary of Agriculture, or approval of a disposal site, which ever comes first.

(b) Cultural Resources and Treaty Rights

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect tribal treaty rights.

(B) The USDA Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the Executive Director.

(i) Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the standards in 350-81-540 (1)(c)(D). Reconnaissance survey reports shall comply with the standards in 350-81-540 (1)(c)(G).

(ii) Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.

(C) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the tribal governments shall be notified by the Executive Director when (1) a reconnaissance survey is required or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them.

(D) When written comments are submitted in compliance with 350-81-060 (4)(b)(C) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the Executive Director following the consultation meeting. Consultation meetings and reports shall comply with the standards in 350-81-540 (2)(a), and 084 (1)(b)(A) and (B).

(E) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in

a report that generally follows the standards in 350-81-540 (1)(c)(G) and 350-81-540 (3)(a).

(F) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in 350-81-540 (5)(a).

(G) The Executive Director shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the final decision.

(H) The Executive Director shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the Executive Director shall justify how the opposing conclusion was reached.

(I) The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:

(i) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.

(ii) The emergency/disaster response action avoided cultural resources that exist in the project area.

(iii) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

(iv) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

(I) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(II) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* [U.S. Department of the Interior 1990] and *The Secretary of the Interior's Standards for Historic Preservation Projects* [U.S. Department of the Interior 1983].

(c) Natural Resources

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(B) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in 350-81-560 through 600.

(C) Wetlands, Streams, Ponds, Lakes, Riparian Areas

(i) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. State biologists shall respond within 15 days of the date the application is mailed.

(ii) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:

(I) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.

(II) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(iii) Impacts to wetlands, streams, ponds, lakes and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(iv) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final order and the aquatic area protection process may conclude.

(v) Unless addressed through subsection (4)(c)(C)(iv) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in 350-81-570 (8)(a) and (b). Rehabilitation plans shall also satisfy the following:

(I) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

(II) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

(III) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

(D) Wildlife Habitat

(i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive wildlife area or site, shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a sensitive wildlife area or site.

(ii) Site plans for emergency/disaster response sites shall be submitted by the Executive Director to the Oregon or Washington Department of Fish and Wildlife for review as prescribed in 350-81-580 (4)(a) and (b). The wildlife agency shall respond within 15 days of the date the application is mailed.

(iii) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines (1) the sensitive wildlife area or site was not active, or (2) the emergency/disaster response did not compromise the integrity of the wildlife area or site or occurred at a time when wildlife species are not sensitive to disturbance.

(iv) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had minor effects on the wildlife area or site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife protection process may conclude.

(v) If the Executive Director, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with standards in 350-81-580(5). Upon completion of the Wildlife Management Plan, the Executive Director shall:

(I) Submit a copy of the Wildlife Management Plan to the state wildlife agency for review. The state wildlife agency will have 15 days from the date that a plan is mailed to submit written comments to the Executive Director;

(II) Record any written comments submitted by the state wildlife agency in its development review order. Based on these comments, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached.

(III) Require the project applicant to revise the Wildlife Management Plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(E) Deer and Elk Winter Range

(i) Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in 350-81-580(6).

(F) Rare Plants

(i) Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant, shall be reviewed by the Oregon or Washington Natural Heritage Program. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(ii) Site plans for emergency/disaster response sites shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.

(iii) The rare plant protection process may conclude if the Executive Director, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.

(iv) If the Executive Director, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision order and the rare plant protection process may conclude.

(v) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse effects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan, that meets the standards in 350-81-590(5).

(vi) The Executive Director shall submit a copy of all protection and rehabilitation plans to the state heritage program for review. The state natural heritage program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the Executive Director.

The Executive Director shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the Executive Director shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(vii) The Executive Director shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.

(d) Recreational Resources

(A) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.

(B) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

(5) Post-Emergency Construction

(a) The following review uses are allowed in all land use designations in accordance with 350-81-030 through 046, 350-81-070 through 126 (as applicable), and 350-81-520 through 620.

(A) Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use applications shall be submitted within 12 months following an emergency/disaster event.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

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.

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AMENDATORY SECTION**350-81-074****Uses Allowed Outright**

(1) All Land Use Designations Except Open Space and Agriculture—Special

(a) The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space and Agriculture—Special:

(A) In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

(B) In the Special Management Area, agricultural uses within previously disturbed and regularly worked fields or areas.

(C) Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and developments.

(D) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

(E) Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

(F) Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500

feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

(G) Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

(H) The following transportation facilities:

(i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the

Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(vi) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)]. This category does not include jersey barriers.

(vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(ix) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(x) Apply dust abatement products to non-paved road surfaces.

(xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

(I) The following underground utility facilities:

(i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Washington Office of Archae-

ology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(J) The following aboveground and overhead utility facilities:

(i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(K) Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.

(L) The following signs:

(i) Election signs. Removal must be accomplished within 30 days of election day.

(ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

(iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the General Management Area and 2 square feet in the Special Management Area.

(v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

(M) In the General Management Area, wind machines for frost control in conjunction with agricultural use.

(2) GMA and SMA Open Space

(a) The following uses may be allowed without review in GMA and SMA Open Space:

(A) Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

(B) The following transportation facilities:

(i) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(ii) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(iii) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(iv) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(v) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or

Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(vi) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)]. This category does not include jersey barriers.

(vii) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(viii) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(ix) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(x) Apply dust abatement products to non-paved road surfaces.

(xi) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(xii) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

(C) The following underground utility facilities:

(i) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(ii) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

(D) The following aboveground and overhead utility facilities:

(i) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" [350-81-520(4)].

(ii) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(iii) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

(E) The following signs:

(i) Election signs. Removal must be accomplished within 30 days of election day.

(ii) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(iii) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

(iv) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.

(v) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(vi) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(vii) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

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

350-81-082

Existing Uses and Discontinued Uses

(1) Right to Continue Existing Uses and Structures

(a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

(2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster

(a) Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

(3) Replacement of Existing Structures Damaged or Destroyed by Disaster

(a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

(B) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:

(i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

(C) The replacement structure shall be the same size and height as the original structure, provided:

(i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(ii) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(D) The replacement structure shall only be subject to the following scenic resources standards:

(i) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(iii) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(I) Except as provided in 350-81-082 (3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(II) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(III) To help determine how much vegetation may be required under 350-81-082 (3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

(1) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

(2) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

(3) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(IV) The height of any new trees shall not be required to exceed 5 feet.

(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(iv) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(I) The *Scenic Resources Implementation Handbook* shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(II) The height of any new trees shall not be required to exceed 5 feet.

(III) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(E) The replacement structure shall be subject to 350-81-082 (2)(a)(A), ~~and (B), and (C) above~~ if it would not comply with 350-81-082 (3)(a)(B) and (C).

(F) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

(4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.

(A) Expansion of Existing Commercial and Multifamily Residential Uses: In the SMA, existing commercial and multifamily residential uses may expand as necessary for successful operation on the dedicated site, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources. Expansion beyond the dedicated site shall be prohibited.

(B) Expansion of Existing Industrial Uses in the GMA: Existing industrial uses in the GMA may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(C) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

(D) Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development

or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(i) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(ii) The site has not maintained a required state permit.

(iii) The site has not operated legally within 5 years before October 15, 1991.

(E) Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:

(i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.

(ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

(5) Discontinuance of Existing Uses and Structures

(a) Except as provided in 350-81-082 (3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(A) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(B) Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.

(6) Discontinued Uses and Structures:

(a) Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-108

Commercial Events

(1) Commercial events include weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.

(2) Commercial events may be allowed in the GMA except on lands designated Open Space, ~~or Commercial Forest~~, or Agriculture-Special, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

(a) The use must be in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114), and not the guidelines of this section.

(b) The owner of the subject parcel shall live on the parcel and shall operate and manage the use.

(c) A single commercial event shall host no more than 100 guests.

(d) The use shall comply with the following parking requirements:

(A) A single commercial event shall include no more than 50 vehicles for guests.

(B) All parking shall occur on the subject parcel.

(C) At least 200 square feet of parking space shall be required for each vehicle.

(D) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.

(E) All parking areas shall be fully screened from key viewing areas.

(e) The owner of the subject parcel may conduct 18 single events up to one day in length per year.

(f) The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(g) Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.

(h) The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:

(A) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands. [350-81-190 (1)(q)(A)]

(B) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in 350-81-076 or designated Commercial Forest Land or Large or Small Woodland, as required in 350-81-310. [350-81-190 (1)(q)(C)]

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland. [350-81-190 (1)(q)(D)]

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be

located have been notified and given at least 10 days to comment prior to a decision. [350-81-190 (1)(q)(E)]

(i) Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example, they may limit noise, lighting and operating hours.

(j) Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

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

350-81-112

Signs

(1) GMA Sign Provisions

(a) Except for signs allowed without review pursuant to 350-81-074, all new signs must meet the following guidelines unless these guidelines conflict with the *Manual for Uniform Traffic Control Devices* for public safety, traffic control or highway construction signs. In such cases, the standards in the *Manual for Uniform Traffic Control Devices* shall supersede these guidelines.

(A) The support structure shall be unobtrusive and have low visual impact.

(B) Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Signs shall be colored to blend with their setting to the maximum extent practicable.

(C) Backs of all signs shall be unobtrusive, nonreflective, and blend in with the setting.

(D) Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

(E) Except for signs along public highways necessary for public safety, traffic control, or road construction and consistent with the *Manual for Uniform Traffic Control Devices*, the following signs are prohibited:

(i) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays, and other signs that are internally illuminated, exclusive of seasonal holiday light displays.

(ii) New billboards.

(iii) Signs with moving elements.

(iv) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

(b) Any sign that does not conform with a provision of these guidelines and has existed before their adoption is subject to the following provisions:

(A) Alteration of existing nonconforming signs shall comply with these guidelines.

(B) Any nonconforming sign used by a business must be brought into conformance concurrent with any expansion or change in use that requires a development permit.

(2) SMA Sign Provisions

(a) New signs shall be allowed as specified in the applicable land use designation.

(b) No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

(c) Preexisting signs are allowed to continue, provided no changes occur in size, structure, color, or message.

(d) Except for signs allowed without review pursuant to 350-81-074, all new signs shall meet the following guidelines and be consistent with the *Manual for Uniform Traffic Control Devices*:

(A) Signs shall be maintained in a neat, clean, and attractive condition.

(B) The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

(C) Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

(D) Signs shall be unobtrusive and have low contrast with the setting.

(E) The visual impact of the support structure shall be minimized.

(F) Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

(G) The backs of all signs shall be visually unobtrusive, nonreflective, and blend in with the setting.

(H) Internal illumination or backlighting of signs shall not be permitted except for highway construction, warning, or safety.

(e) Public signs shall meet the following standards in addition to 350-81-112 (2)(a) through (d):

(A) The Columbia River Gorge National Scenic Area Graphic Signing System provides design standards for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

(B) Signs located outside public road rights-of-way are encouraged to be designed in a way that is consistent with similar-purpose signs described in the Graphic Signing System.

(C) Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

(f) Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to 350-81-112 (2)(a) through ~~(e)~~(d) and 350-81-112 (2)~~(h)~~(g):

(A) Any sign advertising or relating to a business that is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

(B) Any signs relating to or advertising for a business shall be brought into conformance with these sign guidelines

before any expansion or change in use that is subject to review by the counties.

(C) Offsite and onsite directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted onsite, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

(D) Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

(E) Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

(g) The following signs are prohibited:

(A) Advertising billboards.

(B) Signs that move or give the appearance of moving, except signs used for highway construction, warning, or safety.

(C) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning, or safety.

(h) Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-126

Lot Line Adjustments

(1) The following guidelines shall apply to lot line adjustments in the GMA.

(a) Lot line adjustments for parcels in all land use designations except Agriculture-Special, Open Space, Commercial, Public Recreation, or Commercial Recreation shall comply with the following standards:

(A) The lot line adjustment shall not result in the creation of any new parcel(s).

(B) The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the maximum ~~minimum~~ density allowed by the land use designation(s) for the affected parcels.

(C) The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(D) The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:

(i) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged

would not become eligible for a subsequent land division and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

(ii) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

(E) The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Agriculture-Special, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

(F) The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

(G) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

(b) Lot line adjustments for parcels designated Agriculture-Special or Open Space shall comply with the following standards:

(A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (Note: There is no specified minimum parcel size for parcels designated Open Space.)

B) The lot line adjustment shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(c) Lot line adjustments for parcels designated Commercial shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(d) Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall comply with the following standards:

(A) The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation or Commercial Recreation.)

(B) The lot line adjustment shall comply with subsections (1)(a)(A), (E), (F), and (G), above.

(2) The following guidelines shall apply to lot line adjustments in the SMA.

(a) The proposed lot line adjustment shall not result in the creation of any new parcel(s).

(b) A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.

(c) A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.

(d) A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:

(A) Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become 40 acres or greater and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

(B) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

(e) The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

(f) The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-190

Review Uses—Agricultural Land

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National

Register of Historic Places, in accordance with the criteria listed in 350-81-540 (1)(e).

(j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(k) On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-81-190 (1)(h)(C).

(l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

(m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(n) Structures associated with hunting and fishing operations.

(o) Towers and fire stations for forest fire protection.

(p) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-81-076, or designated Commercial Forest

Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-81-310).

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

(b) Forest uses and practices, as allowed for in 350-81-270 (2)(y).

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by 350-81-190 (2)(c) (C).

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.

(h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(m) Aquaculture.

(n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

(o) Utility facilities necessary for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

(q) Community facilities and nonprofit facilities related to agricultural resource management.

(r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recon-touring abandoned quarries).

(s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.

(u) Road and railroad construction and reconstruction.

(v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(z) ~~Removal/~~Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-200

Review Uses with Additional Approval Criteria—Large-Scale or Small-Scale Agriculture

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620) and the "Approval Criteria for Specified Review Uses," (350-81-220) below.

(a) Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural or forest lands, and (2) the size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in existing residential or accessory structures, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

(e) Wine sales/tasting rooms, in conjunction with an on-site winery.

(f) Agricultural product processing and packaging, upon a showing that the processing will be limited to products

grown primarily on the subject farm and sized to the subject operation.

(g) Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in 350-81-520.

(h) Personal-use airstrips, including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted (except for aircraft emergencies) to use by the owner; invited guests on an infrequent and occasional basis; and commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.

(i) Aquaculture.

(j) Recreation development, subject to the recreation intensity class provisions (350-81-610) and Recreation Development Plan (Management Plan, Part III, Chapter 1).

(k) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

(l) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(m) Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100) and provided that the residence:

(A) Is included in the National Register of Historic Places, or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(n) Nonprofit, environmental learning or research facilities.

(o) Expansion of existing school or place of worship.

(p) On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-81-102).

(q) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

ADDED SECTION

350-81-231

Uses Allowed through the Expedited Development Review Process—Agriculture-Special

(1) The uses listed in "Expedited Development Review Process" (350-81-050) are allowed with review through the

expedited development review process on lands designated Agriculture-Special.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-232

Review Uses for Lands Designated Agriculture-Special

(1) The following uses may be allowed on lands designated Agriculture-Special, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-81-520 through 350-81-620) and "Approval Criteria for Review Uses on Lands Designated Agriculture-Special" (350-81-234).

(a) New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

(b) New fences, livestock watering facilities, and corrals.

(c) Soil, water, and vegetation conservation uses.

(d) Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

(e) Fish and wildlife management uses, educational activities, and scientific research.

(f) Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

(g) Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in 350-81-190 (1)(q). The buffer guidelines for non-agricultural dwellings (350-81-076) may be waived if they would prevent the optimum siting of a dwelling.

(h) Recreation uses, subject to the provisions for recreation intensity classes (350-81-610).

(i) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(l) Lot line adjustments, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

AMENDATORY SECTION**350-81-270****Review Uses—Forest Land**

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate local government. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the appropriate state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300). A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm. Guideline 350-81-190 (1)(h) shall be used to determine whether a dwelling is a farm dwelling. The siting of the dwelling shall comply with the "Approval Criteria for Fire Protection" in 350-81-300.

(d) Temporary onsite structures that are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located onsite, is temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(e) Temporary portable facility for the primary processing of forest products grown on a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(g) Structures associated with hunting and fishing operations.

(h) Towers and fire stations for forest fire protection.

(i) Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" (350-81-300).

(j) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the "Approval Criteria for Fire Protection" (350-81-300) and the standards in "Agricultural Buildings" (350-81-090).

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(l) or (1)(m) below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-

310) and "Approval Criteria for Fire Protection" (350-81-300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092) and the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-31-300).

(o) A second single-family dwelling for a farm operator's relative, subject to 350-81-190 (1)(k) and the "Approval Criteria for Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(p) Private roads serving a residence, subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(q) Recreation development, subject to the guidelines established for the recreation intensity classes (350-81-610) and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(r) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(s) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(t) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or to protect the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-81-310) and "Approval Criteria for Fire Protection" (350-81-300).

(u) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the

designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(v) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

~~(w) On lands designated Large or Small Woodland, Life estates, subject to the guidelines in "Approval Criteria for Life Estates" (350-81-320).~~

(x) Land divisions in Small Woodland, subject to the minimum lot sizes designated on the Land Use Designation Map. Land divisions in Commercial Forest Land and Large Woodland, subject to the standards and minimum lot sizes in Policies 4 through 9 in the "Land Use Policies" in Part II, Chapter 2: Forest Land of the Management Plan.

(y) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(z) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(aa) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(bb) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(cc) Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (350-81-108).

(dd) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Forest subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of forest products:

(a) All review uses allowed for in 350-81-190(2).

(b) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (2)(x), below.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the SMA.

(e) Silvicultural nurseries.

(f) Utility facilities for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Forest Land.

(B) The size is the minimum necessary to provide the service.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or

activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments, and uses consistent with the provisions of 350-81-620.

(j) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved forest management plan demonstrates that such a dwelling is necessary for and accessory to forest uses. The forest management plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement indicates a relationship between ongoing forest management and the need for a dwelling on the subject property.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate county. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute toward the successful management of the property.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with county dwelling, siting, and state/county fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(l) or (2)(m), below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area.

This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) Home occupations and cottage industries, subject to the "Home Occupations and Cottage Industries" guidelines in 350-81-098.

(o) Temporary portable facilities for the processing of forest products.

(p) Towers and fire stations for forest fire protection.

(q) Community facilities and nonprofit facilities related to forest resource management.

(r) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(s) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(t) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(u) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(v) ~~Removal/~~Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(w) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

(x) Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:

(A) A Stewardship Plan shall be submitted and deemed complete by the Executive Director and submitted to the Forest Service for review. (350-81-270 (2)(y)(C).

(B) Clearing trees for new agricultural use shall be limited to 15 acres.

(C) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of 350-81-270 (2)(x)(D)(i-iv) below and subject to guideline 350-81-270 (2)(x)(I).

(D) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:

(i) Scenic Resource guidelines in 350-81-270 (2)(y)(D) (i) and (vii).

(ii) Applicable guidelines of 350-81-550, 350-81-600 and 350-81-620.

(iii) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suit-

able for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(iv) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

(E) The Forest Service shall send the review statement to the Executive Director. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the Executive Director.

(F) The Executive Director will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

(G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or Executive Director until a decision on the new agricultural use is issued by the Executive Director.

(H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

(I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

(y) Forest practices in accordance with an approved forest practices application (see 350-81-032) and subject to the additional guidelines in 350-81-270.

(A) The following information, in addition to general site plan requirements (350-81-032) shall be required:

(i) Delineate the following on a recent aerial photo or detailed map:

(I) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.

(II) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.

(III) Road and structure construction and/or reconstruction location.

(IV) Location of proposed rock or aggregate sources.

(V) Major skid trails, landings, and yarding corridors.

(VI) Commercial firewood cutting areas.

(VII) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(ii) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(iii) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in 350-81-270 (2)(y)(D) and 350-81-270 (2)(y)(E).

(iv) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the

surrounding landscape pattern) and canopy closure for all canopy layers.

(v) Road and structure construction and/or reconstruction design.

(vi) Existing and proposed rock pit development plans.

(vii) A discussion of slash disposal methods.

(viii) A reforestation plan as reviewed by the appropriate state forest practices agency.

(B) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

(C) Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements (350-81-032) shall be provided:

(i) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(ii) Describe the time frame and steps planned to reach the long term goals.

(iii) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(I) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(II) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(III) Give a clear explanation how a deviation from the applicable guidelines may better achieve forest health objectives

(IV) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(iv) For clearing trees for new agricultural use, the following shall be addressed in addition to 350-81-270 (2)(y)(C) (i) and (ii) above:

(I) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(II) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in 350-81-270 (2)(x)(D)(i-iv).

(III) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(IV) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

(D) For forest practices, the following scenic resource guidelines shall apply:

(i) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table in 350-81-530-2)(c).

(ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest

practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

(iii) In the western portion (to the White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

(iv) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in 350-81-270 (2)(y)(E)(i) through (iii).

(v) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in 350-81-270 (2)(y)(E)(i) through (iii).

(vi) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.

(I) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

(II) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem func-

tion, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(vii) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

(E) Forest practices shall maintain the following in addition to applicable natural resources guidelines in 350-81-600.

(i) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(ii) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in 350-81-270 (2)(y)(D)(vi).

(iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

DESIRED FOREST STRUCTURE AND PATTERN								
1	2	3		4		5	6	7
Vegetation Type [#]	Forest Structure (Average % total canopy closure (cc))*	Typical Forest Openings Size Disturbance caused		Percent Openings at One Time		Leave Trees	Average Down Wood	Average Snags
		Historic (Natural)	Desired	Historic (Natural)	Desired	Includes all available remnant old forest	Pieces 30 ft long per acre (scattered)	(Conifers) No. per acre Snags are 20-40 ft in height
West Conifer	60 - 80% canopy closure Understory layer variable (0 - 60% of total cc)	Variable sizes with mosaic pattern, irregular shapes Mosaic fire 1-100 acres Catastrophic fire over 100 acres	Retain forested character Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs) All openings 1 acre or less on National Forest land and all Open Space LUD Openings retain 15 - 40% canopy closure	10% (mosaic fire) up to 55% (catastrophic fire) Intense fire return interval is 300 yrs	Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings.	Leave 15% of existing trees per acre throughout opening and in clumps. Include 3 trees per acre of the largest size trees available	18 - 25 pieces greater than 20" dbh	10 snags at 10" - 20" dbh, and 7 snags greater than 20" dbh

<p>East Conifer (Ponderosa Pine/Douglas fir)</p>	<p>40 - 80% canopy closure Understory layer less than 25% of total cc</p>	<p>Few Openings due to low intensity fires. 1/4 to 2 acres</p>	<p>Openings less than 1 acre Openings have 0 - 40% canopy closure Openings widely dispersed</p>	<p>1 - 10%</p>	<p>1 - 10% (% by vegetation type)</p>	<p>No leave trees required</p>	<p>3 - 6 pieces greater than 20" dbh</p>	<p>5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh</p>
<p>Ponderosa Pine/Oregon Oak</p>	<p>25 - 60% canopy closure Understory layer greater than 25% of total cc.</p>	<p>Most natural openings due to poor soil. Disturbance openings few</p>	<p>Openings less than 1 acre Openings have 0 - 25% canopy closure Openings widely dispersed</p>	<p>1 - 10%</p>	<p>1 - 10% (% by vegetation type)</p>	<p>No leave trees required</p>	<p>1 - 3 pieces greater than 20" dbh</p>	<p>5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh Oak snags can be counted if already dead or partially dead</p>

Map available at the Forest Service National Scenic Area Office

* Does not apply to openings.

Dbh: Diameter at Breast Height

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-280

Review Uses with Additional Approval Criteria—Commercial Forest Land, or Large or Small Woodland Designations

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 and 620) and the "Approval Criteria for Specified Review Uses" (350-81-290).

(a) Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (2) the size is the minimum necessary to provide the service.

(b) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(c) Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

(d) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

(e) Wine sales/tasting rooms, in conjunction with an on-site winery.

(f) Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

(g) Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in 350-81-520.

(h) Aquaculture.

(i) Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

(j) Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

(k) Expansion of existing nonprofit group camps, retreats, or conference centers.

(l) Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100) and provided that the residence:

(A) Is included in the National Register of Historic Places, or

(B) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(C) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

(m) Nonprofit, environmental learning or research facilities.

(n) On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-81-102).

(o) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation

generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

AMENDATORY SECTION

350-81-340

Review Uses—Open Space

(1) The following uses may be allowed on all lands designated GMA-Open Space subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-81-610).

(b) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources.

(c) Repair, maintenance, operation, and improvement of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.

(d) Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

(e) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(f) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(g) Lot line adjustments, subject to compliance with the guidelines in "Lot Line Adjustments" (350-81-126).

(2) Review Uses—Specific Lands Designated Open Space

(a) The following uses may be allowed on lands designated GMA-Open Space for Gorge Walls and Canyonlands subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Livestock grazing.

(B) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(C) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

(D) Harvesting of wild crops.

(E) Educational or scientific research.

(F) Continued operation of existing quarries, if they are determined to be consistent with guidelines to protect scenic, cultural, natural, and recreation resources.

(G) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(b) The following uses may be allowed on lands designated GMA-Open Space for the Mosley Lakes Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(B) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(C) Commercial trapping.

(D) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(c) The following uses may be allowed on lands designated GMA-Open Space for the Chenoweth Table Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-81-610), after consultation with the Oregon Natural Heritage Program.

(B) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

(C) Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

(D) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(d) The following uses may be allowed on lands designated GMA-Open Space for the Squally Point Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes (350-81-610) after consultation with the Oregon Natural Heritage Program.

(B) Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

(C) Except as limited by (d)(A), above, all those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(e) The following uses may be allowed on lands designated GMA-Open Space for the Klickitat River Wildlife and Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-81-610), after consultation with the Washington Natural Heritage Program and Washington Department of Fish and Wildlife.

(B) Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

(C) Educational or scientific research, after consultation with the Washington Natural Heritage Program.

(D) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(f) The following uses may be allowed on lands designated GMA-Open Space for the Balch Lake Wetlands Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Fish and Wildlife.

(B) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(C) Educational and scientific research, after consultation with the Washington Department of Fish and Wildlife.

(D) Low-intensity recreation, subject to the guidelines for recreation intensity classes (350-81-610) after consultation with the Washington Department of Fish and Wildlife.

(E) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(g) The following uses may be allowed on lands designated GMA-Open Space for the Mouth of Wind River Wildlife Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(B) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(C) Harvesting of wild crops.

(D) Educational or scientific research, after consultation with the Washington Department of Fish and Wildlife.

(E) Commercial fishing and trapping.

(F) Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Washington Department of Fish and Wildlife.

(G) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(h) The following uses may be allowed on lands designated GMA-Open Space on those portions of state park ownerships not suitable for major recreation facilities subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(A) Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

(B) Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

(C) Harvesting of wild crops.

(D) Educational or scientific research.

(E) All those uses allowed in "All Lands Designated Open Space," [350-81-340(1)].

(3) The following new uses may be allowed on lands designated SMA-Open Space subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-81-520 through 350-81-620):

(a) Changes in existing uses, including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

(b) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include vegetation management and forest practices (subject to the forest practice guidelines of 350-81-270 (2)(y) for the resto-

ration of forest health, new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(c) Low-intensity recreation uses and developments, including educational and interpretive facilities, consistent with 350-81-620.

(d) Utility facilities for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Open Space land.

(B) The size is the minimum necessary to provide the service.

(e) ~~Removal/~~Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(f) Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:

(A) Noxious weed infestation is new and eradication is still viable.

(B) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:

(i) Displacement of native and traditionally gathered plants;

(ii) Degradation of wildlife habitat and forage;

(iii) Degradation or loss of agricultural uses of land, such as cropland or livestock forage;

(iv) Limitation of recreational uses.

(C) For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

(4) An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development on lands designated SMA-Open Space, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

(a) Direction for resource protection, enhancement, and management.

(b) Review of existing uses to determine compatibility with Open Space values.

(c) Consultation with members of the public and with agency and resource specialists.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-370

Review Uses—Residential Land

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricul-

tural land [350-81-076 and 350-81-190 (1)(q)(E)], or forest land [(350-81-290 (1)(a) and 350-81-310 (1)(a)]. If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (350-81-300).

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 590).

(h) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(i) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Agricultural structures, except buildings, in conjunction with agricultural use.

(l) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(o) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(q) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-81-520 through 350-81-620):

(a) One single-family dwelling per legally created lot or consolidated parcel. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(g) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-81-270 (2)(y).

(k) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(l) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) ~~Removal/D~~demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(o) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(p) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas.

Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270 (2)(x).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

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AMENDATORY SECTION

350-81-380

Review Uses with Additional Approval Criteria—Residential Land

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620) and "Approval Criteria for Specified Review Uses," (350-81-390).

(a) Accredited childcare centers within lands designated 1-acre Residential or 2-acre Residential. A childcare center may be allowed in other Residential designations within an existing church or community building.

(b) Schools within an existing church or community building.

(c) Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991.

(d) Utility facilities and railroads.

(e) Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(f) Fire stations.

(g) Recreation development, subject to compliance with 350-81-610.

(h) Community parks and playgrounds, consistent with the standards of the National Park and Recreation Society regarding the need for such facilities.

(i) Bed and breakfast inns in single family dwellings located on lands designated 5-acre Residential or 10-acre Residential, pursuant to the guidelines in "Bed and Breakfast Inns" (350-81-100).

(j) Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

(k) Wine sales/tasting rooms in conjunction with an on-site winery, under the following conditions:

(A) The use shall comply with the guidelines in "Home Occupations and Cottage Industries" (350-81-098), with the following exceptions:

(i) The use may employ an unlimited number of outside employees.

(ii) The wine sales/tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.

(iii) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine sales/tasting room.

(iv) The exterior space may be a veranda, patio, or other similar type of structure.

(l) Small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (350-81-102).

(m) Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

AMENDATORY SECTION

350-81-420

Review Uses—Rural Center

(1) The following uses may be allowed within Rural Centers, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

(a) One single-family dwelling per legally created parcel.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 350-81-~~240~~420 (1)(c).

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, pursuant to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(e) Duplexes.

(f) Fire stations.

(g) Libraries.

(h) Government buildings.

(i) Community centers and meeting halls.

(j) Schools.

(k) Accredited childcare centers.

(l) Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.

(A) Grocery stores.

(B) Variety and hardware stores.

(C) Shops, offices, and repair shops.

(D) Personal services such as barber and beauty shops.

(E) Travelers' accommodations, bed and breakfast inns.

(F) Restaurants.

(G) Taverns and bars.

(H) Gas stations.

(I) Gift shops.

(m) Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(n) Utility facilities and railroads.

(o) Recreation development, subject to compliance with 350-81-610.

(p) Places of worship.

(q) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(r) Land divisions, subject to the standards and minimum lot sizes in Policies 6 and 7 in the "Land Use Policies" in Part II, Chapter 5: Commercial Land of the Management Plan.

(s) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(t) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(u) Agricultural structures, except buildings, in conjunction with agricultural use.

(v) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(w) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-490

Review Uses—Public Recreation and Commercial Recreation

(1) The following uses may be allowed on lands designated GMA-Public Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-81-520 through 350-81-620) and compliance with 350-81-610 (5)(a) and (c) through (g), where applicable, of the "Approval Criteria for Recreation Uses" contained in the recreation intensity class guidelines (350-81-610):

(a) Publicly-owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-81-610).

(b) Commercial uses and non-resource based recreation uses that are part of an existing or approved resource-based public recreation use, consistent with the guidelines for such uses contained in this section.

(c) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(d) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated GMA Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," (350-81-500), and (350-81-520 through 350-81-620):

(a) One single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 350-81-490 (2)(c).

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(f) Utility transmission, transportation, communication, and public works facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(3) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources (350-81-520 through 350-81-620) and compliance with 350-81-610 (5)(a) and (c) through (g) of the "Approval Criteria for Recreation Uses" guidelines (350-81-610):

(a) Commercially owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-81-610).

(b) Overnight accommodations that are part of a commercially owned, resource-based recreation use, where such resource-based recreation use occurs on the subject site or on adjacent lands that are accessed through the site, and that meet the following standards:

(A) Buildings containing individual units shall be no larger than 1,500 square feet in total floor area and no higher than 2-1/2 stories.

(B) Buildings containing more than one unit shall be no larger than 5,000 square feet in total floor area and no higher than 2-1/2 stories.

(C) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (4) of this guideline.

(D) Clustered overnight travelers accommodations meeting the following standards may include up to 35 individual units:

(i) Average total floor area of all units is 1,000 square feet or less per unit.

(ii) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas).

(iii) The facility is in an area classified for high-intensity recreation (Recreation Intensity Class 4).

(c) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non-resource based recreation uses that are part of an existing or approved resource-based commercial recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

(d) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(e) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(4) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with the "Approval Criteria for Non-Recreational Uses in Commercial Recreation," (350-81-510), and the guidelines for the protection of scenic, natural, cultural, and recreation resources (350-81-520 through 350-81-620):

(a) One single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline ~~2-C~~ 4(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(f) Utility transmission, transportation, and communication facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recon-touring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (~~Part II, Chapter 7: General Policies and Guidelines~~) (350-81-096).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(5) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with 350-81-500 (1)(c), and in GMA Commercial Recreation, subject to compliance with 350-81-510 (1)(c).

(6) Lot line adjustments may be allowed in GMA Public Recreation and GMA Commercial Recreation, subject to compliance with the guidelines in "Lot Line Adjustments" (350-81-126).

(7) The following uses may be allowed on lands designated SMA-Public Recreation subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

(a) Forest uses and practices, as allowed for in 350-81-270(2), except Forest Land Review Uses (2)(i), (2)(l), (2)(m), and (2)(w).

(b) Public trails, consistent with the provisions in 350-81-620.

(c) Public recreational facilities, consistent with the provisions in 350-81-620.

(d) Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (350-81-190 (2)(c)) or Forest Land

(350-81-270 (2)(j)), or when shown to be necessary for public recreation site management purposes.

(f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(g) below.

(g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(h) Home occupation and cottage industries, as specified in "Home Occupations and Cottage Industries" (350-81-098).

(i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(j) Road and railroad construction and reconstruction.

(k) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(l) Agricultural review uses, as allowed for in 350-81-190(2), except Agricultural Land Review Uses (2)(h), (2)(i), (2)(t), and (2)(aa).

(m) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-81-092).

(n) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(o) ~~Removal~~Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-520

General Management Area Scenic Review Criteria

The following scenic review guidelines shall apply to all Review Uses in the General Management Area of the Columbia River Gorge National Scenic Area:

(1) All review uses:

(a) New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

(b) New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(c) Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter.

(d) A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" 350-81-032(5). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.

(e) For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

(f) For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

At a minimum, such reclamation plans shall include:

(A) A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

(B) Cross-sectional drawings of the site showing pre-mining and post-mining grades.

(C) Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

(D) Description of drainage/erosion control features to be employed for the duration of the use.

(E) A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(g) All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

(A) Whether the proposed mining is subject to state reclamation permit requirements;

(B) If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

(C) For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

The Executive Director may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.

(2) Key Viewing Areas

(a) The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

(b) Each development shall be visually subordinate to its setting as seen from key viewing areas.

(c) Determination of potential visual effects and compliance with visual subordination policies shall include consideration of the cumulative effects of proposed developments.

(d) The extent and type of conditions applied to a proposed development to achieve visual subordination shall be proportionate to its potential visual impacts as seen from key viewing areas.

(A) Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

(i) The amount of area of the building site exposed to key viewing areas.

(ii) The degree of existing vegetation providing screening.

(iii) The distance from the building site to the key viewing areas from which it is visible.

(iv) The number of key viewing areas from which it is visible.

(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

(B) Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

(i) Siting (location of development on the subject property, building orientation, and other elements).

(ii) Retention of existing vegetation.

(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

(iv) New landscaping.

(e) New development shall be sited to achieve visual subordination from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

(f) New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordination from key viewing areas.

(g) Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines in 350-81-520(3).

(h) The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. Variances to this guideline may be granted if applica-

tion of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

(i) An alteration to a building built before November 17, 1986, that already protrudes above the skyline of a bluff, cliff, or ridge as seen from a key viewing area, may itself protrude above the skyline if:

(A) The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration, and

(B) There is no practicable alternative means of altering the building without increasing the protrusion.

(j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

(A) New landscaping (including new earth berms) shall be required only when application of all other available guidelines in 350-81-520 is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordination. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.

(C) Unless as specified otherwise by provisions in 350-81-520, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in 350-81-520(3), and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(k) Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in 350-81-300 (1)(a).

(l) Unless expressly exempted by other provisions in 350-81-520, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

(m) The exterior of buildings on lands seen from key viewing areas shall be composed of nonreflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The *Scenic Resources Implementation*

Handbook will include a list of recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook* (once they are created). Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordination. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

(n) In addition to the site plan requirements in "Review Uses" 350-81-520032(5), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s) height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

(o) For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to 350-81-520 (1)(f) section of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

(p) Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

(q) Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of colors specified in the design guidelines for the subject property's landscape setting dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or a list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

(r) Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordination requirements for lands seen from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

(s) New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

(t) New communication facilities (antennae, dishes, etc.) on lands visible from key viewing areas that require an open and unobstructed site shall be built upon existing facilities

unless it can be demonstrated that use of existing facilities is not practicable.

(u) New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:

(A) The facility is necessary for public service,

(B) The break in the skyline is seen only in the background, and

(C) The break in the skyline is the minimum necessary to provide the service.

(v) Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

(A) The facility is necessary for public service, and

(B) The break in the skyline is the minimum necessary to provide the service.

(x) Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

(y) New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. Variances to this guideline may be authorized if the guideline's application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be used.

(z) Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

(aa) All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:

(A) A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(i) Existing and proposed final grades.

(ii) Location of all areas to be graded, with cut banks and fill slopes delineated.

(iii) Estimated dimensions of graded areas.

(B) A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(i) Its purpose.

(ii) An estimate of the total volume of material to be moved.

(iii) The height of all cut banks and fill slopes.

(iv) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

(v) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation

provisions or other measures necessary to ensure the survival of plantings.

(vi) A description of any other interim or permanent erosion control measures to be used.

(bb) Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to 350-81-520 have been met.

(B) The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.

(C) A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-81-520 (1)(f) and (g).

(D) A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

(i) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.

(ii) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

(iii) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.

(iv) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.

(v) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.

(vi) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

(cc) Unless addressed by 350-81-520 (2)(bb), new production and/or development of mineral resources may be allowed upon a demonstration that:

(A) The site plan requirements for such proposals pursuant to this chapter have been met.

(B) The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.

(C) A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with 350-81-520 (1)(f) and (g).

(dd) An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be

based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

(ee) An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

(3) Landscape Settings

All review uses within the following landscape settings shall comply with the following applicable guidelines:

(a) Pastoral

(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

(iv) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

(C) Compatible recreation uses include resource-based recreation of a very low-intensity or low-intensity nature (as defined by 350-81-610) occurring infrequently in the landscape.

(b) Coniferous Woodland

(A) Structure height shall remain below the forest canopy level.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(I) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

(II) At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas-fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

(III) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

(c) Oak-Pine Woodland

(A) Structure height shall remain below the tree canopy level in wooded portions of this setting.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

(ii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

For substantially wooded portions:

(iii) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

For treeless portions or portions with scattered tree cover:

(iv) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

(v) Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

(vi) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

(C) Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed by 350-81-610, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

(d) Grassland

(A) Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

(B) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

(ii) Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

(ii) Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

(C) Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting and wildlife viewing.

(e) Rural Residential

(A) Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

(B) In portions of this setting visible from key viewing areas, and not exempt from visual subordination guidelines (see 350-81-520 (3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iii) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(C) Compatible recreation uses should be limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as scenic overlooks).

(f) Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

(A) New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

(B) In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

(C) Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

(g) Residential

(A) In portions of this setting visible from key viewing areas and not exempt from visual subordination guidelines (see 350-81-520 (3)(k)), the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

(ii) The exteriors of structures shall be non-reflective unless fully screened from key viewing areas with existing vegetation and/or topography.

(iii) At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

(iv) At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

(B) Compatible recreation uses are limited to community park facilities.

(h) Village

(A) New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 1/2 stories or less.

(B) For new commercial, institutional (churches, schools, government buildings), or multifamily residential uses on parcels fronting a scenic travel corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

(C) New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

(D) New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly shared landscaped open areas, etc.

(E) New commercial, institutional or multifamily residential uses fronting a scenic travel corridor shall comply with the following landscape requirements:

(i) Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet wide between the new use and the scenic travel corridor roadway.

(ii) The landscape strip required in 350-81-520 (3)(h) (E)(i) shall include shrubs, vegetative ground cover, and, at minimum, one tree. Trees shall be spaced as appropriate to the species and not to exceed 25 feet apart on the average.

(F) The use of building materials that reinforce the Village setting's character, such as wood, logs, or stone, and that reflect community desires, should be encouraged.

(G) Architectural styles that are characteristic of the area (such as 1 1/2-story dormer roof styles in Corbett) and that reflect community desires should be encouraged. Entry signs should be consistent with such architectural styles.

(H) Design features that create a "pedestrian-friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc., should be encouraged.

(I) Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

(J) Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

(K) Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

(i) River Bottomlands

(A) In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:

(i) Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.

(ii) At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas-fir, western red cedar and western hemlock (west Gorge), and various native willow species.

(iii) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

(C) Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that:

(i) their designs emphasize retention and/or enhancement of native riparian communities,

(ii) structures and parking areas are visually subordinate

(iii) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

(j) Gorge Walls, Canyons, and Wildlands

(A) New development and expansion of existing development shall be screened so it is not seen from key viewing areas, to the maximum extent practicable.

(B) All trees planted to screen permitted development and uses from key viewing areas shall be native to the area.

(C) Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

(D) All ~~structures~~ buildings shall be limited in height to a maximum of 1 1/2 stories.

(E) The exteriors of structures shall be non-reflective.

(F) Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway standards require otherwise.

(G) Compatible recreation uses are limited to very low or low-intensity resource-based activities which focus on enjoyment and appreciation of sensitive resources. Such compatible uses (such as trails) are generally associated with minimal facility development, if any.

(k) Developed Settings and Visual Subordination Policies

GMA policies to protect key viewing area viewsheds require that all new development on lands seen from key viewing areas be visually subordinate to its landscape setting, except for "specified developed settings that are not visually sensitive."

Three landscape settings are considered developed settings within this context: Rural Residential, Residential, and Village. Of all GMA lands in these three settings, six particular areas that are not visually sensitive have been identified. New development in these settings shall be compatible with the setting, but not necessarily visually subordinate. New developments in these settings are exempt from the color and siting guidelines in the Key Viewing Areas section of this chapter. These areas are:

- (A) Corbett Rural Center (Village)
- (B) Skamania Rural Center (Village)
- (C) West of Hood River Urban Area, east of Country Club Road (Rural Residential)
- (D) Murray's Addition subdivision, The Dalles (Residential)
- (E) Two small areas south of The Dalles in Sections 9 and 10, Township 1N, Range 13E (Residential)
- (F) Portion of Underwood Heights along Cooper Avenue, south of Cook-Underwood Road (Rural Residential)

(4) Scenic Travel Corridors

All review uses within Scenic Travel Corridors shall comply with the following applicable guidelines:

(a) For the purposes of implementing this section, the foreground of a scenic travel corridor shall include those lands within 1/4 mile of the edge of pavement of the scenic travel corridor roadway.

(b) All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway. A variance to this setback requirement may be granted pursuant to 350-81-078(2). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway, to the maximum extent practicable.

(c) Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a scenic travel corridor roadway, except in a Rural Center designation (village landscape setting), shall comply with 350-81-520 (4)(b) above, to the maximum extent practicable.

(d) All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

- (A) An evaluation of potential visual impacts of the proposed project as seen from any key viewing area.
- (B) An inventory of any rare plants, sensitive wildlife habitat, wetlands, or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable Management Plan guidelines to protect the resources.

(e) When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Colum-*

bia River Gorge National Scenic Area Corridor Visual Inventory (April 1990).

(f) New production and/or development of mineral resources proposed within 1/4 mile of the edge of pavement of a scenic travel corridor may be allowed upon a demonstration that full visual screening of the site from the scenic travel corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a scenic travel corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within timeframes specified in 350-81-520 (2)(ee).

(g) Expansion of existing quarries may be allowed pursuant to 350-81-520 (2)(bb). Compliance with visual subordination requirements shall be achieved within timeframes specified in 350-81-520 (2)(dd).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-530

Special Management Area Scenic Review Criteria

(1) SMA Design Guidelines Based on Landscape Settings

(a) The following guidelines apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):

(A) Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

(i) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows, as commonly found in the landscape setting, is encouraged.

(B) Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.

(i) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(C) Residential: The Residential setting is characterized by concentrations of dwellings.

(i) At Rowena Dell, new buildings shall have a rustic appearance using natural materials. At Latourell Falls, new

buildings shall have an appearance consistent with the predominant historical architectural style.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(D) River Bottomlands: River Bottomlands shall retain the overall visual character of a floodplain and associated islands.

(i) Buildings shall have an overall horizontal appearance in areas with little tree cover.

(ii) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

(E) Gorge Walls, Canyonlands, and Wildlands: New developments and land uses shall retain the overall visual character of the natural-appearing landscape.

(i) Structures, including signs, shall have a rustic appearance, use nonreflective materials, have low contrast with the surrounding landscape, and be of a Cascadian architectural style.

(ii) Temporary roads shall be promptly closed and revegetated.

(iii) New utilities shall be below ground surface, where feasible.

(iv) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

(2) SMA Guidelines for Development and Uses Visible from KVAs

(a) The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

(b) New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.

(c) The required SMA scenic standards for all development and uses are summarized in the following table:

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	Not Visually Evident
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Residential	Residential	Visually Subordinate

LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

(d) In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

(e) Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

(f) The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

(A) Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:

(i) The amount of area of the building site exposed to key viewing areas,

(ii) The degree of existing vegetation providing screening,

(iii) The distance from the building site to the key viewing areas from which it is visible,

(iv) The number of key viewing areas from which it is visible, and

(v) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

(B) Conditions may be applied to various elements of proposed developments to ensure they ~~are visually subordinate to~~ meet the scenic standard for their setting as seen from key viewing areas, including but not limited to:

(i) Siting (location of development on the subject property, building orientation, and other elements),

(ii) Retention of existing vegetation,

(iii) Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and

(iv) New landscaping.

(g) Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

(h) Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.

(i) Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

(j) The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

(A) New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

(B) If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

(C) Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

(D) The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

(k) Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting.

(l) The exterior of ~~buildings~~ structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* will include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook*.

(m) Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from

being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

(n) Seasonal lighting displays shall be permitted on a temporary basis, not to exceed 3 months.

(3) SMA Guidelines for KVA Foregrounds and Scenic Routes

(a) All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

(b) Scenic highway corridor strategies shall be developed and implemented for Interstate 84 (I-84), Washington State Route 14 (SR 14) and the Historic Columbia River Highway (HCRH). For I-84, SR 14 and the HCRH, this involves ongoing implementation (and possible updating) of the associated existing documents. ~~For I-84, a new scenic corridor strategy shall be developed by the end of 2005.~~

(c) The goals of scenic corridor strategies shall include: 1) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and 2) creating design continuity for the highway corridor within the Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.

(d) The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in 350-81-530(2).

(A) The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

(B) Findings must evaluate the following:

(i) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous section,

(ii) Reduction in project size;

(iii) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;

(iv) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

(C) Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as seen from the foreground of key viewing areas:

(i) Form and Line-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting.

Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.

(ii) Color-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.

(iii) Texture-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.

(iv) Design-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

(e) Right-of-way vegetation shall be managed to minimize visual impacts of clearing and other vegetation removal as seen from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

(f) Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

(4) SMA Guidelines for Areas Not Seen from KVAs

(a) Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the *Scenic Resources Implementation Handbook*.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-540

General Management Area Cultural Resource Review Criteria

(1) General Provisions for Implementing the Cultural Resources Protection Process.

(a) All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

(b) Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic

house or pioneer campsite, the Indian tribal governments do not have to be consulted.

(c) Reconnaissance and Historic Surveys and Survey Reports.

(A) Reconnaissance survey requirements and exceptions.

(i) A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exceptions in 350-~~8081-504~~540 (1)(c)(A)(ii) below.

(ii) A reconnaissance survey shall be required for all proposed uses, except:

(I) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

(II) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

(III) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(IV) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(V) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(VI) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

- Residential development that involves two or more new dwellings for the same project applicant.

- Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

- Public transportation facilities that are outside improved rights-of-way.

- Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

- Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

(B) A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

(C) The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

For 350-81-540, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

(D) Reconnaissance Surveys for Small-Scale Uses.

Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

(i) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

(ii) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

(E) Reconnaissance Survey Reports for Small-Scale Uses

The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

(i) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

(ii) A description of any cultural resources that were discovered in the project area, including a written description and photographs.

(iii) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

(F) Reconnaissance Surveys for Large-Scale Uses

(i) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

(ii) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

(I) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

(II) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

(III) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

(IV) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

(G) Reconnaissance Survey Reports for Large-Scale Uses

The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

(i) A description of the proposed use, including drawings and maps.

(ii) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

(iii) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

(iv) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(v) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(vi) A summary of all written comments submitted by Indian tribal governments and other interested persons.

(vii) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information

obtained through archival and ethnographic research and field surveys.

(H) Historic Surveys and Reports

(i) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

(ii) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

(iii) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

(d) The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.

(e) Cultural resources are significant if one of the following criteria is satisfied:

(A) The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).

(B) The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

(f) The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the Executive Director as to whether affected cultural resources are significant.

(2) Cultural Resource Reconnaissance and Historic Surveys

(a) Consultation and Ethnographic Research

(A) When written comments are submitted to the Executive Director within the comment period provided in 350-81-040, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons. Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all

such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

(B) A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

(b) Notice of Survey Results

(A) The Executive Director shall submit a copy of all cultural resource survey reports to the State Historic Preservation Officer and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

(B) The State Historic Preservation Officer and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the proposed use would be consistent with 350-81-540. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude when one of the following conditions exists:

(i) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed.

(ii) A reconnaissance survey demonstrates that cultural resources do not exist in the project area, no substantiated concerns were voiced by interested persons within 21 calendar days of the date that a notice was mailed, and no substantiated concerns regarding the reconnaissance survey were voiced by the State Historic Preservation Officer or Indian tribal governments during the 30-day comment period required in subsection 2(b)(B) above.

(iii) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the

eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

(C) (iv) A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(i) (a) The State Historic Preservation Officer concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(ii) (b) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the State Historic Preservation Officer or the Executive Director question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

(3) Evaluation of Significance

(a) Evaluation Criteria and Information Needs

If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

(A) Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

(B) To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

(C) The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethno-

graphic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

(D) The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

(E) All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

(b) Notice of Evaluation Results

(A) If the evaluation of significance demonstrates that the cultural resources are not significant, the Executive Director shall submit a copy of the evaluation of significance to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Cultural Resources are Culturally Significant

(A) If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

(B) The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the Executive Director, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the Executive Director within 30 calendar days from the date the evaluation of significance is mailed.

(d) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the State Historic Preservation Officer or CAC, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the affected cultural resources are not significant.

(C) If the project applicant or the Executive Director determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

(4) Assessment of Effect

(a) Assessment Criteria and Information Needs

If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

(A) The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.59) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.118.

(i) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.59(a)].

(ii) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.59(b)]. Adverse effects on cultural resources include, but are not limited to:

(I) Physical destruction, damage, or alteration of all or part of the cultural resource.

(II) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(III) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(IV) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

(B) The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

(C) The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(i) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(ii) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(b) Notice of Assessment Results

(A) If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the Executive Director shall submit a copy of the assessment to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar

days from the date the assessment of effect is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

(C) A mitigation plan shall be prepared if a project applicant or the Executive Director determines that the proposed use would have an adverse effect on significant cultural resources.

(5) Mitigation Plans

(a) Mitigation Plan Criteria and Information Needs

Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

(A) Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the State Historic Preservation Officer.

(B) Avoidance of cultural resources through project design and modification is preferred. Avoidance may be effected by reducing the size, scope, configuration, and density of the proposed use.

Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

(C) Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.118(d), including, but not limited to:

(i) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(ii) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(iii) Documentation of consultation with the State Historic Preservation Officer regarding any alternatives or mitigation measures.

(iv) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and Executive Director.

(v) Copies of any written recommendations submitted to the Executive Director or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

(b) Notice of Mitigation Plan Results

(A) If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the Executive Director shall submit a copy of the mitigation plan to the State Historic Preservation Officer and the Indian tribal governments.

(B) The State Historic Preservation Officer, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the Executive Director. The Executive Director shall record and address all written comments in the development review order.

(c) Conclusion of the Cultural Resource Protection Process

(A) The Executive Director shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the State Historic Preservation Officer, the Executive Director shall justify how an opposing conclusion was reached.

(B) The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

(C) The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(6) Cultural Resources Discovered After Construction Begins

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the Executive Director and the State Historic Preservation Officer. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

(a) Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

(b) Notification. The project applicant shall notify the Executive Director within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

(c) Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the State Historic Preservation Officer. (See Oregon Revised Statute [ORS] ~~273.705~~, ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be docu-

mented in a report that generally follows the guidelines in "Reconnaissance Survey Reports for Large-Scale Uses" [350-80-540 (1)(c)(G)] and "Evaluation of Significance: Evaluation Criteria and Information Needs" [350-80-540 (3)(a)].

Based on the survey and evaluation report and any written comments, the Executive Director shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

A mitigation plan shall be prepared if the affected cultural resources are significant.

(d) Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

(7) Discovery of Human Remains

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

(a) Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

(b) Notification. Local law enforcement officials, the Executive Director, and the Indian tribal governments shall be contacted immediately.

(c) Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

(d) Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

(e) Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in "Mitigation Plans: Mitigation Plan Criteria and Information Needs" [350-81-540 (5)(a)].

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" [350-81-540 (5)(c)] are met and the mitigation plan is executed.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

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**350-81-550****Special Management Area Cultural Resource Review Criteria.**

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6 (a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470~~aa~~^{aa} and 36 CFR 296.18.

(b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in 350-81-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(2) The procedures and guidelines in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The procedures and guidelines in 36 CFR 800 and 350-81-550(4) shall be used by the Executive Director and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

(4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources shall be used to assess potential effects to cultural resources.

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service or the Executive Director determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Executive Director for review.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36

CFR 60.4). The Forest Service or the Executive Director shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service or the Executive Director determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.59 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Executive Director shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.48, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards Requirements" of 36 CFR 800.118(a). If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.59(b) to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.115(e) ("Failure to Resolve Adverse Effects").

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.118 ("Documentation Standards Requirements").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Executive Director shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of

the Forest Service or the Executive Director if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Executive Director shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to 350-81-550 (4)(c) and report the results to the Forest Service or the Executive Director.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Executive Director determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to 350-81-550 (4)(e) if the Forest Service or the Executive Director determines that the cultural resource is significant.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-560

General Management Area Wetland Review Criteria

(1) Wetlands Boundaries and Site Plans for Review Uses in Wetlands

(a) If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible for determining the exact location of the wetland boundary.

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands. Wetlands boundaries shall be delineated using the procedures specified in the *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).

(B) All wetlands delineations shall be conducted by a professional which has been trained to use the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.

(C) The Executive Director may verify the accuracy of, and may render adjustments to, a wetlands boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the Executive Director shall, at the

applicant's expense, obtain professional services to render a final delineation.

(b) In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include:

(A) a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail;

(B) the exact boundary of the wetland and the wetlands buffer zone; and

(C) a description of actions that would alter or destroy the wetland.

(2) Commission Rule 350-81-560 shall not apply to proposed uses that would occur in the main stem of the Columbia River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For Commission Rule 350-81, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

(3) The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant to the provisions in 350-81-560(5), and reviewed under the applicable provisions of 350-81-520 through 350-81-620:

(a) The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not:

(A) Increase the size of an existing structure by more than 100 percent,

(B) Result in a loss of wetlands acreage or functions, ~~or~~ and

(C) Intrude further into a wetland or wetlands buffer zone. New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.

(b) The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

(c) The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

(4) Uses not listed in 350-81-560 (2) and (3) may be allowed in wetlands and wetlands buffer zones, when approved pursuant to 350-81-560(6) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(5) Applications for modifications to serviceable structures and minor water-dependent and water-related structures in wetlands shall demonstrate that:

(a) Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone and/or minimizing the impacts of the structure do not exist;

(b) All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and wildlife resources, and hydrology;

(c) The structure will be constructed using best management practices;

(d) Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and

(e) The structure complies with all applicable federal, state, and county laws.

(6) Applications for all other Review Uses in wetlands shall demonstrate that:

(a) The proposed use is water-dependent, or is not water-dependent but has no practicable alternative considering all of the following:

(A) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands;

(B) The basic purpose of the use cannot be reasonably accomplished by reducing its size, scope, configuration, or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands; and

(C) Reasonable attempts have been made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size, and zone designations. If a land designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

(b) The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

(A) The extent of public need for the proposed use.

(B) The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

(C) The functions and size of the wetland that may be affected.

(D) The economic value of the proposed use to the general area.

(E) The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

(c) Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

(d) Groundwater and surface-water quality will not be degraded by the proposed use.

(e) Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.

(f) The proposed use complies with all applicable federal, state, and county laws.

(g) Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.

(h) Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(A) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(B) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(C) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(D) The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):

(i) Restoration: 2:1

(ii) Creation: 3:1

(iii) Enhancement: 4:1

(E) Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.

(F) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(G) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(H) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(I) Five years after a wetland is restored, created, or enhanced at least 75 percent of the replacement vegetation must survive. The owner shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

(7) Wetlands Buffer Zones

(a) The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

(b) The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the pro-

posed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

(A) A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community.

(B) A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

(C) A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.

(c) Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

(A) Forest communities: 75 feet

(B) Shrub communities: 100 feet

(C) Herbaceous communities: 150 feet

(d) Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

(8) Wetlands Compensation Plans

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

(a) Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

(b) Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

(c) Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

(d) Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:

(A) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(B) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(C) Water-quality parameters, water source, water depths, water-control structures, and water-level mainte-

nance practices needed to achieve the necessary hydrologic conditions.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-~~801~~-580

General Management Area Sensitive Wildlife Review Criteria.

(1) Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife

(a) Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:

(A) "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:

- Bald eagle habitat
- Deer and elk winter range
- Elk habitat
- Mountain goat habitat
- Peregrine falcon habitat
- Pika colony area
- Pileated woodpecker habitat
- Pine marten habitat
- Shallow water fish habitat (Columbia R.)
- Special streams
- Special habitat area
- Spotted owl habitat
- Sturgeon spawning area
- Tributary fish habitat
- Turkey habitat
- Waterfowl area
- Western pond turtle habitat

(B) "Sensitive wildlife sites" means sites that are used by animal species that are

- (i) listed as endangered or threatened pursuant to federal or state endangered species acts,
- (ii) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission,
- (iii) listed as sensitive by the Oregon Fish and Wildlife Commission, or
- (iv) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, mountain goat, and prairie falcon).

Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) Field Survey

A field survey to identify sensitive wildlife areas or sites shall be required for:

- (a) Land divisions that create four or more parcels;
- (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
- (c) Public transportation facilities that are outside improved rights-of-way;
- (d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and
- (e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive wildlife area or site, when approved pursuant to 350-81-580(4) and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(4) Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife by the Development Review Officer. State wildlife biologists will review the site plan and their field survey records and:

- (A) Identify/verify the precise location of the wildlife area or site,
- (B) Ascertain whether the wildlife area or site is active or abandoned, and
- (C) Determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

(b) The following factors may be considered when site plans are reviewed:

- (A) Biology of the affected wildlife species.
- (B) Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).

(C) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(D) Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

(E) Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

(c) The wildlife protection process may terminate if the Executive Director, in consultation with the state wildlife agency, determines:

(A) The sensitive wildlife area or site is not active, or

(B) The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

(d) If the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the applicant that describes the effects and measures needed to eliminate them. If the project applicant accepts these recommendations, the Executive Director will incorporate them into the development review order and the wildlife protection process may conclude.

(e) The project applicant shall prepare a wildlife management plan if the Executive Director, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

(f) The Executive Director shall submit a copy of all field surveys and wildlife management plans to Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is issued to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the state wildlife agency in the land use review order.

Based on the comments from the state wildlife agency, the Executive Director will make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the Executive Director shall justify how the opposing conclusion was reached.

The Executive Director shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(5) Wildlife Management Plans

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

Wildlife management plans shall meet the following guidelines:

(a) Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

(b) All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

(c) The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components, that are essential to maintain the long-term use and integrity of the wildlife area or site.

(d) A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

(e) The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:

(A) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.

(B) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

(f) Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

(g) The applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the

monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

(6) New fences in deer and elk winter range

(a) New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

(b) New and replacement fences that are allowed in winter range shall comply with the guidelines in Specifications for Structural Range Improvements (Sanderson, et. al. 1990), as summarized below, unless the applicant demonstrates the need for an alternative design:

(A) To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

(B) The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

(C) The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It should consist of smooth wire because barbs often injure animals as they crawl under fences.

(D) Stays, or braces placed between strands of wire, shall be positioned between fences posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

(c) Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is required to meet specific and immediate needs, such as controlling hogs and sheep.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-801-590

General Management Areas Rare Plant Review Criteria.

(1) Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants

(a) Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species that are

(A) endemic to the Columbia River Gorge and vicinity,

(B) listed as endangered or threatened pursuant to federal or state endangered species acts, or

(C) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage program.

Updated lists of sensitive plant species can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

(b) In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

(2) Field Survey

A field survey to identify sensitive plants shall be required for:

(a) Land divisions that create four or more parcels;

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;

(c) Public transportation facilities that are outside improved rights-of-way;

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

(3) Review uses may be allowed within 1,000 feet of a sensitive plant, when approved pursuant to 350-81-590(54), and reviewed under the applicable provisions of 350-81-520 through 350-81-620.

(4) Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed as follows:

(a) Site plans shall be submitted to the Oregon or Washington Natural Heritage Program by the Executive Director. The Natural Heritage Program staff will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

(b) The rare plant protection process may conclude if the Executive Director, in consultation with the Natural Heritage Program staff, determines that the proposed use would be located outside of a sensitive plant buffer zone.

(c) New uses shall be prohibited within sensitive plant species buffer zones.

(d) If a proposed use must be allowed within a sensitive plant buffer area in accordance with 350-81-078, the project applicant shall prepare a protection and rehabilitation plan pursuant to 350-81-590(5).

(e) The Executive Director shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that a field survey is mailed to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the Natural Heritage Program staff in the land use review order.

Based on the comments from the Natural Heritage Program staff, the Executive Director will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

(5) Protection and Rehabilitation Plans

Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance.

Protection and rehabilitation plans shall meet the following guidelines:

(a) Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

(b) Construction, protection, and rehabilitation activities shall occur during the time of the year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

(c) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(d) Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation easements, livestock management, and noxious weed control.

(e) Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

(f) Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

(g) Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

(A) Describe the biology of sensitive plant species that will be affected by a proposed use.

(B) Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

(C) Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

(D) Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the Executive Director an annual report that documents milestones, successes, problems, and contingency actions.

(6) Sensitive Plant Buffer Zones

(a) A 200-foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.

(b) Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a 200 foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

(c) Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:

(A) Identifies the precise location of the sensitive plants,

(B) Describes the biology of the sensitive plants, and

(C) Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

(d) The Executive Director shall submit all requests to reduce sensitive plant species buffer areas to the Oregon or Washington Natural Heritage Program. The Natural Heritage Program staff will have 20 days from the date that such a request is mailed to submit written comments to the Executive Director.

The Executive Director shall record and address any written comments submitted by the Oregon or Washington Natural Heritage Program in the development review order.

Based on the comments from the Oregon or Washington Natural Heritage Program, the Executive Director will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the Executive Director shall justify how the opposing conclusion was reached.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

350-81-600

Special Management Areas Natural Resource Review Criteria

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).

(2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

(a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(II) The wetland is not critical habitat.

(III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(C) The buffer width shall be increased for the following:

(i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(F) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

(b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

(d) Wetlands Boundaries shall be delineated using the following:

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)'.

(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

(e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(f) The Executive Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Executive Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(3) Wildlife and Plants

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service - Scenic Area Office and available on the Gorge Commission website.

(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(A) Identify/verify the precise location of the wildlife and/or plant area or site,

(B) Determine if a field survey will be required,

(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and

(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached

(d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (~~Rodrick and Milner 1991~~).

(B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wild-

life Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

Priority Habitats Table	
Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.

Priority Habitats Table	
Priority Habitats	Criteria
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(g) The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision.

Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(h) The Executive Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

(4) Soil Productivity

(a) Soil productivity shall be protected using the following guidelines:

(A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(B) New developments and land uses shall control all soil movement within the area shown on the site plan.

(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

Practicable Alternative Test

(1) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

(a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

Mitigation Plan

(1) Mitigation Plan shall be prepared when:

(a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).

(b) There is no practicable alternative (see the "practicable alternative" test).

(2) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(3) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

(4) The applicant shall submit the mitigation plan to the Executive Director. The Executive Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife

agency/heritage program, the Executive Director shall justify how the opposite conclusion was reached.

(5) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(6) Mitigation plans shall include maps, photographs, and text. The text shall:

(a) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

(b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(c) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(d) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

(e) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(7) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(8) A final monitoring report shall be submitted to the Executive Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Executive Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Executive Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(9) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, nat-

ural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

(a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the Executive Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

(e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.

(C) Fish passage shall be protected from obstruction.

(D) Restoration of fish passage should occur wherever possible.

(E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation),

natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

(g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

(h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline (9)(f)(I). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

(e) A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

(f) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

Notice of Application Requirements

350-81-630

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
GENERAL MANAGEMENT AREA	-	-	-	-	-	-	-	-
Residential LUD – Review uses except SFDs located adjacent to Agriculture and Forest LUDs, and those uses within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X	-	-	-
Residential LUD – SFDs adjacent to Agriculture and Forest LUDs except those within 1000' of sensitive wildlife area or site, or a rare plant	X	X	X	X	-	X	-	-
Residential LUD – Review uses within 1000' of a sensitive wildlife area or site except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X	-	X	-
Residential LUD – SFDs adjacent to Agriculture and Forest LUDs within 1000' of a sensitive wildlife area or site	X	X	X	X	-	X	X	-
Residential LUD – Review uses within 1000' of a rare plant except SFDs located adjacent to Agriculture or Forest LUDs	X	X	X	X	X	-	-	X
Residential LUD – SFDs adjacent to Agriculture and Forest LUDs within 1000' of rare plant	X	X	X	X	-	X	-	X
Agriculture LUD – Review uses except non-farm SFD in Large-Scale Agriculture LUD and uses within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	X	-	-	-
Agriculture LUD – Review uses within 1000' of sensitive wildlife area or site except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X	-	X	-
Agriculture LUD – Review uses within 1000' of a rare plant except non-farm SFD in Large-Scale Agriculture LUD	X	X	X	X	X	-	-	X
Agriculture LUD – Non-farm SFD in Large-Scale Agriculture LUD, except those within 1000' of sensitive wildlife area or site, or rare plant	X	X	X	X	-	X	-	-
Agriculture LUD – Non-farm SFD in Large-Scale Agriculture within 1000' of sensitive wildlife area or site	X	X	X	X	-	X	X	-
Agriculture LUD – Non-farm SFD in Large-Scale Agriculture within 1000' of rare plant	X	X	X	X	-	X	-	X
Commercial LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X	-	X	-
Commercial LUD – Review uses within 1000' of a rare plant	X	X	X	X	X	-	-	X

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Recreation LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X		-	-
Recreation LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X	-	X	-
Recreation LUD – Review uses within 1000' of a rare plant	X	X	X	X	X		-	X
Open Space LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or a rare plant	X	X	X	X	X	-	-	-
Open Space LUD – Review uses within 1000' of a sensitive wildlife area or site	X	X	X	X	X		X	-
Open Space LUD – Review uses within 1000' of a rare plant	X	X	X	X	X	-	-	X
Agriculture – Special LUD – Review Uses	X	X	X	X	X	-	-	X
SPECIAL MANAGEMENT AREAS	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-
Review Uses – All LUDs	X	X	X	X	X		X	-
Forest LUD – Review uses except utility facilities, railroads, home occupations, cottage industries, wineries, ag. produce process and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit learning/research facilities, and those review uses within 1000' feet of a sensitive wildlife area or site, or rare plant	X	X	X	X	X	-	-	-
Forest LUD – Utility facilities, railroads, home occupations, wineries, ag. produce process and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities, and not within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	-	X	-	-
Forest LUD – Review uses within 1000' of a sensitive wildlife area or site, except utility facilities, railroads, home occupations, wineries, ag. produce process and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X	-	X	-

	Tribes	USFS	State	County	Landowners w/in 200'	Landowners w/in 500'	Wildlife	Heritage
Forest LUD – Review uses within 1000' of a rare plant except utility facilities, railroads, home occupations, wineries, ag. produce process. and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities	X	X	X	X	X	-	-	X
Forest LUD – Utility facilities, railroads, home occupations, wineries, ag. produce process. and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit camps-retreats-conf. centers, B&Bs, non-profit learning/research facilities within 1000' of a sensitive wildlife area or site	X	X	X	X	-	X	X	-
Forest LUD – Utility facilities, railroads, home occupations, wineries, ag. produce process. and pack., mineral resources, geothermal resources, aquaculture, boarding of horses, temp. asphalt/batch plants, expansion of non-profit learning/research facilities within 1000' of a rare plant	X	X	X	X	-	X	-	X
Commercial LUD – Review uses except those within 1000' of a sensitive wildlife area or site, or rare plant	X	X	X	X	X	-	-	-

350-81-630. Notice of Application Requirements

STEP 1:	Send notice of application to:
All Expedited Review Uses	Tribes, USFS, County
All Full Review Uses	Tribes, USFS, County, State
STEP 2:	Additionally send to:
<ul style="list-style-type: none"> • Single family dwellings in the GMA Residential Land Use Designation adjacent to GMA Agriculture or Forest Land Use Designations; • Commercial events and special uses in historic buildings adjacent to GMA Agriculture or Forest Land Use Designations; 	

<ul style="list-style-type: none"> • Non-farm single family dwellings in the GMA Large-Scale Agriculture Land Use Designation; • Within GMA Forest Land Use Designations: utility facilities, railroads, home occupations, fruit & produce stands, wineries, wine sales/tasting rooms, ag. product processing and packaging, mineral resources, geothermal resources, aquaculture, boarding of horses, temporary asphalt/batch plants, expansion of non-profit camps/retreats/conference centers, B&Bs, non-profit 	Landowners within 500 feet
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<u>learning/research facilities,</u> <u>fish processing operations,</u> <u>road spoils disposal sites</u>	
<u>All other Full and Expedited Review Uses</u>	<u>Landowners within 200 feet</u>
STEP 3:	Additionally send to:
<u>All Full and Expedited Review Uses within 1000 feet of a sensitive wildlife area or site</u>	<u>State Department of Wildlife</u>
<u>All Full and Expedited Review Uses within 1000 feet of a rare plant</u>	<u>State Natural Heritage Program</u>
<u>All Full and Expedited Review Uses within Agriculture-Special Land Use Designation</u>	<u>State Natural Heritage Program</u>

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-24-001
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed November 21, 2007, 4:15 p.m., effective December 22, 2007]

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

Purpose: In 2005, the legislature directed state parks to adopt rules establishing the requirements for a criminal history record information search for job applicants, volunteers and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These rules will set forth the procedures for conducting criminal history record information searches, disqualification, and appeal rights.

Statutory Authority for Adoption: RCW 79A.05.070.

Other Authority: RCW 79A.05.030(10).

Adopted under notice filed as WSR 07-20-081 on October 1, 2007.

Changes Other than Editing from Proposed to Adopted Version: The commission made minor changes for clarification purposes. In subsection (1) the word and is changed to or as follows: Have unsupervised access to children or vulnerable adults; ~~and~~ or. In subsection (2) terminology related to agency is added as follows: (2) Persons who will be responsible for collecting or disbursing agency cash or processing credit/debit card transactions for agency sales.

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 7, 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 7, 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 7, Amended 0, Repealed 0.

Date Adopted: November 15, 2007.

Jim French
Administrator of Statewide
Recreation Programs

Chapter 352-18 WAC

BACKGROUND CHECKS FOR JOB APPLICANTS, VOLUNTEERS AND INDEPENDENT CONTRACTORS

NEW SECTION

WAC 352-18-010 What definitions apply to this chapter? The following definitions apply:

"**Child**" means an individual that has not reached the age of sixteen.

"**Criminal background check**" means a criminal history record information search that may include but is not limited to, the following:

- (a) A record check of arrests and convictions through the Washington state patrol;
- (b) Fingerprints processed through the FBI to obtain a complete criminal history.

"**Independent contractor**" means any independent for-profit or nonprofit private person or organization with which the commission has or is considering a contractual relationship. In the case of large organizations, the contractor background to be reviewed is that of the organization's principal on-site manager.

"**Unsupervised access**" means that an individual will or may be left alone with a child or vulnerable adult at any time or any length of time.

"**Volunteer**" means a person who is willing to work without expectation of salary or financial reward.

"**Vulnerable adult**" means adults of any age who lack the functional, mental, or physical ability to care for themselves. As defined in chapter 74.34 RCW "vulnerable adult" includes a person: Found incapacitated under chapter 11.88 RCW; or who has a developmental disability as defined under RCW 71A.10.020; or admitted to any facility; or receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or receiving services from an individual provider.

NEW SECTION

WAC 352-18-020 Who may be subject to criminal background checks? The Washington state parks and recreation commission requires criminal background checks on job applicants, volunteers, and independent contractors who:

- (1) Have unsupervised access to children or vulnerable adults; or
- (2) Persons who will be responsible for collecting or disbursing agency cash or processing credit/debit card transactions for agency sales.

NEW SECTION

WAC 352-18-021 Will a criminal conviction prohibit me from working, volunteering, or contracting with Washington state parks? (1) Conviction of a crime will not automatically preclude a person from working, volunteering, or contracting with Washington state parks. The nature of the conviction and any extenuating or mitigating circumstances will be considered.

(2) Convictions for certain crimes may prohibit you from working, volunteering, or contracting with Washington state parks. Those convictions include but are not limited to:

- (a) A crime against another person;
 - (b) A crime against a child (including child pornography);
 - (c) Child abuse and/or neglect;
 - (d) Spousal abuse;
 - (e) Animal cruelty crimes;
 - (f) A crime relating to the possession, sale, distribution, manufacture or use of an illegal drug;
 - (g) Indecent exposure;
 - (h) Fraud or false pretenses in obtaining something of value;
 - (i) Larceny or a misdemeanor theft by taking;
 - (j) Soliciting for prostitutes;
 - (k) Pattern of failure to file federal tax returns in years in which taxes are due;
 - (l) Criminal issuance of a bad check;
 - (m) Make a false report of a crime.
- (3) Washington state parks may consider the following mitigating factors:
- (a) The seriousness of the crime that led to the conviction;
 - (b) The number and types of other convictions in your background;
 - (c) Your age at the time of conviction;
 - (d) The amount of time that has passed since your conviction; and
 - (e) Documentation indicating that you have successfully completed all court-ordered programs and restitution.

NEW SECTION

WAC 352-18-022 To whom is the criminal background check information released? (1) Washington state parks will only share pass/fail results of the criminal background check with the supervisor(s) except as provided by chapters 42.17 and 10.97 RCW.

(2) Washington state parks will follow laws related to the release of criminal history records (chapter 10.97 RCW and RCW 43.43.570) and public disclosure (chapter 42.17 RCW) when releasing any information.

NEW SECTION

WAC 352-18-023 How will I know if I have been disqualified by the criminal background check? Job applicants, volunteers, and independent contractors who fail to pass a background check will be notified in writing by Washington state parks that they did not pass the criminal background check.

NEW SECTION

WAC 352-18-024 What do I do if I disagree with the results of the criminal background check? (1) Job applicants, volunteers, and independent contractors who do not pass the criminal background check are entitled to challenge the accuracy and completeness of any information contained in their background check. Contact may be made with Washington state parks human resources or the volunteer programs to review the information.

(2) Disqualified individuals may provide, in writing, justification/explanation with supporting documentation to the state parks director requesting further consideration at 7150 Cleanwater Drive, P.O. Box 42650, Olympia, WA 98504.

NEW SECTION

WAC 352-18-030 What happens if I do not comply with the criminal background check or make false statements in my application? (1) Washington state parks will not hire, continue to employ, allow volunteering or contracting with individuals who do not consent to a criminal background check or refuse to be fingerprinted.

(2) Washington state parks will not hire, continue to employ, allow volunteering, or contracting with individuals who make false statements orally or in writing regarding the criminal background check.

(3) Any person making false statements regarding their criminal background check may be denied employment or their employment terminated.

(4) Any person refusing a criminal background check may be refused employment.

WSR 07-24-012**PERMANENT RULES****UTILITIES AND TRANSPORTATION****COMMISSION**

[Docket UE-061895, General Order R-546—Filed November 27, 2007, 10:39 a.m., effective December 28, 2007]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-01 issue of the Register.

WSR 07-24-023
PERMANENT RULES
NOXIOUS WEED
CONTROL BOARD

[Filed November 28, 2007, 10:07 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: This rule-making order amends chapter 16-750 WAC by:

(1) Adding three new weed species to the A list (ricefield bulrush, European hawkweed, and variable-leaf milfoil) and one new weed species to the C list (common hawkweed);

(2) Deleting one weed species from rule (hedgeparsley);

(3) Changing one weed species from the B list to the A list (common cordgrass);

(4) Changing three weed species from the C list to the B list (butterfly bush, poison-hemlock, and common reed (non-native genotypes));

(5) Changing one weed species from the A list to the B list (lawnweed); and

(6) Changing the designation of five class B weeds (wild chervil, sulfur cinquefoil, orange hawkweed, policeman's helmet, and rush skeletonweed).

Citation of Existing Rules Affected by this Order: Amending WAC 16-750-005, 16-750-011, and 16-750-015.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-20-127 on October 3, 2007.

Changes Other than Editing from Proposed to Adopted Version: One proposal to change a weed species from the B list to the A list (smooth cordgrass) was not approved. One proposal to change a weed species from the A list to the B list (buffalobur) was not approved.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 20, 2007.

Ray H. Fann
Chair

AMENDATORY SECTION (Amending WSR 05-24-026, filed 11/30/05, effective 12/31/05)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
<u>bulrush, ricefield</u>	<u><i>Schoenoplectus mucronatus</i></u>
clary, meadow	<i>Salvia pratensis</i>
<u>cordgrass, common</u>	<u><i>Spartina anglica</i></u>
cordgrass, dense flower	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
goatsrue	<i>Galega officinalis</i>
<u>hawkweed, European</u>	<u><i>Hieracium sabaudum</i></u>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knawweed, bighead	<i>Centaurea macrocephala</i>
knawweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana var. lobata</i>
((lawnweed	<i>Soliva sessilis</i>))
<u>milfoil, variable-leaf</u>	<u><i>Myriophyllum heterophyllum</i></u>
mustard, garlic	<i>Alliaria petiolata</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
primrose-willow, floating	<i>Ludwigia peploides</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
sweetgrass, reed	<i>Glyceria maxima</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

AMENDATORY SECTION (Amending WSR 06-24-056, filed 12/4/06, effective 1/4/07)**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

Name	Will be a "Class B designate" in all lands lying within:
(1) alyssum, hoary <i>Berteroa incana</i>	(a) regions 1, 2, 5, 6, 8, 9, 10 (b) region 3, except Okanogan County (c) Okanogan County, of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North (d) Adams and Whitman counties of region 7.
(2) arrowhead, grass-leaved <i>Sagittaria graminea</i>	(a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County (c) region 5 except Mason Lake in Mason County.
(3) blackgrass <i>Alopecurus myosuroides</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10 (b) Ferry, Stevens, Pend Oreille counties of region 4 (c) Adams County of region 7.
(4) blueweed <i>Echium vulgare</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(5) broom, Scotch <i>Cytisus scoparius</i>	(a) regions 3, 4, 6, 7, 9, 10.
(6) bryony, white <i>Bryonia alba</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except Whitman County (c) Franklin County of region 10.
(7) bugloss, common <i>Anchusa officinalis</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10 (b) region 4 except Stevens and Spokane counties (c) Lincoln, Adams, and Whitman counties of region 7.
(8) bugloss, annual <i>Anchusa arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) Lincoln and Adams counties (c) Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.
(9) <u>butterfly bush <i>Buddleja davidii</i></u>	(a) <u>Pend Oreille County of region 4</u> (b) <u>Grays Harbor County, and that portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 5</u> (c) <u>Kittitas County of region 6</u> (d) <u>Lincoln County of region 7.</u>

Name	Will be a "Class B designate" in all lands lying within:
(10) camelthorn <i>Alhagi maurorum</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 9 (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
((+0)) (11) carrot, wild <i>Daucus carota</i>	(a) regions 3, 7 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated) (e) region 10, except Walla Walla County (except where intentionally cultivated).
((+1)) (12) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10 (b) region 9 except Klickitat County.
((+2)) (13) chervil, wild <i>Anthriscus sylvestris</i>	(a) regions 1, 3, 4, 5 , 6, 7, 9, 10 (b) ((region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W)) (c) region 2 except Guemes Island in Skagit County
((+3)) (14) cinquefoil, sulfur <i>Potentilla recta</i>	((+4)) (c) region 8 except Clark County. (a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston ((and Pierce counties)) <u>County</u> (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
((+4)) (15) cordgrass, smooth <i>Spartina alterniflora</i>	(a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.
((+5)) cordgrass, common <i>Spartina anglica</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10 (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.)

		Will be a "Class B designate" in all lands lying within:	
Name			
(16)	daisy, oxeye <i>Leucanthemum vulgare</i>	(a)	regions 7, 10
		(b)	region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East
		(c)	region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(17)	elodea, Brazilian <i>Egeria densa</i>	(a)	regions 3, 4, 6, 7, 9, 10
		(b)	Lewis County of region 8
		(c)	Clallam County of region 1
		(d)	King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
(18)	fanwort <i>Cabomba caroliniana</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except T8N, R3W of Cowlitz County.
(19)	fennel, common <i>Foeniculum vulgare</i> (except var. <i>azoricum</i>)	(a)	regions 3, 4, 6, 7, 8, 9, 10
		(b)	region 1 except the incorporated areas of Port Townsend
		(c)	region 2 except the incorporated areas of Anacortes and Mount Vernon
		(d)	region 5 except King and Kitsap counties.
(20)	fieldcress, Austrian <i>Rorippa austriaca</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
(21)	floating heart, yellow <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
(22)	gorse <i>Ulex europaeus</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10
		(b)	Skagit, Island, and Whatcom counties of region 2
		(c)	Thurston, Kitsap, Pierce, and King counties of region 5
		(d)	Wahkiakum, Clark, Skamania, Cowlitz, and Lewis counties of region 8.
(23)	hawkweed, mouseear <i>Hieracium pilosella</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 except Thurston County
		(c)	Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
(24)	hawkweed, orange <i>Hieracium aurantiacum</i>	(a)	regions 1, 3, 6, 9, 10
		(b)	Skagit County of region 2
		(c)	Ferry County of region 4
		(d)	<u>Pierce</u> , Thurston and King counties of region 5
		(e)	Lincoln and Adams counties of region 7
		(f)	Lewis County of region 8.
(25)	hawkweed, polar <i>Hieracium atratum</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 outside the boundaries of Mt. Rainier National Park.
(26)	hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	Ferry County of region 4.
(27)	hawkweed, smooth <i>Hieracium laevigatum</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10
		(b)	San Juan, Island, and Skagit counties of region 2.
(28)	hawkweed, yellow <i>Hieracium caespitosum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 10
		(b)	region 4 except Stevens and Pend Oreille counties

Name	Will be a "Class B designate" in all lands lying within:
(29) ((hedgeparsley <i>Torilis arvensis</i>	(c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County. (a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10 (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.
(30)) helmet, policeman's <i>Impatiens glandulifera</i>	(a) regions 1, 3, 4, 6, 7, 8, 9, 10 (b) region 2 except Whatcom County (c) region 5 except ((Pierce and)) Thurston ((counties)) County.
(((31))) (30) herb-Robert <i>Geranium robertianum</i>	(a) regions 3, 4, 6, 7, 9, 10
(((32))) (31) houndstongue <i>Cynoglossum officinale</i>	(a) Kittitas County of region 6
(((33))) (32) indigobush <i>Amorpha fruticosa</i>	(b) Douglas and Chelan counties of regions 3 and 6. (a) regions 1, 2, 3, 4, 5, 6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River.
(((34))) (33) knapweed, black <i>Centaurea nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(((35))) (34) knapweed, brown <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.
(((36))) (35) knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.

Name	Will be a "Class B designate" in all lands lying within:
	(c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6
((37)) (36) knapweed, meadow <i>Centaurea jacea x nigra</i>	(d) Franklin County of regions 9 and 10. (a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
((38)) (37) knapweed, Russian <i>Acroptilon repens</i>	(c) region 6 except Kittitas County (d) region 8 except Clark County. (a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County
((39)) (38) knapweed, spotted <i>Centaurea stoebe</i>	(c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County. (a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield
((40)) (39) knotweed, Bohemian <i>Polygonum bohemicum</i>	(e) region 10 except Garfield County. (a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4.
((41)) (40) knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4.
((42)) (41) knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4 (c) Lewis County of region 8.
((43)) (42) knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6 (b) Chelan and Douglas counties of regions 3 and 6 (c) Pend Oreille County of region 4.
((44)) (43) kochia <i>Kochia scoparia</i>	(a) Regions 1, 2, 5, 8 (b) Pend Oreille County of region 4 (c) Kittitas County of region 6.
((45)) (44) laurel, spurge <i>Daphne laureola</i>	(a) regions 3, 4, 6, 7, 8, 9, 10 (b) San Juan, Snohomish and Skagit counties of region 2 (c) Grays Harbor and Mason counties of region 5.
(45) lawnweed <i>Soliva sessilis</i>	(a) <u>regions 1, 3, 4, 6, 7, 8, 9, 10</u> (b) <u>region 2 except Snohomish County</u> (c) <u>region 5 except King and Thurston counties.</u>

	Name	Will be a "Class B designate" in all lands lying within:
(46)	lepyrodielis <i>Lepyrodielis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
(47)	loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County (c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
(48)	loosestrife, purple <i>Lythrum salicaria</i>	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5 (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line (f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections (g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed (h) region 9 except Benton County (i) region 10 except Walla Walla County (j) Intercounty Weed Districts No. 51 and No. 52.
(49)	loosestrife, wand <i>Lythrum virgatum</i>	(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside (d) region 5 except King County (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line (f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed (g) region 9 except Benton County

Name	Will be a "Class B designate" in all lands lying within:
(50)	nutsedge, yellow <i>Cyperus esculentus</i>
	<ul style="list-style-type: none"> (h) region 10 except Walla Walla County (i) Intercounty Weed Districts No. 51 and No. 52. (a) regions 1, 2, 3, 4, 5, 7, 8 (b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M. (c) region 9 except: <ul style="list-style-type: none"> (i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road. (ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
(51)	oxtongue, hawkweed <i>Picris hieracioides</i>
(52)	parrotfeather <i>Myriophyllum aquaticum</i>
(53)	pepperweed, perennial <i>Lepidium latifolium</i>
(54)	<u>poison-hemlock <i>Conium maculatum</i></u>
(55)	primrose, water <i>Ludwigia hexapetala</i>
	<ul style="list-style-type: none"> (d) region 10 except Walla Walla County. (a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Skamania County. (a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Clark, Cowlitz, and Wahkiakum counties. (a) regions 1, 2, 3, 4, 5, 7, 8, 10 (b) Intercounty Weed Districts No. 51 and 52 (c) Kittitas County of region 6 (d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26. (a) <u>Clallam County and that area lying within Port Townsend city limits in Jefferson County of region 1</u> (b) <u>Snohomish and San Juan counties of region 2</u> (c) <u>Pend Oreille County of region 4</u> (d) <u>Kitsap and Thurston counties of region 5</u> (e) <u>Kittitas County of region 6</u> (f) <u>Lincoln County of region 7</u> (g) <u>Clark County of region 8.</u> (a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W, S14 of Cowlitz County.

Name	Will be a "Class B designate" in all lands lying within:
((55)) (56) puncturevine <i>Tribulus terrestris</i>	(a) Skagit County of region 2 (b) Kittitas County of region 6 (c) Adams County (d) Clallam County of region 1.
((56)) (57) ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
((57)) (58) <u>reed, common, nonnative geno- types <i>Phragmites australis</i></u>	(a) <u>region 1</u> (b) <u>Island, San Juan and Snohomish counties of region 2</u> (c) <u>Okanogan County of region 3</u> (d) <u>Pend Oreille and Stevens counties of region 4</u> (e) <u>region 5 except Grays Harbor and Pierce counties</u> (f) <u>Kittitas County of region 6</u> (g) <u>Yakima County of regions 6 and 9</u> (h) <u>Lincoln County of region 7</u> (i) <u>Clark and Lewis counties of region 8</u> (j) <u>Klickitat County of region 9</u> (k) <u>Asotin County of region 10.</u>
(59) Saltcedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004 (b) region 6 except Grant County, unless intentionally established prior to 2004 (c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004 (d) region 10 except Franklin County, unless intentionally established prior to 2004.
((58)) (60) sandbur, longspine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52 (c) Intercounty Weed District No. 51 (d) Kittitas County of region 6.
((59)) (61) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8 ((9)) (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Inter-

Name	Will be a "Class B designate" in all lands lying within:
	state 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
	(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest
	(e) Stevens County north of Township 33 North of region 4
	(f) Ferry and Pend Oreille counties of region 4
	(g) <u>region 9 except the Dallesport area in Klickitat County lying within Township 2N, Ranges 13 and 14</u>
	(h) Asotin County of region 10
	((+)) (i) Garfield County south of Highway 12
	((+)) (j) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road
	((+)) (k) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
((60)) (62) sowthistle, perennial <i>Sonchus arvensis ssp. arvensis</i>	(a) regions 1, 2, 3, 4, 7, 8, 9, 10
	(b) Adams County of region 6
	(c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
((61)) (63) spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(b) region 7 except as follows:
	(i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
	(ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
((62)) (64) spurge, myrtle <i>Euphorbia myrsinites L</i>	(a) Pend Oreille County of region 4.
((63)) (65) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8
	(b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
	(c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
	(d) Franklin County
	(e) region 9 except Klickitat County

Name	Will be a "Class B designate" in all lands lying within:
	(f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.
((64)) (66) Swainsonpea <i>Sphaerophysa sal-sula</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning (d) Weed District No. 3 of Grant County (e) Adams County of region 6.
((65)) (67) thistle, musk <i>Carduus nutans</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Spokane and Pend Oreille counties.
((66)) (68) thistle, plumeless <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) region 4 except those areas within Stevens County lying north of State Highway 20.
((67)) (69) thistle, Scotch <i>Onopordum acanthium</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (c) Franklin County.
((68)) (70) toadflax, Dalmatian <i>Linaria dalmatica ssp. dalmatica</i>	(a) regions 1, 2, 5, 8, 10 (b) Douglas County of region 3 lying south of T25N and west of R25E (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E (d) Kittitas, Chelan, Douglas, and Adams counties of region 6 (e) Intercounty Weed District No. 51 (f) Weed District No. 3 of Grant County (g) Lincoln and Adams counties (h) The western two miles of Spokane County of region 7 (i) region 9 except as follows: (i) those areas lying within Yakima County

Name	Will be a "Class B designate" in all lands lying within:
<p>((69)) (71) watermilfoil, Eurasian <i>Myriophyllum spicatum</i></p>	<p>(ii) those areas lying west of the Klickitat River and within Klickitat County.</p> <p>(a) regions 1, 9, 10</p> <p>(b) region 7 except Spokane County</p> <p>(c) region 8 except within 200 feet of the Columbia River</p> <p>(d) Adams County of region 6</p> <p>(e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.</p>

AMENDATORY SECTION (Amending WSR 06-24-056, filed 12/4/06, effective 1/4/07)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
archangel, yellow	<i>Lamium galeobdolon</i>
babysbreath	<i>Gypsophila paniculata</i>
beard, old man's	<i>Clematis vitalba</i>
bindweed, field	<i>Convolvulus arvensis</i>
((butterfly bush	<i>Buddleja davidii</i>))
canarygrass, reed	<i>Phalaris arundinacea</i>
cockle, white	<i>Silene latifolia ssp. alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cross, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
groundsel, common	<i>Senecio vulgaris</i>
<u>hawkweed, common</u>	<i>Hieracium lachenalii</i>
hawkweed, <u>other</u> nonnative species	<i>Hieracium sp.</i> , except species designated in the note in the left-hand column

Note:

This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
- Species designated as Class B noxious weeds in WAC 16-750-011;
- Native species designated below:
 - Canada hawkweed (*H. canadense*)
 - houndstongue hawkweed (*H. cynoglossoides*)
 - long-beaked hawkweed (*H. longiberbe*)
 - narrow-leaved hawkweed (*H. umbellatum*)
 - slender hawkweed (*H. gracile*)
 - western hawkweed (*H. albertinum*)
 - white-flowered hawkweed (*H. albiflorum*)
 - woolley-weed (*H. scouleri*)

Hyoscyamus niger

Common Name	Scientific Name
iris, yellow flag	<i>Iris pseudacorus</i>
ivy, English, 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica'
	<i>Hedera helix</i> 'Baltica'
	<i>Hedera helix</i> 'Pittsburgh'
	<i>Hedera helix</i> 'Star'
mayweed, scentless	<i>Matricaria perforata</i>
((poison-hemlock	<i>Conium maculatum</i>))
pondweed, curly-leaf	<i>Potamogeton crispus</i>
((reed, common, nonnative geno-	<i>Phragmites australis</i>))
types	
rye, cereal	<i>Secale cereale</i>
spikeweed	<i>Hemizonia pungens</i>
St. Johnswort, common	<i>Hypericum perforatum</i>
tansy, common	<i>Tanacetum vulgare</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
toadflax, yellow	<i>Linaria vulgaris</i>
water lily, fragrant	<i>Nymphaea odorata</i>
whiteweed, hairy	<i>Cardaria pubescens</i>
willow-herb, hairy	<i>Epilobium hirsutum</i>
wormwood, absinth	<i>Artemisia absinthium</i>

**WSR 07-24-025
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed November 28, 2007, 10:50 a.m., effective December 29, 2007]

Effective Date of Rule: Thirty-one days after filing.
Purpose: Defines commercial driver's license skill test components and sets testing fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-100-040, 308-100-050, and 308-100-180.

Statutory Authority for Adoption: RCW 46.01.110, 46.25.060, and 46.25.140.

Adopted under notice filed as WSR 07-20-119 on October 3, 2007.

Changes Other than Editing from Proposed to Adopted Version: Proposed new sections WAC 308-100-005, 308-100-031, 308-100-033, and 308-100-035 have been withdrawn for further consideration.

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 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 3, 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: November 27, 2007.

Mykel D. Gable
Assistant Director

AMENDATORY SECTION (Amending WSR 00-18-068, filed 9/1/00, effective 10/2/00)

WAC 308-100-040 Examination requirement for commercial driver's license. ~~((Persons receiving a commercial driver's license by virtue of a waiver will be required to pass a written examination testing their knowledge of motor vehicle laws, rules of the road, and of the class of vehicle for which they are seeking the commercial driver's license.))~~

(1) Persons ~~((who receive))~~ applying for a commercial driver's license ~~((, without a waiver,))~~ will be required to pass a written examination testing their knowledge of motor vehicle laws, rules of the road, and of the class of vehicle for which they are seeking the commercial driver's license. They will also be required to demonstrate successfully their operating ~~((abilities))~~ skills for the class of vehicle for which they seek the commercial driver's license. Skill examinations under this subsection shall consist of three components:

- (a) Pre-trip inspection;
- (b) Basic controls; and
- (c) Road test.

(2) The department may conduct written examinations in a group setting. Group examinations may be conducted at job sites, union halls, or other locations deemed appropriate by the department. If the department is conducting the written examination in a group setting, the payment of the basic fee and knowledge examination fee may be deferred until the applicant completes his or her application for a commercial driver's license.

AMENDATORY SECTION (Amending WSR 00-18-068, filed 9/1/00, effective 10/2/00)

WAC 308-100-050 Fees. (1) The basic fee for obtaining or renewing any class of commercial driver's license shall be ~~((twenty))~~ thirty dollars ~~((, unless the commercial driver's license is renewed or extended for a period other than five years, in which case the fee for each class shall not exceed four dollars for each year that the commercial driver's license is renewed or extended)).~~

(2) The examination fee for each commercial driver's license knowledge examination, commercial driver's license

endorsement knowledge examination, or any combination of commercial driver's license and endorsement knowledge examinations, shall be ten dollars.

(3)(a) Except as provided in subsection (3)(b) of this section, the examination fee for each commercial driver's license skill examination conducted by the department shall be ((fifty)) one hundred dollars. ((An application for a commercial driver's instruction permit shall be accompanied by a fee of five dollars.))

(b) If the applicant's primary use of a commercial driver's license is for any of the following, then the examination fee for each commercial driver's license skill examination conducted by the department shall be seventy-five dollars:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.215.405(4).

(4) An applicant who has failed the skill examination must re-test and pay the full fee required under subsection (3) of this section.

(5) Drivers selected for reexamination by the department may be subject to costs associated with the testing. ((These))

(6) The fees in this section are in addition to the regular drivers' licensing fees.

AMENDATORY SECTION (Amending WSR 03-10-024, filed 4/28/03, effective 5/29/03)

WAC 308-100-180 Third party testing fee. (1)(a) ~~Except as provided in WAC 308-100-190 ((Requirements for exceeding base fee)) or subsection (1)(b) of this section, the base fee for each classified skill examination or combination of skill examinations conducted by a third party tester shall not be more than ((seventy-five)) one hundred dollars.~~

(b) If the applicant's primary use of a commercial driver's license is for any of the following, then the examination fee for each commercial driver's license skill examination conducted by a third party tester shall not be more than seventy-five dollars:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.215.405(4).

(2) An applicant who has failed the skill examination must re-test and pay the full fee required under subsection (1) of this section.

(3) The base fee shall apply only to the conducting of the examination, and is separate from any additional fees, such as vehicle use fees, which may be charged by the third party tester. Any additional fees to be charged shall be reported to the department.

(4) Fees owed to a third party tester under this section must be paid by the applicant to the department. The department will reimburse the third party tester for the fees as provided in the third party tester agreement entered into under WAC 308-100-140.

(5) The fees in this section are in addition to the regular drivers' licensing fees.

**WSR 07-24-026
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed November 28, 2007, 10:47 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The rule making amends WAC 388-106-0060, 388-106-0070, 388-106-0213 and 388-71-0540, to include information pertaining to children's medicaid personal care (MPC) services including information on the new DDD CARE assessment process, updates to foster care to ensure that a foster parent providing personal care to a child residing in their licensed foster care home does not get paid twice for providing personal care services and to assess foster children for mental health therapy needs, behaviors, and depression.

This rule making also amends personal emergency response system (PERS) language in WAC 388-106-0300 and 388-106-0500 to clarify that two people who live together who are unable to secure help in an emergency may now be eligible for a PERS unit, and adds PERS medication management language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0540, 388-106-0060, 388-106-0070, 388-106-0213, 388-106-0300, and 388-106-0500.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 07-20-064 on September 28, 2007.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: November 20, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-71-0540 When will the department, AAA, or managed care entity deny payment for services of an individual provider or home care agency provider? The department, AAA, or managed care entity will deny payment for the services of an individual provider or home care agency provider who:

(1) Is the client's spouse, per 42 C.F.R. 441.360(g), except in the case of an individual provider for a chore ser-

vices client. Note: For chore spousal providers, the department pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;

(2) Is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under Medicaid personal care;

(3) Is a foster parent providing personal care to a child residing in their licensed foster home.

(4) Has been convicted of a disqualifying crime, under RCW 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in RCW 43.43.830;

(5) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 RCW;

(6) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations;

(7) Does not successfully complete the training requirements within the time limits required in WAC 388-71-05665 through 388-71-05865;

(8) Is already meeting the client's needs on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or

(9) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).

In addition, the department, AAA, or managed care entity may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0546, 388-71-0551, and 388-71-0556.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0060 Who must perform the assessment? The assessment must be performed by the department. Beginning January 1, 2008, individuals requesting personal care services will be assessed as described in the following chart:

<u>Age of person requesting an assessment for personal care services</u>	<u>Has the person been determined to meet DDD eligibility requirements?</u>	<u>Who will perform the assessment for personal care services?</u>	<u>What assessment will be used?</u>
<u>Under eighteen years of age</u>	Yes	DDD	CARE/DDD Assessment per chapter 388-828 WAC
<u>Under eighteen years of age</u>	No	DDD	CARE/LTC Assessment per chapter 388-106 WAC
<u>Eighteen years of age and older</u>	Yes	DDD	CARE/DDD Assessment per chapter 388-828 WAC
<u>Eighteen years of age and older</u>	No	HCS	CARE/LTC Assessment per chapter 388-106 WAC

AMENDATORY SECTION (Amending WSR 07-10-024, filed 4/23/07, effective 6/1/07)

WAC 388-106-0070 Will I be assessed in CARE? You will be assessed in CARE if you are applying for or receiving DDD services, COPEs, MNIW, MNRW, MPC, chore, respite, adult day health, GAU-funded residential care, PACE, Private Duty Nursing, New Freedom or long-term care services within the MMIP or WMIP programs. ~~((You may not be assessed by forms previously used by the department once you have been assessed under CARE.))~~

If you are under the age of eighteen and within thirty calendar days of your next birthday, CARE determines your assessment age to be that of your next birthday.

AMENDATORY SECTION (Amending WSR 07-10-024, filed 4/23/07, effective 6/1/07)

WAC 388-106-0213 How are my needs assessed if I am a child applying for MPC services? If you are a child applying for MPC services, the department will complete a CARE assessment and:

- (1) Consider and document the role of your legally responsible natural/step/adoptive parent(s).
- (2) The CARE tool will determine your needs as met based on the guidelines outlined in the following table:

		Activities of Daily Living (ADLs)																	
Ages		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
■ = Code status as Met																			
Medication Management																			
	Independent, self-directed, administration required, or must be administered	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Locomotion in Room^{Note}																			
	Independent, supervision, limited or extensive	■	■	■	■														
	Total	■	■																
Locomotion Outside Room^{Note}																			
	Independent or supervision	■	■	■	■	■	■												
	Limited or extensive	■	■	■	■														
	Total	■	■																
Walk in Room^{Note}																			
	Independent, supervision, limited or extensive	■	■	■	■														
	Total	■	■																
Bed Mobility																			
	Independent, supervision, limited or extensive	■	■	■															
	Total	■	■																
Transfers																			
	Independent, supervision, limited, extensive or total & under 30 pounds (Total & 30 pounds or more = no age limit)	■	■	■															
Toilet Use																			
	Support provided for nighttime wetting only (independent, supervision, limited, extensive)	■	■	■	■	■	■	■	■										
	Independent, supervision, limited, extensive	■	■	■	■	■	■												
	Total	■	■	■	■														
Eating																			
	Independent, supervision, limited, extensive, or total	■	■	■															
Bathing																			
	Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						
	Physical help/transfer only or physical help/part of bathing	■	■	■	■	■	■	■	■										
	Total	■	■	■	■	■													
Dressing																			
	Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						

Activities of Daily Living (ADLs)

Ages

■ = Code status as Met

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Limited or extensive	■	■	■	■	■	■	■	■										
Total	■	■	■	■	■													
Personal Hygiene																		
Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						
Limited or extensive	■	■	■	■	■	■	■	■										
Total	■	■	■	■	■													

Instrumental Activities of Daily Living

Ages

■ = Code status as Met

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Telephone																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Transportation																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Shopping																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Wood Supply																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Housework																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Finances																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Meal Preparation																		
Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

NOTE: If the activity did not occur, the department codes self performance as total and status as met.

	Ages																	
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Additional guidelines based on age																		
Diagnosis	■	■	■	■	■	■												
Is client comatose? = No																		
Pain Daily = No	■	■	■	■	■	■												
Any foot care needs																		
Status = Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Any skin care (other than feet)																		
Status = Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Speech/Hearing																		
Score comprehension as understood	■	■	■															
MMSE can be administered = no	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Memory																		
Short term memory ok	■	■	■	■	■	■	■	■	■	■	■	■	■					
Long term memory ok	■	■	■	■	■	■	■	■	■	■	■	■	■					
Depression																		
Select interview = unable to obtain	■	■	■	■	■	■	■	■	■	■	■	■	■					
Decision making																		
Rate how client makes decisions = independent	■	■	■	■	■	■	■	■	■	■	■	■	■					

	Ages																	
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Bladder/Bowel																		
Support provided for nighttime wetting only - Individual management = Does not need/use	■	■	■	■	■	■	■	■	■	■	■	■						
Support provided for daytime wetting - Individual Management = Does not need/use	■	■	■	■	■	■												
Treatment																		
Passive range of motion Need = No	■	■	■	■														

(3) In addition, determine that the status and assistance available are met or partially met over three-fourths of the time, when you are living with your legally responsible natural/step/adoptive parent(s).

~~((4) Will not code mental health therapy, behaviors, or depression if you are in foster care.))~~

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0300 What services may I receive under community options program entry system (COPES) when I live in my own home? When you live in your own home, you may be eligible to receive only the following services under COPES:

- (1) Personal care services as defined in WAC 388-106-0010 in your own home and, as applicable, while you are out of the home accessing community resources or working.
- (2) Adult day care if you meet the eligibility requirements under WAC 388-106-0805.
- (3) Environmental modifications, if the minor physical adaptations to your home:
 - (a) Are necessary to ensure your health, welfare and safety;
 - (b) Enable you to function with greater independence in the home;
 - (c) Directly benefit you medically or remedially;
 - (d) Meet applicable state or local codes; and
 - (e) Are not adaptations or improvements, which are of general utility or add to the total square footage.
- (4) Home delivered meals, providing nutritional balanced meals, limited to one meal per day, if:
 - (a) You are homebound and live in your own home;
 - (b) You are unable to prepare the meal;
 - (c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and
 - (d) Receiving this meal is more cost-effective than having a paid caregiver.
- (5) Home health aide service tasks in your own home, if the service tasks:
 - (a) Include assistance with ambulation, exercise, self-administered medications and hands-on personal care;
 - (b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services as described in WAC 388-551-2120 and are in addition to those available services;
 - (c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

- (d) Do not replace Medicare home health services.
- (6)(a) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if ~~((you))~~:
 - ~~((a))~~ (i) You live alone in your own home; ~~((b))~~
 - ~~((b))~~ (ii) You are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time; or
 - (iii) No one in your home, including you, can secure help in an emergency.
 - (b) A medication reminder if you:
 - (i) Are eligible for a PERS unit;
 - (ii) Do not have a caregiver available to provide the service; and
 - (iii) Are able to use the reminder to take your medications.
- (7) Skilled nursing, if the service is:
 - (a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and
 - (b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.
- (8) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:
 - (a) Medically necessary under WAC 388-500-0005;
 - (b) Necessary for: Life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;
 - (c) Directly medically or remedially beneficial to you; and
 - (d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare.
- (9) Training needs identified in CARE or in a professional evaluation, which meet a therapeutic goal such as:
 - (a) Adjusting to a serious impairment;
 - (b) Managing personal care needs; or
 - (c) Developing necessary skills to deal with care providers.
- (10) Transportation services, when the service:
 - (a) Provides access to community services and resources to meet your therapeutic goal;
 - (b) Is not diverting in nature; and
 - (c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community.

(11) Nurse delegation services, when:

(a) You are receiving personal care from a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(12) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager.

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service plan and delivery.

(13) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to set up your own home. Services:

(a) May include: Safety deposits, utility set-up fees or deposits, health and safety assurances such as pest eradication, allergen control or one-time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution; and

(b) Do not include rent, recreational or diverting items such as TV, cable or VCRs.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0500 What services may I receive under medically needy in-home waiver (MNIW)? You may be eligible to receive only the following medically needy in-home waiver (MNIW) services in your own home:

(1) Personal care services as defined in WAC 388-106-0010 in your own home and, as applicable, while you are out of the home accessing community resources or working.

(2) Adult day care if you meet the eligibility requirements under WAC 388-106-0805.

(3) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes; and

(e) Are not adaptations or improvements, which are of general utility or add to the total square footage.

(4) Home delivered meals, providing nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(5) Home health aide service, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;

(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2120) and are in addition to those available services;

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace Medicare home health services.

(6)(a) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if ~~((you))~~:

~~((a))~~ (i) You live alone in your own home; ~~((b))~~

~~((b))~~ (ii) You are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time; or

(iii) No one in your home, including you, can secure help in an emergency.

(b) A medication reminder if you:

(i) Are eligible for a PERS unit;

(ii) Do not have a caregiver available to provide the service; and

(iii) Are able to use the reminder to take your medications.

(7) Skilled nursing, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2120.

(8) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005;

(b) Necessary: For life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare.

(9) Training needs identified in CARE or in a professional evaluation, which meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(10) Transportation services if you live in your own home, when the service:

(a) Provides access to community services and resources to meet a therapeutic goal;

(b) Is not diverting in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community.

(11) Nurse delegation services when:

(a) You are receiving personal care from a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(12) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any collateral contact information obtained by your case manager.

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In none-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource;

(e) File review; and/or

(f) Evaluation of health-related care needs affecting service planning and delivery.

(13) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to set up your own home. Services:

(a) May include: Safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diverting items such as TV, cable or VCRs.

Purpose: Amend WAC 170-296-0020, 170-296-0450, and 170-296-0520 to bring the department rules into compliance with an oral ruling in *DeLaO v. Arnold-Williams* and *Fernandez v. DSHS* requiring the department to place limits on the time of inspection and areas that can be inspected in licensed family home child care.

Citation of Existing Rules Affected by this Order: Amending WAC 170-296-0450 and 170-296-0520.

Statutory Authority for Adoption: Chapter 43.215 RCW.

Other Authority: Oral ruling in *DeLaO v. Arnold-Williams* and *Fernandez v. DSHS*.

Adopted under notice filed as WSR 07-17-004 on August 2, 2007.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: November 28, 2007.

Jone M. Bosworth
Director

AMENDATORY SECTION (Amending WSR06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0020 What definitions do I need to know to understand this chapter? For the purpose of this chapter:

"**Accessible to children**" means areas of the facility and materials that children can easily get to on their own.

"**Age appropriate**" means the developing stages of growth typical of children within a given age group.

"**American Indian child**" means any unmarried person under the age of eighteen who is:

(1) A member of or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;

(2) Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood;

(3) Considered to be Indian by a federally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"**Antibias**" is an approach that recognizes when others are treated unfairly or oppressively based on race, color,

WSR 07-24-028
PERMANENT RULES
DEPARTMENT OF
EARLY LEARNING

[Filed November 28, 2007, 11:57 a.m., effective December 29, 2007]

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

national origin, marital status, sexual orientation, gender, class, religion, creed, disability, or age.

"Assistant" means a person fourteen years or older (whether a volunteer or an employee) who assists a licensed home provider in the operation of the family home child care and is not solely responsible for the supervision of children.

"Capacity" means the highest number of children you can care for at any time, as written on your license.

"Character, competence, and suitability assessment" means a determination of whether an applicant should be allowed access to vulnerable people if that applicant has a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult and child protective services(CPS) adverse referral history.

"Child" means a person who has not yet reached the age of twelve years.

"Child care" means the developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four hours a day.

"Child abuse and neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person indicating that the child's health, welfare, and safety is harmed.

"Communicable disease" means an illness that can be spread from one person to another, in the child care setting, by either direct or indirect contact.

"Conditions of the license" means what you must do to keep a license.

"Confidentiality" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

"Corporal punishment" means the infliction of pain by any means for the purpose of punishment, correction, discipline, instruction or any other reason.

"Cultural relevancy" means an environment in which the learning experiences, play materials and activities are meaningful, inclusive and respectful for the participating children, their families and the community at large.

"Department," "we," "us," or "our" refers to and means the state department of social and health services (DSHS), including but not limited to the division of child care and early learning (DCCEL).

"Department of health" means the state department of health.

"Developmentally appropriate" means activities and interactions that recognize and address how children learn and what they can do at each stage of development - socially, emotionally, cognitively, and physically.

"Discipline" means a process of guiding children to develop internal, positive social behaviors through methods that include consistent use of the following: Modeling appropriate behavior, positive reinforcement, active listening, limit setting, redirecting and modifying the environment.

"Division" or "DCCEL" means the division of child care and early learning within the department of social and health services (DSHS).

"Facility licensing compliance agreement" means a written notice of rule violations and the intention to initiate enforcement, including a corrective action plan.

"Family home" means a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Family home child care" means a facility licensed to provide direct care, supervision and early learning opportunities for twelve or fewer children, in the home of the licensee where the licensee resides and is the primary provider.

"Family home child care provider" means a person who provides direct care, supervision, behavior management, and early learning opportunities for twelve or fewer children in their family home living quarters for periods of less than twenty-four hours.

"I," "you," and "your" refer to and mean the licensee or applicant for a child care license.

"Inaccessible to children" means areas kept or items stored in a manner that makes it impossible for children to reach, enter, or use potentially hazardous items or areas. Examples of how this can be accomplished are through the use of locks, gates, or other means that are effective to prevent access by the children in your care.

"Infant" means a child birth through eleven months of age.

"License" means an official document that certifies you have been granted permission by the department to operate a family home child care in compliance with the rules.

"Licensed space," means the indoor and outdoor space approved by the department as useable space where children in care may be present, or space that is otherwise accessible to children.

"Licensee" means the person or persons named on the license as having been issued the license and who are responsible for maintaining compliance with the regulations.

"Licensor" means the person with authority to grant licenses.

"Parent" means a child's parent or legal guardian.

"Premises" means the buildings where the home is located and the adjoining grounds (at the same address) over which the licensee has control.

"Preschool age child" means a child thirty months through five years of age not attending kindergarten or elementary school.

"Primary staff person" means a person who has been approved by the department, age eighteen years or older, who has responsibilities for the operation of the program and the direct supervision, behavior management and care of children.

"Provider" means the same as licensee.

"Repeatedly" means a violation of a licensing regulation that is written on a facility licensing compliance agreement that occurs more than once during a twelve-month time frame.

"Reportable communicable disease" means an illness that can be spread from one person to another by either direct or indirect contact, and is of the type that is required by law to be reported to the department of health. Examples include Hepatitis, measles, smallpox, and tuberculosis.

"Revocation" means the formal act of closing your child care business and taking your license from you due to your failure to follow the rules.

"Sanitize" means a surface must be clean and the number of germs reduced to a level where disease transmissions by that surface are unlikely.

"Staff" means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care.

"STARS" (Washington state training and registry system) means the entity approved by the department to determine the classes, courses, and workshops that licensees and staff may take to satisfy training requirements.

"Summary suspension" means the formal act of immediately stopping your license for a certain time because the health, safety or well being of a child is at risk.

"Supervision of children," means the knowledge of and responsibility for the activity and whereabouts of each child in care and assuring immediate intervention of staff to safeguard a child from harm.

"Terms of the license" means the address, number and ages of children, and the beginning and ending dates listed on the license issued by the department.

"Toddler" means a child twelve months through twenty-nine months of age.

"Unsupervised access" means not in the absence of the licensed child care provider or primary staff person. (Anyone sixteen years or older who lives at the same address as the provider must pass a complete criminal history background check.)

"Useable space" means the space actually available for children to engage in developmentally appropriate activities, that has been inspected and approved by the department for providing child care.

"Weapons" means an instrument or device of any kind that is designed to be used to inflict harm on another person. For example, BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, shotguns, knives.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0450 When will my license be denied, suspended or revoked? (1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.

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

(a) Have been disqualified by your background check (see DSHS secretary's list of disqualifying convictions for ESA at http://www1.dshs.wa.gov/esa/dccel/pdf/Crime_and_Backg_Chex.pdf);

(b) Have been found to have committed or have allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference;

(c) Fail to report instances of alleged child abuse, child neglect and exploitation to children's administration intake or

law enforcement when an allegation of abuse, neglect or exploitation is reported to you;

(d) Or anyone residing at the same address as you had a license denied or revoked by an agency that provided care to children or vulnerable adults;

(e) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

(f) Commit, permit or assist in an illegal act at the address of your child care business;

(g) Use illegal drugs, or excessively use alcohol or abuse prescription drugs;

(h) Knowingly allow employees or volunteers with false statements on their applications to work at your facility;

(i) Repeatedly lack the required number of qualified staff to care for the number and types of children under your care;

(j) Repeatedly fail to provide the required level of supervision for a child in care;

(k) Repeatedly care for more children than your license allows;

(l) Refuse to allow our authorized staff and inspectors requested information or access to your licensed space (~~and premises~~), child and program files, or staff and children in care during times when licensed activities are conducted; or

(m) Are unable to manage the property, fiscal responsibilities, or staff in your facility.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0520 How long must I keep child records and what am I required to document while operating my business? (1) A child's presence in the child care must be documented, on a daily basis, by the child's parent or guardian or an authorized person by using the sign-in and sign-out procedure for each child in attendance. The parent, guardian or authorized person must use their full signature when signing the child in and out of the child care.

(2) When the school age child arrives at or leaves the child care home due to school or off-site activities as authorized by the parent, you or your staff must sign out the child, and sign in the child on return to the home.

(3) Daily attendance records, listing the dates and hours of attendance of each child must be kept up-to-date and maintained in the licensed space of the family home child care for five years.

(4) When a child is no longer enrolled, the date of the child's withdrawal must be recorded in the child's file. You must maintain the child's file for at least five years from the child's last date of attendance. After five years the file may be destroyed or returned to the parent. The child's file must be made available for review by the child's parents and us during this period.

(5) You must call and report, within twenty-four hours to:

(a) Children's administration intake an incident or injury that required the services of a medical professional, including a dentist, that occurred while the child was in attendance.

(b) DCCEL and to animal control any incident where a child is bitten by an animal while in attendance.

(c) DCCEL any fire on your premises that required the use of a fire extinguisher or the services of a fire department.

(6) You must submit a written incident report to the child's parent and to your licensor within two working days of the same incident or injury as described in subsection (3) of this section.

(7) You must acquire written parental permission for field trips. You must notify parents in advance when you plan to use vehicles to transport children. Parents may grant general authorization for walking field trips.

(8) You must maintain all records and reports required by these regulations in an up-to-date manner ~~((at))~~ in the licensed space of the facility. The records and reports are subject to inspection and you must allow us access to them ~~((at the time we request them))~~ during all hours in which licensed activities are conducted.

WSR 07-24-030

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed November 28, 2007, 1:39 p.m., effective December 29, 2007]

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

Purpose: The department is amending WAC 388-827-0110, 388-827-0115, 388-827-0125 and 388-827-0150, containing clarifying information and creating new WAC 388-827-0121 to add a requirement that an assessment must be done at least every twelve months as this requirement is contained in chapter 388-828 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 388-827-0110, 388-827-0115, 388-827-0125, and 388-827-0150.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 07-21-144 on October 24, 2007.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 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 1, Amended 4, Repealed 0.

Date Adopted: November 28, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-15-094, filed 7/16/04, effective 8/16/04)

WAC 388-827-0110 What are the financial eligibility requirements to receive DDD/SSP? Following are the financial eligibility requirements to receive DDD/SSP:

(1) You must be eligible for or receive supplemental security income (SSI) cash assistance in the month in which the DDD/SSP is issued; or

(2) You receive Social Security Title II benefits as a disabled adult child and you would be eligible for SSI if you did not receive these benefits.

AMENDATORY SECTION (Amending WSR 06-24-074, filed 12/4/06, effective 1/4/07)

WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP? Following are the programmatic eligibility requirements to receive DDD/SSP:

(1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services. Additionally, you must have been eligible for or received SSI prior to July 1, 2006; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2006 and would have been eligible for SSI if you did not receive these benefits.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,
- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,
- (b) Family support;

(c) One or more of the following residential services:

- (i) Adult family home,
- (ii) Adult residential care facility,
- (iii) Alternative living,
- (iv) Group home,
- (v) Supported living,
- (vi) Agency attendant care,
- (vii) Supported living or other residential service allowance,
- (viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity:

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the home and community based services (HCBS) waiver administered by DDD; and

(c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242; and

(d) You must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.

(4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or community protection):

(a) You must have been eligible for or received SSI prior to April 1, 2004; and

(b) You were determined eligible for SSP prior to April 1, 2004.

(5) You received Medicaid personal care (MPC) between September 2003 and August 2004; and

(a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;

(b) You received or were eligible to receive SSI at the time of your initial CARE assessment;

(c) You are not on a home and community based services waiver administered by DDD; and

(d) You live with your family, as defined in WAC 388-825-020.

(6) If you meet all of the requirements listed in (5) above, your SSP will continue.

(7) You received one or more of the following state-only funded residential services between July 1, 2003 and June 30, 2006 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services:

- (a) Adult residential care facility;
- (b) Alternative living;
- (c) Group home;
- (d) Supported living;
- (e) Agency attendant care;
- (f) Supported living or other residential allowance.

NEW SECTION

WAC 388-827-0121 Will I need an assessment to remain eligible for SSP? DDD must administer a DDD assessment to you at least every twelve months to determine your eligibility to continue to receive SSP. The rules regarding the DDD assessment are contained in chapter 388-828 WAC.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0125 How will I know if I am eligible to receive a DDD/SSP payment? You will receive a written notification from DDD if you have been identified as eligible for ~~((this program))~~ a DDD/SSP payment.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0150 How often will I receive my DDD/SSP warrant/check? You will receive a monthly DDD/SSP warrant/check from the state.

**WSR 07-24-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)
[Filed November 30, 2007, 7:54 a.m., effective December 31, 2007]

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

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, in order to revise basic need standards for cash assistance based on the 2008 forecast. RCW 74.04.770 requires the department to annually establish consolidated standards of need.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Adopted under notice filed as WSR 07-21-107 on October 19, 2007.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 28, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-06-066, filed 3/5/07, effective 4/5/07)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$ ((1,016)) 1,060
2	((1,285)) 1,341
3	((1,587)) 1,655

Assistance Unit Size	Need Standard
4	((1,873)) <u>1,953</u>
5	((2,158)) <u>2,251</u>
6	((2,444)) <u>2,549</u>
7	((2,825)) <u>2,947</u>
8	((3,126)) <u>3,261</u>
9	((3,428)) <u>3,576</u>
10 or more	((3,729)) <u>3,890</u>

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: November 30, 2007.

Janis P. Bianchi
 Assistant Director
 Interpretations and
 Technical Advice Division

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$(546)) <u>566</u>
2	((694)) <u>717</u>
3	((853)) <u>885</u>
4	((1,007)) <u>1,044</u>
5	((1,164)) <u>1,203</u>
6	((1,314)) <u>1,362</u>
7	((1,519)) <u>1,575</u>
8	((1,681)) <u>1,743</u>
9	((1,843)) <u>1,911</u>
10 or more	((2,005)) <u>2,079</u>

AMENDATORY SECTION (Amending WSR 06-21-059, filed 10/16/06, effective 11/16/06)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
<u>2008</u>	<u>2007</u>	<u>4.81%</u>

WSR 07-24-037
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed November 30, 2007, 9:32 a.m., effective December 31, 2007]

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

Purpose: To provide the rate of interest that will be included when property taxes paid in 2008 are refunded in subsequent years. The rates in interest reflected in this rule are included when property taxes are refunded. The rates are shown in chronological order with reference to the year in which the property taxes were paid. The rule is being revised to provide the rate of interest for treasury bill auction year 2007, which is used as a basis for refunding property taxes paid in 2008 that are subsequently refunded.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-220 Refunds—Rate of interest.

Statutory Authority for Adoption: RCW 84.69.100.

Adopted under notice filed as WSR 07-15-096 on July 18, 2007.

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.

WSR 07-24-038
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed November 30, 2007, 9:34 a.m., effective December 31, 2007]

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

Purpose: WAC 458-20-244 (Rule 244) provides guidelines for determining if food or food ingredients qualify for the retail sales tax and use tax exemptions under RCW 82.08.0293 and 82.12.0293. The department amended this rule to make the following editing corrections:

- Adding the phrase "of the taxable items" to the second bullet point under WAC 458-20-244 (5)(a), so that it reads, "The entire transaction is exempt from retail sales tax if the seller's purchase price or sales price **of the taxable items** is fifty percent or less of the combined purchase price or sales price." The phrase is implied in the section, and is being expressly included for added clarity.
- Striking the reference to "soft drinks" from the example under WAC 458-20-244 (8)(b). The reference is incongruent with the remainder of the example, which does otherwise refer to soft drinks.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-244 Food and food ingredients.

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

Adopted under notice filed as WSR 07-16-072 on July 27, 2007.

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: November 30, 2007.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 07-11-066, filed 5/14/07, effective 6/14/07)

WAC 458-20-244 Food and food ingredients. (1) Introduction.

(a) **What is the purpose of this section?** This section, WAC 458-20-244, provides guidelines for determining if food or food ingredients qualify for the retail sales tax and

use tax exemptions under RCW 82.08.0293 and 82.12.0293 (collectively referred to in this section as the "exemptions").

There is no corresponding business and occupation (B&O) tax exemption. Even if a sale of food or food ingredients is exempt from retail sales tax or use tax under the exemptions, gross proceeds from sales of food or food ingredients remain subject to the retailing B&O tax.

(b) **How has the law changed since the prior version of this section was published?** In 2003 and 2004, the legislature amended RCW 82.08.0293 and 82.12.0293 to comply with the national Streamlined Sales and Use Tax Agreement. These amendments alter the definitions used to determine whether a particular food or food ingredient qualifies for the exemptions.

(c) **What other sections might apply?** The following sections may contain additional relevant information:

- WAC 458-20-119 (Sales of meals);
- WAC 458-20-124 (Restaurants, cocktail bars, taverns and similar businesses);
- WAC 458-20-12401 (Special stadium sales and use tax);
- WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.);
- WAC 458-20-167 (Education institutions, school districts, student organizations, and private schools);
- WAC 458-20-168 (Hospitals, medical care facilities, and adult family homes); and
- WAC 458-20-169 (Nonprofit organizations).

(2) What qualifies for the exemptions?

(a) **In general.** The exemptions apply to food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

(b) **Items not used solely for ingestion or chewing.** Items that are commonly ingested or chewed by humans for their taste or nutritional value but which may also be used for other purposes are generally treated as food or food ingredients. For example, pumpkins are presumed to be a food or food ingredient unless the pumpkin is sold painted or is otherwise clearly for decorative purposes rather than consumption. This is true even though the purchaser may use an undecorated pumpkin for carving and display rather than for eating.

(3) **What does not qualify for the exemptions?** The exemptions do not apply to the following items, which are not considered "food or food ingredients" or which are otherwise specifically excluded from the exemptions:

(a) **Items sold for medical or hygiene purposes.** Items commonly used for medical or hygiene purposes, such as cough drops, breath sprays, toothpaste, etc., are not ingested for taste or nutrition and are not considered a food or food ingredient. In contrast, breath mints are commonly ingested for taste and are considered a food or food ingredient.

(b) **Bulk sales of ice.** Ice sold in bags, containers, or units of greater than ten pounds and blocks of ice of any weight are not considered a food or food ingredient. Ice sold in cubed, shaved, or crushed form in packages or quantities of ten pounds or less is considered a food or food ingredient.

Refer to WAC 458-20-120 (Sales of ice) for additional guidance on the sale of ice.

(c) **Alcoholic beverages.** Alcoholic beverages are excluded from the definition of food and food ingredients. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(d) **Tobacco.** Tobacco is excluded from the definition of food and food ingredients. "Tobacco" includes cigarettes, cigars, chewing or pipe tobacco, or any other items that contain tobacco.

(e) **Soft drinks.** Soft drinks are excluded from the exemptions. "Soft drinks" means any nonalcoholic beverage that contains natural or artificial sweeteners, except beverages that contain:

- Milk or milk products;
- Soy, rice, or similar milk substitutes; or
- More than fifty percent by volume of vegetable or fruit juice.

For example, sweetened sports beverages are considered "soft drinks," but a sweetened soy beverage is a food or food ingredient.

Beverage mixes that are not sold in liquid form are not soft drinks even though they are intended to be made into a beverage by the customer. Examples include powdered fruit drinks, powdered tea or coffee drinks, and frozen concentrates. These items are a food or food ingredient and are not subject to retail sales tax.

(f) **Dietary supplements.** Dietary supplements are excluded from the exemptions. "Dietary supplement" means any product intended to supplement the diet, other than tobacco, which meets all of the following requirements:

- Contains a vitamin; mineral; herb or other botanical; amino acid; a substance for use by humans to increase total dietary intake; or a concentrate, metabolite, constituent, extract; or combination of any of them;
- Is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and
- Is required to be labeled with a Food and Drug Administration "supplement facts" box. If a product is otherwise considered a food or food ingredient and labeled with both a "supplement facts" box and "nutrition facts" box, the product is treated as a food or food ingredient.

Nutrition products formulated to provide balanced nutrition as a sole source of a meal or of the diet are considered a food or food ingredient and not a dietary supplement. Refer to RCW 82.08.925 for information on the sales tax exemption applicable to dietary supplements dispensed under a prescription.

(g) **Prepared food.** Prepared food is excluded from the exemptions. Prepared food generally means heated foods, combined foods, or foods sold with utensils provided by the seller, as described in more detail in subsection (4) of this section. "Prepared food" does not include food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), unless the food

is sold with utensils provided by the seller (see subsection (4)(c) of this section).

(4) **What is "prepared food"?** Food or food ingredients are "prepared foods" if any one of the following are true:

(a) **Heated foods.** Food or food ingredients are "prepared foods" if sold in a heated state or are heated by the seller, except bakery items. "Bakery items" include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Food is sold in a heated state or is heated by the seller when the seller provides the food to the customer at a temperature that is higher than the air temperature of the seller's establishment. Food is not sold in a heated state or heated by the seller if the customer, rather than the seller, heats the food in a microwave provided by the seller.

(b) **Combined foods.** Food or food ingredients are "prepared foods" if the item sold consists of two or more foods or food ingredients mixed or combined by the seller for sale as a single item, unless the food or food ingredients are any of the following:

- Bakery items (defined in (a) of this subsection);
- Items that the seller only cuts, repackages, or pasteurizes;
- Items that contain eggs, fish, meat, or poultry, in a raw or undercooked state requiring cooking as recommended by the federal Food and Drug Administration in chapter 3, part 401.11 of *The Food Code*, published by the Food and Drug Administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness; or
- Items sold in an unheated state as a single item at a price that varies based on weight or volume.

(c) **Food sold with utensils provided by the seller.** Food or food ingredients are "prepared foods" if sold with utensils provided by the seller. Utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.

(i) **Utensils are customarily provided by the seller.** A food or food ingredient is "sold with utensils provided by the seller" if the seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the NAICS. Examples of utensils provided by such manufacturers include juice boxes that are packaged with drinking straws, and yogurt or ice cream cups that are packaged with wooden or plastic spoons.

(ii) **Utensils are necessary to receive the food.** Individual food or food ingredient items are "sold with utensils provided by the seller" if a plate, glass, cup, or bowl is necessary to receive the food or food ingredient and the seller makes those utensils available to its customers. For example, items obtained from a self-serve salad bar are sold with utensils provided by the seller, because the customer must use a bowl or plate provided by the seller in order to receive the items.

(iii) **More than seventy-five percent prepared food sales with utensils available.** All food and food ingredients

sold at an establishment, including foods prepackaged with a utensil by a manufacturer classified under sector 311 of the NAICS, are "sold with utensils provided by the seller" if the seller makes utensils available to its customers and the seller's gross sales of prepared food under (a), (b), and (c)(ii) of this subsection equal more than seventy-five percent of the seller's gross sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(A) **Exception for four or more servings.** Even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients is to be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(B) **Determining total sales of prepared foods.** The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department of revenue. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(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 of the facts and circumstances.

(i) **Example 1.** Fast Cafe sells hot and cold coffee and mixed coffee and mixed milk beverages, cold soft drinks, bottled water, milk and juice in single-serving containers, sandwiches, whole fruits, cold pasta salad, cookies and other pastries. Fast Cafe prepares the pasta salad on-site. It orders the pastries from a local bakery, including specialty cakes which it sells both as whole cakes and by the slice. It purchases its sandwiches from a local caterer. The sandwiches are delivered by the caterer prewrapped in plastic with condiments and a plastic knife. Fast Cafe makes straws, napkins and cup lids available for all customers by placing them on a self-service stand. In its first full year of operation, Fast Cafe's annual gross sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements is \$100,000. Of this gross sales total, \$80,000 is from the sale of hot coffee and hot and cold mixed coffee and milk beverages,

all sold in disposable paper or plastic cups with the Fast Cafe logo.

Because more than seventy-five percent of Fast Cafe's total sales of food and food ingredients, including prepared food, soft drinks, and dietary supplements are sales of food or food ingredients that are heated or combined by the seller or sold with a utensil (cups) necessary to receive the food, Fast Cafe has more than seventy-five percent prepared food sales. Because Fast Cafe makes utensils available for its customers, all food and food ingredients sold by Fast Cafe are considered "prepared food," including the cold milk beverages, cookies and pastries, pasta salad, sandwiches and whole fruits. The only exception is the sale of whole specialty cakes. Because a whole cake contains four or more servings, it is not subject to retail sales tax unless Fast Cafe customarily hands a utensil to the customer as part of the sale transaction.

(ii) **Example 2.** Assume the same facts as in Example 1, but that only \$60,000 of Fast Cafe's Year 1 gross sales were sales of hot coffee and hot and cold mixed coffee and milk beverages. The remainder of its sales were sales of sandwiches, whole fruits, cookies and other pastries. Under these facts, Fast Cafe does not have more than seventy-five percent prepared food sales. Thus, the items sold by Fast Cafe are taxed as follows:

- Hot coffee and milk beverages are heated by the seller and are also sold by Fast Cafe with a utensil (a paper cup) necessary to receive the food. The hot coffee and milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold mixed milk beverages are a combination of two or more foods or food ingredients and are also sold by Fast Cafe with a utensil (a paper or plastic cup) necessary to receive the food. The cold milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold soft drinks are not exempt and are subject to retail sales tax.

- Sandwiches prepared by the caterer are subject to retail sales tax. Even though the caterer, rather than the seller, combines the ingredients and includes a utensil, Fast Cafe is considered to have provided the utensil because the caterer is not a food manufacturer classified under sector 311 of the NAICS.

- Pasta salad is combined by the seller and is subject to retail sales tax. Note that if the pasta salad was sold by the pound, rather than by servings, it would not be subject to retail sales tax.

- Bottled water, milk and juice in single serving containers, whole fruit, cookies, pastries, slices of cake, and whole cakes are not subject to retail sales tax unless the seller's customary practice is to hand a utensil to the customer as part of the sales transaction. None of these items are heated by the seller, combined by the seller, or require a plate, glass, cup, or bowl in order to receive the item. Even if Fast Cafe heats the pastries for its customers, the pastries are not subject to retail sales tax.

(iii) **Example 3.** A pizza restaurant sells whole hot pizzas, hot pizza by the slice, and unheated ready-to-bake pizzas. The whole hot pizzas and hot pizza sold by the slice, including delivered pizzas, are "prepared food" because these items are sold in a heated state. If the unheated ready-to-bake

pizzas are prepared by the seller, they are "prepared food" because the seller has mixed or combined two or more food ingredients. This is true even though some ingredients in the unheated pizzas are raw or uncooked, because those ingredients do not require cooking to prevent foodborne illness. If the unheated ready-to-bake pizzas are prepared by a manufacturer other than the seller, they will be taxable as "prepared food" only if sold with utensils provided by the seller.

(5) How are combined sales of taxable and exempt items taxed?

(a) **Combined sales.** Where two or more distinct and identifiable items of tangible personal property, at least one of which is a food or food ingredient, are sold for one non-itemized price that does not vary based on the selection by the purchaser of items included in the transaction:

- The entire transaction is taxable if the seller's purchase price or sales price of the taxable items is greater than fifty percent of the combined purchase price or sales price; and
- The entire transaction is exempt from retail sales tax if the seller's purchase price or sales price of the taxable items is fifty percent or less of the combined purchase price or sales price.

The seller may make the determination based on either purchase price or sales price, but may not use a combination of the purchase price and sales price.

(b) Examples.

(i) A combination wine and cheese picnic basket contains four items packaged together: A bottle of wine, a wine opener, single-serving cheeses, and the picnic basket holding these items. The seller's purchase price for the wine, wine-opener, and picnic basket totals ten dollars. The seller's purchase price for the cheeses is two dollars. The seller must collect retail sales taxes on the entire package, because the seller's purchase price for the taxable items (ten dollars) is greater than fifty percent of the combined purchase price (twelve dollars).

(ii) A retailer sells a decorative jar containing individually wrapped candies for the selling price of twelve dollars. The retailer sells the decorative jar by itself for the price of five dollars. The retailer's selling price for the candy alone is seven dollars. The retailer is not required to collect retail sales taxes on the decorative jar filled with candies, because the retailer's selling price for the tax exempt candies is greater than its selling price for the taxable jar.

(c) **Incidental packaging.** "Distinct and identifiable items" does not include packaging which is immaterial or incidental to the sale of another item or items. For example, a decorative bag sold filled with candy is not the sale of "distinct and identifiable" items where the bag is merely ornamental packaging immaterial in the sale of the candy.

(d) **Free items.** "Distinct and identifiable items" does not include items provided free of charge. An item is only provided free of charge if the seller's sales price does not vary depending on whether the item is included in the sale.

(6) **What are the seller's accounting requirements?** All sales of food and food ingredients at an establishment will be treated as taxable unless the seller separately accounts for sales of exempt and nonexempt food and food ingredients. It is sufficient separation for accounting purposes if cash registers or the like are programmed to identify items that are not

tax exempt and to calculate and assess the proper sales tax accordingly.

(7) Are there any other retail sales tax exemptions that apply?

(a) **Meals served by not-for-profit organizations.** The exemptions apply to meals sold under a state-administered nutrition program for the aged as provided for in the Older Americans Act (Public Law 95-478 Title III) and RCW 74.38.040, and meals sold to or for senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW. The exemptions apply even if the meals would otherwise be considered prepared food.

(b) **Foods exempt under the Federal Food Stamp Act.** Under RCW 82.08.0297, eligible foods under the Food Stamp Act of 1977 purchased with food coupons are exempt from the retail sales tax. This is a separate and broader exemption than the retail sales exemption for food and food ingredients under RCW 82.08.0293. For example, soft drinks and garden seeds are "eligible foods" but are not a "food or food ingredients." If such items are purchased with food coupons, they are exempt from the retail sales tax under RCW 82.08.0297, even though the items do not qualify for the exemption under RCW 82.08.0293.

(i) **Definition of food coupons.** The term "food coupons," as used in this subsection means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977. See 7 CFR § 271.2, as amended or renumbered as of January 1, 2003.

(ii) **Use of food coupons combined with other means of payment.** When both food coupons and other means of payment are used in the same sales transaction, for purposes of collecting retail sales taxes, the other means of payment shall be applied first to items which are food and food ingredients exempt under RCW 82.08.0293. The intent is to apply the coupons and other means of payment in such a way as to provide the greatest possible exemption from retail sales tax.

(iii) **Example.** A customer purchases the following at a grocery store: Meat for three dollars, cereal for three dollars, canned soft drinks for five dollars, and soap for two dollars for a total of thirteen dollars. The customer pays with seven dollars in coupons and six dollars in cash. The cash is applied first to the soap because the soap is neither exempt under RCW 82.08.0293 nor an eligible food under the Food Stamp Act. The remaining cash (four dollars) is applied first to the meat and the cereal. The food stamps are applied to the balance of the meat and cereal (two dollars) and to the soft drinks (five dollars). Retail sales tax is due only on the soap.

(8) **Vending machine sales.** The exemptions do not apply to sales of food and food ingredients dispensed from vending machines. There are special requirements for reporting sales tax collected on vending machine sales, discussed in (a) of this subsection. "Honor box" sales (sales of snacks or other items from open display trays) are not considered vending machine sales.

(a) **Calculating and reporting retail sales tax collected on vending machine sales.** Vending machine owners do not

need to state the retail sales tax amount separately from the selling price. See RCW 82.08.050(5) and 82.08.0293. Instead, vending machine owners must determine the amount of retail sales tax collected on the sale of food or food ingredients by using one of the following methods:

(i) **Food or food ingredients dispensed in a heated state.** For food or food ingredients dispensed from vending

$$\text{gross machine proceeds} - \frac{(\text{gross machine proceeds})}{(1 + \text{sales tax rate})} = \text{tax in gross}$$

(ii) **All other food or food ingredients.** For all other food and food ingredients dispensed from vending machines, a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on

$$(\text{gross machine proceeds} \times .57) \times \text{sales tax rate} = \text{tax in gross}$$

The remaining 43% of the gross vending machine proceeds, less the "tax in gross" amount, is reported as an exempt

$$(\text{gross machine proceeds} \times .43) - \text{tax in gross} = \text{exempt food deduction}$$

(b) **Example.** Jane owns a vending machine business with machines in Spokane and Seattle. In each location, she has a vending machine selling candy and water and a second vending machine selling hot cocoa and coffee drinks. Her annual sales for the vending machines and the combined retail sales tax rates for Seattle and Spokane are as follows:

machines in a heated state (e.g., hot coffee, soups, tea, and hot chocolate), a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

fifty-seven percent of the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

food sales deduction against retail sales proceeds only calculated as follows:

	Coffee Machine (cocoa & coffee)	Candy Machine (candy & water)	Combined Retail Sales Tax Rate
Seattle	\$2,500	\$10,000	.088
Spokane	\$3,000	\$6,000	.086

To determine the amount of retail sales tax she collected on the sale of cocoa and coffee (food dispensed in a heated state), Jane calculates the "tax in gross" amount as follows:

$$\text{gross machine proceeds} - \frac{(\text{gross machine proceeds})}{(1 + \text{sales tax rate})} = \text{tax in gross}$$

$$\begin{aligned} \$2,500 &- (\$2,500/1.088) = \$202.21 && \text{(Seattle coffee machine)} \\ \$3,000 &- (\$3,000/1.086) = \underline{\$237.57} && \text{(Spokane coffee machine)} \\ &&& \$439.78 \end{aligned}$$

Thus, for both retailing B&O and retail sales, Jane must report her total gross coffee machine proceeds of \$5,500 with a "tax in gross" deduction of \$439.78.

To determine the amount of retail sales tax she collected on the sale of candy(,soft drinks) and water, Jane calculates the "tax in gross" amount as follows:

$$(\text{gross machine proceeds} \times .57) \times \text{sales tax rate} = \text{tax in gross}$$

$$\begin{aligned} \$10,000 \times .57 \times .088 &= \$501.60 && \text{(Seattle candy machine)} \\ \$6,000 \times .57 \times .086 &= \underline{\$294.12} && \text{(Spokane candy machine)} \\ &&& \$795.72 \end{aligned}$$

Thus, for both retailing B&O and retail sales, Jane must report her total gross candy machine proceeds of \$16,000 with a "tax in gross" deduction of \$795.72.

Jane must also report an exempt food sales deduction representing the remaining 43% of the gross candy machine proceeds.

$$\begin{aligned} (43\% \times \text{gross machine proceeds}) - \text{tax in gross} &= \text{exempt food deduction} \\ (.43 \times \$16,000) - \$795.72 &= \$6,084.28 \end{aligned}$$

Jane reports the exempt food sales deduction only against the gross amount of her retail sales. The deduction does not apply to retailing B&O.

WSR 07-24-041
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 30, 2007, 10:45 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The department reviewed the elevator rules for additions and revisions. The elevator rules are periodically reviewed to ensure the rules are consistent with the national consensus standards, industry practice, and to clarify the rules. The following changes were made to the elevator rules:

- Updated national consensus standards to a more current version.
- Moved alteration permit and process from Part B to Part C to assist with clarification.
- Give category 02 elevator mechanics the ability to install residential elevators.
- Updated residential inclined elevator requirements to be consistent with the national consensus standards for enclosure and suspension.
- Reorganize Part C to group related topics together.

Citation of Existing Rules Affected by this Order:
 Amending WAC 296-96-00650 Which elevator codes and supplements has the department adopted?, 296-96-00700 Chapter definitions, 296-96-00902 Are there exceptions from the elevator mechanic licensing requirements?, 296-96-00904 What must you do to become and remain a licensed elevator contractor?, 296-96-00906 What must you do to become a licensed elevator mechanic?, 296-96-00910 What are the elevator mechanic license categories?, 296-96-00924 What procedures does the department follow when issuing a civil penalty for licensing violations?, 296-96-00926 What are the civil (monetary) penalties for violating the licensing requirements of chapter 70.87 RCW or this chapter?, 296-96-01000 What is the permit process for conveyances?, 296-96-01005 When do I need and what are the steps on obtaining a permit?, 296-96-01006 What type of conveyance work requires permitting and inspection?, 296-96-01009 Who can purchase a permit?, 296-96-01010 What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated?, 296-96-01012 What are the permit fees for alterations to conveyances, material lifts, and hoists and how are they calculated?, 296-96-01025 What is the permit fee for personnel and material hoists?, 296-96-01027 Are initial installation permit fees refundable?, 296-96-01030 What is the process for installation and alteration plan approval?, 296-96-01035 Are there inspection fees?, 296-96-01045 What are the inspection requirements and fees for conveyances in private residences?, 296-96-01065 What are the annual operating certificate fees?, 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter?, 296-96-05020 What requirements apply to the construction and fire safety of hoistway enclosures?, 296-96-05120 What requirements apply to car operating devices, terminal stopping devices and electrical protective devices?, 296-96-05140 What requirements apply to car safeties?, 296-96-05160 What types of ropes, chains, and rope connections

must be used on a lift?, 296-96-07030 Does the department approve private residence elevator plans and specifications?, 296-96-07050 What are the construction requirements for car landing enclosures and gates for inclined private residence elevators?, 296-96-07120 What construction requirements apply to car doors and gates?, 296-96-07150 What are the construction requirements for guide rails, track supports and fastenings?, 296-96-07171 How and when are safeties and governors tested?, 296-96-07180 What are the construction requirements for driving machines and sheaves?, 296-96-07190 What construction requirements apply to terminal stopping switches?, 296-96-07200 What are the requirements for operation of an inclined private residence elevator?, 296-96-07210 What are the construction requirements for suspension methods?, 296-96-07230 What requirements apply to electrical wiring?, 296-96-08200 What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property?, 296-96-08210 What are the requirements for suspension methods?, 296-96-08230 What requirements apply to electrical wiring?, 296-96-09001 What regulations apply to personnel hoists?, 296-96-10001 What regulations apply to material hoists?, 296-96-11001 What regulations apply to belt manlifts?, 296-96-13149 What are the structural requirements for counterweights, counterweight enclosures, and counterweight fastenings?, 296-96-16140 How must car frames and platforms be connected?, 296-96-23100 Are keys required to be on-site?, 296-96-23116 What requirements apply to car numbers?, 296-96-23117 What requirements apply to top of car railing for traction elevators?, 296-96-23118 What requirements apply to top of car railings for hydraulic elevators in unenclosed hoistways?, 296-96-23119 What signage requirements apply to traction elevator with minimal overhead clearance?, 296-96-23122 What type of lighting must be installed in machine rooms and machinery space?, 296-96-23132 What lighting requirements apply to pits?, 296-96-23316 What requirements apply to plunger stops?, 296-96-23450 What requirements apply to step tread lighting?, 296-96-23600 What is the scope of Part VI, alterations, repairs and maintenance?, 296-96-23610 What requirements apply to routine periodic inspections and tests?, 296-96-23620 What requirements apply to alterations, repairs and maintenance?, 296-96-23630 What requirements apply to elevator equipment displaced by seismic activity? and 296-96-23710 What requirements apply to lifts for the physically handicapped?; and repealing WAC 296-96-01007 What is the inspection and approval process for alterations?, 296-96-02230 When must the department be notified for a new or altered inspection?, 296-96-02232 What are the conditions for obtaining a temporary operating permit?, 296-96-02235 What are the requirements for temporary operating permits?, 296-96-02240 Where is a shut-off valve required for hydraulic elevators?, 296-96-02275 What are the requirements for Fireman's Service Phase I and Phase II recall?, 296-96-02276 What are the requirements for sprinklers in hoistways and machine rooms?, 296-96-02277 How does the department enforce ASME requirements for sprinklers, smoke detectors, and heat detectors in hoistways and machine rooms?, 296-96-02278 Are keys required to be on-site?, 296-96-02280 Can pipes and ducts be installed above a machine room?, 296-96-02281

What is required for emergency escape hatches?, 296-96-02282 What is required for fire fighters' service?, 296-96-02283 What is the minimum working space required in machine rooms?, 296-96-02285 Are there exceptions for correction facility elevators?, 296-96-02290 What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders?, 296-96-02300 Are self-leveling devices required?, 296-96-02306 Is a door reopening device required on automatic-closing car doors?, 296-96-02310 What is the minimum acceptable initial transfer time for an elevator door?, 296-96-02315 What are the minimum cab size and other applicable requirements for car interiors?, 296-96-02317 When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts?, 296-96-02318 What are the general requirements for LULA elevators?, 296-96-02320 What is required for car controls?, 296-96-02325 What are the location and operation requirements for car position indicators in the car?, 296-96-02330 What is required for installation and operation of emergency communication systems?, 296-96-02340 What requirements apply to the size and location of car handrails?, 296-96-02350 What requirements apply to floor designations on elevator door jambs?, 296-96-02355 What are the installation and operation requirements for hall buttons?, 296-96-02360 What are the requirements for installation and operation of hall lanterns?, 296-96-02361 What are the requirements for electrical main line disconnects?, 296-96-02362 What are the requirements associated with elevator machine rooms?, 296-96-02363 What are the requirements for fire doors installed in front of hoistway doors?, 296-96-02364 What are the requirements for accessing elevated elevator pit equipment?, 296-96-02366 What are the requirements for submersible

pumps or sumps?, 296-96-02367 What are the requirements for top of car lighting for freight and passenger elevators?, 296-96-02370 What is required for physically handicapped lifts?, and 296-96-02371 Are private residence inclined stairway chairlifts required to be permanently wired?

Statutory Authority for Adoption: Chapter 70.87 RCW.

Adopted under notice filed as WSR 07-19-092 on September 18, 2007.

Changes Other than Editing from Proposed to Adopted Version: PART-C3: Changed "inclinded" to "inclined"; WAC 296-96-07171(2): Changes "the method" to "a method"; and WAC 296-96-08200(7): Retained the language regarding radio controls.

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 42, Amended 57, Repealed 36.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 42, Amended 57, Repealed 36.

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 42, Amended 57, Repealed 36.

Date Adopted: November 30, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00650 Which National Elevator Codes and Supplements has the department adopted?

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
((Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) A17.1, 1960	Prior to 11/1/1963		Adopted Standard- Part X of ASA applies to all installations in existence prior to 11/1/63.))
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) ((A17.1, 1960)) A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Moving Walks	American Safety Association A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards (USAS) USAS A17.1, 1965; Supplements A17.1a, 1967; A17.1b, 1968; A17.1c, 1969;	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1, 1960, A17.1a, 1963, and A17.1-13, 1962. Adopted code and supplements, excluding Appendix E and ANSI 17.1d, 1970.
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standard Institute ANSI A17.1, 1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1971; A17.1a, 1972	2/25/1972	6/30/1982	Adopted Supplement

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	NATIONAL CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII of A17.1b, 1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a, 1985	1/10/1986	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b, 1985; A17.1c, 1986; A17.1d, 1986; and A17.1e, 1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1, 1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.
Elevators, Dumbwaiters, Escalators, and Moving Walks	((ANSI)) ASME A17.1, 1990	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	((ANSI)) ASME A17.1, 1993	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 1996	6/30/1998	((Effective date of these rules)) 6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1, 2000; A17.1a, 2002; A17.1b, 2003	((Effective date of these rules)) 7/1/2004	((Current)) 1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME A18.1, 1999; A18.1a, 2001; A18.1b, 2001	((Effective date of these rules)) 7/1/2004	((Current)) 1/1/2008	Adopted Standards and Addenda.
<u>Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose</u>	<u>ASME A17.1-2004; A17.1a-2005</u>	<u>1/1/2008</u>	<u>Current</u>	<u>Adopted Standards and Addenda Except Rules 2.4.12.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, OEL-1 inspector.</u>
<u>Safety Code for Platform Lifts and Stairway Chairlifts</u>	<u>ASME A18.1-2005</u>	<u>1/1/2008</u>	<u>Current</u>	
<u>Safety Code for Belt Manlifts</u>	<u>ASME A90.1-2003</u>	<u>1/1/2008</u>	<u>Current</u>	
<u>Safety Code for Personnel Hoists, Retroactive</u>	<u>ANSI A10.4-2004</u>	<u>1/1/2008</u>	<u>Current</u>	

Note: Copies of codes and supplements can be obtained from The American Society of Mechanical Engineers, Order Department, 22 Law Drive, Box 2900, Fairfield, New Jersey, 07007-2900 or by visiting www.asme.org.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00700 Chapter definitions. The follow-

ing definitions apply to this chapter (see RCW 70.87.010 for additional definitions necessary for use with this chapter):

"ANSI" means the American National Standard Institute.

"ASA" means the American Safety Association.

"ASME" means the American Society of Mechanical Engineers.

"Acceptable proof" refers to the documentation that must be provided to the department during the elevator contractor and mechanic license application and renewal process. Acceptable proof may include department-approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the department to verify the information provided on the application.

"Code" refers to nationally accepted codes (i.e., ASME, ANSI, ASA, and NEC) and ~~((/))~~ the Washington Administrative Code.

"Decommissioned conveyance" means an installation whose power feed lines have been disconnected and:

(a) A traction elevator, dumbwaiter, or material lift whose suspension ropes have been removed, whose car and counterweight rests at the bottom of the hoistway, and whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side;

(b) A hydraulic elevator, dumbwaiter, or material lift whose: Car rests at the bottom of the hoistway, pressure piping has been disassembled and a section removed from the premises, hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side, suspension ropes have been removed and counterweights, if provided, landed at the bottom of the hoistway; or

(c) An escalator or moving walk whose entrances have been permanently barricaded.

"Final judgment" means any money that is owed the department as the result of an individual's or firm's unsuccessful appeal of a civil penalty. Final judgment also includes any penalties assessed against an individual or firm owed the department as a result of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.

"General direction—Installation and alteration work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate category) who is on the same job site as the helper/apprentice at least seventy-five percent of each working day. The ratio of helper to mechanic shall be one-to-one.

"General direction—Maintenance work" means the necessary education, assistance, and supervision provided by a licensed elevator mechanic (in the appropriate category) to ensure that the maintenance work is performed safely and to code.

"Lockout" means the placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.

"Primary point of contact" is the designated individual employed by a licensed elevator contractor.

"Red tag" or "red tag status" means an elevator or other conveyance that has been removed from service and

operation because of noncompliance with chapter 70.87 RCW and this chapter or at the request of the owner.

"Private residence elevator" (residential elevator) means a power passenger elevator which is limited in size, capacity, rise and speed and is installed in a private residence or multiple dwelling as a means of access to a private residence provided the elevators are so installed that they are not accessible to the general public or to other occupants in the building.

"RCW" means the Revised Code of Washington.

"Tagout" means the placement of a tagout device on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment being controlled may not be operated until the tagout device is removed by the individual who established the tag or by a person designated by the chief elevator inspector.

"Traction elevator" means an elevator in which the friction between the hoist ropes and the machine sheave is used to move the elevator car.

"USAS" means the U.S.A. Standards.

"WAC" means the Washington Administrative Code.

PART B - ((LICENSES AND FEES FOR ALL ELEVATORS, DUMBWAITERS, ESCALATORS AND OTHER CONVEYANCES)) ELEVATOR CONTRACTOR AND CONVEYANCE MECHANIC LICENSES AND REGULATIONS AND FEES

NOTE: Total fees include the sum of the permit cost plus plan check fees.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00902 Are there exceptions from the elevator mechanic licensing requirements? Yes.

(1) Elevator mechanic licenses issued under chapter 70.87 RCW and this chapter are not required for:

(a) Individuals who install signal systems, fans, electric light fixtures, illuminated thresholds, finished cab flooring materials that are identical to existing materials and feed wires to the terminals on the elevator main line control provided that the individual does not require access to the pit, hoistway, or top of the car for the installation of these items.

(b) An owner or regularly employed employee of the owner performing only maintenance work of conveyances in accordance with RCW 70.87.270.

(2) Elevator mechanic licenses may not be required for certain types of incidental work that is performed on conveyances when the appropriate lockout and tagout procedures have been performed by a licensed elevator mechanic in the appropriate category. The department must be notified in writing and must approve the scope of work prior to it being performed.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00904 What must you do to become and remain a licensed elevator contractor? (1) Obtain and

maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.

(2) Complete and submit a department-approved application. As part of the application:

(a) Specify the employee who is the licensed elevator contractor's primary point of contact.

(b) The person representing the company, firm or company who is applying for the elevator contractor's license must:

(i) Provide acceptable proof to the department that shows that the person representing the company, firm, or company has five years of work experience in performing conveyance work as verified by current and previous state of Washington elevator contractor licenses to do business; or

(ii) Pass a written examination administered by the department on chapter 70.87 RCW and this chapter. (In the case of a firm or company, the exam will be administered to the designated primary point of contact.)

(iii) Failure to pass the examination will require the submittal of a new application.

(3) Pay the fees specified in WAC 296-96-00922.

(4) The department may deny application of a license under this section if the applicant owes outstanding final judgments to the department.

(5) If the primary point of contact identified in subsection (2)(a) of this section separates employment, his/her relationship or designation is terminated, or death of the designated individual occurs, the elevator contractor must, within ninety days, designate a new individual who has successfully completed the elevator contractor examination and inform the department of the change in writing or the elevator contractor license will be automatically suspended.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00906 What must you do to become a licensed elevator mechanic? (1) Qualify for licensing:

(a) For conveyance work covered by all categories identified in WAC 296-96-00910 except material lifts (05), residential conveyances (06), residential inclined elevators (07) and temporary licenses (09), the applicant must comply with the applicable mechanic licensing requirements as follows:

(i) Test.

(A) The applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than three years' work experience in the elevator industry performing conveyance work as verified by current and previous employers licensed to do business in this state or as an employee of a public agency; and

(B) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

(ii) ~~((Grandfather.~~

~~(A) Before October 1, 2004, the applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910)~~

~~of not less than three years' work experience in the elevator industry, performing conveyance work, as verified by current and previous employers licensed to do business in this state or as an employee of a public agency; and~~

~~(B) Have worked without direct and immediate supervision for an elevator contractor licensed to do business in this state or as an employee of a public agency. This employment may not be less than three years immediately before March 1, 2004.~~

~~((iii)) National exam/education.~~

(A) Have obtained a certificate of completion and successfully passed the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent; or

(B) Have obtained a certificate of completion of an apprenticeship program for an elevator mechanic, having standards substantially equal to those of chapter 70.87 RCW and this chapter, and registered with the Washington state apprenticeship and training council under chapter 49.04 RCW.

~~((iv))~~ (iii) Reciprocity. The applicant must provide acceptable proof to the department that shows that the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(b) For conveyance work performed on material lifts as identified in WAC 296-96-00910(5):

~~((i))~~ Test.

~~((A))~~ (i) The applicant and the licensed elevator contractor/employer must comply with the provisions of RCW 70.87.245; and

~~((B))~~ (ii) The applicant must pass an examination administered by the department on chapter 70.87 RCW and this chapter;

~~((ii) Grandfather.~~

~~(A) Before October 1, 2004, the applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the material lift license category (see WAC 296-96-00910) performing conveyance work on material lifts, as verified by current and previous employers licensed to do business in this state; and~~

~~(B) Worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. This employment may not be less than three years immediately before March 1, 2004.)~~

(c) For residential conveyance work covered by category (06) as identified in WAC 296-96-00910:

~~((i))~~ Test.

~~((A))~~ (i) The applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than two years' work experience in the elevator industry performing conveyance work as verified by current and previous employers licensed to do business in this state; and

~~((B))~~ (ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.

~~((ii) Grandfather.~~

~~(A) Before October 1, 2004, the applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the residential conveyance license category (see WAC 296-96-00910) performing conveyance work on residential inclined and vertical wheelchair lifts and stair chairlifts, as verified by current and previous employers licensed to do business in this state; and~~

~~(B) Worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. This employment may not be less than two years immediately before March 1, 2004.)~~

(d) For residential inclined conveyance work covered by category (07) as identified in WAC 296-96-00910;

~~((i)) Test.~~

~~((A)) (i) The applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years' documented experience and education credits in conveyance work as described in category (01) performing conveyance work as verified by current and previous employers licensed to do business in this state; and~~

~~((B)) (ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter.~~

~~((ii) Grandfather.~~

~~(A) Before October 1, 2004, the applicant must provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the residential inclined conveyance license category (see WAC 296-96-00910) performing conveyance work on residential inclined conveyances, as verified by current and previous employers licensed to do business in this state; and~~

~~(B) Worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. This employment may not be less than one year immediately before March 1, 2004.)~~

(e) For temporary mechanic licenses as identified in WAC 296-96-00910 category (09) the applicant must provide acceptable proof from a licensed elevator contractor that attests that the temporary mechanic is certified as qualified and competent to perform work under chapter 70.87 RCW and this chapter.

(2) Complete and submit a department-approved application.

~~((a) Applications received before October 1, 2004. If an applicant who meets subsection (1)(d)(i)(A) of this section, who applies before October 1, 2004, and is required to take an examination under the provisions of this section, the applicant may perform the duties of a licensed elevator mechanic until the applicant has been provided notice by the department of the results of his/her examination.~~

~~(b) Applications received on or after October 1, 2004.)~~ An applicant who is required to take an examination under the provisions of this section may not perform the duties of a licensed elevator mechanic until the applicant has been notified by the department that he/she has passed the examination.

(3) Pay the fees specified in WAC 296-96-00922.

(4) The department may deny application of a license under this section if the applicant owes outstanding final judgments to the department or does not meet the minimum criteria established in the elevator laws and rules.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00910 What are the elevator mechanic license categories? The following are the licensing categories for qualified elevator mechanics or temporary elevator mechanics:

(1) **Category (01):** A general elevator mechanic license encompasses mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of all types of elevators and other conveyances in any location covered under chapter 70.87 RCW and this chapter.

(2) **Category (02):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of the following commercial and residential conveyances:

- (a) ~~Wheelchair lifts;~~
- (b) ~~Dumbwaiters; and~~
- (c) ~~Incline chairlifts.~~

Note: Work experience on residential conveyances in (a)(i), (ii), and (iii) of this subsection may not be applied toward the category (02) license requirements.)

Residential conveyances:

- (i) Wheelchair lifts;
- (ii) Dumbwaiters;
- (iii) Incline chairlifts; and
- (iv) Residential elevators;

(b) Commercial conveyances:

- (i) Wheelchair lifts;
- (ii) Dumbwaiters; and
- (iii) Incline chairlifts.

(3) **Category (03):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of the following conveyances in industrial sites and grain terminals:

- (a) Electric and hand powered manlifts;
- (b) Special purpose elevators; and
- (c) Belt manlifts.

(4) **Category (04):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of the following conveyances:

- (a) Temporary personnel hoists;
- (b) Temporary material hoists; and
- (c) Special purpose elevators.

(5) **Category (05):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of material lifts.

(6) **Category (06):**

(a) This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance,

nance, inspection, relocation, and repair of the following conveyances:

- (i) Residential wheelchair lifts;
- (ii) Residential dumbwaiters; and
- (iii) Residential incline chairlifts.

(b) Work experience on conveyances in (a)(i), (ii), and (iii) of this subsection may not be all inclusively applied toward the category (02) license requirements.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements provided that the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public. Such exempt work does not count toward work experience for licensure.

(7) **Category (07):** This license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of residential inclined elevators.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements provided that the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public. Such exempt work does not count toward work experience for licensure.

(8) **Category (08):** This license is limited to maintenance of all conveyances and is further limited to employees of public agencies to obtain and maintain the license. This work should not count towards other licenses.

(9) **Category (09):** This temporary license is limited to the mechanical and electrical operation, construction, installation, alteration, maintenance, inspection, relocation, and repair of conveyances. This license is limited to individuals that are certified as qualified and competent by licensed elevator contractors. The individual must be an employee of the licensed elevator contractor. The contractor shall furnish acceptable proof of competency as the department may require. Each license must recite that it is valid for a period of thirty days from the date of issuance and for such particular elevators or geographical areas as the department may designate, and otherwise entitles the licensee to the rights and privileges of an elevator mechanic license issued under chapter 70.87 RCW and this chapter.

Note: See policy number 07-01.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00924 What procedures does the department follow when issuing a civil penalty for licensing violations? (1) If the department determines that an individual has violated the licensing requirements of chapter 70.87 RCW or this chapter, the department may issue a civil penalty describing the reasons for the violation(s). The department may issue a civil penalty to:

(a) A person who is advertising, offering to do work or submitting a bid to perform conveyance work, or employing elevator mechanics and does not have a valid elevator contractor's license as required under chapter 70.87 RCW or this chapter; or

(b) An individual who is working under chapter 70.87 RCW or this chapter and does not have a valid elevator mechanic license.

(2) A person may appeal a civil penalty issued under chapter 70.87 RCW or this chapter.

~~((3) The following enforcement schedule will be used for licenses issued under chapter 70.87 RCW and this chapter:~~

~~(a) **July 1, 2004, through September 30, 2004.** Any individual, firm, or company that is found in violation of the licensing requirements will be notified of the violation and be allowed ten calendar days to make application with the department to avoid being issued a civil penalty. If the individual, firm, or company does not make application within ten calendar days they will be issued a civil penalty.~~

~~(b) **On or after October 1, 2004.** Any individual, firm, or company that is found in violation of the licensing requirements may be issued a civil penalty.~~)

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00926 What are the civil (monetary) penalties for violating the licensing requirements of chapter 70.87 RCW or this chapter? (1) A person cited for a violation under chapter 70.87 RCW or this chapter may be assessed a civil (monetary) penalty based upon the following schedule:

First Violation	\$500.00
Each additional Violation	\$500.00

(2) Each day a person, firm or company is in violation may be considered a separate violation.

(3) Each job site at which a person is in violation may be considered a separate violation.

(4) The department must serve notice by certified mail to a person for a violation of chapter 70.87 RCW or this chapter. A violation will be considered served on the date it is mailed to his or her last known address on record with the department.

PART B-1 - ((REGULATIONS AND FEES FOR ALL ELEVATORS, DUMBWAITERS, ESCALATORS AND OTHER CONVEYANCES)) PERMIT REGULATIONS AND FEES, PENALTIES AND INSPECTION TYPES FOR ALL CONVEYANCES

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01000 What is the permit process for conveyances? (1) Prior ~~((to the start of the construction, alteration, or relocation of all conveyances (this includes both private residence and commercial conveyances) plans must be submitted to and approved by the department. See WAC 296-96-01030.~~

~~(2) Prior to construction, alteration, or relocation of any conveyance, you must get an installation permit from the department. See WAC 296-96-01010 through 296-96-01025.~~

~~(3) Your conveyance must be inspected upon completion of the construction, alteration, or relocation. See WAC 296-96-01035.~~

~~(4) You must obtain and renew an annual operating permit for each conveyance that you own, except for residential conveyances. See WAC 296-96-01065.~~

~~(5) After initial purchase and inspection private residence conveyance(s) do not require an annual permit. However, annual inspections may be conducted upon request. See WAC 296-96-01065 for the associated fees)) to construction, alteration, or relocation of any conveyance, the licensed elevator contractor shall:~~

~~(a) Submit an installation application to the department. See WAC 296-96-01010 through 296-96-01025.~~

~~(b) Plans must be submitted to and approved by the department. See WAC 296-96-01030.~~

EXCEPTION: Most alterations will not require plans.

~~(c) Post an approved permit from the department on the job site.~~

~~(d) Obtain and pass an inspection prior to placing the conveyance in service. See WAC 296-96-01035.~~

(2) The owner must obtain and renew an annual operating certificate for each conveyance that they own, except for residential conveyances. See WAC 296-96-01065.

(3) After initial purchase and inspection, private residence conveyance(s) do not require an annual operating certificate. However, annual inspections may be conducted upon request. See WAC 296-96-01045 for the permit process.

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01005 When do I need and what are the steps in obtaining a permit? (1) ~~((You must obtain a permit from the department before you begin constructing, altering or relocating any conveyance. To obtain your permit, you need to complete the permit application and pay the appropriate fee. Once your application is approved, a permit will be issued and you may begin work on your project.)) See WAC 296-96-01000 for the permit process.~~

(2) Construction and alteration permits are valid for one year from the date of issue. However, permits may be renewed if you:

(a) Apply for a renewal permit before your current permit expires;

(b) The department approves your request for a renewal permit; and

(c) You pay a \$51.60 renewal fee to the department for each permit you renew;

(3) If your permit has expired you must reapply for a new permit.

~~(4) ((You are not required to obtain permits and pay fees for repairs and replacement associated with normal functions and necessary maintenance done with parts of equivalent materials, strength and design; or for any conveyance exempted by RCW 70.87.200.)) See WAC 296-96-01006 for work requiring a permit.~~

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01006 What type of conveyance work requires permitting and inspection? (1) All installations and relocation of conveyances requires permitting and inspection. All conveyance work must be performed by an elevator mechanic licensed to perform work in the appropriate category. (See WAC 296-96-00910).

(2) All alterations (~~and other conveyance work~~) require(~~(s)~~) permitting (~~and~~) inspection, and must include(s) but (is) are not limited to:

(a) Items identified in ASME A17.1.

(b) Any conveyance work that requires the conveyance to be tested prior to being returned to service, including:

(i) The replacement or repair of any parts, the installation of which would require recalibration or testing (e.g., brakes, hydraulic valves and piping, safeties, door reopening devices, governors, communication systems, cab interiors, car/hall buttons, etc.); or

(ii) Work performed on components or equipment affecting or necessary for fire and life safety (e.g., cab interiors, systems associated with fire recall, etc.).

(3) Permits and fees are not required for normal function and necessary maintenance and repair performed with parts of equivalent materials, strength, and design or for any conveyance exempted by RCW 70.87.200.

Contact the department if you have any questions or need assistance determining if a permit and inspection are required.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01009 Who can purchase a permit?

The department may only issue a permit for conveyance work to a licensed elevator contractor.

Permits are only required for alterations, relocations and installations. ~~((Beginning with the effective date of these rules, the homeowner will no longer be allowed to purchase a permit.))~~

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01010 What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated? Installation permit fees are based on the total cost of the conveyance and the labor to install the conveyance. The following permit fees apply to the construction or relocation of all conveyances and material lifts:

TOTAL COST OF CONVEYANCE	FEE
\$0 to and including \$1,000	\$54.60
\$1,001 to and including \$5,000	\$81.90
\$5,001 to and including \$7,000	\$136.70
\$7,001 to and including \$10,000	\$164.10
\$10,001 to and including \$15,000	\$218.90
OVER \$15,000	\$306.50 plus
Each additional \$1,000 or fraction thereof.	\$7.60

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01012 What are the permit fees for alterations to conveyances, material lifts, and hoists and how are they calculated? Permit fees are based on the total cost of the equipment, materials and labor to perform the alteration. The following permit fees apply to the alteration of all conveyances and material lifts:

TOTAL COST OF ALTERATION	FEE
\$0 to and including \$1,000	\$54.60
\$1,001 to and including \$5,000	\$81.90
\$5,001 to and including \$7,000	\$136.70
\$7,001 to and including \$10,000	\$164.10
\$10,001 to and including \$15,000	\$218.90
OVER \$15,000	\$218.90
Each additional \$1,000 or fraction thereof	\$7.60

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01025 What is the permit fee for personnel and material hoists? The fee for each personnel hoist or material hoist installation is ~~\$(200.00)~~ 218.90

See WAC 296-96-01035(2) for requirements for jumps.

Note: An operating ~~((permit))~~ certificate is also required for these types of conveyances.

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01027 Are initial installation permit fees refundable? Your initial installation permit fees are refundable if the installation work has not been performed, minus a processing fee, unless your permits have expired. No refunds will be issued for expired permits. All requests for refunds must be submitted in writing to the elevator section and must identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is \$32.70

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01030 What is the process for installation and alteration plan approval? Prior to the start of construction, ~~((you))~~ the applicant must submit to the department for approval two copies of plans for new installations or major alterations. To be approved, the plan must comply with the latest adopted edition of the American Society of Mechanical Engineers (ASME), the National Electrical Code (NEC) and applicable Washington Administrative Codes (WAC). In addition, the plans must include all information necessary in determining whether each installation/alteration complies with all applicable codes. ~~((You))~~ The permit holder must keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan must be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing your plans are:

For each installation/major alteration \$27.20
If more than two sets of plans are submitted, the fee for each additional set \$10.80

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01035 Are there inspection fees? Yes. The initial inspection(s) of a conveyance or for the initial inspection of construction, alteration or relocation of a conveyance is included with your permit fee. Once the department has approved the initial installation of the conveyance you will be issued a temporary operating ~~((permit))~~ certificate that is valid for 30 days. Prior to the expiration of the 30-day ~~((permit))~~ temporary operating certificate the application for an annual operating ~~((permit))~~ certificate and the appropriate fees must be paid to the department. Once the department has received the appropriate fees and application ~~((you))~~ the owner will be issued ~~((your))~~ the first annual operating ~~((permit))~~ certificate. ~~((You are))~~ The owner or owners' representative will receive an invoice from the department for renewal. The owner is required to renew ~~((your))~~ the annual operating ~~((permit))~~ certificate yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is \$109.40 per conveyance plus \$53.10 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is \$109.40 plus \$54.60 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

The permit holder may be allowed to operate a hoist prior to the jump inspection if:

(a) The electrical limits will not allow the lift to operate above the previously inspected landing.

(b) The state elevator inspector is contacted, agrees and can schedule within 3 days.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is \$164.10 per conveyance plus \$54.60 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is \$54.60 per conveyance. The individual requesting the variance must provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is \$27.20.

Note: You must provide the department with written approval from the building official, indicating that the conveyance is not required for building occupancy, when you apply to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is \$54.60. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit must be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be \$109.40 per conveyance and \$54.60 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01045 What are the inspection requirements and fees for conveyances in private residences? (1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to ~~((inspection, you))~~ installation, a licensed elevator contractor must complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating ~~((permit))~~ certificate is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating ~~((permit))~~ certificate, the following fee must be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence	\$25.50
Each inclined wheel chair lift in a private residence	\$25.50
Each vertical wheel chair lift in a private residence	\$32.20
Each dumbwaiter in a private residence.	\$25.50
Each inclined elevator at a private residence.	\$91.00
Each private residence elevator	\$58.60
Duplication of a lost, damaged or stolen operating permit	\$10.80

NEW SECTION

WAC 296-96-01057 Does the department charge a fee to perform investigations and what is the fee? An elevator inspector may charge at a rate of \$65.50 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These services shall include accident investigation relating to any and all accidents. This fee would include an inspection as required during the accident investigation.

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01065 What are the annual operating ~~((permits))~~ certificate fees? An annual operating ~~((permit))~~ certificate will be issued to you upon payment of the appropriate fee~~((s))~~. The owner of record will be invoiced by the department. If a change of owner has occurred, it is the new owner's responsibility to ensure the department has the corrected information. Below is the fee structure table:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator	\$109.40
Each roped-hydraulic elevator	\$136.70
plus for each hoistway opening in excess of two	\$10.80
Each cable elevator.	\$136.70
plus for each hoistway opening in excess of two	\$10.80
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled.	\$10.80
Each limited-use/limited-application (—LULA) elevator.	\$109.40
Each escalator.	\$90.90
Each dumbwaiter in other than a private residence.	\$58.60
Each material lift	\$109.40
Each incline elevator in other than a private residence.	\$117.60
Each belt manlift.	\$109.40
Each stair lift in other than a private residence	\$58.60
Each wheel chair lift in other than a private residence.	\$58.60
Each personnel hoist.	\$109.40
Each grain elevator personnel lift.	\$90.90
Each material hoist	\$109.40
Each special purpose elevator	\$109.40
Each private residence elevator installed in other than a private residence.	\$109.40
Each casket lift	\$90.90
Each sidewalk freight elevator.	\$90.90
Each hand-powered manlift or freight elevator.	\$61.60

TYPE OF CONVEYANCE	FEE		
Each boat launching elevator	\$90.90	((Within)) <u>After</u> 90 days	\$109.40
Each auto parking elevator	\$90.90	((Between 91 and)) <u>After</u> 180 days	\$273.60
Each moving walk	\$90.90	((Between 181 and)) <u>After</u> 270 days	\$438.00
Duplication of a damaged, lost or stolen operating permit.	\$10.80	((Between 271 and)) <u>After</u> 360 days	\$500.00
		Each 30 days after 360 days	\$500.00

AMENDATORY SECTION (Amending WSR 07-11-128, filed 5/22/07, effective 6/30/07)

WAC 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter? (1) Any licensee, installer, owner or operator of a conveyance who violates a provision of chapter 70.87 RCW or this chapter shall be subject to the following civil penalties:

- (a) Operation of a conveyance without a permit:
 - First violation \$164.10
 - Second violation \$328.40
 - Each additional violation \$500.00
- (b) Installation of a conveyance without a permit:
 - First violation \$164.10
 - Second violation \$328.40
 - Each additional violation \$500.00
- (c) Relocation of a conveyance without a permit:
 - First violation \$164.10
 - Second violation \$328.40
 - Each additional violation \$500.00
- (d) Alteration of a conveyance without a permit:
 - First violation \$164.10
 - Second violation \$328.40
 - Each additional violation \$500.00
- (e) (i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator. \$500.00
 - (ii) Removal of a red tag from a conveyance \$500.00
- (f) Failure to comply with a correction notice:
 - ~~((Within))~~ After 90 days \$109.40
 - ~~((Between 91 and))~~ After 180 days \$273.60
 - ~~((Between 181 and))~~ After 270 days \$438.00
 - ~~((Between 271 and))~~ After 360 days \$500.00
 - Each 30 days after 360 days \$500.00
 - Note: Penalties are cumulative
- (g) Failure to submit official written notification that all corrections have been completed:

- (h) Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a \$500.00 penalty per day. The conveyance must be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional \$500.00 penalty per day. \$500.00
Plus WAC 296-96-01057
- (i) Falsifying official written documentation submitted to the department. Each day is a separate violation. \$500.00

(2) A violation as described in subsection (1)(a), (b), (c), and (d) of this section will be a "second" or "additional" violation only if it occurs within one year of the first violation.

(3) The department must serve notice by certified mail to an installer, licensee, owner, or operator for a violation of chapter 70.87 RCW, or this chapter.

PART C - REGULATIONS FOR NEW AND ALTERED ELEVATORS AND LIFTING DEVICES

NOTE: The following rules set the minimum standard for all new installations and, where applicable, alterations.
 NOTE: Part C is not intended to replace the current adopted standards outlined in WAC 296-96-00650. In conflicts between Part C and the adopted standards, Part C will take precedent.

NEW SECTION

WAC 296-96-02400 When must the department be notified for a new or altered inspection? (1) The person or firm installing, relocating, or altering a conveyance shall notify the department in writing, at least seven days before requesting any inspection of the work, and shall subject the new, moved, or altered portions of the conveyance to the acceptance tests.

(2) The department may grant exceptions to this notice requirement.

NEW SECTION

WAC 296-96-02405 What is the inspection and approval process for alterations? The following process must be followed when performing alterations:

(1) Obtain an alteration permit from the department prior to performing the alteration. The permit application must include detailed information on the scope of the alteration.

(2) Take the conveyance out-of-service and perform the alteration.

(3)(a) If the conveyance requires an inspection prior to being returned to service (as identified on the alteration permit), you must contact the department to perform an inspection and:

(i) If the conveyance passes the inspection, the conveyance may be placed back into service.

(ii) If the conveyance fails the inspection, the conveyance must remain out-of-service until the corrections are made and approved by the department.

(b) If the conveyance is not required to be inspected prior to being returned to service, you must contact the department to perform an inspection and:

(i) If the conveyance passes the inspection, the conveyance may remain in service.

(ii) If the conveyance fails the inspection, the conveyance will be placed out-of-service until the corrections are made and approved by the department.

NEW SECTION

WAC 296-96-02410 Are there additional work requirements when performing an alteration? For certain types of alterations additional work may be required as part of the alteration and prior to approval of the conveyance. These alterations include, but are not limited to:

(1) Replacements of controllers will require the following:

(a) Fire fighter service requirements must be met in accordance with the most recent code adopted by the department.

(b) Seismic requirements ("Derailment and/or seismic switch as required") must be met in accordance with the most recent code adopted by the department. In addition, the car must operate according to A17.1 seismic requirements.

(c) Lighting in the machine room and pit must comply with the most recent code adopted by the department.

(d) Electrical outlets in the machine room and pit must be of the ground fault interrupter type.

(2) Replacement of controllers and a car operating panel and/or hall fixtures:

(a) The requirements of subsection (1) of this section must be met.

(b) All panels and fixtures must meet the applicable (e.g., height, sound, Braille, etc.) requirements in accordance with this chapter.

(3) Replacement of door operators and/or door equipment: Any changes to these items require the installation of door restrictors.

(4) Hydraulic piping: Replacement or relocation of hydraulic piping will require the installation of a rupture (overspeed) valve.

Note: The department may grant exceptions to the requirements identified in this section.

NEW SECTION

WAC 296-96-02415 What are the conditions for obtaining a temporary construction operating permit?

Note: See WAC 296-96-01040 for fees.

(1) In order to obtain a permit: The elevator must at a minimum adhere to:

(a) ASME A17-1 Section 5.10 Elevators Used for Construction.

(b) A single means of disconnecting the elevator must be provided and related equipment must be identified by the use of numbers or letters on the disconnect, the controller, the drive machine, the cross head, and the car operating panel.

(c) The key operation of Phase I must recall the elevator.

(d) A means of emergency communication with the elevator must be provided. If there is no permanent method of emergency communication an operator with communication equipment must be provided.

(e) Tests shall be conducted according to A17.1-8.10.5.10 Elevators Used for Construction.

(f) Hydraulic elevators with less than four stops may not be issued a temporary construction operating permit unless preapproved by the department.

(g) Elevator cab interiors must be completed. Temporary cabs may be used and walls must be covered with fire retardant materials.

(h) The elevator must pass load tests and safety circuit inspections.

(i) Temporary or permanent lights in the cab, machine room and at the landings must be provided.

(j) Machine rooms must be fully enclosed and have a lockable door.

(k) Hoistways must be fully enclosed.

(l) The elevator is for construction use only. Office furniture and goods used to stock the building are not to be considered construction work.

(2) The person operating the permitted conveyance under this section must be properly trained in operation and safety and:

(a) The operator, which may be one of your employees, must be on the elevator whenever it is in use.

(b) The operator must be designated to be the sole operator of the elevator.

(c) The operator must be trained in the proper operation of the elevator, the proper procedure to handle an emergency and must know who to contact in the event of an emergency involving the operation of the elevator.

(d) The operator must carry a means of two-way communication on his/her person at all times. (This may be in the form of a cellphone, walkie-talkie, etc., providing proper reception is obtainable at all times.)

NEW SECTION

WAC 296-96-02420 What are the requirements for temporary construction operating permits? (1) A thirty-day temporary construction operating permit is for transport

tation of construction personnel and materials only, not for the transportation by the general public.

(2) Temporary construction operating permits are valid for thirty days.

(3) You must contact the department for a reinspection to renew the permit.

(4) All elevators with expired temporary construction operating permits that have not passed a final inspection may not be operated. Operating an elevator with an expired permit shall result in a civil penalty (see WAC 296-96-01070 (1)(a)).

(5) Renewal of a temporary operating permit is at the discretion of the department.

NEW SECTION

WAC 296-96-02425 Where is a shut-off valve required for hydraulic elevators? Two shut-off valves may be required.

(1) ASME requires that a shut-off valve be installed in the machine room.

(2) When the pit is lower than the machine, a shut-off valve must be installed in the pit.

(3) A separate shut-off valve is not required in the pit for hydraulic elevators equipped with a safety/rupture valve that rotates no more than 180 degrees to stop the flow of hydraulic fluid and has a safety shut-off handle capable of being grasped.

EXCEPTION: Limited use/limited application (LULA), special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02450 Can pipes and ducts be installed above a machine room? Electric conduit and ducts may be installed in the upper space ("upper space" is defined as the space above the fire-rated ceiling) of the elevator machine room as long as they are installed above the required seven-foot clearance and they do not interfere with the elevator equipment which also must be installed to allow a seven-foot clear head room.

(1) Straight through runs of electrical conduit without junction boxes can be installed in this space.

(2) Pipes and ducts conveying gases, vapor, or liquids may be installed in the space above the machine room provided they are encased in a noncombustible secondary pipe without joints, or a moisture barrier without penetration.

EXCEPTION: Residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02455 What is the minimum working space required in machine rooms? (1) In machine rooms with equipment requiring maintenance and inspection, an eighteen-inch working space must be established.

(2) There must be a minimum of eighteen inches working space (other than the required controller panel clearances) on one of the four sides of the hydraulic tank.

(3) The requirements in subsections (1) and (2) of this section do not supersede NFPA 70.

(4) The side with the hydraulic outlet pipe is not considered usable working space.

NEW SECTION

WAC 296-96-02460 What are the requirements for electrical main line disconnects? (1) The main line disconnect switch(es) or circuit breaker must be located inside the machine room door on the lock jamb side of the machine room door and not more than twenty-four inches from the jamb to the operating handle; and it must be at a height of not more than sixty-six inches above the finish floor.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors must swing out and the switch(es) must be on the wall adjacent to the hinge side of the active door panel.

(4) The switch(es) must be designed so that they may be locked out and tagged in the open position.

EXCEPTION: Special purpose and residential inclined elevators are exempt from this section.

NEW SECTION

WAC 296-96-02465 What are the requirements associated with elevator machine rooms? (1) Panels or doors for the purpose of accessing nonelevator equipment are not permitted in elevator machine rooms. Passage through the machine room may not be used to gain access to other parts of the building that do not contain elevator equipment.

(2) The lighting control switch must be located inside the machine room within twenty-four inches of the lock jamb side of the machine room door.

(3) Cooling or venting of the elevator machine room shall be to the present building code adopted by the state.

Machinery spaces, machine rooms, control spaces, and control rooms that contain solid-state equipment for elevator operation shall be provided with an independent ventilation or air-conditioning system to protect against the overheating of the electrical equipment. Ventilation systems shall use outdoor makeup air. The system shall service the equipment space only, and shall be capable of maintaining the temperature and humidity within the range established by the manufacturer's specifications. Where no manufacturer specifications are available, the equipment space temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than ninety degrees Fahrenheit.

The cooling load for the equipment shall include the BTU output of the elevator operation equipment as specified by the manufacturer based on one hour of continuous operation. The outdoor design temperature for ventilation shall be from the 0.5 percent column for summer from the Puget Sound Chapter of ASHRAE publication "*Recommended Outdoor Design Temperatures, Washington State.*" The following formula shall be used to calculate flow rate for ventilation:

CFM = BTU output of elevator machine room equipment / [1.08 x (acceptable machine room temp - makeup air temp from the ASHRAE publication)]

EXCEPTION: For buildings four stories or less, natural or mechanical means may be used in lieu of an inde-

pendent ventilation or air-conditioning system to keep the equipment space ambient air temperature and humidity in the range specified by the elevator equipment manufacturer.

(4) A thermostat must be provided in the elevator machine room to control the temperature.

(5) Where no specifications are available, the machine room temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than one hundred degrees Fahrenheit.

(6) When standby power is connected to the elevators, the machine room ventilation or air conditioning system shall be connected to the standby power.

(7) If the air conditioner is mounted overhead, seven feet of headroom clearance must be provided from the underside of the unit to the machine room floor.

(8) If ventilation is used, it must not exhaust air into other parts of the building.

(9) Machine rooms located in underground parking garages must have a means to exchange the air in the machine room. An "exchange of air" is completed through separate intake and exhaust systems.

EXCEPTION: The air in an underground parking garage machine room can be exchanged directly into the parking garage area.

(10) All elevators that are provided with remote elevator machine and/or control rooms must be provided with a permanent means of communication between the elevator car and the remote machine room and/or control room.

(11) Elevator machine room doors must have signs with lettering at least 1.25 inch in height with "elevator equipment room authorized personnel only - no storage."

EXCEPTION: Residential conveyances, LULAs and special purpose elevators are exempted from these requirements.

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.

FIRE SERVICE, SPRINKLERS, SPRINKLER PIPES, SHUNT TRIP

NEW SECTION

WAC 296-96-02470 What are the requirements for Fireman's Service Phase I and Phase II recall? Devices for deactivating recall must be in the line of sight of the elevator; be secure from tampering; and must be accessible to fire, inspection, and elevator service personnel only. Owner-designated patient express and emergency hospital service elevators may have a manual control in the car for use by authorized patient care personnel. When activated, it shall preclude Phase I recall.

The illuminated visual signal in the car that indicates when Phase I Emergency Recall Operation is in effect must stay illuminated until the car is taken off Phase I operation.

Once the car returns to the designated landing on Phase I recall and the doors have reached their full open position, the buzzer must be silenced within ten seconds.

Groups of elevators containing four or more cars shall be provided with two, three-position key switches per group.

For purposes of this section, a group shall be defined as all elevators serving the same portion of a building. Hall call buttons common to a group will remain in service unless both Phase I recall switches of a four car or larger group are placed in the recall mode or a fire alarm recall signal is initiated.

EXCEPTION: Limited use/limited application (LULA), special purpose, and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02475 What are the requirements for sprinklers in hoistways and machine rooms? (1) The machine room sprinkler piping must terminate in the machine room. The sprinkler piping must not run through the machine room to other spaces.

(2) The hoistway must not be used to supply sprinkler piping to more than one floor.

(3) The pit will be considered as a floor level.

(4) Sprinkler heads at the top of the shaft must terminate in the shaft. The sprinkler must not run through the hoistway to other spaces. ("Other spaces" includes the machine room.)

(5) All risers and returns must be located outside of the hoistway and machine room.

(6) See requirements in ASME A17.1.

(7) If a sprinkler system is added to an existing installation, the conveyance will be required to:

(a) Install shunt trip per WAC 296-96-02277.

(b) If the conveyance was permitted to install on or after 1/1/1989 (A17.1-1987 code), then the fire service must operate to the code enforced per the original installation permit. A controller alteration will require fire and sprinkler system installation to the current adopted code.

(c) If the permit is prior to 12/31/1988, the fire service shall operate per current adopted standard in effect at the time of the alteration permit. (See A17.1-2.27.3.)

NEW SECTION

WAC 296-96-02480 How does the department enforce ASME requirements for sprinklers, smoke detectors, and heat detectors in hoistways and machine rooms?

ASME A17.1-2.8.2.3.2 states: "Means shall be provided to automatically disconnect the mainline power supply to the affected elevator upon or prior to the application of water from sprinklers located in the machine room or in the hoistway more than 600 mm (24 inches) above the pit floor. This means shall be independent of the elevator control and shall not be self-resetting. The activation of sprinklers outside the hoistway or machine room shall not disconnect the main line power supply." This section applies to both new and altered elevators when sprinklers have been installed in the elevator machine room and/or hoistway.

(1) The department enforces this rule as follows:

(a) When sprinkler systems are installed in an elevator hoistway, fixed temperature heat detectors set only at one hundred thirty-five degrees Fahrenheit must be located at the top of the hoistway. If sprinklers are installed in the machine room, the same rule applies to heat detectors in the machine room. If heat detectors are installed, they must be no more than eighteen inches from the sprinkler and in accordance

with NFPA must also be installed for elevator recall. The purpose of the heat detector is to automatically disconnect mainline power to the elevator before water flows from any sprinkler associated with the elevator system.

(b) Activation of a smoke detector or other department approved initiating device at the top of the hoistway shall cause all elevators having any equipment in that hoistway, and any associated elevators of a group automatic operation, to be returned nonstop to the designated level.

(c) Heat detectors must be:

(i) Located within eighteen inches of each sprinkler head, as required by the local building official, or as required by NFPA 13.

(ii) Ceiling mounted. However, pit detectors, if installed, may only be used as a signaling device and wall-mounted if they are so designed.

(iii) Heat detectors are not required in pits provided the automatic sprinkler heads are installed in such a way that the water spray pattern does not spray higher than three feet above the pit floor with a spray pattern directed level and down.

(d) The shunt trip disconnect must be installed in the machine room or machinery space and it must be easily identifiable.

(e) Power for the automatic disconnect control circuit.

(i) Must be derived from a one hundred twenty volt separate branch circuit. Circuit location must be identified on or next to the elevator disconnects; and

(ii) An illuminated visual device must be installed in the machine room adjacent to each elevator's disconnect. The purpose of this visual device is to indicate that power is available to the shunt trip activation mechanism; or

(iii) The department will allow disconnects that are labeled and listed to have built-in circuits that transform the power for the shunt trip device. This must be a one hundred twenty volt supply to the device. The shunt trip device must initiate shunt trip of the main line, not the fire panel. There must be an illuminated visual device incorporated on the disconnect switch that identifies that power is available to the shunt trip device.

(f) All electrical equipment and wiring associated with shunt trip devices must conform to the applicable ANSI/NFPA 70.

(g) The department does not require sprinkler shut-off valves. However, where they are installed, they must be located in an accessible place outside the hoistway, machine room or machinery space with their handles placed at no more than six feet above the floor.

(h) Emergency return units must be disabled when the shunt trip is activated.

(2) Alternative methods used to achieve ASME A17.1-2.8.2.3.2 must be approved by the department prior to installation.

EXCEPTION: Limited use/limited application (LULA), special purpose, and residential elevators are exempt from this section.

CAR(S)

NEW SECTION

WAC 296-96-02485 What is required for emergency escape hatches? Emergency escape hatches must be hinged and secured from the car top so that the cover opens from the top of the car only. The hatch must be able to be opened without the use of tools.

EXCEPTION: Machine roomless elevators are exempt from this requirement. They must be locked from inside the car and provide the key in the elevator lock box.

NEW SECTION

WAC 296-96-02490 Are there exceptions for correction facility elevators? Facilities that require special consideration to ensure the safety of security personnel and to prevent escapes must meet the relevant requirements of ASME A17.1, except that accessible "in-car" stop switches and signaling devices are not required when the elevator operation is:

- (1) Continually monitored by audio-visual equipment.
- (2) Remotely controlled from a single location.
- (3) Controls necessary for an elevator's operation may be located inside a car when the operating panel has a locked cover.

NEW SECTION

WAC 296-96-02495 Are self-leveling devices required? Automatic elevators must be equipped with a self-leveling device. Each car shall be equipped with a self-leveling feature that will automatically bring and maintain the car at floor landings within a tolerance of one-half inch (13 mm) under rated loading to zero loading conditions.

NEW SECTION

WAC 296-96-02500 Is a door reopening device required on automatic-closing car doors? Elevator doors shall be provided with a reopening device that shall stop and reopen a car door and hoistway door automatically if the door becomes obstructed by an object or person.

The reopening device shall be activated by sensing an obstruction passing through the opening at five inches (125 mm) nominal and twenty-nine inches (735 mm) nominal above the floor.

The reopening device shall not require physical contact to be activated, although contact shall be permitted before the door reverses.

The reopening device shall remain effective for twenty seconds minimum.

EXCEPTION: Special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02505 What is the minimum acceptable initial transfer time for an elevator door? The minimum acceptable time from notification that a car is answer-

ing a call until the doors of that car start to close shall be calculated from the following equation:

$T = D(1.5 \text{ ft/s})$ or $T = D/(455 \text{ mm}) = 5$ seconds minimum, where T equals the total time in seconds and D equals the distance (in feet or millimeters) from the point in the lobby or corridor 60 inches (1525 mm) directly in front of the farthest call button controlling that car to the centerline of its hoistway door.

EXCEPTION: For car with in car lanterns, T shall be permitted to begin when the signal is visible from the point sixty inches directly in front of the furthest hall call button and the audible signal is sounded.

Elevator doors shall remain fully open in response to a car call for three seconds minimum.

EXCEPTION: Special purpose and residential elevators are exempt.

EXCEPTION: Limited use/limited application (LULA), special purpose, and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02510 What are the minimum cab size and other applicable requirements for car interiors? (1)

All car interiors must be constructed to allow wheelchair users to enter the car, to maneuver within reach of the control panel and to exit the car.

(2) Minimum door width must be thirty-six inches.

(3) Minimum cab depth:

(a) From the rear wall to the return panel must be fifty-one inches; and

(b) From the rear wall to the inside face of the cab door must be fifty-four inches.

(4) For cabs with side-opening doors, the minimum cab width is sixty-eight inches;

(5) For cabs with center-opening doors, the minimum cab width is eighty inches;

(6) Maximum clearance between a car platform sill and the edge of a hoistway landing sill must be 1-1/4 inch; and

(7) If the building official having jurisdiction determines the elevator must comply with accessibility requirements, the elevator must comply with subsections (1) through (6) of this section.

Note: See IBC for stretcher requirements for building four stories or more. Written prior approval from the local building/fire official must be obtained to reduce these requirements.

EXCEPTION: Elevators located in existing school buildings or other buildings specifically identified by local authorities may have a minimum clear distance between walls or between a wall and the door, including the return panel, of 54 inches, and a minimum distance from the wall to the return panel of 51 inches.

EXCEPTION: LULA, special purpose, and residential elevators must meet the specifications in ASME A17.1 pertaining to car size.

NEW SECTION

WAC 296-96-02515 What is required for car controls? (1) Car controls shall be located within one of the reach ranges specified in ANSI 117.1 section 308.

EXCEPTION: Where the elevator panel serves more than sixteen openings and a parallel approach to the controls is provided, buttons with floor designations shall be permitted to be fifty-four inches maximum above the floor.

(2) Elevator car call sequential step scanning shall be provided where car control buttons are provided more than forty-eight inches above the floor.

(3) Floor selection shall be accomplished by applying momentary or constant pressure to the up or down scan button. The up scan button shall sequentially select floors above the current floor. The down scan button shall sequentially select floors above the current floor. When pressure is removed from the up and down scan button for more than two seconds, the last floor selected shall be registered as a car call. The up and down scan button shall be located adjacent to or immediately above the emergency control buttons. (new requirement)

(4) Car control buttons with floor designations shall be raised or flush.

(5) Buttons shall be three-fourth inch minimum in their smallest dimension.

(6) Buttons shall be arranged with numbers in ascending order. When two or more columns of buttons are provided they shall read from left to right.

(7) Control buttons shall be identified by tactile characters complying with ANSI 117.1 section 703.

(8) Tactile characters and Braille designations shall be placed immediately to the left of the control button to which the designations apply.

(9) Car control keypads shall be a standard telephone keypad arrangement.

(10) Keypads shall be identified by visual characters complying with ANSI A117.1 and shall be centered on the keypad button. The number five key shall have a single raised dot.

(11) The dot shall have a base diameter of 0.188 inch minimum to 0.120 inch maximum, and a height of 0.025 inch minimum and 0.037 inch maximum.

(12) Emergency controls shall have their centerlines thirty-five inches minimum above the floor.

(13) Emergency controls including the emergency alarm shall be grouped at the bottom of the panel.

(14) The control buttons for emergency stop, alarm, door open, door close, main entry floor, and phone shall be tactile symbols. Per ANSI table 407.4.7.1.3.

(15) Buttons with floor designations shall be provided with visible indicators to show that a call has been registered. The visible indicator shall extinguish when the car arrives at the designated floor.

EXCEPTION: Special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02520 What are the location and operation requirements for car position indicators in the car?

(1) Audible and visible car position indicators shall be provided in elevator cars. Visible indicator characters shall be one-half inch minimum in height.

(2) Indicators shall be located above the car control panel or above the door.

(3) As the car passed the floor and when a car stops at a floor served by the elevator, the corresponding character shall illuminate.

(4) The signal shall be an automatic verbal annunciator that announces the floor at which the car is about to stop. The verbal announcement indicating the floor shall be completed prior to the initiation of door opening.

EXCEPTION: For elevators other than destination-oriented elevators that have a rated speed of two hundred feet per minute or less, a nonverbal audible signal with a frequency of 1500 Hz maximum that sounds as the car passes or is about to stop at a floor served by the elevator shall be permitted.

(5) The verbal annunciator shall be ten dBA minimum above ambient, but shall not exceed eighty dBA, measured at the annunciator.

(6) The verbal annunciator shall have a frequency of 300 Hz minimum and 3000 Hz maximum.

(7) Nonverbal audible annunciators must be at least twenty decibels with a frequency no higher than 1500 Hz.

EXCEPTION: Special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02525 What is required for installation and operation of emergency communication systems?

Every elevator must contain an emergency two-way communication system. The installation and operation of this emergency communication system must comply with the ASME A17.1 code in effect when the department issued the elevator's installation permit. In addition to the appropriate ASME A17.1 code, the following requirements apply:

(1) The communication device located in the elevator car must comply with the following:

(a) The maximum height of any operable part of the communication system is forty-eight inches above the floor.

(b) Raised symbols and letters must identify the communication system. These symbols and letters must be located adjacent to the communication device. The characters used must be:

- (i) At least 5/8 inches but no more than two inches high;
- (ii) Raised 1/32 inch;
- (iii) Upper case;
- (iv) Sans serif or simple serif type; and
- (v) Accompanied by Grade 2 Braille.

(c) If the system is located in a closed compartment, opening the door to the compartment must:

- (i) Require the use of only one hand without tight grasping, pinching, or twisting of the wrist; and
- (ii) Require a maximum force of five pounds.

(d) The emergency communication system must not be based solely upon voice communication since voice-only systems are inaccessible to people with speech or hearing impairments. An indicator light must be visible when the telephone is activated. This nonverbal means must enable the message recipient to determine the elevator's location address

and, when more than one elevator is installed, the elevator's number.

(e) The emergency communication system must use a line that is capable of communicating with and signaling to a person or service that can respond appropriately to the emergency at all times.

(2) A communication device must be installed in the lobby adjacent to the Phase I key switch. This device must be a two-way communication device used to communicate with individuals in the elevator.

(a) The height of any communication device(s) located in the lobby must be located between forty-eight and sixty inches above the floor.

(b) Additional communication device(s) may also be located in other parts of the building in addition to the one located in the lobby.

EXCEPTION: Elevators that have less than sixty feet of travel do not require an intercom.

(3) Subsections (1) and (2) of this section do not apply to special purpose elevators. However, residential and special purpose elevators must have a means of communication located inside the elevator cab. This communication device must be available at all times.

EXCEPTION: Residential inclined elevators are exempt from this section.

NEW SECTION

WAC 296-96-02530 What requirements apply to the size and location of car handrails? A handrail must provide coverage lengthwise at least ninety percent from wall to wall.

(1) A handrail must be installed on all car walls not used for normal exits. The handrails must be:

(a) Attached to the wall at a height of between thirty-two and thirty-five inches from the floor.

(b) Attached to the wall with a 1-1/2 inch space between the wall and the rail;

(c) Constructed with the hand grip portion not less than 1-1/4 inches but not more than two inches wide;

(d) Constructed with a cross-section shape that is substantially oval or round;

(e) Constructed with smooth surfaces and no sharp corners. Approaching handrail ends on a blank wall in the interior corners of a car do not have to return to the wall. However, if the handrail is located on the closing door wall of a single-slide or two-speed entrance elevator and it projects an abrupt end towards people entering the car, the handrail end must return to the wall.

(2) Residential elevators must have at least one handrail. The handrail must be installed on a car wall not used for normal exits.

EXCEPTION: Special purpose elevators are exempt from this section.

NEW SECTION

WAC 296-96-02535 What requirements apply to floor designations on elevator door jambs? (1) Floor designations shall be provided in tactile characters complying with

ANSI A117.1 section 703.3 located on both jambs of elevator hoistway entrances.

(2) Tactile characters must be two inches minimum in height.

(3) A tactile star shall be provided on both jambs at the main entry level.

(4) Tactile characters shall be raised 1/32 inch minimum above their background.

(5) Characters shall be uppercase.

(6) Characters shall not be italic, oblique, script, highly decorative, or other unusual forms.

(7) Characters and their background shall have a non-glare finish.

(8) Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.

(9) Braille shall be contracted Grade 2 Braille and comply with ANSI A117.1 section 703.4.

(10) Braille shall be forty-eight inches minimum and sixty inches maximum above the floor, measured to the base line of the Braille cells.

(11) Characters shall be permanently attached (meaning tools required to remove).

Note: See ASNI A117.1 for a complete list of requirements.

EXCEPTION: Special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02540 What are the installation and operation requirements for hall buttons? (1) A clear floor space complying with ANSI A117.1 section 305 shall be provided at call controls.

(2) Objects beneath hall call buttons shall protrude one inch maximum.

(3) Call buttons and keypads shall be located within one of the reach ranges specified in ANSI A117.1 section 308 measured to the centerline of the highest operable part. In no instance shall they be lower than thirty-six inches.

(4) Call buttons shall be raised or flush.

(5) Call buttons shall be 3/4 inch minimum in the smallest dimension.

(6) The call button that designates the up direction shall be located above the call button that designates the down direction.

(7) Call buttons shall have visible signals to indicate when each call is registered and when each call is answered.

EXCEPTION: Special purpose and residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02545 What are the requirements for installation and operation of hall lanterns? (1) A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call and the car's direction of travel. Where in-car signals are provided, they shall be visible from the floor area adjacent to the hall call buttons.

(2) Visible signal fixtures shall be centered at seventy-two inches minimum above the floor. The visible signal elements shall be 2-1/2 inches minimum measured along the vertical centerline of the element. Signals shall be visible from the floor area adjacent to the hall call button.

(3) Audible signals shall sound once for the up direction and twice for the down direction, or shall have verbal annunciators that indicate the direction of elevator car travel.

(4) Audible signals shall have a frequency of 1500 Hz maximum. Verbal annunciators shall have a frequency of 300 Hz minimum and 3000 Hz maximum.

(5) The audible signal or verbal signal annunciator shall be 10 dBZ minimum above ambient, but shall not exceed 80 dBA, measured at the call button.

HOISTWAY AND PIT

NEW SECTION

WAC 296-96-02550 What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders? All newly installed underground pressure cylinders and pipes containing hydraulic elevator fluids shall be encased in an outer plastic containment.

(1) The plastic casing shall be constructed of polyethylene or polyvinyl chloride (PVC). The plastic pipe wall thickness must not be less than 0.125 inches (3.175 mm). The casing shall be capped at the bottom and all joints must be solvent or heat welded.

(2) The casing shall be sealed and dry around hydraulic pipe and cylinder to contain any leakage into the ground and to prevent electrolysis to the hydraulic pipe and the cylinder. Dry sand may be used to stabilize the hydraulic cylinder.

(3) A one-half inch pipe nipple with a one-way check valve shall be located between the casing and cylinder for monitoring purposes.

(4) Alternate methods must receive approval from the department prior to installation.

(5) This rule shall apply to all conveyances with installation permits issued by the department on or after 01/01/1993.

NEW SECTION

WAC 296-96-02555 What are the requirements for accessing elevated elevator pit equipment? Where elevated pit equipment requires assisted vertical access of more than five feet, a permanent noncombustible working platform shall be provided. Access to the platform must be by a fixed ladder or stair conforming to ANSI A14.3. The platform shall be of sufficient strength to support personnel and may be of open grillwork.

In residential installations where the pit depth exceeds three feet, a fixed vertical ladder, designed to the current adopted rules for commercial installations, must be provided.

NEW SECTION

WAC 296-96-02560 What are the requirements for submersible pumps or sumps? Sump pumps and drains are not required in elevator pits. Sump holes must be installed and measure a minimum of eighteen inches by eighteen

inches by eighteen inches. If drains or sump pumps are installed, they must not be directly connected to sewers and/or storm drains. P-traps and check valves are not allowed. All installations must meet the NEC and all plumbing codes. Drains meeting the above requirements may be installed in lieu of sump holes.

Sump hole covers must be designed to withstand a load of three hundred pounds per square foot.

NEW SECTION

WAC 296-96-02565 What are the requirements for top of car lighting for freight and passenger elevators? A permanently wired work light and outlet shall be installed on the top of freight and passenger elevators. The light(s) shall provide illumination of ten foot candles across the entire horizontal plane of the top of the car up to a height of six feet. The fixture(s) shall be protected from accidental breakage.

NEW SECTION

WAC 296-96-02570 How do we enforce hoistway ventilation? (1) Area of vents. Except as provided for in Section 3004.3.1, the area of the vents shall not be less than 3-1/2 percent of the area of the hoistway nor less than three square feet (0.28 m²) for each elevator car, and not less than 3-1/2 percent nor less than one-half square foot (0.047 m²) for each dumbwaiter car in the hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.

(2) Activation of the powered vent must not be from the same device that activates the phase one fire recall.

NEW SECTION

WAC 296-96-02575 How do we enforce hoistway pressurization? Pressurization requirements. Elevator hoistways shall be pressurized to maintain a minimum positive pressure of 0.10 inches of water column with respect to adjacent occupied space on all floors and a maximum pressure so as to not prevent the automatic operation of the elevator doors, as well as accounting for the stack and wind effect expected on the mean low temperature January day. This pressure shall be measured at the midpoint of each hoistway door, with all hoistway doors open at the designated primary recall level and all other hoistway doors closed. The supply air intake shall be from an outside, uncontaminated source located a minimum distance of 20 feet from any air exhaust system or outlet.

(1) Elevator doors. Each elevator door shall operate properly when hoistway pressurization is in effect.

(2) Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

(3) Machine rooms. Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with the International Building Code, Section 707.

(4) Special inspection. Special inspection for performance shall be required in accordance with the International Building Code, Section 909.18.8. System acceptance shall be in accordance with the International Building Code, Section 909.19.

(a) The elevator department must observe the operation of the doors and insure proper documentation and tags are on site.

(b) Devices shall have an approved identifying tag or mark on them consistent with the other required documentation and shall be dated indicating the last time they were successfully tested and by whom.

OUTSIDE HOISTWAY

NEW SECTION

WAC 296-96-02580 Are keys required to be on-site? The keys to the machine room and the keys that are necessary to operate the elevator must be located in a locked key retainer box in the elevator lobby at the designated level above the hall buttons, or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. If in order to meet this requirement the box would be located in an unsecured location (such as the outside portion of a condo), other arrangements shall be accommodated with the written permission of the department.

The key retainer box must be:

- Readily accessible to authorized personnel;
- Clearly labeled "ELEVATOR";
- Securely mounted;
- Equipped with a 1-inch mortise cylinder cam lock with keyway set to a #39504 Fort type key and securely mounted;

Further:

- Keys for access to elevator machine rooms and for operating elevator equipment must be tagged and kept in the key box.
- The box must contain all keys.
- Mechanical hoistway access devices must be located in the key box or machine room.

EXCEPTION: Residential elevators are exempt from this section.

NEW SECTION

WAC 296-96-02585 What are the requirements for fire doors installed in front of hoistway doors? If fire and/or smoke doors are required to be installed by the International Building Code or the local building official, they must:

(1) Not be permanently attached to the hoistway door assembly.

(2) Not encroach upon the full width and height of the hoistway door opening.

(3) Ensure the adherence to ANSI A117.1 as to hall buttons, lanterns, jamb markings, key switches and position indicators locations and line of sight.

LULA

NEW SECTION

WAC 296-96-02590 When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts? In existing buildings where LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts are to be installed, the local building official must signify that he/she is allowing this type of conveyance on a form provided by the department.

NEW SECTION

WAC 296-96-02595 What are the general requirements for LULA elevators? (1) LULAs may be permitted in churches, private clubs, and buildings listed on the historical register that are not required to comply with accessibility requirements.

(2) Installation of LULAs in existing buildings that are not required to comply with accessibility requirements will be considered on a case-by-case basis by the department.

(3) For LULAs installed according to subsections (1) and (2) of this section a form provided by the department must be signed by the local building official.

(4) LULAs must be equipped with an emergency communication device meeting the requirements of WAC 296-96-02330.

ACCESSIBILITY EQUIPMENT

NEW SECTION

WAC 296-96-02600 What is required for physically handicapped lifts? (1) All inclined stairway chairlifts and inclined and vertical wheelchair lifts installed in buildings where the conveyance is not visible at all times must be equipped with a standard electric switch Chicago style lock and #2252 key.

(2) All inclined stairway chairlifts and inclined and vertical wheelchair lifts installed in residences licensed as group homes must be equipped with a standard electric key switch Chicago style lock and #2252 key.

(3) All inclined stairway chairlifts and inclined and vertical wheelchair lifts installed in schools, day care centers, churches and other facilities which typically accommodate or provide services for children must also be equipped with a standard electric key switch Chicago style lock and #2252 key.

(4) Where these conveyances are installed outdoors, they must be equipped with either a standard electric key switch Chicago style lock and #2252 key or a timing device. The timing device must not allow the conveyance to run outside of normal business hours.

(5) In locations where the conveyance is not visible at all times, the conveyance must be equipped with a means of two-way communication that is capable of communicating with and signaling to a person or service that can respond appropriately at all times.

EXEMPTION: Inclined stairway chairlifts and inclined and vertical wheelchair lifts in private residences are not required to be equipped with key switches.

(6) Beginning July 1, 2004, vertical wheelchair lifts in commercial installations must be equipped with low energy power-operated doors or gates complying with ANSI/BHMA A156.19. Doors and gates shall remain open for twenty seconds minimum. End doors shall be thirty-two inches minimum clear width. Side doors shall be forty-two inches minimum clear width.

EXCEPTION: Lifts having doors or gates on opposite sides shall be permitted to have manual doors and gates.

(7) For purposes of this section, "not visible at all times" includes, but is not limited to, conveyances located in stairwells, auditoriums, and other areas which are not generally in the normal path of travel during the hours that the building is occupied.

NEW SECTION

WAC 296-96-02605 Are private residence inclined stairway chairlifts required to be permanently wired? Private residence inclined stairway chairlifts are not required to be permanently wired into a structure. These conveyances may be equipped with a cord and plug. The plug must be directly inserted into a wall receptacle that is protected by a fuse or a circuit breaker at its source and is capable of supporting the additional load on the circuit. The source must be identified either at the receptacle or at the feeder panel. The cord must be secured in a manner that will not create any tripping hazards.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05020 What requirements apply to the construction and fire safety of hoistway enclosures? Generally, local codes and ordinances govern hoistway enclosure construction. When not in conflict with a local code requirement, the enclosure must:

(1) Be built to a height of 7 feet above each floor, landing and adjacent stairway tread;

(2) Extend (adjacent to the counterweights) the full height of the floor and 8 inches beyond the counterweight raceway;

(3) Be constructed of either solid material or material with openings that will reject a 2-inch diameter ball; and

(4) Be supported and braced so that it does not deflect more than 1 inch when subjected to a force of 100 pounds applied perpendicular at any point.

(5) A full height hoistway enclosure is required only on the side(s) of the material lift for which the car is not equipped with a gate or enclosure.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05120 What requirements apply to car operating devices, terminal stopping devices and electrical protective devices? If electrically operated, such devices

must be enclosed. On lifts driven by winding drum machines, there must be a slack rope device employing an enclosed electric switch (manually reset type) which halts power to the drum and brake when the hoisting rope becomes slack.

On other lifts suspended by flexible means such as chain, there must be a slack rope/chains device employing an enclosed electric switch (manually reset type) which halts power to the machine and brake when the suspension means becomes slack.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-05140 What requirements apply to car safeties? Car safeties must be used on all material lifts that are suspended by wire ropes or chains. They must be able to stop and sustain a car carrying 125 percent of its rated load. On lifts driven by rack and pinion machines:

(1) Car safeties will consist of a freely rotating safety pinion, an overspeed governor and a safety device which may be mounted on the car.

(2) The rotating pinion driving an overspeed governor will travel on a stationary rack which is vertically mounted in the hoistway.

(3) The governor will actuate the safety device when the downward speed of the car reaches the tripping speed and will bring the car to a gradual stop.

(4) Car safeties must be able to stop and sustain a car carrying one hundred twenty-five percent of its rated load.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-05160 What types of ropes, chains, and rope connections must be used on a lift? (1) The following general requirements apply:

(a) Iron (low carbon steel) or steel wire ropes with fiber cores must be used to suspend cars and counterweights.

(b) The minimum safety factor for suspension ropes must be 6 times the manufacturers rated breaking strength per rope.

(c) The car, the counterweight end of the car and the counterweight wire ropes (or the stationary hitch ends where multiple roping is used) must be fastened so that the looped ends of the turned back portion in the rope sockets are clearly visible. Fastenings must either be:

(i) Individual tapered, babbitted rope sockets; or

(ii) Other types of department approved rope fastenings.

(d) Rope sockets must develop at least 80 percent of the breaking strength of the strongest rope used in the sockets.

(e) U-bolt rope clips (clamps) cannot be used for load fastenings.

(f) A metal or plastic data tag must be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag must include:

(i) The diameter of the ropes in inches; and

(ii) The manufacturer's rated breaking strength.

(iii) The month and year the ropes or chain were installed.

(iv) The name of the person or organization who installed the ropes.

(v) All replacements of wire rope or chain must be in accordance with the lift manufacturer's specifications.

(2) The following requirements apply to specific types of material lifts:

(a) Traction type lifts must use at least three hoisting ropes.

(b) Lifts suspended by hoisting chains must comply with the chain manufacturer's specifications for maintenance, inspection, and application.

(c) Lifts using roller chain type lifting chains must use chains with a six to one safety factor based on ASME/ANSI B-29.1M minimum (not average) chain strength.

(d) Drum type lifts, must use either at least two hoisting ropes or a secondary as well as a primary load path to the hoist must be employed. Also, the cable secured to the drum must be at least one and one-half turns around the drum when the carrier is at its extreme limit of travel.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07030 Does the department approve private residence elevator plans and specifications? Yes.

(1) Before commencing construction of any inclined private residence elevator the (~~owner~~) licensed installer must submit complete plans and specifications to the department for approval.

(2) Plans and specifications covering the installation of an inclined private residence elevator must be endorsed by a professional engineer before the department will approve the plans.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07050 What are the construction requirements for car landing enclosures and gates for inclined private residence elevators? Any landing enclosures and gates must have:

(1) A railing at least 42 inches high to protect all landing platforms and those areas of a building used as landing platforms; and

(2) A gate whose height is equal to the height of the railing to protect the passenger landing opening.

(a) Gates may either be a horizontally sliding type or a swing type; and

(b) All gates must be equipped with a latch that holds the gate closed and an electrical contact to prevent movement of the car when a gate is open; and

(3) Railing enclosure and gate shall reject a 1.5 inch diameter ball.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07120 What construction requirements apply to car doors and gates? (1) All car entrances must be protected by a door or gate. The height of the door or gate must be at least 42 inches and equal to the height of the car enclosure. Doors and gates may be either of a solid design or an openwork design. If of an openwork design, the door or

gate must be able to reject a 3-inch diameter ball. After the effective date of these rules the diameter will be reduced to 1.5 inches.

(2) Car doors or gates must be equipped with an electric contact that prevents the elevator from operating unless the door or gate is securely closed. If the gate is a swing type opening outward from the car, the electric contact must not be made until the gate is securely latched.

(3) All car doors or gates must be manually operated.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07150 What are the construction requirements for guide rails, track supports and fastenings? (1) Guides, guide rails, guide rail brackets, splice plates, and fastenings must be made of steel or other metals conforming to the requirements of this section.

(2) Guides, guide rails, guide rail brackets, and their fastenings and supports must, at the point of support, deflect 1/8 inch or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a mid-point between brackets, guide rails must deflect 1/4 inch or less in any direction.

Fixed, suspended cable guides may be used as a guide member(s). When used, the deflection is to be specified by the manufacturer and approved by a structural engineer licensed in the state of Washington.

(3) The top and bottom of each guide or guide rail run must not allow a car and counterweight guiding members to travel beyond the guide rail ends.

~~((4) Guides for inclined private residence elevators must have no more stresses and deflection than allowed by the manufacturer's specifications.))~~

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07171 How and when are safeties and governors tested? (1) A safety must be tested before the inclined private residence elevator is put into service. It must be tested while the elevator is carrying its rated load.

(2) Governors on instantaneous type safeties must be tested by hand tripping the governor while the elevator is traveling at its rated speed. Creating sufficient slack in the rope and dropping the elevator is ~~((the))~~ a method of testing speed governors located on ~~((a))~~ an elevator or chassis.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-07180 What are the construction requirements for driving machines and sheaves? (1)(a) Winding drums, traction sheaves, overhead sheaves and deflecting sheaves must:

- (i) Be made of cast iron or steel;
 - (ii) Have diameters at least 30 times the diameter of the wire hoisting ropes; and
 - (iii) Have machined rope grooves.
- (b) EXCEPTION:

(i) If 8 x 19 steel ropes are used, drum and sheave diameters may be reduced to 21 times the diameter of the hoisting rope.

(ii) Existing incline lifts suspended by cables are not required to have machine grooves, except for the first row of cables wrapped on the drum and shall be required to have a tracking device.

(iii) On existing inclined lifts suspended by cables that do not have machine grooves on the drum, the first layer of ropes will be recognized as providing the same traction as grooves, provided that this layer remains on the drum at all times and is not allowed to wind out. Such lifts must be provided with a tracking device to ensure that the rope does not wind over itself on the drum.

(2) The factor of safety, based on the static load (the rated load plus the weight of the car, ropes, counterweights, etc.) to be used in the design of driving machines and sheaves, must be at least:

(a) Eight for driving machines and sheaves built of wrought iron and steel; or

(b) Ten for driving machines built of cast iron, cast steel or other materials.

(3) Set screw type fastenings must not be substituted for keys or pins if connections are subject to torque or tension.

(4) Gears:

(a) When connecting drums or sheaves to the main driving gear, friction gears, clutch mechanisms or couplings must not be used.

(b) Worm gears having cast iron teeth must not be used.

(5) Brakes:

(a) Electric brakes must be of the friction type set by springs and must release electrically.

(b) All brakes must be able to stop and hold ~~((a))~~ an elevator carrying 125 percent of its rated load.

(c) At least one brake must be mounted so that in the case of gearbox failure, the drum will hold the rated load.

(d) If a single ground or short-circuit, a counter-voltage or a motor field discharge occurs and the operating device is set in the stop position, the brake magnet must set the brake.

(6) Driving machines:

(a) A driving machine may be mounted on ~~((a))~~ an elevator chassis or in a remote location. However, if mounted in a remote location, all sheaves and sprockets must be guarded and positioned so the hoisting ropes and chains remain properly aligned while the elevator is in use.

(b) Screw type machines must not be used.

(c) Hydraulic driving machines must conform to ASME A17.1.

(d) Roped-hydraulic machines may be used.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-07190 What construction requirements apply to terminal stopping switches? A hoistway must be equipped with normal upper and lower terminal stopping switches that are activated by ~~((a))~~ an elevator chassis. Normal upper and lower terminal stopping switches must stop the elevator at the normal top and bottom terminals of travel.

(1) A hoistway must be equipped with final terminal stopping switches that are activated by ~~((a))~~ an elevator chassis. These switches must stop the elevator if the elevator travels beyond the normal terminals and prevent the elevator from moving in either direction.

(2) Winding drum machines may use a slack cable switch instead of a bottom final terminal switch.

(3) Normal and final terminal stopping switches must not control the same switches on the controller unless at least two separate and independent switches are used. At least two of these separate switches must be closed in order to complete the motor and brake circuits for each direction of travel.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-07200 What are the requirements for operation of an inclined private residence elevator? (1) If the activation of the elevator is by key switch or key pad it must conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security such as key card or magnetic swipe card. Methods must conform to the following:

(a) The key or code must be entered each time to move the elevator.

(b) Key-operated switches must be of the spring return type and must be operated by a weatherproof cylinder type lock having not less than five pin or five disc combination with the key removable only when the switch is in the off position.

(2) If activation of the elevator is provided by a timing circuit that only allows the circuits to be initiated or unlocked for a sufficient amount of time to allow passengers to board the elevator and begin transit, a separate activation switch on the car is not required. The operating circuits must automatically relock:

(a) If the elevator is not activated within its preset period of time;

(b) When any landing stop button is activated;

(c) When the preset timing period has expired and the car has completed transit to another landing or returns to the departure landing.

(3) Emergency stop switches must be provided on or adjacent to the operating station.

(a) Stop switches in the car must:

(i) Be of a manually opened and manually closed type;

(ii) Have red handles or buttons and be conspicuously marked "STOP";

(iii) Open even if springs fail when springs are used.

(b) Stop switch at other operating stations:

(i) May be of a momentary type;

(ii) Must have red handles or buttons and be conspicuously marked "stop";

(iii) Must open even if springs fail when springs are used;

(iv) After initiation of stopping, the car may not automatically restart. Run condition must be manually initiated.

(4) Design and installation of control and operating circuits must meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit must not be used for interrupting power and applying machine brakes at terminals; stopping elevators when an emergency stop switch is open or when any electrical protective device operates; stopping a machine when the safety applies.

(b) If springs are used to activate switches, contact, or circuit breaking relays to stop the elevator at a terminal, the springs must be of the restrained compression type.

(5) Hand rope operation must not be used.

(6) Radio controls may be used in lieu of wiring for all car controls provided:

(a) The system is set up so that it is fail safe (if contact is lost, the unit will stop);

(b) In such installations, the ~~((stop))~~ STOP button in the car shall ~~((interrupt the circuit of frequency))~~ open the contact, and maintain an open condition, so that the car stops in the fail-safe mode as described in (a) of this subsection; and

(c) The controls are permanently mounted and conform to code.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-07210 What are the construction requirements for suspension methods? (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means may be any one of the following:

(a) Steel elevator wire rope;

(b) Steel aircraft cable; or

(c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.

(2) Steel tapes must not be used as a suspension method.

(3) The minimum diameter of hoist ropes or cables must be 1/4 inch ~~((for))~~ galvanized elevator wire rope and 3/16 inch ~~((for galvanized))~~ aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method is 8 based upon the rope tension while elevating a car carrying its rated load.

(b) In no case, must the rated breaking strength of the rope be less than 4,000 pounds.

(5) The contact arc of a wire rope on a traction sheave must be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum must have at least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding-drum ends of car and counterweight wire ropes must be secured by:

(a) Clamps on the inside of the drum; or

(b) Return loop; or

(c) Properly made individual tapered babbitted sockets; or

(d) Properly attached fittings recommended by wire rope manufacturers.

(e) U-bolt type clamps must not be used.

(8) The ends of wire ropes must be fastened to cars or counterweights by:

- (a) Return loop; or
 - (b) Properly made individual tapered babbitted sockets that conform to ASME A17.1 requirements. (The diameter of the hole in the small end of the socket must not exceed the nominal diameter of the rope by more than 3/32 inch.); or properly attached fittings recommended by wire rope manufacturers.
 - (c) U-bolt type clamps must not be used.
- (9) Rope repair:
- (a) Car and counterweight wire ropes cannot be lengthened or repaired by splicing.
 - (b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set must be replaced.

PART C2 - CONSTRUCTION, OPERATION, MAINTENANCE AND INSPECTION OF INCLINED PRIVATE RESIDENCE ELEVATOR FOR TRANSPORTING PERSON(S) ((FOR RESIDENTIAL USE))

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-07230 What requirements apply to electrical wiring? (1) All wiring must conform to the National Electrical Code (NEC) in effect at the time of installation or major alteration.

(2) If a driving machine is mounted on the elevator chassis, the electrical connections between the elevator and the power source must be able to stop power if a traveling cable parts.

(3) All electrical connections between the elevator and the stationary connections must be insulated flexible conductors conforming to the applicable articles in the NEC relating to Elevators, Dumbwaiters, Escalators, Moving Walks, Wheelchair Lifts, and Stairway Chair Lifts.

(4) An elevator mechanic employed by an elevator contractor may perform electrical work from the electrical disconnect to and including the elevator operating control systems.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-08200 What are the requirements for the activation and operation of an inclined private residence conveyances for transporting property? (1) If activation of the conveyance is by key switch, key pad or swipe card, the activation and operation must conform to the requirements of (a) and (b) of this subsection. The department may approve alternative methods of equal security.

(a) The key or code must be entered each time to move the conveyance.

(b) Key-operated switches must be of the spring return type and must be operated by a weatherproof cylinder type lock having not less than five pin or five disc combination with the key removable only when the switch is in the off position.

(2) If activation is provided by a timing circuit that only permits the circuits to be initiated or unlocked for a sufficient

amount of time to allow the loading of materials, the operating circuits must automatically relock:

(a) If the conveyance is not activated within its preset period of time;

(b) When any landing stop button is activated; or

(c) When the car has completed transit to another landing or returns to the departure landing.

(3) Emergency stop switches must be provided on or adjacent to the operating station. Stop switches:

(a) May be of a momentary type;

(b) Must have red handles or buttons and be conspicuously marked "STOP"; and

(c) Must open even if springs fail when springs are used.

(4) After initiation of stopping, the car may not automatically restart. Run condition must be manually initiated.

(5) Design and installation of control and operating circuits must meet the following:

(a) Control systems based upon the completion or maintenance of an electric circuit must not be used for interrupting power and applying machine brakes at terminals, stopping elevators when an emergency stop switch is open or when any electrical protective device operates, or for stopping a machine when the safety applies.

(b) If springs are used to activate switches, contact, or circuit breaking relays to stop the elevator at a terminal, the springs must be a restrained compression type.

(6) Hand rope operation must not be used.

(7) For inclined private residence conveyances installed before January 1, 2008, radio controls may be used in lieu of wiring for all car controls provided:

(a) The system is set up so that it is fail safe (if radio contact is lost, the unit will stop);

(b) In such installations, the stop button in the car shall interrupt the circuit of frequency; and

(c) The controls are permanently mounted and comply with the applicable rules.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-08210 What are the requirements for suspension methods? (1) When a chassis is suspended from a driving machine by a wire rope, a single method of suspension may be used. The suspension means may be any one of the following:

(a) Steel elevator wire rope;

(b) Steel aircraft cable; or

(c) Roller chain conforming to ANSI transmission roller chains and sprocket teeth.

(2) Steel tapes must not be used as a suspension method.

(3) The minimum diameter of hoist ropes or cables must be ~~((3/8))~~ 1/4 inch ~~((for))~~ galvanized elevator wire rope and 3/16 inch ~~((for galvanized))~~ aircraft cable.

(4) Factor of safety:

(a) The minimum factor of safety for a suspension method is 5 based upon the rope tension while elevating the elevator carrying its rated load.

(b) In no case, must the rated breaking strength of the rope be less than 4,000 pounds.

(5) The contact arc of a wire rope on a traction sheave must be sufficient to produce adequate traction under all load conditions.

(6) All wire ropes anchored to a winding drum must have at least one full turn of rope on the drum when the car or counterweight reaches its over-travel limit.

(7) The winding-drum ends of car and counterweight wire ropes must be secured by:

- (a) Clamps on the inside of the drum;
- (b) Return loop;
- (c) Properly made individual tapered babbitted sockets;

or

(d) Properly attached fittings recommended by wire rope manufacturers. U-bolt type clamps must not be used.

(8) The ends of wire ropes must be fastened to cars or counterweights by:

- (a) Return loop;
- (b) Properly made individual tapered babbitted sockets that conform to ASME A17.1 requirements (The diameter of the hole in the small end of the socket must not exceed the nominal diameter of the rope by more than 3/32 inch.); or
- (c) Properly attached fittings recommended by wire rope manufacturers. U-bolt type clamps must not be used.

(9) Rope repair:

(a) Car and counterweight wire ropes cannot be lengthened or repaired by splicing.

(b) If a single wire rope in a set is worn or damaged and needs to be replaced, the entire set must be replaced.

(10) A metal or plastic data tag must be securely attached to one of the wire rope fastenings each time the ropes are replaced or reshackled. The data tag must include:

- (a) The diameter of the ropes in inches; and
- (b) The manufacturer's rated breaking strength.

PART C3 - CONSTRUCTION, OPERATION, MAINTENANCE AND INSPECTION OF PRIVATE RESIDENCE INCLINED CONVEYANCES FOR TRANSPORTING ONLY PROPERTY ((FOR RESIDENTIAL USE))

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-08230 What requirements apply to electrical wiring? (1) All wiring must conform to the NEC in effect at the time of installation or major alteration.

(2) If a driving machine is mounted on the conveyance chassis, the electrical connections between the conveyance and the power source must be able to stop power if a traveling cable parts.

(3) All electrical connections between the conveyance chassis and the stationary connections must be insulated flexible conductors conforming to the applicable articles of the NEC relating to Elevators, Dumbwaiters, Escalators, Moving Walks, Wheelchair Lifts, and Stairway Chair Lifts.

(4) An elevator mechanic employed by an elevator contractor may perform electrical work from the electrical disconnect to and including the elevator operating control systems.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-09001 What regulations apply to personnel hoists? All personnel hoist(~~s installed~~) installations, maintenance, repair and tests must comply with the American National Standard Institute ANSI A10.4-~~((1990))~~ 2004 edition or the latest published edition adopted by ANSI, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-10001 What regulations apply to material hoists? All material hoist(~~s~~) installations, maintenance, repair, and tests must comply with the American National Standard Institute ANSI A10.5-1992 edition or the latest published edition adopted by ANSI, Safety Requirements for Material Hoists.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-11001 What regulations apply to belt manlifts? WAC ~~((296-96-11010 through 296-96-11078 applies))~~ 296-96-11016 through 296-96-11080 apply to all existing belt manlifts.

Belt manlifts installed between July 1, 2004, and January 1, 2008, must meet the requirements in ASME A90.1-1997.

After the effective date of these rules all belt manlift(~~s~~) installations and alterations must ~~((be installed according to Belt Manlifts USAS))~~ meet ASME A90.1-~~((1997))~~ 2003.

All belt manlifts must be maintained, inspected and tested to conform to section 8 and appendix II of ASME A90.1-2003.

Maintenance inspection report shall be kept in a secure location within the building the belt manlift serves.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-13149 What are the structural requirements for counterweights, counterweight enclosures, and counterweight fastenings? All counterweights must be fully enclosed at landings or at the path of travel.

(1) At the bottom of a counterweight enclosure, there must be an inspection opening large enough to allow the inspection of cable fastenings, counterweight and buffer.

(2) Rectangular shaped counterweights must be secured by at least two ~~((and one-half))~~, half-inch mild steel bolts with lock nuts.

(3) Round counterweights must be fastened with a center bolt at least three quarter inch in diameter and secured with a lock nut.

(4) All bolt eyes must be welded closed.

(5) Cable fastenings shall be by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of three cable clamps must be provided. U-shaped clamps shall not be acceptable.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-16140 How must car frames and platforms be connected? Connections between members of the car frames and platform must be riveted, bolted, or welded and must meet the following specifications:

- (1) Bolts where used through sloping flanges of structural members must have ~~((bolt heads))~~ bolt heads of the tipped head type or must be fitted with beveled washers.
- (2) Nuts used on sloping flanges of structural members must seat on beveled washers.
- (3) Welding of parts upon which safe operation depends must be done in accordance with the appropriate standards established by the American Welding Society.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-23100 Are keys required to be on-site? Yes.

(1) The keys to the machine room and the keys that are necessary to operate the elevator must be located in a locked key retainer box in the elevator lobby; or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. The key retainer box must be:

- (*) (a) Readily accessible to authorized personnel;
- (*) (b) Clearly labeled "Elevator"; and
- (*) (c) Equipped with a 1-inch cylinder cam lock key #39504.

Further:

- (*) Keys for access to elevator machine rooms and for operating elevator equipment must be tagged and kept in the key box.
- (*) The key box must contain all keys necessary for inspections of the elevator.
- (*) Mechanical hoistway access devices must be kept in the key box or machine room.

(2) The department may approve existing retainer boxes provided they are:

- (*) (a) Readily accessible to authorized personnel;
- (*) (b) Clearly labeled "elevator"; and
- (*) (c) The lock must be either a 1-inch cylinder cam lock key #39504 or a combination lock. The combination for the lock must be on record with the department.

Deviations from this section due to security concerns must be approved by the department via a variance request.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23116 What requirements apply to car numbers? In any building with more than one elevator, numbers at least two inches in height identifying each car must be located at the main lobby entrance, inside the car, on the machine, and on the disconnect switch and if the conveyance has a walk-in pit, the buffer stands.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-23117 What requirements apply to top of car railings for traction elevators? A standard railing must be installed on the top of all traction elevators where the perpendicular distance between the edges of the car top and the adjacent hoistway enclosure exceeds twelve inches horizontal clearance. The railing shall be substantially constructed of metal and shall consist of a top rail, intermediate rail and post. The top rail shall have a smooth surface and the upper surface shall be located at a vertical height of forty-two inches. The intermediate rail shall be located approximately halfway between the top rail and the car top. There must be a minimum of six inches of clearance above the top rail when the car is at its furthest point of travel ~~((on inspection mode))~~. If the vertical clearance from the car top to the hoistway enclosure, including gravity-stopping distance, is less than 48 inches away, the top handrail height may be reduced to 42 inches plus or minus 3 inches. If the clearances will not allow a 39-inch handrail, do not install the top of car railing, instead provide signage required by WAC 296-96-23119.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-23118 What requirements apply to top of car railings for hydraulic elevators in unenclosed hoistways? A standard railing must be installed on the top of hydraulic elevators installed in unenclosed hoistways. The railing shall be substantially constructed of metal and shall consist of a top rail, intermediate rail and post. The top rail shall have a smooth surface and ~~((, where practical))~~, the upper surface shall be located at a vertical height of ~~((forty-two))~~ 42 inches plus or minus 3 inches. The intermediate rail shall be located approximately halfway between the top rail and the car top. There must be a minimum of six inches of clearance above the top rail when the car is at its furthest point of travel on ~~((inspection mode))~~ the mechanical stop. If the vertical clearance of 6 inches cannot be achieved, do not install car top railing, instead provide signage required by WAC 296-96-119.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-23119 What signage requirements apply to traction elevators with minimal overhead clearance? ~~((Fraction))~~ Elevators that do not have a minimum of twenty-four inches of clearance from the crosshead, or any equipment mounted on the crosshead, to the lowest member of the overhead structure in the hoistway when the car has reached its maximum upward movement must have signage. A sign must be located near the top of car inspection station. An additional sign must be posted on the hoistway wall. This sign must be visible when accessing the car top. The sign shall consist of alternating four-inch diagonal red and white stripes and must clearly state "danger low clearance" in lettering not less than four inches in height.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23122 What type of lighting must be installed in machine rooms and machinery space? Permanent electric lighting must be provided in all machine rooms and machinery spaces. ~~((The))~~ All installations prior to 7/1/2004 require illumination ~~((must))~~ to be at least 10 foot-candles at floor level.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23132 What lighting requirements apply to pits? (1) Installations prior to 7/1/2004 require a permanent lighting fixture producing at least 5 foot-candle at the pit floor must be installed in all pits.

(2) A light switch must be installed and must be accessible from the pit access door.

(3) A permanent grounded outlet must be provided in all pits.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23316 What requirements apply to plunger stops? Plungers must be provided with solid metal stops and/or other means to prevent the plunger from traveling beyond the limits of the cylinder. Stops must be designed and constructed so as to stop the plunger from maximum speed in the up direction under full pressure without damage to the connection to the driving machine, plunger, plunger connection, or any other parts of the hydraulic system. For rated speeds exceeding 100 feet per minute where a solid metal stop is provided, means other than the normal terminal stopping device (i.e., emergency terminal speed limiting device) must be provided to retard the car to 100 feet per minute with ~~((a))~~ retardation no greater than gravity, before striking the stop.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23450 What requirements apply to step tread lighting? Step treads and landings must be illuminated throughout ~~((their run))~~. The light intensity on the treads must not be ~~((in accordance with local codes and ordinances for stairways))~~ less than 5 ftc (54 kx).

~~((It is recommended that))~~ The illumination shall be ~~((of))~~ uniform intensity and ~~((that it))~~ shall not contrast ~~((significantly))~~ materially with that of the surrounding area.

NEW SECTION

WAC 296-96-23455 What requirements apply to comb and step distinction? There shall be a visual contrast between the comb and step, achieved by color, pattern, or texture.

NEW SECTION

WAC 296-96-23460 What requirements apply to safety zone? The entry and exit zone shall be kept clear of all obstacles. The width of the zone shall be not less than the width between the centerlines of the handrails plus eight inches. The length of the zone, measured from the end of the newel, shall be not less than twice the distance between the centerlines of the handrails.

EXCEPTION: On the entrance side, the safety zone distance may be reduced, when cart restriction devices are installed, with prior written permission.

NEW SECTION

WAC 296-96-23465 What requirements apply to landing access plates? Access plates at the top and bottom landings shall be properly located and securely fastened in place when no more than seventy lbf effort is required to open the access plate.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23600 What is the scope of Part VI, Alterations, Repairs and Maintenance? Subpart VI, Alterations, Repairs and Maintenance, applies to periodic inspections, tests, alterations, and maintenance. The applicable code references are: ASME A17.1-Part 8, ASME A18.1-Part 10, ASME A90.1-Part 8, and appendix 2, ANSI A10.4-Part 26 & 27, ANSI A10.5-Part 4, and other requirements in this chapter.

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-23610 What requirements apply to routine periodic inspections and tests? The owner or the owner's agent must ensure that her/his conveyances are inspected and tested ~~((periodically))~~ on a periodic annual basis by a person qualified to perform such services. All conveyances must be tested to the applicable code(s) by an elevator mechanic licensed in the appropriate category for the conveyance being tested. (See appendix N in ASME A17.1.)

(1) For annual testing of electric, hydraulic, and roped hydraulic elevators, a log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the qualified person performing the test.

(a) A log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the licensed elevator mechanic performing the test.

(b) It is the responsibility of the owner or the owner's representative to install an updated log sheet in the machine room; the outdated log shall remain posted in the machine room.

(2) Required for fire fighters' service portion of the log. It is the owner's responsibility to test fire fighters' service operation of Phase I and Phase II key switches quarterly and annually perform the smoke detector test.

Note: The fire service key switch(es) and smoke detector testing may be performed and logged by the building owner.

~~((2)(a))~~ (3) For five-year testing ~~((of electric, hydraulic and roped hydraulic elevators a full load safety test must be performed with weights))~~.

(a) A full-load safety test must be performed with weights on all conveyances except hydraulic elevators.

(b) For roped hydraulic elevators a static load test with the full load on the car must also be performed.

(c) For tests administered under this subsection:

~~((A log indicating the date of testing with all pertinent data included must be posted in the machine room. The log must be completed by the licensed elevator mechanic performing the test.~~

~~((ii))~~ A safety tag with the date and company conducting the test must be permanently attached to the governor, safeties, and the rupture valves with a wire and seal.

~~((iii))~~ (A) For vertical platform lifts and stair chairs the tag must be located at the disconnecting means.

(B) Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.

(ii) Documentation must be submitted to the department on the approved state form.

(Note: Separate safety tags must be used to distinguish the no-load annual safety test and the five-year full load test.)

(d) Qualified people will conduct the test. A qualified person is either:

(i) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(ii) The representative of a firm that manufactured the particular material lift, and who holds a current temporary mechanic's license in this state; or

(iii) The representative of a firm that manufactured the particular material lift who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

Escalators shall be tested and cleaned annually. Upon completion of this work, the appropriate form indicating that the work was done must be submitted to the department.

~~((3))~~ (4) All other conveyances requiring annual testing must have tags indicating the date and the name of the company who performed the test. When the required location for mounting the tag is not readily accessible, the tag may be mounted on the main line disconnect.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23620 What requirements apply to alterations, repairs and maintenance? The owner or the owner's agent is responsible for the safe operation, proper maintenance, and alteration of his or her conveyance(s) and must comply with the present adopted ASME A17.1, Part ~~((XH))~~ §.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23630 What requirements apply to elevator equipment displaced by seismic activity? Any eleva-

tor equipment, hydraulic or cable ~~((type))~~ that is displaced as a result of seismic activity must be anchored to conform with current standards, when repaired or reanchored to the building.

AMENDATORY SECTION (Amending WSR 01-02-026, filed 12/22/00, effective 1/22/01)

WAC 296-96-23710 What requirements apply to lifts for the physically handicapped? On installations prior to 7/1/2004: Inclined and vertical chairlifts and inclined and vertical wheelchair lifts installed only for use by persons with disabilities in locations other than in or at a private residence must be equipped with a standard electric switch Chicago lock with key #2252.

EXCEPTION: See WAC 296-96-02370 for key alterations.

This requirement is in addition to ASME ~~((A17.1, Part XX))~~ A18.1, and the current Washington state rules and regulations on barrier-free design located in ANSI A117.1 in effect via the State Building Code (IBC).

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-96-01007 What is the inspection and approval process for alterations?
- WAC 296-96-02230 When must the department be notified for a new or altered inspection?
- WAC 296-96-02232 What are the conditions for obtaining a temporary operating permit?
- WAC 296-96-02235 What are the requirements for temporary operating permits?
- WAC 296-96-02240 Where is a shut-off valve required for hydraulic elevators?
- WAC 296-96-02275 What are the requirements for Fireman's Service Phase I and Phase II recall?
- WAC 296-96-02276 What are the requirements for sprinklers in hoistways and machine rooms?
- WAC 296-96-02277 How does the department enforce ASME requirements for sprinklers, smoke detectors, and heat detectors in hoistways and machine rooms?
- WAC 296-96-02278 Are keys required to be on-site?

WAC 296-96-02280	Can pipes and ducts be installed above a machine room?	WAC 296-96-02355	What are the installation and operation requirements for hall buttons?
WAC 296-96-02281	What is required for emergency escape hatches?	WAC 296-96-02360	What are the requirements for installation and operation of hall lanterns?
WAC 296-96-02282	What is required for fire fighters' service?	WAC 296-96-02361	What are the requirements for electrical main line disconnects?
WAC 296-96-02283	What is the minimum working space required in machine rooms?	WAC 296-96-02362	What are the requirements associated with elevator machine rooms?
WAC 296-96-02285	Are there exceptions for correction facility elevators?	WAC 296-96-02363	What are the requirements for fire doors installed in front of hoistway doors?
WAC 296-96-02290	What are the requirements for underground hydraulic elevator pipes, fittings, and cylinders?	WAC 296-96-02364	What are the requirements for accessing elevated elevator pit equipment?
WAC 296-96-02300	Are self-leveling devices required?	WAC 296-96-02366	What are the requirements for submersible pumps or sumps?
WAC 296-96-02306	Is a door reopening device required on automatic-closing car doors?	WAC 296-96-02367	What are the requirements for top of car lighting for freight and passenger elevators?
WAC 296-96-02310	What is the minimum acceptable initial transfer time for an elevator door?	WAC 296-96-02370	What is required for physically handicapped lifts?
WAC 296-96-02315	What are the minimum cab size and other applicable requirements for car interiors?	WAC 296-96-02371	Are private residence inclined stairway chairlifts required to be permanently wired?
WAC 296-96-02317	When does the department require a local building official to sign off for the installation of LULAs, stair lifts, inclined wheelchair lifts and vertical wheelchair lifts?		
WAC 296-96-02318	What are the general requirements for LULA elevators?		
WAC 296-96-02320	What is required for car controls?		
WAC 296-96-02325	What are the location and operation requirements for car position indicators in the car?		
WAC 296-96-02330	What is required for installation and operation of emergency communication systems?		
WAC 296-96-02340	What requirements apply to the size and location of car handrails?		
WAC 296-96-02350	What requirements apply to floor designations on elevator door jambs?		

WSR 07-24-044
PERMANENT RULES
SECRETARY OF STATE
(Elections Division)

[Filed November 30, 2007, 4:22 p.m., effective December 31, 2007]

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

Purpose: The Cycle 4 Rules of 2007 address issues such as the presidential primary, provisional voter registrations, on-line voter registrations, provisional and absentee ballot oaths, and voting systems.

Citation of Existing Rules Affected by this Order:
Repealing WAC 434-219-020, 434-219-070, 434-219-160, 434-219-165, 434-219-220, 434-219-170, 434-219-180, 434-219-260 and 434-219-280; and amending WAC 434-219-050, 434-219-060, 434-219-080, 434-219-100, 434-219-110, 434-219-120, 434-219-140, 434-219-150, 434-219-185, 434-219-190, 434-219-210, 434-219-230, 434-219-240, 434-219-250, 434-219-290, 434-219-310, 434-219-320, 434-219-330, 434-219-340, 434-230-060, 434-230-160, 434-250-040, 434-250-050, 434-253-024, 434-253-045, 434-253-047, 434-261-

005, 434-261-055, 434-324-005, 434-324-010, 434-324-040, 434-324-045, 434-335-030, and 434-335-060.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 07-21-138 on October 24, 2007.

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 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 32, Repealed 9.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 34, Repealed 9.

Number of Sections Adopted Using Negotiated Rule Making: New 3, Amended 34, Repealed 9; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2007.

Steve Excell

Assistant Secretary of State

Chapter 434-219 WAC

PRESIDENTIAL (~~(PREFERENCE))~~ PRIMARY

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-050 Procedures to be followed when changing primary date. If the date of the presidential primary is changed (~~(under)~~) pursuant to RCW (~~(29-19-020 and WAC 434-75-040)~~) 29A.56.020 from the fourth Tuesday in May to another date, the secretary of state shall promptly notify the county auditors and the chairperson of the national committee of each major political party, in writing, of that date.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-060 Designation of candidates by secretary of state. Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, the county auditors, the chairperson of each major political party, and each of the candidates whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC (~~(434-75-070)~~) 434-219-115.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-080 Petition process for ballot access. Members of a major political party may petition the secretary

of state, pursuant to the provisions of RCW (~~(29-19-030(2))~~) 29A.56.030, to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-219-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state under WAC 434-219-060. Such petitions must be filed with the secretary of state not later than (~~(the thirty-ninth day preceding)~~) sixty days prior to the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW (~~(29-79-200)~~) 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and any multiple signatures from the same voter. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-110 Determination of (~~(insufficient signatures)~~) sufficiency. In the event the secretary of state determines that the petition (~~(contains)~~) bears insufficient valid signatures, he or she shall notify the person filing the petition and the candidate on whose behalf the petition was filed. Persons so notified may submit additional signatures in support of the nomination as long as those signatures are submitted prior to the deadline established by RCW (~~(29-19-030)~~) 29A.56.030.

In the event the secretary of state determines the petition bears sufficient signatures, he or she shall add that candidate in the official certification of candidates to the county auditors.

NEW SECTION

WAC 434-219-115 Withdrawal. Each candidate shall appear on the primary ballot unless, not later than fifty-two days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not

now and will not become a candidate for president. The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-120 Certification of candidates. ~~((In the event the secretary determines a petition bears sufficient signatures he or she shall include the name of that candidate in the official certification of candidates to the county auditors. This certification shall be completed and transmitted to the county auditors not later than the thirty-fourth day prior to the primary.))~~ Immediately following the last day for candidates to withdraw, the secretary of state shall certify to the county auditors the final list of candidates who will appear on the presidential primary ballot.

AMENDATORY SECTION (Amending WSR 99-22-073, filed 11/2/99, effective 12/3/99)

WAC 434-219-140 Party declarations ((by voter)). ~~(1) ((Each registered voter desiring to participate in the presidential primary shall be given the opportunity to subscribe to any declaration provided under the national or state political party rules of a major political party for participation in the presidential nominating process of that party.~~

~~(2))~~ No later than August 15 in the calendar year preceding the year in which the presidential preference primary is to be held, the state chair of each major party shall submit in writing to the secretary of state the exact wording of ((the)) any party declaration required by rules of the state or national party.

~~((3))~~ (2) The secretary of state shall certify the language of each major party's declaration to the county auditors no later than August 30 in the calendar year preceding the year in which the presidential preference primary is to be held.

~~((4) A voter may subscribe to a declaration stating that he or she wants his or her vote to be counted in the unaffiliated results, provided that failure to subscribe to this declaration does not prevent any person's vote from being counted in the unaffiliated results. The unaffiliated declaration shall be printed in substantially the following form: "I do not want to sign a party declaration. I understand that party rules may not allow my vote to be used to select delegates to the nominating conventions.")~~ (3) Each registered voter desiring to participate in the presidential primary of a major party that requires a declaration shall subscribe to the declaration.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-150 ((Ballot request form used)) Party declaration at the polling place. (1) At a polling place, the political party declaration ((provided under WAC 434-219-140, when provided to a voter desiring to vote at a polling place,)) may appear on either:

(a) A paper form of uniform size for each voter. The form shall identify the presidential primary, the major political party, and the date, and shall have space for the voter to sign his or her name and address. The voter's precinct shall be clearly indicated on the form. Multiple-part reproducible forms may be used for this purpose. The signed ~~((ballot request))~~ forms shall be collected by the precinct election officers and transmitted to the county auditor at the end of the voting day; or

(b) A format printed in the poll book which would permit the voter to sign his or her name and address and to indicate his or her political party ~~((preference))~~ affiliation, if any ~~((; or~~

~~((c) Separate poll books for each major political party distinct from the poll books for voters who do not subscribe to the declaration of any major political party)).~~

(2) The county auditor shall provide appropriate instructions for the precinct election officers regarding the handling, maintaining, and transportation of the political party declarations.

NEW SECTION

WAC 434-219-155 Party declaration for absentee ballots. (1) Each political party declaration shall be printed on the return envelope with the standard absentee ballot oath required by WAC 434-250-050. Each declaration shall be printed with a checkbox for voters to indicate the party declaration to which they subscribe. The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."

(2) The date and signature lines for the absentee ballot oath shall also serve as the date and signature lines for the political party declaration.

(3) In addition to other instructions normally provided to absentee voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-185 Logic and accuracy tests ((decks)). ~~((No later than fifteen days before the date of the presidential primary, the county auditor shall provide for the preparation of a test deck for logic and accuracy testing. No later than thirty days before the date of the presidential primary, the county auditor in consultation with the office of the secretary of state shall schedule a logic and accuracy test so that a representative of the office of the secretary of state can be present during the test. A representative of the secretary of state shall observe and certify that the test was conducted. Excluding the provisions in this chapter the procedures for))~~ The logic and accuracy test shall be conducted pursuant to the provisions of chapter ((434-333)) 434-335 WAC and RCW ((29-33-350)) 29A.12.130.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-190 Special election held in conjunction with the presidential primary. If a special election is scheduled concurrently with the presidential primary under RCW ((~~29.13.010 or 29.13.020~~) 29A.04.321 or 29A.04.330), all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-210 Issuing (~~(absentee and)~~) polling place ballots. (1) Polling place voters who make a political party declaration shall be issued either that party's separate ballot or a consolidated ballot marked to match the party declaration.

(2) Polling place voters who do not make a political party declaration ((under WAC 434-219-140)) shall be presented either ((an unaffiliated)) a separate nonpartisan ballot, or a consolidated ballot ((coded as an unaffiliated ballot. Polling place voters who make a political party declaration under WAC 434-219-140 shall be presented either that party's ballot or a consolidated ballot coded to match their party oath.

(2) Absentee ballot voters, except as provided in subsection (3) of this section if applicable, shall be issued all unaffiliated and political party ballots, either as separate ballots or as a consolidated ballot.

(3) At the discretion of the county auditor, absentee ballots issued directly to the voter at the auditor's office may be issued in the same manner as polling place ballots provided that the voter marks, or verbally refuses to mark, the appropriate declaration on the return envelope prior to receiving the ballot)) that is marked to indicate no party affiliation.

(3) Precinct election officers shall verbally remind voters how to properly vote the ballot consistent with the party declaration made.

(4) Following the election, a notation of political party must be made in the voter registration files of those polling place voters who made a political party declaration.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-230 ((Segregation)) Processing of absentee ballots. ((Absentee)) (1) If the voter checked a political party declaration on the absentee ballot return envelope, a notation of the party checked must be made in the voter's registration file.

(2) If the return envelope is not signed or the signature on the envelope does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.

(3) The ballot(s) must be ((segregated)) sorted according to major party declaration choice before ((they are)) it is

removed from the return envelope(s)). ((The number of ballots in each segregated group shall be recorded on a ballot accountability form at each step of the absentee ballot canvassing process.)) Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration on the return envelope.

(4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-240 ((Inspection of absentee ballots.)) Canvassing consolidated ballots that include a party checkbox. ((Each absentee ballot cast by voters who signed a party declaration shall be inspected.

If a voter signs a party oath and votes for a candidate certified by the secretary of state for that party, that voter's ballot shall be grouped and tabulated with the ballots of that party. The number of ballots so voted shall be recorded on the ballot accountability form.

If a voter signs an unaffiliated oath, or does not sign an oath at all, that voter's ballot shall be grouped and tabulated with the unaffiliated ballots. The number of ballots so voted shall be recorded on the ballot accountability form.

Any voter who signs a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.)) If a county auditor issues consolidated ballots that include a party checkbox on the ballot, the following canvassing protocols must be followed:

(1) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(2) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(3) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(4) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks a party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(5) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot;

and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(6) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot;

and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(7) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(8) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(9) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for the same party declared on the return envelope; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(10) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks the party box on the consolidated ballot for a different party than declared on the return envelope; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(11) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Fails to check a party box on the consolidated ballot; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(12) If a voter:

(a) Signs a party declaration on the return envelope;

(b) Checks more than one party box on the consolidated ballot; and

(c) Votes for candidates of more than one party, the partisan votes shall not be counted.

(13) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.

(14) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-250 ((~~Tabulation of~~) Canvassing separate party ballots and consolidated ballots that do not include a party checkbox.

~~((1) Any voter who selects a party oath and votes for a candidate certified by the secretary of state for that party shall have that vote tabulated as a political party vote, regardless upon which ballot that vote is cast.~~

~~(2) Any voter who selects the unaffiliated oath, shall have that vote tabulated as an unaffiliated vote, regardless upon which ballot that vote is cast.~~

~~(3) Any voter who selects a party oath and then votes for a candidate certified by the secretary of state for a different party shall not have that vote tabulated.~~

~~(4) If the voter does not select an oath, then no vote for president shall be tabulated.)~~ If a county auditor issues either separate party ballots or consolidated ballots that do not include a party checkbox on the ballot, the following canvassing protocols must be followed:

(1) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of the same party declared on the return envelope, the votes shall be counted.

(2) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of a different party than declared on the return envelope, the partisan votes shall not be counted.

(3) If a voter:

(a) Signs a party declaration on the return envelope; and

(b) Votes for candidates of more than one party, the partisan votes shall not be counted.

(4) If a voter signs a party declaration on the return envelope for more than one party, the partisan votes shall not be counted.

(5) If a voter fails to sign a party declaration on the return envelope, the partisan votes shall not be counted.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-290 ((~~Canvassing and~~) Certification of presidential primary by secretary of state.

County canvassing boards shall certify the results of the presidential primary ~~((including the total number of write-in votes cast, by congressional and legislative districts, not later than the tenth day))~~ fifteen days following the primary. The county auditor shall ~~((send one original copy of))~~ transmit the returns ~~((by mail))~~ ((by mail)) to the secretary of state ~~((on the same day the returns are certified))~~ immediately. ~~((Wherever applicable, the other procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential primary.))~~

Not later than ~~((the thirtieth day))~~ twenty-one days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for ~~((each))~~ all candidates listed on the ballot ~~((and of the write-in votes cast for any qualified write-in candidates)).~~

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-310 Statutory recount provisions do not apply. The provisions of chapter ~~((29-64))~~ 29A.64 RCW regarding statutory recounts do not apply to a presidential primary.

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00, effective 2/6/00)

WAC 434-219-320 Transmittal of political party preference data and results~~((—Transmittal))~~ **to the major political parties.** No later than thirty days following ~~((the certification of the returns of))~~ the presidential primary ~~((by the secretary of state, the))~~;

(1) Upon request, each county auditor shall provide to the county ~~((and state))~~ committee of each major political party, at actual reproduction cost~~((:~~

~~((4)))~~, the results of the presidential primary by precinct~~((:))~~, and

~~((2)))~~ the names and addresses of ~~((those))~~ voters ~~((participating in the presidential primary of that major political party))~~ registered in the county who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified. ~~((This may be accomplished by either:~~

(a) ~~Integrating the ballot request and party preference data with the county voter registration file and producing a registered voter report containing the consolidated data in either machine-readable or printed format, which is provided to each major political party; or~~

(b) ~~Providing to each major political party copies of the political party declarations that indicate the primary in which the voter participated; or~~

(c) ~~Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated and a separate report covering the declarations of absentee voters.))~~

(2) Upon request, the secretary of state shall provide to the state committees of each major political party, at actual reproduction cost, the names and addresses of all voters registered in the state who signed a party oath for that party in a poll book, or signed a party declaration for that party on a return envelope and the signature was verified.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-330 Retention of election material. The county auditor shall maintain all presidential primary material, including ballot request forms, absentee ballot envelopes, poll books, and ballots, for a period of twenty-two months following the presidential primary. ~~((The auditor may, at any time after))~~ Sixty days following ~~((the))~~ certification of the ~~((returns))~~ presidential primary by the secretary of state, the county auditor must remove from ~~((his or her automated))~~ the voter registration files any record of ~~((the))~~ party designation ~~((of any voter casting a ballot at))~~ in the presidential primary.

AMENDATORY SECTION (Amending WSR 03-23-093, filed 11/17/03, effective 12/18/03)

WAC 434-219-340 Claims for reimbursement. Following the presidential primary, each county auditor shall provide to the secretary of state a completed claim for reimbursement of expenses incurred by the county in conducting the primary. This cost shall be prorated with any other jurisdictions holding special elections in conjunction with the primary under RCW ~~((29-13-045))~~ 29A.04.410. The procedures for allocating such costs shall be the same as those prescribed by the office of the state auditor for election cost allocations to the state, cities, towns, and special purpose districts. Claims for reimbursement and supporting documents shall be submitted to the secretary of state not later than sixty days following the certification of the ~~((returns of the))~~ presidential primary by the secretary of state.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-219-020	Definitions.
WAC 434-219-070	Removal from list of designees.
WAC 434-219-160	Political party and unaffiliated ballots—Arrangement.
WAC 434-219-165	Incomplete ballot code on consolidated absentee ballot.
WAC 434-219-220	Absentee ballots—Declarations—Instructions.
WAC 434-219-170	Order of political parties.
WAC 434-219-180	Ballots—Arrangement of names—Instructions.
WAC 434-219-260	Canvassing and tabulation of presidential primary absentee ballots.
WAC 434-219-280	Votes not tabulated.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-060 Primary votes required for appearance on general election ballot. Following any non-partisan primary, no candidate's name shall be entitled to appear on the general election ballot unless he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

Following any partisan primary, no major political party candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office. The requirement in RCW 29A.36.191 that a candidate for partisan office receive at least one percent of the votes cast for that office in order to appear on the general election ballot is

unenforceable based on *Libertarian Party v. Sam Reed*, Thurston County Superior Court No. 04-2-01974-2 (2004).

~~((In those charter counties where provision is made in the county charter for the qualification of minor party and independent candidates, the charter provisions shall apply if the candidates has chosen that method for ballot qualification.))~~

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-160 Poll-site voting instructions. The ballot shall identify the type of primary or election, the county, and the date of the primary or election. Prominently displayed in the voting booth or on the ballot shall appear instructions directing the voter how to correctly cast votes on issues and candidates, including write-in votes. ~~((The instructions shall read substantially as follows: To vote for a candidate or for or against a ballot measure, mark the voting position to the right of the candidate or ballot measure for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, if applicable, the name of the candidate, and party affiliation if for a partisan office, in the space provided on the ballot and mark the write-in position.))~~

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-250-040 Instructions to voters. (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:

- (a) How to correct a ballot by crossing out the incorrect vote and voting the correct choice;
- (b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an over-vote and no votes for that office or ballot measure will be counted;
- (c) Notice that, if a voter has signed or otherwise identified himself or herself on a ballot, the ballot will not be counted;
- (d) How to complete and sign the affidavit on the return envelope;
- (e) How to make a mark, witnessed by two other people, if unable to sign the affidavit;
- (f) How to place the ballot in the security envelope and place the security envelope in the return envelope;
- (g) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;
- (h) Notice that postage is required, if applicable; and
- (i) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated ~~((place))~~ deposit site no later than election day ~~((, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot))~~; and

(j) How a voter can learn about the locations, hours, and services, of voting centers and ballot deposit sites, including the availability of accessible voting equipment.

County auditors may use existing stock of absentee ballot instructions until ~~((January))~~ December 1, 2008.

(2) Instructions that accompany a special absentee ballot must also include:

(a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and

(b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-250-050 Ballot materials. In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each absentee ballot must be accompanied by the following:

(1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;

I am a legal resident of the state of Washington;

~~((I am entitled to vote in this election;))~~

I will be at least 18 years old on or before election day;

I am not presently denied my voting rights as a result of being convicted of a felony;

I have not been judicially declared mentally incompetent;

I have not already voted in this election; and

~~((It is illegal to vote if I am not a United States citizen;~~

~~It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;))~~

I understand it is illegal to cast a ballot or sign ~~((an absentee))~~ a ballot envelope on behalf of another voter ~~((; and))~~.

Attempting to vote when not ~~((entitled))~~ qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature _____ Date _____

The return envelope must include space for witnesses to sign.

The return envelope must conform to postal department regulations.

County auditors may use existing stock of absentee envelopes until ~~((January))~~ December 1, 2008.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-253-024 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 provisionally 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 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-253-045 Provisional ballots—Required information. A provisional ballot may only be voted on a direct recording electronic voting device if the voting system

has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state. At a minimum, the following information is required to be printed on the outer ~~((provisional))~~ ballot envelope:

- (1) Name of voter.
- (2) Voter's registered address both present and former if applicable.
- (3) Voter's date of birth.
- (4) Reason for the provisional ballot.
- (5) Polling place and precinct number, if applicable, at which voter voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.
- (7) The following ~~((oath))~~ affidavit with a place for the voter to sign and date:

_____ I do solemnly swear or affirm under penalty of perjury that:

I am a citizen of the United States;
I am a legal resident of the state of Washington;
~~((I am entitled to vote in this election;))~~
I will be at least 18 years old on or before election day;
I am not presently denied my voting rights as a result of being convicted of a felony;

I have not been judicially declared mentally incompetent;

I have not already voted in this election;
~~((It is illegal to vote if I am not a United States citizen;~~
~~It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;~~

~~It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law;))~~ and

I understand it is illegal to cast a ballot or sign a ballot envelope on behalf of another voter.

Attempting to vote when not ~~((entitled))~~ qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature_____Date_____

County auditors may use existing stock of absentee envelopes until December 1, 2008.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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 at the polls 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 is provisionally registered and the voter's registration record is still 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.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic

image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot envelope for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) On an absentee ballot envelope, a mark with two witnesses.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-261-055 Returned ballot lacking verification of identity. If a voter who is provisionally registered and must 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 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-324-005 Definitions. As used in this chapter:

(1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.

(3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.

(5) "County registration number" means an identifier assigned to each registered voter by the county auditor.

(6) "Motor voter data" means computer information concerning an applicant that is common to both driver's license and voter registration records. This includes name, address, date of birth, sex, the date of the application, the location of the office where the application was submitted, the applicant's driver's license number, the applicant's Social Security number (if provided), and the applicant's previous driver's license number if the applicant has changed names.

(7) "Electronic registration" means the electronic submission of voter registration applications.

(8) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

~~((8))~~ (9) "Late registration absentee ballot" means an absentee ballot cast by a voter who registered pursuant to RCW 29A.08.145 after the close of the regular registration period.

~~((9))~~ (10) "Licensing agent" or "agent" means the employees serving the public at driver's licensing offices operated by the department of licensing.

~~((10))~~ (11) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

~~((11))~~ (12) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

~~((12))~~ (13) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

~~((13))~~ (14) "Pending cancellation" means the registered voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.

~~((14))~~ (15) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

~~((15))~~ (16) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.

~~((16))~~ (17) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW 29A.08.651.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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)~~ application 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; 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 one of the alternative forms of identification listed in RCW 29A.08.113 for registration purposes, 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 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.

NEW SECTION

WAC 434-324-031 Electronic voter registration. (1) The secretary of state's electronic voter registration web page must have the capability to:

- (a) Reject applicants without a Washington state driver's license or state identification card;
- (b) Require the applicant to affirmatively assent to the use of his or her driver's license or state identification card signature for voter registration purposes;
- (c) Require the applicant to attest to the truth of the information provided on the application;
- (d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing and include it with the other information required for each applicant's voter registration; and
- (e) Electronically transfer all information required for each applicant's voter registration to his or her county auditor for entry into the statewide voter registration data base through the county election management system.

(2) Once election registration information is entered into county election management systems, the same timelines and processes used for registration by mail apply to electronic registration.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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. The secretary must assign the application a state identification number.

(2) If the applicant provided a Washington driver's 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 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's license number or state identification number and the identity is not verified in the computerized verification process, the information on the application may be considered a "match" 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 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.

Dear Voter:

If the county auditor concludes that the information on the application describes the person on the department of licensing record, the county auditor must override the 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 identity is not verified in the computerized verification process, either because the information did not match or because the applicant claimed he or she did not have a driver's license or Social Security number, the applicant must be ~~((placed on the official list of registered voters in active status, but))~~ provisionally registered. The registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

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))~~ is provisionally registered pursuant to WAC 434-324-040(5), 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))~~ contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If the county auditor ~~((has not successfully verified))~~ is still unable to verify 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:

[date]

Thank you for submitting a voter registration application. Because we were unable to verify your identity based on the information you provided, you are now provisionally 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.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration may be canceled.

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 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-335-030 Initial application for certification. Any person or corporation (applicant) owning or representing a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply in writing to the secretary of state for certification December 1st and ending June 30th the following year. Certification examinations and hearings are only conducted between (January) December 1st and September 15th of each year.

(1) The application must include, but is not limited to, the following information:

(a) Description of the applicant, business address, customer references, and list of election products.

(b) Description of the equipment under review, version numbers, release numbers, operating and maintenance manuals, training materials, and technical and operational specifications.

(c) Documentation of all other states that have tested, certified and used the equipment in a binding election, and the length of time used in that state. The information for each state must include the version numbers of the operating system, software, and firmware, the dates and jurisdictions, and

any reports compiled by state or local governments concerning the performance of the system.

(d) A monetary deposit as described in WAC 434-335-080.

(e) A copy of a letter from the applicant to each independent testing authority (ITA) which:

(i) Directs the ITA to send a copy of the completed ITA qualification report to the secretary of state;

(ii) Authorizes the ITA to discuss testing procedures and findings with the secretary of state; and

(iii) Authorizes the ITA to allow the secretary of state to review all records of any qualification testing conducted on the equipment.

(f) A technical data package (TDP) conforming to the 2002 *FEC Federal Voting Systems Standards (FVSS)*, Vol. II, Sec. 2 standards that includes:

(i) Identification of all COTS hardware and software products and communications services used in the operation of the voting system (ref. FVSS, 2.2.1.e);

(ii) A system functionality description (ref. FVSS, 2.3);

(iii) A system security specification (ref. FVSS, 2.6);

(iv) System operations procedures (ref. FVSS, 2.8);

(v) System maintenance procedures (ref. FVSS, 2.9);

(vi) Personnel deployment and training requirements (ref. FVSS, 2.10);

(vii) Configuration management plan (ref. FVSS, 2.11);

(viii) System change notes (if applicable, ref. FVSS, 2.13);

(ix) A system change list, if any, of modifications currently in development; ~~(and)~~

(x) A system usability testing report; and

(xi) A set of procedures for county personnel on how the operating system, equipment, and application software should be optimally configured and used in a secure environment.

(2) The vendor must either file the system executables for the certified system with the National Software Reference Library (NSRL) or place the source code of an electronic voting system in escrow, which must be accessible by the secretary of state under prescribed conditions.

(3) All documents, or portions of documents, containing proprietary information are not subject to public disclosure. The secretary of state must agree to use proprietary information solely for the purpose of analyzing and testing the system, and to the extent permitted by law, may not use the pro-

prietary information or disclose it to any other person or agency without the prior written consent of the applicant.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

WAC 434-335-060 Examination of equipment. Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed. The examination consists of a series of functional application tests designed to insure that the system or equipment meets all applicable federal guidelines, and state law and rules. The examination may include an additional independent testing authority test at the discretion of the secretary of state. The examination shall include the setup and conduct of two mock elections. The applicant shall provide ballot materials (~~and~~) after the secretary of state has set up the programming to create these elections. The independent testing authority will provide the voting system software they tested directly to the secretary of state.

(1) The first election must replicate an even year general election.

(2) The second election must replicate an odd year primary, and include the use of split precincts and precinct election officer contests.

Both elections must feature at least ten precincts, with at least ten ballots in each precinct. The tests must include ballots of various ballot codes, including multiple candidates, cumulative reports, precinct reports, and canvass reports, as detailed in the test plan provided by the secretary of state.

WSR 07-24-045

PERMANENT RULES DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed December 1, 2007, 10:01 a.m., effective January 1, 2008]

Effective Date of Rule: Effective January 1, 2008: WAC 296-17-35203, 296-17-31021, 296-17A-0508, 296-17A-1109, 296-17A-3309, 296-17A-3512, 296-17A-4803, 296-17A-4902, 296-17A-5300, 296-17A-5307, 296-17A-6301, 296-17A-6614, 296-17A-6615, 296-17A-6616, 296-17A-6617, 296-17A-6618, 296-17A-6622, 296-17A-6623, 296-17A-7201, and 296-17A-4801.

Effective January 1, 2009: WAC 296-17A-5308, 296-17A-1501, and 296-17A-4904.

Purpose: The purpose of this rule making is [to] clarify existing industrial insurance classifications and create new classifications as a result of industry needs and legislative changes. A new classification for geoduck divers [has] been created as a result of 2007 legislation (HB 1949 - chapter 324, Laws of 2007); one new classification and two new subclassifications have been created for community action councils (to be effective January 1, 2009) to simplify reporting; the minimum forty hour reporting rule for sports teams was repealed from WAC 296-17-31021 to encourage more accurate reporting from that industry; and housekeeping changes

were made to seventeen classifications and two reporting rules (WAC 296-17-35203 and 296-17-31021).

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-35203, 296-17-31021, 296-17A-0508, 296-17A-1109, 296-17A-3309, 296-17A-3512, 296-17A-4803, 296-17A-4902, 296-17A-5300, 296-17A-5307, 296-17A-6301, 296-17A-6614, 296-17A-6615, 296-17A-6616, 296-17A-6617, 296-17A-6618, 296-17A-6622, 296-17A-6623, 296-17A-7201, 296-17A-1501, and 296-17A-4904.

Statutory Authority for Adoption: RCW 51.16.035, 51.16.100, and chapter 324, Laws of 2007 (HB 1949).

Adopted under notice filed as WSR 07-19-097 on September 18, 2007.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 21, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 21, Repealed 0.

Date Adopted: November 30, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 05-23-161, filed 11/22/05, effective 1/1/06)

WAC 296-17-31021 Units of exposure. (1) What is a "unit of exposure?"

A unit of exposure is the measure which is used to help determine the premium you will pay. For most businesses the unit of exposure is the *hours* worked by their employees. Because not all employees are compensated based on the hours they work, we have developed reporting alternatives to make reporting to us easier. Those alternatives are outlined in subsection (2) of this section. In other cases, the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(2) What are the alternatives to actual hours worked?
The exceptions are:

- **Apartment house managers, caretakers, domestic, home care or similar employees:** To determine the number of hours you need to report to us, divide an employee's total compensation, including housing and utility allowances, by the average hourly wage for the classification. The total number of work hours to be reported for each employee is not to exceed 520 hours per quarter. You will need to call us at (360) 902-4817 to obtain average hourly wage information.

((~~Baseball, basketball, and soccer teams as defined in WAC 296-17-745 including players, coaches, trainers, and officials:~~ Report each individual at 40 hours per week for each week in which they have duties.))

- **Commission employees - outside (such as, but not limited to, real estate and insurance sales):** You must select one of the following methods to report your commission employees - outside:

- Actual hours worked; or
- Assumed hours of eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees.

All outside commission employees of an employer must be reported by the same method. You cannot report some outside commission employees based on the actual hours they work and others using the eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees method.

- **Drywall - stocking, installation, scrapping, taping, and texturing:** Premiums are based on material installed/finished rather than the hours it took to install/finish the drywall.
- **Horse racing - excluding jockeys:** Employers in the horse racing industry pay premiums based on a type of license their employees hold rather than the hours the employees work. Premiums are collected by the Washington horse racing commission at the time of licensing.
- **Jockeys:** Report ten hours for each race/mount or for any day in which duties are reported.
- **Pilots and flight crew members:** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: Provided, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: Provided further, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.
- **Race car drivers:** Report ten hours for each race/heat.
- **Salaried employees:** You must select one of the following methods to report your salaried employees:
 - Actual hours worked; or
 - Assumed hours of one hundred-sixty hours per month.

All salaried employees of an employer must be reported by the same method. You cannot report some salaried employees based on the actual hours they work and others using the one hundred sixty hours per month method. Provided further, as in the case of contract personnel employed by schools and/or school districts, the school or school district shall report actual hours worked for each employee, one hundred sixty hours per month for each employee, or the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(3) Can I use assumed work hours for piece workers?

No, if you employ piece workers you must report the actual hours these individuals work for you unless another unit of exposure is required.

Example: If you have employees engaged in drywall work you would report and pay premiums on the basis of the square footage of the material they installed not the hours they worked.

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(6).

The following rules shall apply to the written agreement:

(a) Agreement must be in writing and signed by the employer and the individual athlete.

(b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be a state in which the player's team, during the course of the season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption

provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) **Insurance liability.** Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) **Reporting.** Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) **Exclusions.** Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) **Definitions.** For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period,

shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

(i) The name of each worker;

(ii) The Social Security number of each worker;

(iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;

(iv) The basis upon which wages are paid to each worker;

(v) The number of units earned or produced for each worker paid on a piece-work basis;

(vi) The risk classification(s) applicable to each worker;

(vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and can-

celed checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' account online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

(I) The name of the contractor who has been engaged to perform the work;

(II) The contractor's UBI number;

(III) The contractor's farm labor contractor number;

(IV) The total contract award;

(V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;

(VI) Location where the work is to be performed;

(VII) A contact name and phone number of the person, firm, or corporation who let the contract;

(VIII) The total estimated wages to be paid by the contractor and any subcontractors;

(IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;

(X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;

(j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries

Reforestation Team 8

P.O. Box 44168

Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted

classifications for three years (thirty-six months) from the period of last noncompliance.

(f) **If I discover I have made an error in reporting or paying premium, what should I do?** If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

(7) **Safe patient handling rule.** The following subsection will apply to all hospital industry employers as applicable.

(a) **Definitions.** For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this rule does not include:

Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include

Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include

Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include

Birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include

Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(iii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes

such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box ((44161)) 44140, Olympia, Washington, 98504.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1109 Classification 1109.

1109-00 Automobile or truck towing services, N.O.C.

Applies to establishments engaged in providing towing services to others which are not covered by another classification (N.O.C.). Operations contemplated by this classification are limited to tow truck drivers and their assistants who are engaged in towing services for hire. For purposes of this classification "towing services for hire" means, but is not limited to, the towing of disabled vehicles to a shop (that is unrelated to the towing service) for repair; the recovery of repossessed vehicles for others by tow truck; roadside assistance during snow, ice or flooding to recover or free stuck vehicles; and the towing in of disabled vehicles to a secured yard for insurance or law enforcement agencies. It is common for towing companies to also operate a vehicle repair garage or service center in conjunction with the towing service. Auto service centers and repair garages, auto body shops and wrecking yard operations are to be reported separately in the applicable service or repair classification provided that the conditions of the general reporting rules covering the operation of a secondary business and the division of worker hours have been met. Tow truck dispatchers who have no other duties may be reported separately in classification 4904 provided that the conditions of the standard exception general reporting rules have been met.

Special note: Towing is common to many classifications. Employers offering towing services should be contacted to verify whether the towing service they provide is only in connection with their auto repair, auto body or wrecking yard (*towing service not for hire*), or provided as a general service unrelated to their repair garage (*towing services for hire*). Only towing services for hire are to be assigned to classification 1109. If a business provides both towing services for hire and not for hire, worker hours for drivers and their assistants (~~maybe~~) may be divided between this classification and the applicable repair garage classification provided that the conditions of the general reporting rule covering the division of worker hours has been met. Otherwise, all driver and assistant hours are to be assigned to the highest rated classification applicable to the business.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4904 Classification 4904.

4904-00 Clerical office, N.O.C.

Applies to those employees whose job duties and work environment meet *all* the conditions of the general reporting rules covering clerical office standard exception employees who are not covered by another classification (N.O.C.) assigned to their employer's account. Duties of clerical office personnel contemplated by this classification are limited to answering telephones, handling correspondence, creating or maintaining financial, employment, personnel or payroll records, composing informational material on a computer, creating or maintaining computer software, and technical drafting.

Special note: When considering this classification, care must be taken to look beyond titles of employees. Employees with occupational titles such as, but not limited to, cashiers, clerks, or ticket sellers, may or may not qualify for this classification. This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

4904-13 Clerical office: Insurance companies, agents or brokers

Applies to clerical office employees of insurance companies, including insurance agents or brokers who perform duties exclusively of clerical nature and without an interchange of labor between clerical and nonclerical duties. This classification is limited to duties defined as responding to telephone inquiries, assisting walk-in customers, handling correspondence such as the preparation of insurance policies and billing, receiving and processing payments and invoices, maintaining personnel and payroll records, and performing the necessary computer work.

Special note: Individuals performing duties as an agent, broker, or solicitor (and hold a license as issued by the office of the insurance commissioner) are exempt from coverage as specified in RCW 51.12.020(11) and 48.17.010, 48.17.020, and 48.17.030. To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. In addition, care should be exercised to determine if the insurance company employs individuals such as receptionists, bookkeepers, or claims clerks who perform clerical duties which may include the incidental taking of insurance applications and receiving premiums in the office of an agent or broker. Such individuals may or may not hold a license as issued by the office of the insurance commissioner, and are not deemed to be a solicitor, agent or broker when compensation is not related to the volume of such applications, insurance, or premiums. In these instances, the clerical individuals fall under mandatory workers' compensation coverage, and do not meet the requirements to be exempt from coverage as specified in RCW 51.12.020(11).

4904-17 Clerical office: Employee leasing companies

Applies to clerical office employees of employee leasing companies. This classification requires that clerical office employees perform duties exclusively of a clerical nature, without an interchange of labor between clerical and nonclerical duties, and that these duties be performed in an area or areas separated from the operative hazards of the business. This classification is limited to duties defined as responding to telephone inquiries, receptionist and administrative duties, handling correspondence such as preparing and processing billing statements and forms, maintaining personnel and payroll records, and performing the necessary computer entry work.

Special note: This is a standard exception classification and is not to be assigned unless all the conditions of the general reporting rule covering clerical office standard exception employees have been met.

4904-20 Community action organizations - Clerical office employees

Applies to organizations performing an array of services to support the local community and citizens in need. The ser-

vices provided by community action organizations include: Child care; after school care; alternative schools; in-home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; medical services.

This classification includes employees whose work duties include administrative office work such as answering phones, completing correspondence and forms, reception work, computer work, maintaining financial, personnel and payroll records, conducting meetings, providing counseling services within the offices of the organization. All work is performed exclusively in an office environment where no other types of work are conducted, and the office is separated from any other work activity by walls, partitions, or other physical barriers. Work performed outside of the office is limited to banking or post office type duties performed by workers who qualify for this classification. A worker's reported hours may not be divided between this classification and any other risk classifications.

Excluded from this risk classification are all other employees including: Medical, dental or nursing professionals, and administrative employees whose duties are not performed exclusively in an administrative office, who are to be reported in risk classification 5308-20; employees who perform labor such as cooking, cleaning and chore services, food bank operations, driving, weatherization, janitorial, property management, maintenance and repair work which are to be reported in risk classification 1501-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported separately in classification 6901.

See classifications 1501-20 and 5308-20 for other community action operations.

NEW SECTION

WAC 296-17A-5308 Classification 5308.

5308-20 Community action organizations - Professional services and administrative employees

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations include: Child care; after school care; alternative schools; in-home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; medical services.

This classification applies to professional services and administrative employees. Work duties in this classification are not performed exclusively in an administrative office environment. Travel may be necessary to perform work at an alternate work site for appointments with clients, patients, meetings, presentations, agency promotions, or other

required out-of-office administrative type work. Work performed in this classification may include, but is not limited to, counselors or educators for various programs, medical, dental and nursing services; child care professionals or teachers, program coordinators and directors. Also included are estimators and project managers who do not supervise a work crew or perform any type of labor.

Excluded from this risk classification is any manual labor or supervision of a work crew that performs manual labor, construction or maintenance work, work in a food bank, delivery, cooking, cleaning, chore services, or other similar work which is to be reported in risk classification 1501-20; office employees who work exclusively in an administrative office environment who are to be reported in risk classification 4904-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in risk classification 6901.

See classifications 1501-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6616 Classification 6616.

6616-00 Parimutuel horse racing: All ~~((other))~~ employees except grooms and exercise riders, N.O.C. - ~~((fair meets or bush))~~ nonprofit tracks

(to be assigned only by the horse racing underwriter)

Applies to licensed employees of licensed horse trainers ~~((and/or horse owners who conduct business))~~ at a ~~((fair meet or bush))~~ nonprofit track. This classification applies to on or off track employees such as assistant trainers and pony riders. ~~((The dates of a race meet are set for each track by the Washington state horse racing commission.))~~ Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainer's premiums are collected on a per license basis.

This classification excludes the following:

1. Licensed assistant trainers and pony riders working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6614;

2. Licensed grooms working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6615~~((:))~~;

3. Licensed grooms working at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6617;

4. Licensed exercise riders working at a major track ~~((who))~~ are ~~((to be))~~ reported in classification 6622 ~~((and))~~;

5. Licensed exercise riders at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported in classification 6623;

6. Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

Special note: All employees whether working at a ~~((fair or bush))~~ nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0508 Classification 0508.

0508-00 Radio, television, cellular or water towers, poles and towers, N.O.C.: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, steel, or wood radio, television, cellular or water towers, poles, towers and those towers which are not covered by another classification (N.O.C.). Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the foundation/excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding or bolting them into place, and the installation, removal, service and/or repair of antennas, dish units and/or other transmitting/receiving apparatus to the structure. This classification also includes the delivery of material and supplies to the job site when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow the separate reporting of excavation or foundation work irrespective of who performs the work. This classification includes specialty contractors who install, remove, service or repair antennas, dish units and/or other transmitting/receiving apparatus to a structure covered by this classification.

0508-01 Smokestack: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, steel or concrete smokestacks. These structures are part of an industrial complex and facilitate the discharge of combustion vapors, gases, or smoke. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, installation of scaffolding, raising segments into place with a crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of any apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classifica-

tion; the installation of machinery which is to be reported separately in classification 0603; preliminary clearing of land by a contractor who is not also excavating the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation work irrespective of who performs the work.

0508-02 Windmill and silo: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, concrete, steel, or wood windmills or silos. Windmills use the force of wind passing around the rotor blades to turn turbines and produce electric power. These may be built individually or in groups known as "wind farms." Additional apparatus and storage batteries are housed in separate buildings nearby. Silos are large cylindrical structures used to store grain or fodder (silage). They are filled through the top by means of a conveyor. Within the structure, augers and pumps can move the grain to blend, aerate, or feed it out the chute. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow the separate reporting of excavation or foundation work irrespective of who performs the work.

0508-03 Oil still or refinery: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of oil stills or refineries. These facilities are basically composed of multi-story storage tanks, chimneys, pipelines, separating apparatus and steam generating systems. They receive unprocessed

petroleum (crude oil) and convert it into usable products such as gasoline, kerosene, wax, grease and chemical feed stocks. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation and other concrete, on-site fabrication and assembly of parts, erecting framework, installation of scaffolding, raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus in an oil still or refinery when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery or apparatus by a specialty contractor which is to be reported separately in classification 0603; plant maintenance contract work as described in classification 0603; preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of control or pump houses and other buildings not part of the main processing plant which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation work irrespective of who performs the work.

0508-04 Blast furnace and metal burners: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of blast furnaces and metal burners. These are tall, very heavy gauge, cylindrical steel structures in which heated air and combustible fuels are combined to produce the heat necessary to separate the usable material in metal ores from the waste products. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, installation of a brick lining, raising structural members by crane and welding or bolting into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction

of additional buildings as part of an ore reduction or metal producing facility which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-08 Elevated railway, tram, lift or similar conveyances: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of elevated railways, trams, lifts or similar conveyances. An elevated railway can be a full scale railroad or a smaller scale system such as a recreational monorail. For the purposes of this classification, trams are overhead cable cars, and lifts are similar to the typical ski lift. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting frames and supports (metal or concrete), installation of scaffolding, raising structural members by crane and welding or bolting them into place, and installing and securing tracks, cables or pulley systems. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; or the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-09 Exterior tanks, N.O.C.: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of all types of exterior tanks not covered by another classification (N.O.C.). These tanks may be part of water storage and distribution systems, chemical or petroleum processing and storage operations, or other industrial applications. This classification includes the erection or construction of tanks that are elevated on structural piers and those that rest on the ground. These tanks may be constructed singly or in groups known as "tank farms" which are common to the petroleum industry. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing

the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, and raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-11 Crane or derrick: Installation, construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the installation, construction or erection, dismantling, maintenance or repair of nonmobile cranes and derricks for commerce and industrial use. Cranes and derricks can be very similar in that they are both defined as machines for hoisting and moving heavy objects through the use of stationary or movable booms equipped with cables. An object, sometimes weighing many tons, can be secured to the cables and moved into position along the length of a stationary boom or to another location within the reach of a movable boom. A derrick, however, can also be a permanent framework over an opening, such as an oil-drilling operation, to support boring equipment. The cranes included in this classification are those that are permanently installed at a marine port, cargo handling facility or an industrial facility to move supplies, cargo containers, or heavy objects (vertically or horizontally) that are being assembled and must pass through the length of a building to complete the process. Work contemplated by this classification includes, but is not limited to, the placement of forms and reinforcing steel for a foundation (in the case of some structures described above, the additional reinforcing required to support the crane is usually contemplated in the plan for the building's foundation where the crane is being anchored), on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by hoist and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the operation of mobile cranes which is to be reported in classification 3506, the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is

to be reported separately in classification 0101; and delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-12 Water cooling towers or structures - metal or wood: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of metal or wood water cooling towers or vertical structures. These structures are usually part of an industrial complex in which water is used as a cooling element in a manufacturing process. The water, which absorbs heat from the machinery being cooled, can be circulated and reused after it has been channeled through a cooling tower to be chilled sufficiently. A common design allows the hot water to tumble down numerous open louvers or steps to lower its temperature. These towers are often composed of prefabricated parts which are delivered to the site and then assembled by bolting or welding together, then the necessary motors, pipes, fans and pumps are installed. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding, bolting or otherwise fastening them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of other related buildings at the project site which is to be reported separately in the applicable construction classification.

Special notes: This classification does not allow separate reporting of excavation or foundation irrespective of who performs the work. Construction of a water cooling structure that uses a horizontal rather than tower-like design is to be reported separately in classification 0518.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-1501 Classification 1501.

1501-00 Counties and taxing districts, N.O.C. - all other employees

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators including transit bus drivers. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; privately owned and operated bus or transit systems which are to be reported separately in classification 1407; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; port districts which are to be reported separately in classification 4201; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; fire fighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905 and 6906, as appropriate; clerical office and administrative employees who are to be reported separately in classification 5306, and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-01 Housing authorities, N.O.C. - all other employees

Applies to employees of housing authorities, not covered by another classification, who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes all functional operations of a housing authority such as inspection, maintenance and repairs, including minor structural repairs, janitorial service, and building and grounds maintenance. Also included in this classification are meter readers, security personnel, other than those with law enforcement powers, administrative personnel such as engineers and safety inspectors who have field exposure, and internal inventory and supply clerks. For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve developmentally or otherwise disabled persons or juveniles released from correctional facilities. A housing authority has the power to prepare, carry out, lease and operate housing facilities; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project; to sell or rent dwellings forming part of the project to or for persons of low income; to acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project; to arrange or contract for the furnishing of the units; and to investigate into the means and methods of

improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; clerical office and administrative employees who are to be reported separately in classification 5306; security personnel with law enforcement powers who are to be reported separately in classification 6905; and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-08 Native American tribal councils - all other employees

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks of the tribal council. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; fire fighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classifications 6905 and 6906; new construction or reconstruction activities which are to be reported separately in the appropriate construction classification; clerical office and administrative employees who are to be reported separately in classification 5306.

Special notes: Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. The following activities, such as but not limited to, visiting nurses and home health care, grounds keepers, building maintenance, park maintenance, road maintenance, and garbage and sewer works, are considered to be normal operations to be included in this classification. All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed. The following operations, such as but not limited to, meals on wheels, bingo parlors, casinos, liquor stores, tobacco stores, grocery stores, food banks, gift shops, restaurants, motels/hotels, Head Start programs, fish/shellfish hatcheries, logging, and tree planting/reforestation are outside the scope of classification 1501 and are to be reported separately in the applicable classifications.

1501-09 Military base maintenance, N.O.C.

Applies to establishments, not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to, data processing, photography, mail delivery (on post and to other military facilities), hotel/motel services, mess halls, recreational facilities, grounds and building maintenance, vehicle maintenance, and may also include the maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes new construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed; contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905; and clerical office and administrative employees who are to be reported separately in classification 5306.

Special note: Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

1501-20 Community action organizations - all other employees N.O.C.

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations may include, but are not limited to: Child care; after school care; alternative schools; in home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; or medical services.

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual-type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to: Cooks, food banks, drivers, chore workers/home service workers, janitorial or maintenance and repair work, or weatherization services.

Excluded from this risk classification is new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20; professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers

which are to be reported in 7309; and volunteers who are to be reported in classification 6901.

See classifications 5308-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3309 Classification 3309.**3309-02 Golf cart sales/rental agencies**

Applies to establishments engaged in the sale and/or rental of new, used golf carts and go carts, and related items such as, but not limited to, golf cart trailers, canopies, protective outerwear, helmets, and replacement parts for the above products. The sale of boats and canoes can be included in this classification if they are incidental to the sale of golf carts and go carts. This classification includes outside lots, and full product line parts and service departments. Regional service representatives who provide factory training to local dealer shop mechanics are included in this classification.

This classification excludes establishments primarily engaged in the sale of boats, boat trailers and motors, which are to be reported separately in classification 3414, and the repair of lawn and garden equipment and small engines which is to be reported separately in classification 3402.

3309-03 Motorcycle, moped, motor scooter, snowmobile, jet ski, all-terrain vehicles sales/rental agencies

Applies to establishments engaged in the sale of new and used motorcycles, mopeds, motor scooters, snowmobiles, jet skis, three wheel and four wheel all-terrain vehicles. These establishments may also sell related items such as, but not limited to, portable generators, lawn and garden equipment, chain saws, water pumps, snow blowers, small gasoline engines, boat motors, protective outerwear, helmets, and replacement parts for the above products. The sale of boats and canoes can be included in this classification if they are incidental to the sale of motorcycles, mopeds, or other primary merchandise. This classification includes ~~((outside lots, and full product line parts and service departments))~~ service managers and service personnel, parts department personnel who have shop exposure, and lot personnel. Also included are motorcycle service and repair shops, motorcycle dismantlers (wrecking yards), regional service representatives who provide factory training to local dealer shop mechanics, and establishments engaged in the sale/rental *and service (repair)* of motorized mobility aids, such as motorized wheelchairs and 3-wheel scooters.

This classification excludes establishments primarily engaged in the sale of boats, boat trailers and motors, which are to be reported separately in classification 3414; establishments primarily engaged in the sale of lawn and garden equipment which is reported separately in classification 6309; and the repair of lawn and garden equipment and small engines which is to be reported separately in classification 3402.

Special note: While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line parts stores. Care should be taken when consid-

ering assignment of classification 6309 for part sales. Only those businesses that have a full line parts store which is physically separated from the repair shop and whose sales of parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3512 Classification 3512.

3512-02 Plastic goods: Manufacturing - cutting, milling or bending

Applies to establishments engaged in the manufacture of a variety of plastic goods from premanufactured components such as sheets, rods, or tubes by cutting, milling, or bending. Products include, but are not limited to, display stands, racks, dispensers for snack food items, vinyl windows and sashes, fiberglass panels used for aircraft or recreational vehicle interiors, and signs. Essentially anything that can be done with wood can be done with plastic, so shops in this classification usually resemble a cabinet or woodworking shop. They use the same type of tools such as, but not limited to, saws, routers, planers, and grinders, to cut or mill the plastic goods. To bend plastic material, it is first heated in an oven or with a torch, then bent to shape. Buffers are used for polishing, or the pieces may be flame polished (heated with a gas torch). Products may be formed by joining pieces with glue, hardware or other fasteners.

This classification excludes establishments engaged in the manufacture of plastic items by blow molding, extrusion, vacuum forming, foam, rotary, or liquid molding, or injection molding, and establishments engaged in the manufacture of artificial marble items or graphite composite goods, which are to be reported separately in classification 3510; establishments engaged in the manufacture of fiberglass goods which are to be reported separately in classification 3511; and sign manufacturers that purchase precut plastic backings from others, then paint lettering or designs or attach vinyl lettering to them in their own shops which are to be reported separately in classification 4109.

Special note: The cutting, milling, or bending of plastic goods incidental to the manufacturing process for products made from wood, metal or other materials is included in the classification applicable to those manufacturing processes.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4803 Classification 4803.

4803-02 Farms: Orchards - fruit tree crops

Applies to establishments engaged in operating fruit orchards of all types. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning, harvesting tree fruit, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of prod-

ucts not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes fresh fruit packing operations which are to be reported separately in classification 2104; fruit cannery or freezer operations which are to be reported separately in classification 3902; winery operations which are to be reported separately in classification 3702; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: Prune harvesting is often accomplished by a person laying a canvas cover around the base and surrounding area of the tree. The tree is then shaken by hand causing the fruit to dislodge and fall to the canvas cover where it is picked by hand. Harvesting done by this method is subject to classification 4806 provided that the conditions set forth in classification 4806 have been met. The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4803-04 Farms: Orchards - nut tree crops

Applies to establishments engaged in operating nut producing orchards of all types. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning, machine harvesting of nuts, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes the incidental sale of bulk or packaged nuts at roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met.

This classification excludes nut shelling and packaging operations which are to be reported separately in classification 3902; ground hand picking of nuts which is to be reported separately in classification 4806; and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: Nut harvesting is often accomplished by a person laying a canvas cover around the base and surrounding area of the tree. The tree is then shaken by hand causing the nuts to dislodge and fall to the canvas cover where they are picked by hand. Harvesting done by this method is subject to classification 4806 provided that the conditions set forth in classification 4806 have been met. The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

4803-16 Farms, N.O.C.

Applies to establishments engaged in operating farms not covered by another classification (N.O.C.). Establishments in this classification include holly farms and the raising of sheep, goats, alpacas and llamas. Work contemplated by this classification is of a custodial nature that includes, but is not limited to, pruning and otherwise maintaining trees, tending and feeding animals, raising crops for feed, erecting or mending fences, breeding animals, transporting animals to market, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification includes the manufacturing of products made on the farm from animals on the farm such as, but not limited to bottled milk, cheese, yogurt, butter, and soap; spinning wool, woven fabrics, and craft items made from wool or fleeces. This classification also covers artificial insemination and veterinary care when performed by employees of an employer subject to this classification.

This classification excludes businesses primarily engaged in holly packing or wreath making who are to be reported separately in classification 6404 (florists), and contractors hired by a farm operator to install, repair or build any farm equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing. Generally the work involves manual labor tasks as opposed to machine operations. These farm labor contractors are to be reported in the classification that applies to the farm they are contracting with. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6301 Classification 6301.

6301-00 Sales personnel: Vehicles and marine pleasure craft

Applies to sales employees of establishments engaged in selling and/or leasing new and/or used automobiles, trucks, campers, recreational vehicles, mobile homes, motorcycles or other all-terrain vehicles, or boats and other marine pleasure craft and who are not covered by another classification assigned to the employer's account. Duties contemplated by this classification are limited to sales training, test driving, showing and demonstrating vehicles, completing paper work, and arranging for delivery of purchased vehicles.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6301-06 Instructors of driving schools

Applies to instructors of driving schools. Instructors duties include, but are not limited to, demonstrating driving techniques, and observing student drivers.

This classification excludes administrative staff and classroom instructors of driving schools who are to be reported separately in classification 6103; vehicle repair or maintenance staff who are to be reported separately in classification 3411; and high school driving instructors who are to be reported separately in classification 6104.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6301-07 Limousine drivers

Applies to drivers of establishments engaged in providing limousine services to others. Limousine services provide luxury transportation for special occasions such as, but not limited to, birthday parties, weddings, dances, sporting events, concerts, and corporate business functions. Clients usually travel in groups from two to ten. Drivers are professionally trained chauffeurs; they generally provide services by appointment from specific locations to set destinations, and often wait with the vehicle while clients attend events. Depending on the occasion, the limousine service may also provide beverages, snacks, balloons, or flowers. Since the service is intended for luxury as opposed to meeting deadlines, the hazards of driving differ from most other professional drivers.

This classification excludes employees who repair and/or service the company's limousines who are to be reported separately in classification 3411.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

Special note: Clerical office employees may be reported separately in classification 4904 provided all the conditions of the general reporting rule covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6614 Classification 6614.

6614-00 Parimutuel horse racing: All ~~((other))~~ employees, except grooms and exercise riders N.O.C. - major tracks

(to be assigned only by the horse racing underwriter)

Applies to licensed employees of licensed horse trainers ~~((and/or horse owners who conduct business))~~ at a major parimutuel horse racing track such as Emerald Downs in Auburn. This classification applies to on and off track employees such as assistant trainers and pony riders. ~~((The dates of a race meet are set for each track by the Washington horse racing commission.))~~ Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainers premiums are collected on a per license basis.

This classification excludes the following employees:

(1) Licensed grooms working at major tracks ~~((who))~~ are ~~((to be))~~ reported separately in classification 6615; ~~((unlicensed employees who work only on a farm or ranch who are to be reported separately in classification 7302.))~~

(2) Licensed assistant trainers and pony riders working at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6616;

(3) Licensed exercise riders working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6622 ~~((and))~~;

(4) Licensed exercise riders at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6623; and

(5) Unlicensed employees who work on a farm or ranch are reported in classification 7302.

Special note: All employees whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6615 Classification 6615.

6615-00 Parimutuel horse racing: Grooms - major tracks *(to be assigned only by the horse racing underwriter)*

Applies to licensed grooms performing services for licensed horse trainers ~~((who conduct business))~~ at a major parimutuel horse racing track ~~((The major tracks are currently Yakima Meadows in Yakima, Playfair in Spokane and))~~ such as Emerald Downs in Auburn. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horse stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer ~~((who provided the required signature on the grooms application for a license))~~ when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of

licensing and is valid from the time of licensing through the end of the calendar year.

This classification excludes the following:

(1) Licensed grooms working at a ~~((fair or bush track who))~~ nonprofit track are ~~((to be))~~ reported separately in classification 6617;

(2) Licensed assistant trainers and pony riders working at major tracks are to be reported separately in classification 6614;

(3) Licensed assistant trainers and pony riders working at nonprofit tracks are reported separately in classification 6616;

(4) Licensed exercise riders working at a major track are reported separately in classification 6622;

(5) Licensed exercise riders working at a nonprofit track are reported separately in classification 6623;

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

Special note: All ~~((employees))~~ grooms whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered under this section.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6617 Classification 6617.

6617-00 Parimutuel horse racing: Grooms - ~~((fair meets or bush))~~ nonprofit tracks

(to be assigned only by the horse racing underwriter)

Applies to licensed grooms performing services for licensed horse trainers ~~((who conduct business))~~ at a ~~((fair meet or bush))~~ nonprofit track. This classification includes all on or off track duties of a licensed groom such as, but not limited to, cleaning or mucking horse stalls, feeding, and bathing the horses. For workers' compensation purposes, a groom is considered to be an employee of the trainer ~~((who provided the required signature on the grooms application for a license))~~ when the groom is hired by the trainer or when the trainer notifies the commission of the trainer's intent to hire the groom. Coverage provided in this classification is funded by the premiums collected from the trainer at the time of licensing and is valid from the time of licensing through the end of the calendar year.

This classification excludes the following:

(1) Licensed grooms working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6615;

(2) Licensed assistant trainers ~~((;))~~ and pony riders ~~((and exercise riders))~~ working at major tracks ~~((who))~~ are ~~((to be))~~ reported separately in classification 6614; ~~((and))~~

(3) Licensed assistant trainers ~~((;))~~ and pony riders ~~((and exercise riders))~~ working at ~~((fair meets or bush))~~ nonprofit tracks ~~((who))~~ are ~~((to be))~~ reported separately in classification 6616;

(4) Licensed exercise riders working at a major track are reported separately in classification 6622;

(5) Licensed exercise riders working at a nonprofit track are reported separately in classification 6623; and

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

Special note: All ~~((employees))~~ grooms whether working at a ~~((fair meet or bush))~~ nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6618 Classification 6618.

6618-00 ~~((Parimutel))~~ Parimutuel horse racing: Special horse racing account (used only by horse racing underwriter)

This classification ~~((is))~~ may not ~~((to))~~ be assigned to any account ~~((;))~~ and no claims ~~((are to))~~ may be charged to it. This classification is *solely* for the collection of fees assessed on horse owner licenses. The horse racing commission collects the fees from horse owners and deposits the money into the special horse racing account to help fund workers' compensation coverage for injured workers. (Payment of this fee is mandatory, but does not extend coverage to owners. Owners may apply for individual coverage.) The owners' fees are based on the percentage of a horse or horses they own, up to a maximum of \$150.00.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6622 Classification 6622.

6622-00 Parimutuel horse racing: Exercise riders - major tracks

(to be assigned only by the horse racing underwriter)

Applies to licensed ~~((employees))~~ exercise riders of licensed horse trainers ~~((and/or horse owners who conduct business))~~ at a major parimutuel horse racing track such as Emerald Downs. This classification applies to on and off track employment of licensed exercise riders. Jockeys are considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer ~~((and/or owner at a time other than during a scheduled race meet. The dates of a race meet are set for each track by the Washington state horse racing commission))~~. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainers' premiums are collected on a per license basis.

This classification excludes the following:

(1) Licensed grooms ~~((working))~~ at major tracks ~~((who))~~ are ~~((to be))~~ reported separately in classification 6615;

(2) Licensed grooms working at ~~((fair or bush))~~ nonprofit tracks ~~((who))~~ are ~~((to be))~~ reported separately in 6617; ~~((unlicensed employees who work only on a farm or ranch who are to be reported separately in classification 7302; assistant trainers))~~

(3) Licensed assistant trainers and pony riders working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6614;

(4) Licensed assistant trainers and pony riders working at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in 6616; ~~((and))~~

(5) Licensed exercise riders at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in 6623; and
(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

Special note: All ~~((employees))~~ exercise riders whether working at a major track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6623 Classification 6623.

6623-00 Parimutuel horse racing: Exercise riders - ~~((fair meets or bush))~~ nonprofit tracks

(to be assigned only by the horse racing underwriter)

Applies to licensed ~~((employees))~~ exercise riders of licensed horse trainers ~~((and/or horse owners who conduct business at a fair meet or bush))~~ at a nonprofit track. This classification applies to on or off track employment of exercise riders. Jockeys will be considered exercise riders when validly licensed as exercise riders and performing exercise rider duties while employed by a licensed trainer ~~((and/or owner at a time other than during a scheduled race meet. The dates of a race meet are set for each track by the Washington state horse racing commission))~~. Coverage provided in this classification is funded by premiums collected at the time of licensing and is valid from the time of licensing through the end of the calendar year. Trainer premiums are collected on a per license basis.

This classification excludes the following:

(1) Licensed assistant trainers and pony riders working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6614;

(2) Licensed assistant trainers and pony riders working at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in 6616;

(3) Licensed grooms working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6615;

(4) Licensed grooms working at a ~~((fair or bush))~~ nonprofit track ~~((who))~~ are ~~((to be))~~ reported separately in classification 6617; ~~((and))~~

(5) Licensed exercise riders working at a major track ~~((who))~~ are ~~((to be))~~ reported separately in 6622; and

(6) Unlicensed employees who work on a farm or ranch are reported separately in classification 7302.

Special note: All ~~((employees))~~ exercise riders whether working at a ~~((fair or bush))~~ nonprofit track or employed off track must be licensed by the Washington state horse racing commission to be covered by this section.

NEW SECTION

WAC 296-17A-4801 Classification 4801.

4801-00 Geoduck harvesting by divers
(to be assigned only by the maritime specialist)

Applies to establishments engaged in diving operations to harvest wild geoduck clams from natural areas. Work contemplated by this classification includes subaqueous harvest-

ing of geoduck clams, sea cucumbers or similar marine life. This classification includes workers tending to such divers. The employees of the divers and tenders shall be subject to this classification whether or not such work is performed from a vessel.

Special note: Many diving operations and activities occur on or adjacent to navigable waters (a harbor, river, canal, dam, lake) which is defined as those which form a continuous highway for interstate or international commerce. Workers who perform diving activities (to include divers, deck hands, or "diving tenders" who are support personnel such as line handlers and pump persons) from on board a vessel could be subject to the Jones Act or Admiralty Law which recognize such work crews and workers as masters or members of a vessel, and subject to federal law known as the Jones Act. Every person on board a vessel is deemed a seaman if connected with the operation while on navigable water. The term vessel has been interpreted by the courts to include any type of man-made floating object such as a floating derrick or dredge, a boat or ship, a barge, or type of pontoon (which is a flat bottom boat) or portable float. Workers who perform diving activities (to include divers, deck hands, or "diving tenders" or other support personnel such as line handlers and pump persons) from the shoreline or from adjacent areas such as an existing dock, pier or bridge may or may not be subject to federal law covered under the (U.S.) Longshore and Harbor Workers Compensation Act (LHWCA). Care should be exercised prior to assignment of this classification as the workers could be subject to either or both state fund or federal jurisdiction. The criteria used in determining federal law and coverage is based on the most current federal court decisions and case law.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-4902 Classification 4902.

4902-00 State government clerical and administrative office personnel

Applies to state employees who are assigned to work in an office environment in a clerical or administrative capacity, with no travel or field duties. The work performed in this classification normally includes working with telephones, correspondence, creating financial, employment, personnel or payroll records, research, composing informational material at a computer, creating or maintaining computer software, or library work, but may include other administrative work performed in an office location. For the purpose of this classification, employees reported in 4902 would have no required field work or (~~routine~~) travel outside of the office to perform the duties of their job, other than (~~occasional errands~~), a trip to the bank or post office, occasional errands or meetings, attendance at training (~~meetings~~) or a conference in support of their normal duties. This classification may include, but is not limited to, jobs such as office support, secretary, administrative assistant, customer service representative, accountant, fiscal analyst, information systems, when normal job duties do not require travel and are completed in an office environment.

This classification excludes: Employees whose duties include field exposure, employees who (~~may be called upon to~~) provide interaction to direct, control, manage, or restrain individuals or participate in recreational activities in state hospitals, schools, homes, detention or correctional facilities, who are to be reported separately in the appropriate classification (5307, 7103, or 7201); administrative field employees who are to be reported separately in risk classification 5300; law enforcement officers in any capacity who are to be reported separately in risk classification 7103; employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200; employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported separately in classification 7400; employees who provide care and treatment for patients or (~~health care~~) residents and work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified who are to be reported separately in risk classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 4902 and any other classification. For purposes of this classification the term "clerical and administrative office personnel" shall have the same meaning as "clerical office employees" defined in the standard exception provision of the general reporting rule.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5300 Classification 5300.

5300-00 State government - administrative field personnel

Applies to state employees whose duties may require them to travel to an alternative work location but their work assignment is administrative in nature. (~~Workers reported in this classification have duties which routinely~~) Travel is an expectation for these workers in order to perform their job duties which involves travel to meetings or appointments with clients, customers, or businesses. Travel to perform work at an alternate location may be required on a regular, sporadic or as needed basis. Typical work includes, but is not limited to, field auditor, collector, social worker, attorney, public relations or consulting staff with no hazardous exposures. Supervisors who occasionally travel to accompany field staff for purposes such as observation or information gathering, but who do not typically perform any work other than administrative, are also included in this classification. Employees in this classification may also have follow-up work that is completed in the office such as writing reports, correspondence, etc.

This classification excludes employees with duties outside of the office which are more than administrative in

nature such as, but not limited to, engineers, inspectors, and biologists who may have some field exposure, and are to be reported in 5307. For purposes of this classification, field exposure is defined as any work period, other than the normal travel to or from a work environment, which involves "hands on" work.

This classification excludes: Employees whose duties include field or hazardous exposure, employees who ~~((perform work with))~~ provide interaction to direct, control or manage activities of inmates, residents, patients or potentially violent persons in state hospitals, schools, homes, detention or correctional facilities which may involve security, recreation, or staff ~~((who may be called upon to restrain))~~ whose duties include restraining individuals, who are to be reported separately in the appropriate classification (5307, 7103, 7201); clerical and administrative office personnel who are to be reported separately in classification 4902; law enforcement officers in any capacity who are to be reported separately in classification 7103; employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200; employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported in classification 7400; and employees who provide ~~((patient or health))~~ care and treatment for patients or residents and work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified who are to be reported separately in classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 5300 and any other classification.

For purposes of this classification, the term "administrative field personnel" shall have the same meaning as "sales personnel" defined in the standard exception provision of the general reporting rule.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5307 Classification 5307.

5307-00 State government employees - N.O.C.

Applies to state government employees not covered by another classification (N.O.C. - not otherwise classified). This is the basic state agency classification which covers employees who have duties that support the mission of the agency and have field or hazardous exposure. For purposes of this classification field or hazardous exposure is defined as any work which involves "hands on" work. Employees reported in this classification may have jobs that include, but are not limited to, performing manual labor or supervising a work crew performing manual labor, work in the trades, construction-type work or maintenance/repair work, operating machinery or equipment, stores/stock clerks, warehouse, sup-

plies, deliveries, food services, facilities, recreational, or general security staff with no law enforcement duties. This classification also includes, but is not limited to, personnel such as engineers, inspectors, and biologists, who have field exposure. This classification includes supervisors who work at a field site and ~~((routinely))~~ perform supervision duties in the field. This classification includes nonpatient care employees in state operated homes, schools, detention or correctional facilities not described in another classification.

This classification excludes: Employees who have law enforcement power in any capacity, who are to be reported separately in classification 7103; employees who work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified ~~((who))~~ and provide care and treatment for patients or ~~((health care,))~~ residents who are to be reported separately in classification 7201; employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200; employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported in classification 7400; administrative field employees, who are to be reported separately in classification 5300; and clerical and administrative office personnel, who are to be reported separately in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-7201 Classification 7201.

7201-00 State government - patient, resident, or health care personnel, N.O.C. (to be assigned only by the hospital underwriter)

Applies to state employees who are not otherwise classified who provide ~~((any type of))~~ patient or health care at state-operated hospitals, schools, homes, camps, detention or correctional facilities, that are not operated as mental health or acute care hospitals as defined in WAC 296-17-35203(7) and that do not have routine patient lifting and moving exposure. All employees who have responsibility for physical or mental health care of patients or residents in these facilities are included in this classification. Types of employment contemplated by this classification include, but are not limited to, doctors, nurses, therapists, attendants, or training and counseling staff who ~~((work with))~~ provide care and treatment for patients or residents and ~~((may be called upon))~~ are required to restrain or attend to patients who are potentially aggressive or violent.

This classification excludes: Employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported separately in classification 7200; employees who provide patient or health care at state-

operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported separately in classification 7400; law enforcement officers in any capacity who are to be separately reported in classification 7103; employees who work in state hospitals, schools or ((prisons)) correctional facilities, who do not work ((directly)) in patient or resident care such as food service, laundry, and janitorial, who are to be separately reported in classification 5307; administrative field employees who are to be separately reported in classification 5300; or clerical and administrative office personnel who are to be separately reported in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

WSR 07-24-046
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 1, 2007, 10:30 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: This rule making will amend the tables of classification base premium rates, experience rating plan rates, calculations, and factors, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2008. New classification base rates were calculated based on updated loss and payroll experience resulting in a proposed overall average 3.2% increase in premium rates. The experience rating calculations that were deferred last year for employers who had lower rates under the pre-2007 rating plan have now been fully implemented.

Citation of Existing Rules Affected by this Order: Proposal establishes premium rates for workers' compensation insurance classifications for calendar year 2008 and modifications to the related experience rating and retrospective rating plans:

Amending WAC 296-17-855 Experience modification, 296-17-87305 Initial recalculation of experience factor, 296-17-875 Table I Primary losses for selected claim values, 296-17-880 Table II Primary and excess credibility values, 296-17-885 Table III Expected loss rates and primary ratios, 296-17-890 Table IV Maximum experience modifications, 296-17-895 Base rate table by class of industry, 296-17-89502 Industrial insurance rates for nonhourly rated classifications, 296-17-89504 Horse racing industry industrial insurance, medical aid and supplemental pension by class, 296-17-90492 Table I Retrospective Rating Plans A, A1, A2, A3 and B, Standard premium size ranges and 296-17-920 Assessment for supplemental pension fund; repealing WAC 296-17-891 Table IV-A and 296-17-86505 2007 Alternative claim free experience modification calculation; and new section WAC 296-17-89505 2007 Rate holiday dividend.

Statutory Authority for Adoption: RCW 51.16.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating, and 51.04.020(1) General authority.

Adopted under notice filed as WSR 07-19-133 on September 19, 2007.

Changes Other than Editing from Proposed to Adopted Version: The rate for the newly established classification 4801 for geoduck divers was established at \$3.33 per hour. The accident fund portion of the rate is \$1.4067, the medical aid portion of the rate is \$1.8451 and the supplemental pension portion is \$0.0782 for a base rate of \$3.33.

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 11, Repealed 2.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 11, Repealed 2.

Date Adopted: November 30, 2007.

Judy Schurke
 Director

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-855 Experience modification. ((+))
 The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss})}{\text{Expected Loss}}$$

Where

$$\begin{aligned} \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future

experience. These amounts are summed over all claims. For each claim in excess of $\$((19,560))$ 20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{((48,900)) \underline{50,280}}{(\text{Total loss} + ((29,340)) \underline{30,168})} \times \text{total loss}$$

For each claim, less than $\$((19,560))$ 20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of $\$((1,510))$ 1,640 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Total Loss (after deduction)	Primary Loss	Excess Loss
200	-	-	-
2,000	((490)) <u>360</u>	((490)) <u>360</u>	-
20,000	((18,490)) <u>18,360</u>	((18,490)) <u>18,360</u>	-
200,000	((198,490)) <u>198,360</u>	((42,603)) <u>43,643</u>	((155,887)) <u>154,717</u>
2,000,000	((487,490)) <u>502,800</u>	((46,124)) <u>47,434</u>	((441,366)) <u>455,366</u>

Note: The deduction, $\$((1,510))$ 1,640, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of $\$((1,510))$ 1,640 is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtract-

ing expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

~~((2) Alternative experience modification calculation. The following experience modification factor calculation provides results similar to the experience rating calculation used in 2006. The experience modification factor shall be calculated in the manner identified in subsection (1) of this section with the following exceptions:~~

~~(a) The Expected Loss Rate and Primary Ratio Table IIIA shall be used instead of Table III.~~

~~(b) No medical only deduction (of \$1,510) shall be applied to claims without disability benefits during the three year experience period for purposes of calculating the primary and excess losses.~~

~~(c) The Primary and Excess Credibility Table IIA shall be used instead of Table II.~~

~~(3) Experience modification calculation for 2007. For calendar year 2007, if the calculated experience modification factor using the manner identified in subsection (1) of this section is greater than the experience modification factor calculated using subsection (2) of this section then the experience modification factor shall be the lower of the two calculations.)~~

AMENDATORY SECTION (Amending WSR 90-20-092, filed 10/1/90, effective 11/1/90)

WAC 296-17-87305 Initial recalculation of experience factor. When an entity acquires the past experience of an existing firm (business) or portion thereof, the following treatment shall apply until the next date for the general calculation of all employers' experience factors. ~~((WAC 296-17-865, "Experience modification limitations" shall not apply in these situations.))~~ The purpose of this subsection is to produce the same premium level that would have been generated had no change in the ownership of a firm (business) occurred.

(1) Acquiring entity retains all rating experience associated with the firm (business), or portion thereof, being acquired. The selling entity shall revert to an experience factor of unity (1.0000) until such time as it may requalify for experience rating or unless another treatment is specified in these rules.

(2) If the acquiring entity already has an experience factor, it shall be assigned a weighted average of its existing experience factor and the acquired experience factor. Weights will be based on expected losses. In the event the acquiring entity does not have an existing experience factor, it shall be assigned an experience factor developed from the past experience of the firm (business) or portion thereof being acquired.

(3) If the past experience of the firm (business) cannot be segregated between the operations remaining with the selling entity and the operations being taken over by the acquiring entity, then the entire experience of the firm (business) shall remain with the selling entity. In the event that the past experience can be segregated, the following shall apply:

(a) Separate experience factors shall be calculated for each portion of the firm (business) being sold using the expe-

rience rating procedures in WAC 296-17-855 through 296-17-870.

(b) Both experience factors shall be increased or decreased in the same proportion, if necessary, so that their weighted average is the same as the selling entity's experience factor prior to the sale or change.

(c) The selling entity shall be assigned the experience factor for the experience it is retaining.

(d) The experience factor developed in (a) and (b) of this subsection shall be used in accordance with subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, (~~2007~~) 2008**

CLAIM VALUE	PRIMARY LOSS
(19,560)	19,560
20,304	20,000
23,996	22,000
28,280	24,000
33,312	26,000
39,307	28,000
46,571	30,000
55,555	32,000
73,878	35,000
100,000	37,807
125,000	39,604
150,000	40,900
191,760*	42,411
300,000	44,544
489,000**	46,132))
<u>5,000</u>	<u>5,000</u>
<u>10,000</u>	<u>10,000</u>
<u>15,000</u>	<u>15,000</u>
<u>20,112</u>	<u>20,112</u>
<u>29,834</u>	<u>25,000</u>
<u>44,627</u>	<u>30,000</u>
<u>69,102</u>	<u>35,000</u>
<u>100,000</u>	<u>38,627</u>
<u>200,000</u>	<u>43,690</u>
<u>222,141*</u>	<u>44,268</u>
<u>300,000</u>	<u>45,686</u>
<u>400,000</u>	<u>46,754</u>
<u>502,800**</u>	<u>47,434</u>
<u>1,000,000</u>	<u>47,434</u>

* Average death value
** Maximum claim value

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, (~~2007~~) 2008**

Maximum Claim Value = \$ ((489,000)) 502,800
Average Death Value = \$ ((191,760)) 222,141

((Expected Losses	Primary Credibility	Excess Credibility
+ -	7,127 12%	7%
7,128 -	7,607 13%	7%
7,608 -	8,094 14%	7%
8,095 -	8,586 15%	7%
8,587 -	9,083 16%	7%
9,084 -	9,588 17%	7%
9,589 -	10,098 18%	7%
10,099 -	10,615 19%	7%
10,616 -	11,139 20%	7%
11,140 -	11,670 21%	7%
11,671 -	12,209 22%	7%
12,210 -	12,755 23%	7%
12,756 -	13,310 24%	7%
13,311 -	13,874 25%	7%
13,875 -	14,446 26%	7%
14,447 -	15,027 27%	7%
15,028 -	15,619 28%	7%
15,620 -	16,221 29%	7%
16,222 -	16,834 30%	7%
16,835 -	17,459 31%	7%
17,460 -	18,096 32%	7%
18,097 -	18,746 33%	7%
18,747 -	19,410 34%	7%
19,411 -	20,088 35%	7%
20,089 -	20,783 36%	7%
20,784 -	21,495 37%	7%
21,496 -	22,226 38%	7%
22,227 -	22,976 39%	7%
22,977 -	23,748 40%	7%
23,749 -	24,543 41%	7%
24,544 -	25,365 42%	7%
25,366 -	26,215 43%	7%
26,216 -	27,097 44%	7%
27,098 -	28,015 45%	7%
28,016 -	28,973 46%	7%
28,974 -	29,978 47%	7%
29,979 -	31,036 48%	7%

((Expected Losses	Primary Credibility	Excess Credibility	((Expected Losses	Primary Credibility	Excess Credibility
31,037 - 32,158	49%	7%	702,195 - 729,722	73%	29%
32,159 - 33,357	50%	7%	729,723 - 735,998	74%	29%
33,358 - 34,650	51%	7%	735,999 - 768,935	74%	30%
34,651 - 36,066	52%	7%	768,936 - 770,025	75%	30%
36,067 - 37,646	53%	7%	770,026 - 804,276	75%	31%
37,647 - 37,807	54%	7%	804,277 - 808,148	75%	32%
37,808 - 39,466	54%	8%	808,149 - 838,753	76%	32%
39,467 - 41,687	55%	8%	838,754 - 847,362	76%	33%
41,688 - 63,092	56%	8%	847,363 - 873,458	77%	33%
63,093 - 69,540	57%	8%	873,459 - 886,576	77%	34%
69,541 - 99,328	57%	9%	886,577 - 908,394	78%	34%
99,329 - 102,306	57%	10%	908,395 - 925,789	78%	35%
102,307 - 129,299	58%	10%	925,790 - 943,563	79%	35%
129,300 - 141,520	58%	11%	943,564 - 965,002	79%	36%
141,521 - 159,457	59%	11%	965,003 - 978,967	80%	36%
159,458 - 180,732	59%	12%	978,968 - 1,004,216	80%	37%
180,733 - 189,799	60%	12%	1,004,217 - 1,014,609	81%	37%
189,800 - 219,946	60%	13%	1,014,610 - 1,043,429	81%	38%
219,947 - 220,331	61%	13%	1,043,430 - 1,050,491	82%	38%
220,332 - 251,053	61%	14%	1,050,492 - 1,082,643	82%	39%
251,054 - 259,160	61%	15%	1,082,644 - 1,086,617	83%	39%
259,161 - 281,968	62%	15%	1,086,618 - 1,121,857	83%	40%
281,969 - 298,373	62%	16%	1,121,858 - 1,122,987	84%	40%
298,374 - 313,077	63%	16%	1,122,988 - 1,159,604	84%	41%
313,078 - 337,587	63%	17%	1,159,605 - 1,161,069	84%	42%
337,588 - 344,381	64%	17%	1,161,070 - 1,196,471	85%	42%
344,382 - 375,882	64%	18%	1,196,472 - 1,200,283	85%	43%
375,883 - 376,800	64%	19%	1,200,284 - 1,233,592	86%	43%
376,801 - 407,584	65%	19%	1,233,593 - 1,239,497	86%	44%
407,585 - 416,013	65%	20%	1,239,498 - 1,270,967	87%	44%
416,014 - 439,487	66%	20%	1,270,968 - 1,278,711	87%	45%
439,488 - 455,227	66%	21%	1,278,712 - 1,308,601	88%	45%
455,228 - 471,593	67%	21%	1,308,602 - 1,317,923	88%	46%
471,594 - 494,441	67%	22%	1,317,924 - 1,346,495	89%	46%
494,442 - 503,904	68%	22%	1,346,496 - 1,357,137	89%	47%
503,905 - 533,654	68%	23%	1,357,138 - 1,384,652	90%	47%
533,655 - 536,422	69%	23%	1,384,653 - 1,396,351	90%	48%
536,423 - 569,151	69%	24%	1,396,352 - 1,423,077	91%	48%
569,151 - 572,867	69%	25%	1,423,077 - 1,435,565	91%	49%
572,868 - 602,089	70%	25%	1,435,565 - 1,461,768	92%	49%
602,090 - 612,081	70%	26%	1,461,769 - 1,474,778	92%	50%
612,082 - 635,241	71%	26%	1,474,779 - 1,500,732	93%	50%
635,242 - 651,295	71%	27%	1,500,733 - 1,513,991	93%	51%
651,296 - 668,609	72%	27%	1,513,992 - 1,539,972	94%	51%
668,610 - 690,508	72%	28%	1,539,972 - 1,553,205	94%	52%
690,509 - 702,194	73%	28%	1,553,205 - 1,579,487	95%	52%

<u>((Expected Losses</u>	<u>Primary</u> <u>Credibility</u>	<u>Excess</u> <u>Credibility</u>	<u>Expected Losses</u>	<u>Primary</u> <u>Credibility</u>	<u>Excess</u> <u>Credibility</u>
1,579,488 - 1,592,418	95%	53%	9,341 = 9,859	17%	7%
1,592,419 - 1,619,283	96%	53%	9,860 = 10,384	18%	7%
1,619,284 - 1,631,632	96%	54%	10,385 = 10,915	19%	7%
1,631,633 - 1,659,362	97%	54%	10,916 = 11,454	20%	7%
1,659,363 - 1,670,845	97%	55%	11,455 = 12,000	21%	7%
1,670,846 - 1,699,729	98%	55%	12,001 = 12,555	22%	7%
1,699,730 - 1,710,058	98%	56%	12,556 = 13,116	23%	7%
1,710,059 - 1,740,385	99%	56%	13,117 = 13,687	24%	7%
1,740,386 - 1,749,272	99%	57%	13,688 = 14,267	25%	7%
1,749,273 - 1,781,334	100%	57%	14,268 = 14,855	26%	7%
1,781,335 - 1,822,578	100%	58%	14,856 = 15,452	27%	7%
1,822,579 - 1,864,121	100%	59%	15,453 = 16,061	28%	7%
1,864,122 - 1,905,967	100%	60%	16,062 = 16,680	29%	7%
1,905,968 - 1,948,118	100%	61%	16,681 = 17,310	30%	7%
1,948,119 - 1,990,579	100%	62%	17,311 = 17,953	31%	7%
1,990,580 - 2,033,351	100%	63%	17,954 = 18,608	32%	7%
2,033,352 - 2,076,439	100%	64%	18,609 = 19,277	33%	7%
2,076,440 - 2,119,847	100%	65%	19,278 = 19,959	34%	7%
2,119,848 - 2,163,579	100%	66%	19,960 = 20,657	35%	7%
2,163,580 - 2,207,637	100%	67%	20,658 = 21,371	36%	7%
2,207,638 - 2,252,024	100%	68%	21,372 = 22,103	37%	7%
2,252,025 - 2,296,746	100%	69%	22,104 = 22,855	38%	7%
2,296,747 - 2,341,805	100%	70%	22,856 = 23,626	39%	7%
2,341,806 - 2,387,206	100%	71%	23,627 = 24,420	40%	7%
2,387,207 - 2,432,953	100%	72%	24,421 = 25,238	41%	7%
2,432,954 - 2,479,048	100%	73%	25,239 = 26,083	42%	7%
2,479,049 - 2,525,498	100%	74%	26,084 = 26,957	43%	7%
2,525,499 - 2,572,305	100%	75%	26,958 = 27,864	44%	7%
2,572,306 - 2,619,473	100%	76%	27,865 = 28,808	45%	7%
2,619,474 - 2,667,008	100%	77%	28,809 = 29,793	46%	7%
2,667,009 - 2,714,913	100%	78%	29,794 = 30,826	47%	7%
2,714,914 - 2,763,192	100%	79%	30,827 = 31,914	48%	7%
2,763,193 - 2,811,850	100%	80%	31,915 = 33,068	49%	7%
2,811,851 - 2,860,892	100%	81%	33,069 = 34,301	50%	7%
2,860,893 - 2,910,321	100%	82%	34,302 = 35,631	51%	7%
2,910,322 - 2,960,143	100%	83%	35,632 = 37,087	52%	7%
2,960,144 - 3,010,362	100%	84%	37,088 = 38,711	53%	7%
3,010,363 - 3,060,983	100%	85%	38,712 = 38,877	54%	7%
3,060,984 - 99,999,999	100%	86%))	38,878 = 40,583	54%	8%
			40,584 = 42,867	55%	8%
			42,868 = 64,878	56%	8%
<u>Expected Losses</u>	<u>Primary</u> <u>Credibility</u>	<u>Excess</u> <u>Credibility</u>	<u>42,868 = 64,879</u>	<u>57%</u>	<u>8%</u>
1 = 7,329	12%	7%	71,509 = 102,139	57%	9%
7,330 = 7,822	13%	7%	102,140 = 105,201	57%	10%
7,823 = 8,323	14%	7%	105,202 = 132,958	58%	10%
8,324 = 8,829	15%	7%	132,959 = 145,525	58%	11%
8,830 = 9,340	16%	7%			

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>145,526</u>	=	<u>163,970</u>	<u>59%</u>	<u>11%</u>	<u>992,313</u>	=	<u>1,006,672</u>	<u>80%</u>	<u>36%</u>
<u>163,971</u>	=	<u>185,847</u>	<u>59%</u>	<u>12%</u>	<u>1,006,673</u>	=	<u>1,032,635</u>	<u>80%</u>	<u>37%</u>
<u>185,848</u>	=	<u>195,170</u>	<u>60%</u>	<u>12%</u>	<u>1,032,636</u>	=	<u>1,043,322</u>	<u>81%</u>	<u>37%</u>
<u>195,171</u>	=	<u>226,171</u>	<u>60%</u>	<u>13%</u>	<u>1,043,323</u>	=	<u>1,072,958</u>	<u>81%</u>	<u>38%</u>
<u>226,172</u>	=	<u>226,566</u>	<u>61%</u>	<u>13%</u>	<u>1,072,959</u>	=	<u>1,080,220</u>	<u>82%</u>	<u>38%</u>
<u>226,567</u>	=	<u>258,158</u>	<u>61%</u>	<u>14%</u>	<u>1,080,221</u>	=	<u>1,113,282</u>	<u>82%</u>	<u>39%</u>
<u>258,159</u>	=	<u>266,494</u>	<u>61%</u>	<u>15%</u>	<u>1,113,283</u>	=	<u>1,117,368</u>	<u>83%</u>	<u>39%</u>
<u>266,495</u>	=	<u>289,948</u>	<u>62%</u>	<u>15%</u>	<u>1,117,369</u>	=	<u>1,153,606</u>	<u>83%</u>	<u>40%</u>
<u>289,949</u>	=	<u>306,817</u>	<u>62%</u>	<u>16%</u>	<u>1,153,607</u>	=	<u>1,154,768</u>	<u>84%</u>	<u>40%</u>
<u>306,818</u>	=	<u>321,937</u>	<u>63%</u>	<u>16%</u>	<u>1,154,769</u>	=	<u>1,192,421</u>	<u>84%</u>	<u>41%</u>
<u>321,938</u>	=	<u>347,141</u>	<u>63%</u>	<u>17%</u>	<u>1,192,422</u>	=	<u>1,193,927</u>	<u>84%</u>	<u>42%</u>
<u>347,142</u>	=	<u>354,127</u>	<u>64%</u>	<u>17%</u>	<u>1,193,928</u>	=	<u>1,230,331</u>	<u>85%</u>	<u>42%</u>
<u>354,128</u>	=	<u>386,519</u>	<u>64%</u>	<u>18%</u>	<u>1,230,332</u>	=	<u>1,234,251</u>	<u>85%</u>	<u>43%</u>
<u>386,520</u>	=	<u>387,463</u>	<u>64%</u>	<u>19%</u>	<u>1,234,252</u>	=	<u>1,268,503</u>	<u>86%</u>	<u>43%</u>
<u>387,464</u>	=	<u>419,119</u>	<u>65%</u>	<u>19%</u>	<u>1,268,504</u>	=	<u>1,274,575</u>	<u>86%</u>	<u>44%</u>
<u>419,120</u>	=	<u>427,786</u>	<u>65%</u>	<u>20%</u>	<u>1,274,576</u>	=	<u>1,306,935</u>	<u>87%</u>	<u>44%</u>
<u>427,787</u>	=	<u>451,925</u>	<u>66%</u>	<u>20%</u>	<u>1,306,936</u>	=	<u>1,314,899</u>	<u>87%</u>	<u>45%</u>
<u>451,926</u>	=	<u>468,110</u>	<u>66%</u>	<u>21%</u>	<u>1,314,900</u>	=	<u>1,345,634</u>	<u>88%</u>	<u>45%</u>
<u>468,111</u>	=	<u>484,939</u>	<u>67%</u>	<u>21%</u>	<u>1,345,635</u>	=	<u>1,355,220</u>	<u>88%</u>	<u>46%</u>
<u>484,940</u>	=	<u>508,434</u>	<u>67%</u>	<u>22%</u>	<u>1,355,221</u>	=	<u>1,384,601</u>	<u>89%</u>	<u>46%</u>
<u>508,435</u>	=	<u>518,165</u>	<u>68%</u>	<u>22%</u>	<u>1,384,602</u>	=	<u>1,395,544</u>	<u>89%</u>	<u>47%</u>
<u>518,166</u>	=	<u>548,756</u>	<u>68%</u>	<u>23%</u>	<u>1,395,545</u>	=	<u>1,423,838</u>	<u>90%</u>	<u>47%</u>
<u>548,757</u>	=	<u>551,603</u>	<u>69%</u>	<u>23%</u>	<u>1,423,839</u>	=	<u>1,435,868</u>	<u>90%</u>	<u>48%</u>
<u>551,604</u>	=	<u>585,257</u>	<u>69%</u>	<u>24%</u>	<u>1,435,869</u>	=	<u>1,463,349</u>	<u>91%</u>	<u>48%</u>
<u>585,258</u>	=	<u>589,079</u>	<u>69%</u>	<u>25%</u>	<u>1,463,350</u>	=	<u>1,476,190</u>	<u>91%</u>	<u>49%</u>
<u>589,080</u>	=	<u>619,128</u>	<u>70%</u>	<u>25%</u>	<u>1,476,191</u>	=	<u>1,503,136</u>	<u>92%</u>	<u>49%</u>
<u>619,129</u>	=	<u>629,403</u>	<u>70%</u>	<u>26%</u>	<u>1,503,137</u>	=	<u>1,516,514</u>	<u>92%</u>	<u>50%</u>
<u>629,404</u>	=	<u>653,218</u>	<u>71%</u>	<u>26%</u>	<u>1,516,515</u>	=	<u>1,543,203</u>	<u>93%</u>	<u>50%</u>
<u>653,219</u>	=	<u>669,727</u>	<u>71%</u>	<u>27%</u>	<u>1,543,204</u>	=	<u>1,556,837</u>	<u>93%</u>	<u>51%</u>
<u>669,728</u>	=	<u>687,531</u>	<u>72%</u>	<u>27%</u>	<u>1,556,838</u>	=	<u>1,583,552</u>	<u>94%</u>	<u>51%</u>
<u>687,532</u>	=	<u>710,049</u>	<u>72%</u>	<u>28%</u>	<u>1,583,553</u>	=	<u>1,597,160</u>	<u>94%</u>	<u>52%</u>
<u>710,050</u>	=	<u>722,066</u>	<u>73%</u>	<u>28%</u>	<u>1,597,161</u>	=	<u>1,624,187</u>	<u>95%</u>	<u>52%</u>
<u>722,067</u>	=	<u>750,373</u>	<u>73%</u>	<u>29%</u>	<u>1,624,188</u>	=	<u>1,637,483</u>	<u>95%</u>	<u>53%</u>
<u>750,374</u>	=	<u>756,827</u>	<u>74%</u>	<u>29%</u>	<u>1,637,484</u>	=	<u>1,665,109</u>	<u>96%</u>	<u>53%</u>
<u>756,828</u>	=	<u>790,696</u>	<u>74%</u>	<u>30%</u>	<u>1,665,110</u>	=	<u>1,677,807</u>	<u>96%</u>	<u>54%</u>
<u>790,697</u>	=	<u>791,817</u>	<u>75%</u>	<u>30%</u>	<u>1,677,808</u>	=	<u>1,706,322</u>	<u>97%</u>	<u>54%</u>
<u>791,818</u>	=	<u>827,037</u>	<u>75%</u>	<u>31%</u>	<u>1,706,323</u>	=	<u>1,718,130</u>	<u>97%</u>	<u>55%</u>
<u>827,038</u>	=	<u>831,019</u>	<u>75%</u>	<u>32%</u>	<u>1,718,131</u>	=	<u>1,747,831</u>	<u>98%</u>	<u>55%</u>
<u>831,020</u>	=	<u>862,490</u>	<u>76%</u>	<u>32%</u>	<u>1,747,832</u>	=	<u>1,758,453</u>	<u>98%</u>	<u>56%</u>
<u>862,491</u>	=	<u>871,342</u>	<u>76%</u>	<u>33%</u>	<u>1,758,454</u>	=	<u>1,789,638</u>	<u>99%</u>	<u>56%</u>
<u>871,343</u>	=	<u>898,177</u>	<u>77%</u>	<u>33%</u>	<u>1,789,639</u>	=	<u>1,798,776</u>	<u>99%</u>	<u>57%</u>
<u>898,178</u>	=	<u>911,666</u>	<u>77%</u>	<u>34%</u>	<u>1,798,777</u>	=	<u>1,831,746</u>	<u>100%</u>	<u>57%</u>
<u>911,667</u>	=	<u>934,102</u>	<u>78%</u>	<u>34%</u>	<u>1,831,747</u>	=	<u>1,874,157</u>	<u>100%</u>	<u>58%</u>
<u>934,103</u>	=	<u>951,989</u>	<u>78%</u>	<u>35%</u>	<u>1,874,158</u>	=	<u>1,916,876</u>	<u>100%</u>	<u>59%</u>
<u>951,990</u>	=	<u>970,266</u>	<u>79%</u>	<u>35%</u>	<u>1,916,877</u>	=	<u>1,959,906</u>	<u>100%</u>	<u>60%</u>
<u>970,267</u>	=	<u>992,312</u>	<u>79%</u>	<u>36%</u>	<u>1,959,907</u>	=	<u>2,003,250</u>	<u>100%</u>	<u>61%</u>

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility			
2,003,251	=	2,046,912	100%	62%	1,318	-	1,502	1.60%	0.00%
2,046,913	=	2,090,895	100%	63%	1,503	-	1,687	1.80%	0.00%
2,090,896	=	2,135,202	100%	64%	1,688	-	1,873	2.00%	0.00%
2,135,203	=	2,179,839	100%	65%	1,874	-	2,060	2.20%	0.00%
2,179,840	=	2,224,808	100%	66%	2,061	-	2,248	2.40%	0.00%
2,224,809	=	2,270,113	100%	67%	2,249	-	2,437	2.60%	0.00%
2,270,114	=	2,315,756	100%	68%	2,438	-	2,626	2.80%	0.00%
2,315,757	=	2,361,744	100%	69%	2,627	-	2,816	3.00%	0.00%
2,361,745	=	2,408,078	100%	70%	2,817	-	3,007	3.20%	0.00%
2,408,079	=	2,454,764	100%	71%	3,008	-	3,198	3.40%	0.00%
2,454,765	=	2,501,806	100%	72%	3,199	-	3,391	3.60%	0.00%
2,501,807	=	2,549,205	100%	73%	3,392	-	3,584	3.80%	0.00%
2,549,206	=	2,596,970	100%	74%	3,585	-	3,778	4.00%	0.00%
2,596,971	=	2,645,101	100%	75%	3,779	-	3,973	4.20%	0.00%
2,645,102	=	2,693,604	100%	76%	3,974	-	4,168	4.40%	0.00%
2,693,605	=	2,742,484	100%	77%	4,169	-	4,365	4.60%	0.00%
2,742,485	=	2,791,745	100%	78%	4,366	-	4,562	4.80%	0.00%
2,791,746	=	2,841,390	100%	79%	4,563	-	4,760	5.00%	0.00%
2,841,391	=	2,891,425	100%	80%	4,761	-	4,959	5.20%	0.00%
2,891,426	=	2,941,855	100%	81%	4,960	-	5,159	5.40%	0.00%
2,941,856	=	2,992,683	100%	82%	5,160	-	5,360	5.60%	0.00%
2,992,684	=	3,043,915	100%	83%	5,361	-	5,561	5.80%	0.00%
3,043,916	=	3,095,555	100%	84%	5,562	-	5,763	6.00%	0.00%
3,095,556	=	3,147,609	100%	85%	5,764	-	5,966	6.20%	0.00%
3,147,610	& Over		100%	86%	5,967	-	6,170	6.40%	0.00%
					6,171	-	6,375	6.60%	0.00%
					6,376	-	6,581	6.80%	0.00%
					6,582	-	6,788	7.00%	0.00%
					6,789	-	6,995	7.20%	0.00%
					6,996	-	7,204	7.40%	0.00%
					7,205	-	7,413	7.60%	0.00%
					7,414	-	7,624	7.80%	0.00%
					7,625	-	7,835	8.00%	0.00%
					7,836	-	8,047	8.20%	0.00%
					8,048	-	8,260	8.40%	0.00%
					8,261	-	8,474	8.60%	0.00%
					8,475	-	8,689	8.80%	0.00%
					8,690	-	8,905	9.00%	0.00%
					8,906	-	9,122	9.20%	0.00%
					9,123	-	9,340	9.40%	0.00%
					9,341	-	9,559	9.60%	0.00%
					9,560	-	9,778	9.80%	0.00%
					9,779	-	9,999	10.00%	0.00%
					10,000	-	10,221	10.20%	0.00%
					10,222	-	10,444	10.40%	0.00%
					10,445	-	10,613	10.60%	0.00%

((TABLE HA

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, 2007, to December 31, 2007**

Maximum Claim Value = \$ 489,000

Average Death Value = \$ 191,760

Expected Losses	Primary Credibility	Excess Credibility
1	90	0.10%
91	179	0.20%
180	269	0.30%
270	360	0.40%
361	450	0.50%
451	540	0.60%
541	631	0.70%
632	722	0.80%
723	813	0.90%
814	950	1.00%
951	1,133	1.20%
1,134	1,317	1.40%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
10,614 -	10,783	10.80%	21,721 -	21,994	20.00%
10,784 -	11,006	11.00%	21,995 -	22,269	20.20%
11,007 -	11,231	11.20%	22,270 -	22,546	20.40%
11,232 -	11,456	11.40%	22,547 -	22,823	20.60%
11,457 -	11,683	11.60%	22,824 -	23,102	20.80%
11,684 -	11,910	11.80%	23,103 -	23,383	21.00%
11,911 -	12,139	12.00%	23,384 -	23,666	21.20%
12,140 -	12,368	12.20%	23,667 -	23,949	21.40%
12,369 -	12,599	12.40%	23,950 -	24,234	21.60%
12,600 -	12,831	12.60%	24,235 -	24,521	21.80%
12,832 -	13,064	12.80%	24,522 -	24,809	22.00%
13,065 -	13,297	13.00%	24,810 -	25,098	22.20%
13,298 -	13,532	13.20%	25,099 -	25,389	22.40%
13,533 -	13,768	13.40%	25,390 -	25,681	22.60%
13,769 -	14,005	13.60%	25,682 -	25,975	22.80%
14,006 -	14,244	13.80%	25,976 -	26,270	23.00%
14,245 -	14,483	14.00%	26,271 -	26,567	23.20%
14,484 -	14,723	14.20%	26,568 -	26,866	23.40%
14,724 -	14,965	14.40%	26,867 -	27,166	23.60%
14,966 -	15,208	14.60%	27,167 -	27,468	23.80%
15,209 -	15,451	14.80%	27,469 -	27,771	24.00%
15,452 -	15,696	15.00%	27,772 -	28,076	24.20%
15,697 -	15,942	15.20%	28,077 -	28,383	24.40%
15,943 -	16,189	15.40%	28,384 -	28,691	24.60%
16,190 -	16,438	15.60%	28,692 -	29,000	24.80%
16,439 -	16,687	15.80%	29,001 -	29,312	25.00%
16,688 -	16,938	16.00%	29,313 -	29,625	25.20%
16,939 -	17,191	16.20%	29,626 -	29,940	25.40%
17,192 -	17,444	16.40%	29,941 -	30,256	25.60%
17,445 -	17,698	16.60%	30,257 -	30,574	25.80%
17,699 -	17,954	16.80%	30,575 -	30,894	26.00%
17,955 -	18,211	17.00%	30,895 -	31,216	26.20%
18,212 -	18,469	17.20%	31,217 -	31,539	26.40%
18,470 -	18,728	17.40%	31,540 -	31,864	26.60%
18,729 -	18,989	17.60%	31,865 -	32,026	26.80%
18,990 -	19,251	17.80%	32,027 -	32,188	27.00%
19,252 -	19,514	18.00%	32,189 -	32,515	27.20%
19,515 -	19,779	18.20%	32,516 -	32,844	27.40%
19,780 -	20,044	18.40%	32,845 -	33,175	27.60%
20,045 -	20,311	18.60%	33,176 -	33,507	27.80%
20,312 -	20,580	18.80%	33,508 -	33,842	28.00%
20,581 -	20,849	19.00%	33,843 -	34,178	28.20%
20,850 -	21,120	19.20%	34,179 -	34,516	28.40%
21,121 -	21,284	19.40%	34,517 -	34,857	28.60%
21,285 -	21,448	19.60%	34,858 -	35,199	28.80%
21,449 -	21,720	19.80%	35,200 -	35,542	29.00%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
35,543 -	35,888	29.20%	53,217 -	53,668	38.40%
35,889 -	36,236	29.40%	53,669 -	54,123	38.60%
36,237 -	36,586	29.60%	54,124 -	54,296	38.80%
36,587 -	36,938	29.80%	54,297 -	54,469	39.00%
36,939 -	37,291	30.00%	54,470 -	54,929	39.20%
37,292 -	37,647	30.20%	54,930 -	55,391	39.40%
37,648 -	38,005	30.40%	55,392 -	55,856	39.60%
38,006 -	38,365	30.60%	55,857 -	56,324	39.80%
38,366 -	38,727	30.80%	56,325 -	56,796	40.00%
38,728 -	39,091	31.00%	56,797 -	57,271	40.20%
39,092 -	39,457	31.20%	57,272 -	57,749	40.40%
39,458 -	39,826	31.40%	57,750 -	58,230	40.60%
39,827 -	40,196	31.60%	58,231 -	58,714	40.80%
40,197 -	40,569	31.80%	58,715 -	59,202	41.00%
40,570 -	40,944	32.00%	59,203 -	59,693	41.20%
40,945 -	41,321	32.20%	59,694 -	60,187	41.40%
41,322 -	41,700	32.40%	60,188 -	60,685	41.60%
41,701 -	42,082	32.60%	60,686 -	61,186	41.80%
42,083 -	42,466	32.80%	61,187 -	61,690	42.00%
42,467 -	42,852	33.00%	61,691 -	62,198	42.20%
42,853 -	43,016	33.20%	62,199 -	62,710	42.40%
43,017 -	43,181	33.40%	62,711 -	63,226	42.60%
43,182 -	43,570	33.60%	63,227 -	63,744	42.80%
43,571 -	43,962	33.80%	63,745 -	64,266	43.00%
43,963 -	44,356	34.00%	64,267 -	64,792	43.20%
44,357 -	44,752	34.20%	64,793 -	65,322	43.40%
44,753 -	45,151	34.40%	65,323 -	65,508	43.60%
45,152 -	45,552	34.60%	65,509 -	65,694	43.80%
45,553 -	45,956	34.80%	65,695 -	66,230	44.00%
45,957 -	46,362	35.00%	66,231 -	66,770	44.20%
46,363 -	46,770	35.20%	66,771 -	67,313	44.40%
46,771 -	47,181	35.40%	67,314 -	67,860	44.60%
47,182 -	47,595	35.60%	67,861 -	68,411	44.80%
47,596 -	48,011	35.80%	68,412 -	68,966	45.00%
48,012 -	48,430	36.00%	68,967 -	69,526	45.20%
48,431 -	48,852	36.20%	69,527 -	70,089	45.40%
48,853 -	49,276	36.40%	70,090 -	70,656	45.60%
49,277 -	49,702	36.60%	70,657 -	71,228	45.80%
49,703 -	50,132	36.80%	71,229 -	71,804	46.00%
50,133 -	50,564	37.00%	71,805 -	72,384	46.20%
50,565 -	50,999	37.20%	72,385 -	72,969	46.40%
51,000 -	51,437	37.40%	72,970 -	73,558	46.60%
51,438 -	51,877	37.60%	73,559 -	74,151	46.80%
51,878 -	52,321	37.80%	74,152 -	74,748	47.00%
52,322 -	52,767	38.00%	74,749 -	75,351	47.20%
52,768 -	53,216	38.20%	75,352 -	75,958	47.40%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
75,959 -	76,569	47.60%	106,423 -	107,293	56.80%
76,570 -	77,186	47.80%	107,294 -	108,172	57.00%
77,187 -	77,391	48.00%	108,173 -	109,059	57.20%
77,392 -	77,598	48.20%	109,060 -	109,954	57.40%
77,599 -	78,222	48.40%	109,955 -	110,858	57.60%
78,223 -	78,851	48.60%	110,859 -	111,771	57.80%
78,852 -	79,484	48.80%	111,772 -	112,692	58.00%
79,485 -	80,123	49.00%	112,693 -	112,995	58.20%
80,124 -	80,767	49.20%	112,996 -	113,302	58.40%
80,768 -	81,416	49.40%	113,303 -	114,239	58.60%
81,417 -	82,070	49.60%	114,240 -	115,186	58.80%
82,071 -	82,729	49.80%	115,187 -	116,142	59.00%
82,730 -	83,394	50.00%	116,143 -	117,107	59.20%
83,395 -	84,063	50.20%	117,108 -	118,082	59.40%
84,064 -	84,738	50.40%	118,083 -	119,066	59.60%
84,739 -	85,419	50.60%	119,067 -	120,061	59.80%
85,420 -	86,106	50.80%	120,062 -	121,065	60.00%
86,107 -	86,798	51.00%	121,066 -	122,079	60.20%
86,799 -	87,495	51.20%	122,080 -	123,104	60.40%
87,496 -	88,198	51.40%	123,105 -	124,139	60.60%
88,199 -	88,907	51.60%	124,140 -	125,185	60.80%
88,908 -	89,138	51.80%	125,186 -	125,537	61.00%
89,139 -	89,372	52.00%	125,538 -	125,894	61.20%
89,373 -	90,091	52.20%	125,895 -	126,960	61.40%
90,092 -	90,816	52.40%	126,961 -	128,038	61.60%
90,817 -	91,548	52.60%	128,039 -	129,126	61.80%
91,549 -	92,285	52.80%	129,127 -	130,226	62.00%
92,286 -	93,029	53.00%	130,227 -	131,338	62.20%
93,030 -	93,779	53.20%	131,339 -	132,462	62.40%
93,780 -	94,536	53.40%	132,463 -	133,598	62.60%
94,537 -	95,299	53.60%	133,599 -	134,746	62.80%
95,300 -	96,069	53.80%	134,747 -	135,907	63.00%
96,070 -	96,845	54.00%	135,908 -	137,080	63.20%
96,846 -	97,629	54.20%	137,081 -	137,485	63.40%
97,630 -	98,419	54.40%	137,486 -	137,897	63.60%
98,420 -	99,216	54.60%	137,898 -	139,096	63.80%
99,217 -	100,020	54.80%	139,097 -	140,308	64.00%
100,021 -	100,832	55.00%	140,309 -	141,533	64.20%
100,833 -	101,095	55.20%	141,534 -	142,773	64.40%
101,096 -	101,362	55.40%	142,774 -	144,026	64.60%
101,363 -	102,186	55.60%	144,027 -	145,294	64.80%
102,187 -	103,018	55.80%	145,295 -	146,576	65.00%
103,019 -	103,858	56.00%	146,577 -	147,873	65.20%
103,859 -	104,705	56.20%	147,874 -	149,185	65.40%
104,706 -	105,560	56.40%	149,186 -	150,512	65.60%
105,561 -	106,422	56.60%	150,513 -	150,988	65.80%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
150,989 - 151,472	66.00%	8.60%	220,740 - 223,116	75.20%	13.50%
151,473 - 152,831	66.20%	8.60%	223,117 - 225,532	75.40%	13.60%
152,832 - 154,206	66.40%	8.60%	225,533 - 227,987	75.60%	13.60%
154,207 - 155,597	66.60%	8.70%	227,988 - 230,483	75.80%	13.60%
155,598 - 157,006	66.80%	8.70%	230,484 - 231,592	76.00%	13.70%
157,007 - 158,432	67.00%	8.70%	231,593 - 232,727	76.20%	14.50%
158,433 - 159,875	67.20%	8.70%	232,728 - 235,319	76.40%	14.50%
159,876 - 161,335	67.40%	8.80%	235,320 - 237,956	76.60%	14.50%
161,336 - 162,814	67.60%	8.80%	237,957 - 240,638	76.80%	14.60%
162,815 - 163,363	67.80%	8.80%	240,639 - 243,367	77.00%	14.60%
163,364 - 163,921	68.00%	9.50%	243,368 - 244,615	77.20%	14.70%
163,922 - 165,439	68.20%	9.50%	244,616 - 245,895	77.40%	15.50%
165,440 - 166,975	68.40%	9.60%	245,896 - 248,737	77.60%	15.50%
166,976 - 168,531	68.60%	9.60%	248,738 - 251,629	77.80%	15.60%
168,532 - 170,108	68.80%	9.60%	251,630 - 254,574	78.00%	15.60%
170,109 - 171,704	69.00%	9.70%	254,575 - 257,574	78.20%	15.60%
171,705 - 173,321	69.20%	9.70%	257,575 - 258,990	78.40%	15.70%
173,322 - 174,960	69.40%	9.70%	258,991 - 260,444	78.60%	16.50%
174,961 - 176,620	69.60%	9.70%	260,445 - 263,576	78.80%	16.50%
176,621 - 177,262	69.80%	9.80%	263,577 - 266,767	79.00%	16.60%
177,263 - 177,916	70.00%	10.50%	266,768 - 270,019	79.20%	16.60%
177,917 - 179,624	70.20%	10.50%	270,020 - 273,336	79.40%	16.70%
179,625 - 181,354	70.40%	10.60%	273,337 - 274,955	79.60%	16.70%
181,355 - 183,108	70.60%	10.60%	274,956 - 276,619	79.80%	17.50%
183,109 - 184,887	70.80%	10.60%	276,620 - 280,092	80.00%	17.60%
184,888 - 186,690	71.00%	10.60%	280,093 - 283,635	80.20%	17.60%
186,691 - 188,517	71.20%	10.70%	283,636 - 287,251	80.40%	17.70%
188,518 - 189,245	71.40%	10.70%	287,252 - 289,064	80.60%	17.70%
189,246 - 189,989	71.60%	11.40%	289,065 - 290,931	80.80%	18.60%
189,990 - 191,873	71.80%	11.50%	290,932 - 294,729	81.00%	18.60%
191,874 - 193,783	72.00%	11.50%	294,730 - 298,608	81.20%	18.70%
193,784 - 195,722	72.20%	11.50%	298,609 - 302,571	81.40%	18.70%
195,723 - 197,689	72.40%	11.60%	302,572 - 304,615	81.60%	18.80%
197,690 - 199,684	72.60%	11.60%	304,616 - 306,721	81.80%	19.60%
199,685 - 201,709	72.80%	11.60%	306,722 - 310,897	82.00%	19.70%
201,710 - 203,763	73.00%	11.70%	310,898 - 315,167	82.20%	19.70%
203,764 - 204,617	73.20%	11.70%	315,168 - 319,534	82.40%	19.80%
204,618 - 205,490	73.40%	12.50%	319,535 - 321,857	82.60%	19.80%
205,491 - 207,613	73.60%	12.50%	321,858 - 324,254	82.80%	20.70%
207,614 - 209,769	73.80%	12.50%	324,255 - 328,872	83.00%	20.70%
209,770 - 211,958	74.00%	12.60%	328,873 - 333,601	83.20%	20.80%
211,959 - 214,182	74.20%	12.60%	333,602 - 336,171	83.40%	20.80%
214,183 - 216,440	74.40%	12.60%	336,172 - 338,826	83.60%	21.70%
216,441 - 217,409	74.60%	12.70%	338,827 - 343,842	83.80%	21.80%
217,410 - 218,400	74.80%	13.50%	343,843 - 348,985	84.00%	21.80%
218,401 - 220,739	75.00%	13.50%	348,986 - 351,846	84.20%	21.90%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
351,847 - 354,805	84.40%	22.80%	737,954 - 763,123	94.00%	43.20%
354,806 - 360,280	84.60%	22.80%	763,124 - 788,924	94.20%	44.30%
360,281 - 365,899	84.80%	22.90%	788,925 - 815,380	94.50%	45.40%
365,900 - 369,102	85.00%	22.90%	815,381 - 842,517	94.80%	46.40%
369,103 - 372,421	85.20%	23.80%	842,518 - 870,364	95.00%	47.50%
372,422 - 378,427	85.40%	23.90%	870,365 - 898,949	95.30%	48.60%
378,428 - 384,599	85.60%	24.00%	898,950 - 928,304	95.50%	49.70%
384,600 - 388,209	85.80%	24.00%	928,305 - 958,460	95.70%	50.70%
388,210 - 391,955	86.00%	24.90%	958,461 - 989,451	95.90%	51.80%
391,956 - 398,581	86.20%	25.00%	989,452 - 1,021,315	96.10%	52.90%
398,582 - 402,523	86.40%	25.00%	1,021,316 - 1,054,091	96.30%	54.00%
402,524 - 406,619	86.60%	26.00%	1,054,092 - 1,087,818	96.50%	55.00%
406,620 - 413,757	86.80%	26.00%	1,087,819 - 1,122,540	96.70%	56.10%
413,758 - 421,116	87.00%	26.10%	1,122,541 - 1,158,302	96.90%	57.20%
421,117 - 425,615	87.20%	26.10%	1,158,303 - 1,195,155	97.00%	58.20%
425,616 - 430,299	87.40%	27.10%	1,195,156 - 1,233,148	97.20%	59.30%
430,300 - 438,269	87.60%	27.10%	1,233,149 - 1,272,339	97.40%	60.40%
438,270 - 443,234	87.80%	27.20%	1,272,340 - 1,312,785	97.50%	61.40%
443,235 - 448,413	88.00%	28.10%	1,312,786 - 1,354,549	97.60%	62.50%
448,414 - 457,082	88.20%	28.20%	1,354,550 - 1,397,699	97.80%	63.60%
457,083 - 462,592	88.40%	28.30%	1,397,700 - 1,442,306	97.90%	64.60%
462,593 - 468,348	88.60%	29.20%	1,442,307 - 1,488,446	98.00%	65.70%
468,349 - 474,223	88.80%	29.30%	1,488,447 - 1,536,203	98.10%	66.70%
474,224 - 480,370	89.00%	30.20%	1,536,204 - 1,585,664	98.30%	67.80%
480,371 - 490,408	89.20%	30.30%	1,585,665 - 1,636,923	98.40%	68.90%
490,409 - 496,996	89.40%	30.40%	1,636,924 - 1,690,083	98.50%	69.90%
496,997 - 503,903	89.60%	31.30%	1,690,084 - 1,745,254	98.60%	71.00%
503,904 - 514,980	89.80%	31.40%	1,745,255 - 1,802,552	98.70%	72.00%
514,981 - 522,408	90.00%	31.50%	1,802,553 - 1,862,106	98.70%	73.10%
522,409 - 530,214	90.20%	32.50%	1,862,107 - 1,924,055	98.80%	74.10%
530,215 - 538,232	90.40%	32.50%	1,924,056 - 1,988,548	98.90%	75.20%
538,233 - 546,674	90.60%	33.50%	1,988,549 - 2,055,747	99.00%	76.20%
546,675 - 555,362	90.80%	33.60%	2,055,748 - 2,125,829	99.10%	77.30%
555,363 - 564,527	91.00%	34.60%	2,125,830 - 2,198,987	99.10%	78.30%
564,528 - 573,976	91.20%	34.60%	2,198,988 - 2,275,428	99.20%	79.40%
573,977 - 583,967	91.40%	35.60%	2,275,429 - 2,355,384	99.30%	80.40%
583,968 - 594,289	91.60%	35.70%	2,355,385 - 2,439,104	99.30%	81.50%
594,290 - 605,227	91.80%	36.70%	2,439,105 - 2,526,865	99.40%	82.50%
605,228 - 616,556	92.00%	36.80%	2,526,866 - 2,618,968	99.40%	83.50%
616,557 - 628,592	92.20%	37.80%	2,618,969 - 2,715,749	99.50%	84.60%
628,593 - 641,089	92.40%	37.90%	2,715,750 - 2,817,578	99.50%	85.60%
641,090 - 654,404	92.60%	38.90%	2,817,578 - 2,924,860	99.60%	86.60%
654,405 - 668,268	92.80%	39.00%	2,924,861 - 3,038,054	99.60%	87.70%
668,269 - 690,829	93.00%	40.00%	3,038,055 - 3,157,666	99.70%	88.70%
690,830 - 713,390	93.30%	41.10%	3,157,667 - 3,284,260	99.70%	89.80%
713,391 - 737,953	93.60%	42.10%	3,284,261 - 3,418,473	99.80%	90.80%

Expected Losses	Primary Credibility	Excess Credibility	Expected Loss Range	Maximum Experience Modification
3,418,474 - 3,561,018	99.80%	91.80%	((Expected Loss Range 34,824 - 37,807	0.63
3,561,019 - 3,712,702	99.80%	92.80%	37,808 - 41,254	0.62
3,712,703 - 3,874,438	99.90%	93.90%	41,255 - 47,959	0.64
3,874,439 - 4,047,266	99.90%	94.90%	47,960 & Over	0.60))
4,047,267 - 4,232,376	99.90%	95.90%		
4,232,377 - 4,431,132	99.90%	96.90%		
4,431,133 - 4,645,107	100.00%	98.00%		
4,645,108 - 4,876,129	100.00%	99.00%		
4,876,130 & Over	100.00%	100.00%))		

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-890 Table IV.

**Maximum experience modifications
for firms with no compensable accidents:
Effective ((~~1/1/2007~~) 1/1/2008**

(Expected Loss Range	Maximum Experience Modification	Expected Loss Range	Maximum Experience Modification
1 - 6,468	0.90	1 - 6.636	0.90
6,469 - 7,900	0.89	6.637 - 8.104	0.89
7,901 - 8,752	0.88	8.105 - 8.977	0.88
8,753 - 9,539	0.87	8.978 - 9.785	0.87
9,540 - 10,369	0.86	9.786 - 10.637	0.86
10,370 - 11,240	0.85	10.638 - 11.530	0.85
11,241 - 12,006	0.84	11.531 - 12.316	0.84
12,007 - 12,783	0.83	12.317 - 13.113	0.83
12,784 - 13,593	0.82	13.114 - 13.944	0.82
13,594 - 14,435	0.81	13.945 - 14.808	0.81
14,436 - 15,312	0.80	14.809 - 15.706	0.80
15,313 - 16,220	0.79	15.707 - 16.638	0.79
16,221 - 17,163	0.78	16.639 - 17.606	0.78
17,164 - 18,140	0.77	17.607 - 18.608	0.77
18,141 - 19,151	0.76	18.609 - 19.646	0.76
19,152 - 20,198	0.75	19.647 - 20.719	0.75
20,199 - 21,279	0.74	20.720 - 21.828	0.74
21,280 - 22,395	0.73	21.829 - 22.973	0.73
22,396 - 23,548	0.72	22.974 - 24.156	0.72
23,549 - 24,736	0.71	24.157 - 25.374	0.71
24,737 - 25,962	0.70	25.375 - 26.631	0.70
25,963 - 27,221	0.69	26.632 - 27.924	0.69
27,222 - 28,518	0.68	27.925 - 29.254	0.68
28,519 - 29,852	0.67	29.255 - 30.623	0.67
29,853 - 31,222	0.66	30.624 - 32.027	0.66
31,223 - 32,629	0.65	32.028 - 33.471	0.65
32,630 - 34,823	0.64	33.472 - 35.721	0.64
		35.722 - 38.782	0.63
		38.783 - 42.319	0.62
		42.320 - 49.197	0.61
		49.198 & Over	0.60

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-86505 2007 Alternative claim-free experience modification calculation.

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
for Indicated Fiscal Year**

**Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, (~~2007~~) 2008**

((Class	2003	2004	2005	Primary Ratio	((Class	2003	2004	2005	Primary Ratio
					1003	0.7891	0.7308	0.6138	0.487
					1004	0.5047	0.4656	0.3875	0.527
					1005	8.2420	7.5668	6.3058	0.459
					1007	0.3725	0.3431	0.2861	0.490
					1101	0.7051	0.6553	0.5495	0.538
					1102	1.3280	1.2212	1.0168	0.487
					1103	1.2321	1.1421	0.9637	0.454
					1104	0.5356	0.5016	0.4245	0.540
					1105	0.9143	0.8454	0.7097	0.472
					1106	0.3417	0.3212	0.2733	0.533
					1108	0.6391	0.5942	0.4981	0.548
					1109	1.4817	1.3789	1.1610	0.518
					1301	0.6502	0.6003	0.4950	0.612
					1303	0.2230	0.2077	0.1736	0.592
					1304	0.0276	0.0257	0.0215	0.564
					1305	0.4086	0.3807	0.3189	0.572
					1401	0.4911	0.4576	0.3888	0.449
					1404	0.7420	0.6923	0.5823	0.551
					1405	0.5516	0.5146	0.4302	0.602
					1407	0.6186	0.5785	0.4886	0.540
					1501	0.5812	0.5390	0.4506	0.542
					1507	0.5248	0.4864	0.4065	0.536
					1701	0.9180	0.8472	0.7100	0.466
					1702	2.1109	1.9174	1.5913	0.379
					1703	0.8700	0.7875	0.6474	0.426
					1704	0.9180	0.8472	0.7100	0.466
					1801	0.5376	0.4969	0.4187	0.438
					1802	0.7070	0.6531	0.5445	0.522
					2002	0.7175	0.6699	0.5645	0.542
					2004	0.9662	0.9004	0.7562	0.553
					2007	0.4589	0.4271	0.3590	0.531
					2008	0.3223	0.2991	0.2519	0.484
					2009	0.3982	0.3737	0.3164	0.559
					2101	0.6768	0.6307	0.5320	0.511
					2102	0.5574	0.5215	0.4393	0.568
					2104	0.3557	0.3354	0.2851	0.570
					2105	0.5783	0.5390	0.4506	0.594
					2106	0.4267	0.3992	0.3371	0.550
					2201	0.2479	0.2314	0.1951	0.530
					2202	0.7180	0.6670	0.5586	0.546
					2203	0.4763	0.4465	0.3764	0.579
					2204	0.2479	0.2314	0.1951	0.530
					2401	0.4900	0.4551	0.3808	0.553
					2903	0.6526	0.6101	0.5146	0.552
					2904	0.7452	0.6937	0.5855	0.499
					2905	0.5552	0.5215	0.4414	0.569
					2906	0.3270	0.3047	0.2559	0.550
					2907	0.5307	0.4969	0.4183	0.583
					2908	1.0383	0.9586	0.8018	0.488
					2909	0.3883	0.3633	0.3067	0.556
					3101	0.9538	0.8780	0.7343	0.458
					3102	0.2745	0.2561	0.2150	0.565
					3103	0.5689	0.5288	0.4450	0.507
					3104	0.5997	0.5536	0.4628	0.490
					3105	0.7432	0.6924	0.5820	0.544
					1002	0.9693	0.8996	0.7564	0.500

((Class	2003	2004	2005	Primary Ratio	((Class	2003	2004	2005	Primary Ratio
3303	0.4418	0.4120	0.3455	0.573	4504	0.1082	0.1025	0.0871	0.635
3304	0.4754	0.4476	0.3787	0.595	4601	0.7410	0.6907	0.5817	0.532
3309	0.4372	0.4069	0.3421	0.531	4802	0.3017	0.2821	0.2394	0.501
3402	0.5376	0.4989	0.4188	0.514	4803	0.2766	0.2618	0.2233	0.576
3403	0.2027	0.1883	0.1584	0.508	4804	0.5277	0.4939	0.4154	0.586
3404	0.4801	0.4481	0.3769	0.553	4805	0.2981	0.2808	0.2381	0.578
3405	0.3202	0.2977	0.2499	0.530	4806	0.0581	0.0545	0.0462	0.539
3406	0.1983	0.1865	0.1579	0.592	4808	0.4851	0.4523	0.3820	0.508
3407	0.7076	0.6552	0.5495	0.493	4809	0.3925	0.3689	0.3120	0.580
3408	0.1731	0.1617	0.1351	0.617	4810	0.1444	0.1365	0.1160	0.586
3409	0.1714	0.1617	0.1361	0.662	4811	0.2657	0.2504	0.2128	0.568
3410	0.2914	0.2738	0.2316	0.584	4812	0.3940	0.3693	0.3112	0.586
3411	0.4780	0.4424	0.3703	0.510	4813	0.1595	0.1501	0.1277	0.542
3412	0.5850	0.5374	0.4476	0.472	4900	0.3343	0.3062	0.2554	0.430
3414	0.5649	0.5232	0.4368	0.540	4901	0.0787	0.0728	0.0610	0.499
3415	0.8062	0.7447	0.6268	0.438	4902	0.1035	0.0966	0.0808	0.597
3501	1.0604	0.9859	0.8288	0.518	4903	0.1516	0.1413	0.1176	0.637
3503	0.3095	0.2932	0.2502	0.581	4904	0.0298	0.0281	0.0236	0.573
3506	1.1142	1.0148	0.8383	0.452	4905	0.3538	0.3343	0.2844	0.581
3509	0.4107	0.3866	0.3259	0.622	4906	0.0942	0.0880	0.0738	0.583
3510	0.3711	0.3466	0.2915	0.567	4907	0.0512	0.0479	0.0406	0.548
3511	0.7201	0.6702	0.5640	0.524	4908	0.0815	0.0781	0.0678	0.565
3512	0.3361	0.3158	0.2672	0.576	4909	0.0407	0.0392	0.0344	0.532
3513	0.4723	0.4416	0.3771	0.437	4910	0.4629	0.4310	0.3631	0.511
3602	0.1257	0.1177	0.0990	0.593	4911	0.0674	0.0628	0.0531	0.525
3603	0.4703	0.4386	0.3695	0.534	5001	5.0574	4.6226	3.8427	0.433
3604	0.8148	0.7606	0.6452	0.479	5002	0.5958	0.5533	0.4620	0.568
3605	0.5243	0.4859	0.4060	0.543	5003	1.9974	1.8258	1.5207	0.417
3701	0.2745	0.2561	0.2150	0.565	5004	0.9321	0.8667	0.7316	0.484
3702	0.4558	0.4253	0.3568	0.578	5005	0.5785	0.5323	0.4453	0.452
3708	0.6488	0.6008	0.5025	0.522	5006	1.6200	1.4803	1.2356	0.393
3802	0.1904	0.1784	0.1499	0.598	5101	0.9020	0.8400	0.7033	0.573
3808	0.4286	0.3959	0.3310	0.498	5103	0.7352	0.6899	0.5825	0.581
3901	0.1687	0.1596	0.1356	0.612	5106	0.7352	0.6899	0.5825	0.581
3902	0.5038	0.4713	0.3984	0.535	5108	0.8982	0.8409	0.7063	0.600
3903	1.1085	1.0421	0.8867	0.529	5109	0.5941	0.5509	0.4610	0.531
3905	0.1567	0.1482	0.1261	0.593	5201	0.4322	0.4013	0.3360	0.548
3906	0.4808	0.4501	0.3802	0.548	5204	0.9313	0.8623	0.7259	0.463
3909	0.2595	0.2448	0.2069	0.620	5206	0.4139	0.3820	0.3188	0.508
4002	1.3863	1.2755	1.0570	0.534	5207	0.1731	0.1641	0.1395	0.622
4101	0.2967	0.2757	0.2314	0.528	5208	0.8347	0.7759	0.6536	0.498
4103	0.4320	0.4083	0.3462	0.617	5209	0.7538	0.6986	0.5870	0.489
4107	0.1636	0.1528	0.1289	0.539	5301	0.0327	0.0307	0.0259	0.604
4108	0.1471	0.1375	0.1160	0.538	5302	0.0205	0.0191	0.0161	0.544
4109	0.2118	0.1972	0.1661	0.521	5305	0.0524	0.0496	0.0419	0.637
4201	0.6866	0.6307	0.5212	0.539	5306	0.0608	0.0571	0.0482	0.602
4301	0.6683	0.6264	0.5276	0.589	5307	0.5369	0.4984	0.4160	0.564
4302	0.6574	0.6127	0.5141	0.560	6103	0.0818	0.0775	0.0658	0.633
4304	1.0079	0.9422	0.7968	0.525	6104	0.3640	0.3421	0.2894	0.578
4305	1.2164	1.1179	0.9247	0.537	6105	0.3478	0.3233	0.2715	0.530
4401	0.4022	0.3751	0.3179	0.481	6107	0.1321	0.1252	0.1067	0.590
4402	0.8363	0.7840	0.6604	0.591	6108	0.4412	0.4162	0.3527	0.602
4404	0.5546	0.5196	0.4373	0.590	6109	0.0925	0.0864	0.0725	0.561
4501	0.1872	0.1765	0.1490	0.625	6110	0.6150	0.5740	0.4826	0.560
4502	0.0405	0.0380	0.0323	0.541	6201	0.3215	0.2966	0.2486	0.464

((Class	2003	2004	2005	Primary Ratio	((Class	2003	2004	2005	Primary Ratio
6202	0.6584	0.6155	0.5212	0.514	6902	1.0364	0.9424	0.7793	0.421
6203	0.0985	0.0942	0.0806	0.674	6903	7.5675	6.9051	5.8009	0.317
6204	0.1257	0.1184	0.1003	0.583	6904	0.4097	0.3793	0.3129	0.639
6205	0.2497	0.2341	0.1979	0.565	6905	0.3807	0.3536	0.2939	0.607
6206	0.2331	0.2183	0.1839	0.578	6906	0.1463	0.1482	0.1345	0.696
6207	1.0628	1.0063	0.8652	0.511	6907	1.2537	1.1688	0.9813	0.561
6208	0.2425	0.2293	0.1955	0.576	6908	0.4654	0.4342	0.3644	0.576
6209	0.3114	0.2929	0.2483	0.571	6909	0.1179	0.1109	0.0937	0.601
6301	0.1330	0.1220	0.1018	0.456	7100	0.0329	0.0306	0.0259	0.482
6302	0.1818	0.1710	0.1446	0.585	7101	0.0246	0.0228	0.0193	0.447
6303	0.0694	0.0647	0.0545	0.532	7102	4.1468	3.9788	3.4480	0.578
6304	0.4120	0.3894	0.3313	0.584	7103	0.6039	0.5583	0.4653	0.537
6305	0.1004	0.0950	0.0809	0.597	7104	0.0302	0.0283	0.0238	0.622
6306	0.3306	0.3090	0.2600	0.571	7105	0.0317	0.0300	0.0251	0.648
6308	0.0654	0.0611	0.0514	0.581	7106	0.1985	0.1871	0.1584	0.603
6309	0.1818	0.1710	0.1446	0.585	7107	0.2231	0.2109	0.1802	0.553
6402	0.2935	0.2765	0.2333	0.634	7108	0.1947	0.1845	0.1578	0.574
6403	0.1683	0.1587	0.1347	0.585	7109	0.1317	0.1241	0.1049	0.613
6404	0.2219	0.2083	0.1760	0.583	7110	0.3469	0.3203	0.2678	0.495
6405	0.5863	0.5437	0.4558	0.518	7111	0.3820	0.3530	0.2952	0.498
6406	0.1168	0.1101	0.0932	0.610	7112	0.6431	0.6014	0.5073	0.553
6407	0.2772	0.2596	0.2189	0.576	7113	0.3676	0.3466	0.2949	0.563
6408	0.3908	0.3642	0.3052	0.575	7114	0.5580	0.5265	0.4454	0.619
6409	0.8714	0.8032	0.6700	0.495	7115	0.5750	0.5419	0.4594	0.591
6410	0.2841	0.2651	0.2233	0.539	7116	0.7040	0.6601	0.5573	0.570
6501	0.1710	0.1605	0.1349	0.616	7117	1.5934	1.4945	1.2581	0.601
6502	0.0399	0.0373	0.0315	0.570	7118	1.3430	1.2596	1.0627	0.581
6503	0.0760	0.0699	0.0579	0.531	7119	1.3218	1.2328	1.0345	0.569
6504	0.3983	0.3770	0.3204	0.608	7120	6.1185	5.6949	4.7930	0.521
6505	0.1051	0.0997	0.0849	0.602	7121	5.6948	5.3007	4.4623	0.520
6506	0.1061	0.1000	0.0847	0.613	7122	0.5720	0.5406	0.4582	0.622
6509	0.3705	0.3493	0.2964	0.582	7201	1.3596	1.2563	1.0435	0.558
6510	0.4791	0.4408	0.3687	0.450	7202	0.0362	0.0334	0.0278	0.523
6511	0.3464	0.3264	0.2764	0.594	7203	0.1251	0.1190	0.1022	0.586
6512	0.2818	0.2647	0.2238	0.574	7204	0.0000	0.0000	0.0000	0.500
6601	0.1900	0.1785	0.1511	0.561	7301	0.5068	0.4737	0.4015	0.502
6602	0.4752	0.4452	0.3761	0.556	7302	1.0016	0.9381	0.7956	0.521
6603	0.3338	0.3106	0.2603	0.556	7307	0.4998	0.4693	0.3981	0.541
6604	0.0832	0.0781	0.0658	0.599	7308	0.3009	0.2858	0.2441	0.606
6605	0.3004	0.2844	0.2422	0.598	7309	0.2702	0.2558	0.2178	0.596))
6607	0.1723	0.1611	0.1359	0.546					
6608	0.5550	0.5046	0.4169	0.429					
6620	4.3471	4.0529	3.3620	0.665	Class	2004	2005	2006	Primary Ratio
6704	0.1687	0.1577	0.1321	0.603	<u>0101</u>	<u>1.2923</u>	<u>1.0989</u>	<u>0.9405</u>	<u>0.458</u>
6705	0.8304	0.7903	0.6775	0.593	<u>0103</u>	<u>1.7197</u>	<u>1.4658</u>	<u>1.2548</u>	<u>0.470</u>
6706	0.3245	0.3053	0.2599	0.534	<u>0104</u>	<u>0.9388</u>	<u>0.7998</u>	<u>0.6839</u>	<u>0.470</u>
6707	3.3484	3.1625	2.6539	0.699	<u>0105</u>	<u>1.3161</u>	<u>1.1381</u>	<u>0.9769</u>	<u>0.537</u>
6708	8.5624	8.1221	7.0557	0.434	<u>0107</u>	<u>1.2381</u>	<u>1.0485</u>	<u>0.8957</u>	<u>0.443</u>
6709	0.2900	0.2742	0.2326	0.611	<u>0108</u>	<u>0.9388</u>	<u>0.7998</u>	<u>0.6839</u>	<u>0.470</u>
6801	0.5907	0.5484	0.4563	0.597	<u>0112</u>	<u>0.7679</u>	<u>0.6562</u>	<u>0.5615</u>	<u>0.482</u>
6802	0.4463	0.4181	0.3515	0.601	<u>0201</u>	<u>2.4471</u>	<u>2.0570</u>	<u>1.7471</u>	<u>0.421</u>
6803	0.8728	0.7962	0.6652	0.367	<u>0202</u>	<u>3.1766</u>	<u>2.6829</u>	<u>2.3114</u>	<u>0.402</u>
6804	0.2742	0.2549	0.2139	0.538	<u>0210</u>	<u>1.1827</u>	<u>1.0011</u>	<u>0.8537</u>	<u>0.444</u>
6809	4.8700	4.5804	3.8879	0.557	<u>0212</u>	<u>1.3598</u>	<u>1.1538</u>	<u>0.9849</u>	<u>0.454</u>
6901	0.0181	0.0191	0.0181	0.699	<u>0214</u>	<u>1.3333</u>	<u>1.1325</u>	<u>0.9601</u>	<u>0.477</u>
					<u>0217</u>	<u>1.1010</u>	<u>0.9403</u>	<u>0.8030</u>	<u>0.486</u>

<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>
0219	0.9948	0.8514	0.7346	0.465	1507	0.5757	0.4971	0.4255	0.536
0301	0.6304	0.5471	0.4710	0.549	1701	0.9505	0.8141	0.7003	0.478
0302	1.9304	1.6320	1.3858	0.448	1702	2.1811	1.8244	1.5571	0.381
0303	1.8522	1.5599	1.3274	0.424	1703	0.8628	0.7253	0.6121	0.436
0306	0.9924	0.8429	0.7153	0.476	1704	0.9505	0.8141	0.7003	0.478
0307	0.9680	0.8263	0.7048	0.489	1801	0.5417	0.4624	0.4009	0.445
0308	0.5505	0.4813	0.4157	0.573	1802	0.7357	0.6339	0.5418	0.526
0403	1.7153	1.4862	1.2730	0.551	2002	0.7436	0.6465	0.5583	0.545
0502	1.5269	1.2930	1.1003	0.452	2004	0.9824	0.8551	0.7366	0.559
0504	1.6228	1.3843	1.1935	0.453	2007	0.4940	0.4277	0.3687	0.532
0507	2.8623	2.4467	2.1105	0.463	2008	0.3333	0.2868	0.2481	0.491
0508	2.0131	1.6878	1.4382	0.399	2009	0.4135	0.3614	0.3134	0.564
0509	1.7184	1.4506	1.2404	0.426	2101	0.6906	0.5975	0.5175	0.512
0510	1.5547	1.3367	1.1481	0.504	2102	0.5456	0.4770	0.4120	0.577
0511	1.6595	1.4119	1.2023	0.476	2104	0.3683	0.3237	0.2826	0.575
0512	1.5573	1.3180	1.1252	0.442	2105	0.5846	0.5108	0.4372	0.597
0513	0.8054	0.6888	0.5876	0.497	2106	0.4360	0.3804	0.3290	0.560
0514	1.8923	1.6142	1.3768	0.483	2201	0.2522	0.2189	0.1895	0.532
0516	1.6543	1.4050	1.2041	0.448	2202	0.7379	0.6394	0.5490	0.546
0517	1.8543	1.5812	1.3628	0.452	2203	0.4840	0.4235	0.3657	0.581
0518	1.5719	1.3289	1.1346	0.436	2204	0.2522	0.2189	0.1895	0.532
0519	2.2276	1.8804	1.6129	0.413	2401	0.5006	0.4343	0.3710	0.563
0521	0.5845	0.4999	0.4293	0.477	2903	0.6529	0.5685	0.4919	0.551
0601	0.6563	0.5607	0.4794	0.487	2904	0.7452	0.6447	0.5582	0.519
0602	0.8052	0.6874	0.5826	0.507	2905	0.5723	0.5017	0.4340	0.584
0603	1.0259	0.8643	0.7365	0.425	2906	0.3317	0.2882	0.2484	0.554
0604	1.0123	0.8754	0.7570	0.518	2907	0.5351	0.4686	0.4038	0.589
0606	0.5511	0.4790	0.4114	0.563	2908	1.0651	0.9131	0.7844	0.488
0607	0.5412	0.4684	0.4011	0.548	2909	0.3994	0.3482	0.3013	0.559
0608	0.3801	0.3264	0.2804	0.497	3101	0.9234	0.7891	0.6765	0.479
0701	2.0548	1.7035	1.4377	0.369	3102	0.2803	0.2432	0.2094	0.552
0803	0.4721	0.4102	0.3513	0.568	3103	0.5816	0.5023	0.4336	0.513
0901	1.5719	1.3289	1.1346	0.436	3104	0.6198	0.5321	0.4568	0.500
1002	1.0127	0.8718	0.7516	0.500	3105	0.7612	0.6597	0.5681	0.540
1003	0.8071	0.6939	0.5987	0.494	3303	0.4512	0.3934	0.3378	0.578
1004	0.5289	0.4545	0.3874	0.523	3304	0.4808	0.4230	0.3663	0.601
1005	8.5188	7.2538	6.1992	0.461	3309	0.4422	0.3826	0.3304	0.528
1007	0.3743	0.3200	0.2734	0.491	3402	0.5400	0.4666	0.4014	0.528
1101	0.7394	0.6407	0.5501	0.545	3403	0.2100	0.1810	0.1564	0.512
1102	1.3609	1.1635	0.9948	0.488	3404	0.4972	0.4326	0.3729	0.556
1103	1.2423	1.0646	0.9225	0.459	3405	0.3132	0.2718	0.2340	0.550
1104	0.5531	0.4824	0.4180	0.554	3406	0.2058	0.1808	0.1566	0.593
1105	0.9232	0.7904	0.6803	0.479	3407	0.7313	0.6286	0.5396	0.504
1106	0.3564	0.3107	0.2714	0.531	3408	0.1848	0.1622	0.1385	0.620
1108	0.6580	0.5696	0.4893	0.542	3409	0.1752	0.1554	0.1335	0.662
1109	1.5467	1.3391	1.1559	0.527	3410	0.2987	0.2618	0.2267	0.581
1301	0.6416	0.5577	0.4698	0.608	3411	0.4869	0.4196	0.3598	0.524
1303	0.2280	0.1989	0.1700	0.590	3412	0.5888	0.5021	0.4292	0.476
1304	0.0295	0.0257	0.0220	0.561	3414	0.5828	0.5036	0.4315	0.539
1305	0.4363	0.3802	0.3262	0.578	3415	0.8492	0.7238	0.6268	0.441
1401	0.5078	0.4363	0.3821	0.446	3501	1.0940	0.9459	0.8153	0.521
1404	0.7932	0.6908	0.5952	0.562	3503	0.3183	0.2808	0.2459	0.584
1405	0.6071	0.5313	0.4534	0.608	3506	1.0789	0.9140	0.7759	0.464
1407	0.5851	0.5096	0.4415	0.547	3509	0.4235	0.3735	0.3223	0.624
1501	0.6072	0.5247	0.4492	0.541	3510	0.3716	0.3246	0.2796	0.581

<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>
3511	0.7285	0.6298	0.5438	0.519	4908	0.0818	0.0721	0.0636	0.560
3512	0.3498	0.3061	0.2655	0.574	4909	0.0412	0.0363	0.0323	0.526
3513	0.4850	0.4173	0.3672	0.441	4910	0.4878	0.4221	0.3658	0.513
3602	0.1335	0.1166	0.1005	0.579	4911	0.0656	0.0567	0.0491	0.525
3603	0.4816	0.4182	0.3616	0.539	5001	5.7543	4.8570	4.1537	0.420
3604	0.8426	0.7275	0.6357	0.486	5002	0.6136	0.5330	0.4554	0.571
3605	0.5400	0.4673	0.3999	0.547	5003	2.1347	1.8047	1.5467	0.422
3701	0.2803	0.2432	0.2094	0.552	5004	0.9396	0.8078	0.7011	0.476
3702	0.4588	0.3996	0.3432	0.573	5005	0.6001	0.5112	0.4394	0.451
3708	0.6421	0.5541	0.4751	0.532	5006	1.5992	1.3483	1.1575	0.403
3802	0.2061	0.1805	0.1551	0.598	5101	0.9195	0.8002	0.6859	0.574
3808	0.4392	0.3769	0.3232	0.501	5103	0.7676	0.6723	0.5812	0.585
3901	0.1772	0.1568	0.1364	0.621	5106	0.7676	0.6723	0.5812	0.585
3902	0.4975	0.4336	0.3758	0.551	5108	0.9196	0.8058	0.6939	0.599
3903	1.1476	1.0011	0.8751	0.533	5109	0.5757	0.4972	0.4264	0.533
3905	0.1629	0.1435	0.1251	0.593	5201	0.4316	0.3736	0.3207	0.549
3906	0.4927	0.4302	0.3726	0.562	5204	0.9447	0.8089	0.7002	0.466
3909	0.2688	0.2368	0.2052	0.612	5206	0.4183	0.3594	0.3075	0.515
4002	1.4196	1.2198	1.0360	0.531	5207	0.1790	0.1585	0.1380	0.624
4101	0.3223	0.2786	0.2397	0.530	5208	0.8177	0.7068	0.6106	0.517
4103	0.4580	0.4042	0.3501	0.616	5209	0.7464	0.6422	0.5544	0.496
4107	0.1717	0.1489	0.1287	0.533	5301	0.0362	0.0317	0.0272	0.597
4108	0.1565	0.1361	0.1179	0.545	5302	0.0196	0.0170	0.0148	0.543
4109	0.2158	0.1868	0.1615	0.526	5305	0.0541	0.0478	0.0413	0.638
4201	0.7187	0.6169	0.5218	0.537	5306	0.0636	0.0560	0.0482	0.613
4301	0.6780	0.5939	0.5139	0.581	5307	0.5835	0.5056	0.4317	0.561
4302	0.6894	0.5996	0.5151	0.564	6103	0.0846	0.0749	0.0651	0.626
4304	1.0468	0.9092	0.7903	0.522	6104	0.3775	0.3315	0.2870	0.593
4305	1.2504	1.0771	0.9143	0.545	6105	0.3630	0.3140	0.2699	0.535
4401	0.4210	0.3638	0.3172	0.492	6107	0.1401	0.1235	0.1079	0.596
4402	0.8608	0.7544	0.6505	0.596	6108	0.4722	0.4150	0.3602	0.591
4404	0.5811	0.5083	0.4383	0.581	6109	0.0998	0.0866	0.0744	0.559
4501	0.1922	0.1698	0.1467	0.631	6110	0.6561	0.5712	0.4926	0.557
4502	0.0417	0.0364	0.0317	0.538	6121	0.3691	0.3200	0.2753	0.545
4504	0.1141	0.1010	0.0879	0.634	6201	0.3211	0.2747	0.2367	0.477
4601	0.7683	0.6664	0.5753	0.535	6202	0.6737	0.5847	0.5080	0.523
4802	0.3294	0.2859	0.2499	0.501	6203	0.1027	0.0921	0.0805	0.678
4803	0.3043	0.2685	0.2353	0.583	6204	0.1282	0.1124	0.0975	0.589
4804	0.5366	0.4700	0.4053	0.590	6205	0.2657	0.2321	0.2009	0.566
4805	0.3041	0.2668	0.2320	0.580	6206	0.2386	0.2085	0.1800	0.577
4806	0.0611	0.0533	0.0463	0.542	6207	1.1091	0.9711	0.8590	0.520
4808	0.5158	0.4462	0.3884	0.499	6208	0.2491	0.2194	0.1918	0.582
4809	0.3934	0.3457	0.3003	0.589	6209	0.3266	0.2862	0.2486	0.574
4810	0.1473	0.1297	0.1133	0.584	6301	0.1383	0.1175	0.1006	0.457
4811	0.2838	0.2493	0.2175	0.578	6302	0.1983	0.1738	0.1505	0.583
4812	0.4079	0.3574	0.3087	0.590	6303	0.0717	0.0622	0.0536	0.539
4813	0.1621	0.1421	0.1242	0.562	6304	0.4225	0.3724	0.3253	0.587
4900	0.3229	0.2727	0.2337	0.420	6305	0.1052	0.0928	0.0808	0.597
4901	0.0776	0.0667	0.0573	0.506	6306	0.3357	0.2926	0.2519	0.570
4902	0.1128	0.0984	0.0842	0.587	6308	0.0688	0.0602	0.0518	0.586
4903	0.1596	0.1401	0.1191	0.637	6309	0.1983	0.1738	0.1505	0.583
4904	0.0295	0.0259	0.0224	0.580	6402	0.2909	0.2572	0.2219	0.638
4905	0.3779	0.3326	0.2903	0.584	6403	0.1822	0.1605	0.1397	0.594
4906	0.0976	0.0853	0.0733	0.594	6404	0.2401	0.2105	0.1823	0.583
4907	0.0541	0.0471	0.0409	0.556	6405	0.5801	0.5004	0.4304	0.522

<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>	<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>
6406	0.1256	0.1108	0.0960	0.613	7112	0.6747	0.5883	0.5092	0.560
6407	0.2851	0.2494	0.2156	0.578	7113	0.3831	0.3361	0.2935	0.567
6408	0.4132	0.3594	0.3086	0.571	7114	0.5463	0.4826	0.4180	0.622
6409	0.8366	0.7179	0.6130	0.512	7115	0.5986	0.5259	0.4574	0.586
6410	0.2932	0.2549	0.2203	0.551	7116	0.7126	0.6229	0.5395	0.565
6501	0.1721	0.1513	0.1303	0.611	7117	1.7551	1.5436	1.3315	0.612
6502	0.0396	0.0346	0.0299	0.568	7118	1.4140	1.2356	1.0696	0.570
6503	0.0789	0.0678	0.0575	0.537	7119	1.3745	1.1991	1.0298	0.578
6504	0.4100	0.3625	0.3157	0.617	7120	6.3153	5.4661	4.7204	0.526
6505	0.1073	0.0950	0.0830	0.609	7121	5.8741	5.0835	4.3915	0.524
6506	0.1105	0.0974	0.0845	0.611	7122	0.5813	0.5145	0.4468	0.626
6509	0.3816	0.3350	0.2913	0.580	7201	1.5270	1.3180	1.1205	0.550
6510	0.4802	0.4092	0.3512	0.459	7202	0.0348	0.0300	0.0255	0.527
6511	0.3800	0.3342	0.2898	0.594	7203	0.1296	0.1148	0.1013	0.596
6512	0.2362	0.2059	0.1782	0.554	7204	0.0000	0.0000	0.0000	0.500
6601	0.1969	0.1720	0.1494	0.562	7301	0.5321	0.4605	0.4011	0.500
6602	0.5245	0.4572	0.3963	0.553	7302	1.0314	0.8964	0.7806	0.521
6603	0.3413	0.2963	0.2545	0.555	7307	0.5071	0.4424	0.3849	0.540
6604	0.0864	0.0760	0.0655	0.605	7308	0.3293	0.2913	0.2546	0.608
6605	0.3145	0.2775	0.2419	0.603	7309	0.2744	0.2421	0.2114	0.593
6607	0.1766	0.1539	0.1332	0.550					
6608	0.5580	0.4695	0.3986	0.430					
6620	4.3528	3.8318	3.2406	0.663					
6704	0.1695	0.1484	0.1273	0.601					
6705	0.8379	0.7423	0.6536	0.597					
6706	0.3301	0.2880	0.2519	0.536					
6707	3.6539	3.2686	2.8014	0.708					
6708	8.9411	7.7752	6.9710	0.442					
6709	0.2982	0.2632	0.2284	0.609					
6801	0.6210	0.5398	0.4589	0.592					
6802	0.4947	0.4336	0.3728	0.601					
6803	0.9244	0.7739	0.6656	0.364					
6804	0.2948	0.2563	0.2206	0.564					
6809	5.0004	4.3792	3.8100	0.566					
6901	0.0189	0.0181	0.0173	0.714					
6902	1.0415	0.8768	0.7457	0.422					
6903	7.6603	6.3919	5.5502	0.322					
6904	0.4411	0.3857	0.3241	0.642					
6905	0.3977	0.3474	0.2948	0.619					
6906	0.1568	0.1466	0.1372	0.712					
6907	1.3586	1.1822	1.0196	0.555					
6908	0.4711	0.4105	0.3525	0.575					
6909	0.1223	0.1076	0.0929	0.601					
7100	0.0338	0.0292	0.0255	0.487					
7101	0.0252	0.0216	0.0188	0.452					
7102	4.3171	3.8400	3.4205	0.583					
7103	0.6355	0.5498	0.4686	0.556					
7104	0.0316	0.0278	0.0238	0.625					
7105	0.0338	0.0299	0.0256	0.650					
7106	0.2099	0.1850	0.1603	0.613					
7107	0.2333	0.2050	0.1799	0.565					
7108	0.2005	0.1767	0.1546	0.586					
7109	0.1393	0.1230	0.1066	0.618					
7110	0.3484	0.2991	0.2565	0.500					
7111	0.3995	0.3422	0.2930	0.493					

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed				
<u>Class</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Primary Ratio</u>
0540	0.0221	0.0202	0.0168	0.463
0541	0.0132	0.0120	0.0099	0.432
0550	0.0297	0.0269	0.0222	0.374
0551	0.0173	0.0156	0.0130	0.382

<u>Class</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Primary Ratio</u>
0540	0.0218	0.0186	0.0158	0.463
0541	0.0129	0.0109	0.0093	0.442
0550	0.0282	0.0235	0.0200	0.385
0551	0.0167	0.0140	0.0119	0.392

**((TABLE IIIA
Expected Loss Rates and D Ratios (No Medical Only Deduction)
for Indicated Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, 2007, to December 31, 2007**

<u>Class</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Primary Ratio</u>
0101	1.3134	1.2126	1.0180	0.464
0103	1.6777	1.5501	1.2993	0.486
0104	0.9539	0.8827	0.7409	0.490
0105	1.3873	1.2966	1.0947	0.547
0107	1.2554	1.1562	0.9678	0.462
0108	0.9539	0.8827	0.7409	0.490
0112	0.7894	0.7326	0.6166	0.500
0201	2.4212	2.2151	1.8442	0.436
0202	3.1456	2.8993	2.4418	0.413
0210	1.2073	1.1074	0.9245	0.441
0212	1.3379	1.2317	1.0308	0.460

Class	2003	2004	2005	Primary Ratio	Class	2003	2004	2005	Primary Ratio
0214	1.3042	1.1992	0.9990	0.488	1407	0.6301	0.5938	0.5054	0.561
0217	1.1208	1.0365	0.8683	0.500	1501	0.5964	0.5582	0.4711	0.566
0219	0.9641	0.8990	0.7623	0.482	1507	0.5448	0.5106	0.4318	0.566
0301	0.6214	0.5840	0.4954	0.567	1701	0.9315	0.8658	0.7308	0.488
0302	1.9464	1.7819	1.4818	0.454	1702	2.1073	1.9222	1.6017	0.393
0303	1.8606	1.7037	1.4189	0.443	1703	0.8692	0.7904	0.6528	0.439
0306	1.0096	0.9296	0.7758	0.487	1704	0.9315	0.8658	0.7308	0.488
0307	0.9619	0.8934	0.7509	0.519	1801	0.5548	0.5180	0.4405	0.471
0308	0.5599	0.5291	0.4505	0.594	1802	0.7274	0.6784	0.5713	0.548
0403	1.7211	1.6127	1.3614	0.576	2002	0.7457	0.7039	0.5998	0.572
0502	1.5323	1.4065	1.1715	0.470	2004	1.0002	0.9419	0.7997	0.581
0504	1.5027	1.3913	1.1716	0.466	2007	0.4767	0.4485	0.3812	0.562
0507	2.8886	2.6847	2.2672	0.483	2008	0.3318	0.3110	0.2644	0.513
0508	1.9440	1.7750	1.4774	0.416	2009	0.4219	0.4015	0.3445	0.597
0509	1.5945	1.4628	1.2200	0.451	2101	0.6953	0.6537	0.5564	0.537
0510	1.5442	1.4367	1.2105	0.516	2102	0.5801	0.5487	0.4677	0.597
0511	1.6481	1.5235	1.2761	0.497	2104	0.3744	0.3574	0.3076	0.603
0512	1.5509	1.4285	1.1955	0.466	2105	0.6071	0.5732	0.4858	0.625
0513	0.8602	0.7954	0.6664	0.499	2106	0.4478	0.4242	0.3625	0.584
0514	1.8993	1.7600	1.4775	0.504	2201	0.2539	0.2389	0.2033	0.553
0516	1.6468	1.5211	1.2763	0.474	2202	0.7391	0.6933	0.5864	0.571
0517	1.7583	1.6314	1.3773	0.466	2203	0.4959	0.4700	0.4008	0.607
0518	1.5988	1.4709	1.2304	0.456	2204	0.2539	0.2389	0.2033	0.553
0519	2.2307	2.0511	1.7193	0.431	2401	0.5114	0.4808	0.4071	0.585
0521	0.5599	0.5209	0.4398	0.496	2903	0.6808	0.6440	0.5494	0.583
0601	0.6584	0.6122	0.5153	0.518	2904	0.7749	0.7296	0.6225	0.533
0602	0.7923	0.7338	0.6134	0.540	2905	0.5869	0.5587	0.4791	0.604
0603	1.0268	0.9410	0.7839	0.451	2906	0.3483	0.3296	0.2809	0.591
0604	1.0042	0.9448	0.8043	0.544	2907	0.5572	0.5284	0.4505	0.614
0606	0.5506	0.5186	0.4401	0.586	2908	1.0577	0.9842	0.8299	0.511
0607	0.5134	0.4811	0.4065	0.571	2909	0.4066	0.3852	0.3290	0.589
0608	0.4004	0.3734	0.3156	0.515	3101	0.9744	0.9046	0.7629	0.484
0701	2.0283	1.8295	1.5058	0.378	3102	0.2882	0.2723	0.2317	0.598
0803	0.4823	0.4539	0.3842	0.597	3103	0.5814	0.5449	0.4623	0.531
0901	1.5988	1.4709	1.2304	0.456	3104	0.6182	0.5764	0.4867	0.520
1002	0.9881	0.9242	0.7832	0.522	3105	0.7858	0.7425	0.6326	0.582
1003	0.8083	0.7552	0.6398	0.513	3303	0.4586	0.4324	0.3668	0.601
1004	0.5206	0.4853	0.4081	0.555	3304	0.4995	0.4759	0.4077	0.625
1005	8.2869	7.6493	6.4097	0.476	3309	0.4517	0.4248	0.3608	0.559
1007	0.3807	0.3538	0.2977	0.515	3402	0.5623	0.5285	0.4490	0.550
1101	0.7249	0.6800	0.5757	0.563	3403	0.2117	0.1990	0.1694	0.543
1102	1.3342	1.2336	1.0331	0.502	3404	0.5065	0.4790	0.4083	0.589
1103	1.2400	1.1556	0.9804	0.471	3405	0.3358	0.3162	0.2688	0.566
1104	0.5566	0.5271	0.4508	0.570	3406	0.2170	0.2080	0.1792	0.639
1105	0.9338	0.8706	0.7369	0.497	3407	0.7257	0.6781	0.5740	0.520
1106	0.3618	0.3447	0.2970	0.572	3408	0.1841	0.1745	0.1481	0.650
1108	0.6708	0.6320	0.5366	0.583	3409	0.1823	0.1745	0.1491	0.691
1109	1.5045	1.4103	1.1962	0.538	3410	0.3004	0.2850	0.2435	0.607
1301	0.6624	0.6165	0.5131	0.629	3411	0.4939	0.4619	0.3906	0.539
1303	0.2324	0.2191	0.1853	0.619	3412	0.5995	0.5559	0.4672	0.500
1304	0.0288	0.0272	0.0231	0.595	3414	0.5838	0.5463	0.4611	0.568
1305	0.4241	0.3993	0.3383	0.599	3415	0.8269	0.7709	0.6544	0.468
1401	0.4979	0.4671	0.3995	0.471	3501	1.0884	1.0210	0.8662	0.543
1404	0.7631	0.7185	0.6103	0.576	3503	0.3287	0.3157	0.2731	0.618
1405	0.5886	0.5576	0.4737	0.638	3506	1.1323	1.0396	0.8657	0.475

Class	2003	2004	2005	Primary Ratio	Class	2003	2004	2005	Primary Ratio
3509	0.4314	0.4112	0.3513	0.650	4906	0.0995	0.0942	0.0802	0.617
3510	0.3921	0.3714	0.3168	0.603	4907	0.0542	0.0515	0.0441	0.586
3511	0.7488	0.7049	0.5997	0.556	4908	0.1142	0.1147	0.1032	0.705
3512	0.3704	0.3552	0.3062	0.629	4909	0.0587	0.0594	0.0538	0.692
3513	0.4827	0.4549	0.3913	0.464	4910	0.4788	0.4503	0.3832	0.541
3602	0.1335	0.1268	0.1082	0.628	4911	0.0711	0.0673	0.0575	0.563
3603	0.4958	0.4687	0.4000	0.572	5001	5.0354	4.6187	3.8543	0.444
3604	0.8438	0.7959	0.6819	0.512	5002	0.6206	0.5831	0.4929	0.597
3605	0.5428	0.5088	0.4298	0.571	5003	1.9840	1.8191	1.5199	0.427
3701	0.2882	0.2723	0.2317	0.598	5004	0.9429	0.8824	0.7497	0.504
3702	0.4853	0.4598	0.3917	0.616	5005	0.5808	0.5372	0.4517	0.468
3708	0.6655	0.6219	0.5251	0.547	5006	1.6169	1.4835	1.2432	0.407
3802	0.1997	0.1893	0.1611	0.627	5101	0.9440	0.8901	0.7549	0.604
3808	0.4384	0.4085	0.3446	0.523	5103	0.7856	0.7487	0.6417	0.620
3901	0.1803	0.1732	0.1493	0.648	5106	0.7856	0.7487	0.6417	0.620
3902	0.5243	0.4959	0.4239	0.566	5108	0.9456	0.8969	0.7637	0.631
3903	1.1511	1.0935	0.9401	0.559	5109	0.6219	0.5840	0.4950	0.565
3905	0.1696	0.1631	0.1410	0.635	5201	0.4517	0.4248	0.3600	0.580
3906	0.4968	0.4697	0.4008	0.575	5204	0.9517	0.8886	0.7542	0.489
3909	0.2762	0.2643	0.2267	0.654	5206	0.4310	0.4027	0.3401	0.542
4002	1.4091	1.3065	1.0916	0.554	5207	0.1847	0.1774	0.1530	0.656
4101	0.3092	0.2907	0.2468	0.561	5208	0.8678	0.8159	0.6947	0.532
4103	0.4657	0.4473	0.3855	0.656	5209	0.7762	0.7263	0.6160	0.518
4107	0.1724	0.1631	0.1393	0.576	5301	0.0354	0.0338	0.0290	0.646
4108	0.1551	0.1470	0.1257	0.575	5302	0.0215	0.0204	0.0174	0.580
4109	0.2211	0.2084	0.1777	0.555	5305	0.0573	0.0551	0.0475	0.678
4201	0.7011	0.6495	0.5417	0.561	5306	0.0654	0.0624	0.0536	0.642
4301	0.6947	0.6584	0.5609	0.616	5307	0.5495	0.5143	0.4334	0.586
4302	0.6890	0.6503	0.5527	0.593	6103	0.0899	0.0869	0.0751	0.676
4304	1.0390	0.9805	0.8370	0.552	6104	0.3829	0.3645	0.3123	0.611
4305	1.2352	1.1437	0.9540	0.556	6105	0.3623	0.3407	0.2895	0.562
4401	0.4173	0.3933	0.3366	0.514	6107	0.1518	0.1474	0.1286	0.656
4402	0.8734	0.8284	0.7064	0.619	6108	0.4682	0.4479	0.3849	0.636
4404	0.5857	0.5561	0.4745	0.623	6109	0.0989	0.0936	0.0800	0.602
4501	0.2039	0.1957	0.1682	0.666	6110	0.6341	0.5975	0.5074	0.585
4502	0.0447	0.0428	0.0371	0.599	6201	0.3343	0.3120	0.2644	0.500
4504	0.1227	0.1191	0.1034	0.689	6202	0.6833	0.6457	0.5524	0.546
4601	0.7654	0.7206	0.6129	0.559	6203	0.1122	0.1099	0.0961	0.723
4802	0.3110	0.2936	0.2514	0.529	6204	0.1384	0.1329	0.1147	0.633
4803	0.2867	0.2742	0.2363	0.602	6205	0.2617	0.2485	0.2126	0.597
4804	0.5475	0.5180	0.4405	0.612	6206	0.2452	0.2326	0.1986	0.610
4805	0.3130	0.2985	0.2563	0.610	6207	1.1108	1.0635	0.9238	0.546
4806	0.0606	0.0574	0.0492	0.570	6208	0.2590	0.2485	0.2148	0.615
4808	0.4986	0.4691	0.3999	0.535	6209	0.3323	0.3173	0.2729	0.611
4809	0.4059	0.3854	0.3295	0.606	6301	0.1348	0.1248	0.1048	0.478
4810	0.1525	0.1459	0.1256	0.620	6302	0.1939	0.1850	0.1588	0.623
4811	0.2853	0.2732	0.2357	0.611	6303	0.0733	0.0693	0.0591	0.570
4812	0.4172	0.3966	0.3390	0.621	6304	0.4303	0.4113	0.3540	0.613
4813	0.1663	0.1583	0.1361	0.573	6305	0.1070	0.1027	0.0887	0.634
4900	0.3352	0.3085	0.2586	0.446	6306	0.3473	0.3289	0.2803	0.603
4901	0.0817	0.0765	0.0648	0.532	6308	0.0685	0.0648	0.0552	0.612
4902	0.1088	0.1028	0.0872	0.627	6309	0.1939	0.1850	0.1588	0.623
4903	0.1609	0.1521	0.1286	0.668	6402	0.3102	0.2963	0.2533	0.664
4904	0.0321	0.0306	0.0262	0.616	6403	0.1795	0.1717	0.1479	0.623
4905	0.3682	0.3516	0.3025	0.609	6404	0.2334	0.2221	0.1901	0.615

Class	2003	2004	2005	Primary Ratio	Class	2003	2004	2005	Primary Ratio
6405	0.6115	0.5739	0.4869	0.552	7111	0.3900	0.3634	0.3065	0.522
6406	0.1249	0.1195	0.1027	0.646	7112	0.6692	0.6329	0.5399	0.583
6407	0.2911	0.2762	0.2359	0.608	7113	0.3830	0.3652	0.3142	0.593
6408	0.4134	0.3908	0.3323	0.611	7114	0.5795	0.5526	0.4727	0.643
6409	0.8962	0.8341	0.7026	0.523	7115	0.6015	0.5736	0.4920	0.620
6410	0.3030	0.2871	0.2455	0.582	7116	0.7175	0.6777	0.5768	0.589
6501	0.1789	0.1698	0.1446	0.643	7117	1.6735	1.5896	1.3557	0.631
6502	0.0425	0.0404	0.0346	0.609	7118	1.3946	1.3220	1.1278	0.608
6503	0.0795	0.0742	0.0622	0.566	7119	1.3587	1.2789	1.0837	0.592
6504	0.4283	0.4117	0.3553	0.647	7120	6.3206	5.9429	5.0526	0.550
6505	0.1146	0.1105	0.0958	0.647	7121	5.8785	5.5267	4.6990	0.548
6506	0.1130	0.1082	0.0930	0.648	7122	0.5968	0.5704	0.4893	0.648
6509	0.3913	0.3738	0.3214	0.616	7201	1.3704	1.2738	1.0655	0.572
6510	0.4816	0.4455	0.3746	0.466	7202	0.0379	0.0354	0.0299	0.558
6511	0.3599	0.3426	0.2934	0.620	7203	0.1359	0.1317	0.1147	0.631
6512	0.2872	0.2716	0.2317	0.592	7204	0.0000	0.0000	0.0000	0.500
6601	0.1988	0.1889	0.1619	0.593	7301	0.5209	0.4912	0.4199	0.529
6602	0.4880	0.4611	0.3932	0.580	7302	1.0217	0.9644	0.8242	0.543
6603	0.3460	0.3254	0.2758	0.584	7307	0.5195	0.4930	0.4227	0.571
6604	0.0884	0.0842	0.0720	0.634	7308	0.3310	0.3203	0.2784	0.653
6605	0.3334	0.3221	0.2796	0.650	7309	0.2825	0.2704	0.2330	0.624))
6607	0.1785	0.1687	0.1438	0.575					
6608	0.5649	0.5180	0.4314	0.455					
6620	4.6097	4.3617	3.6771	0.693					
6704	0.1757	0.1660	0.1410	0.629					
6705	0.8930	0.8628	0.7504	0.633					
6706	0.3376	0.3210	0.2761	0.565					
6707	3.7428	3.6125	3.1004	0.738					
6708	8.8493	8.4704	7.4145	0.468					
6709	0.3088	0.2961	0.2548	0.645					
6801	0.6404	0.6059	0.5138	0.640					
6802	0.4714	0.4478	0.3817	0.634					
6803	0.8716	0.7986	0.6699	0.382					
6804	0.2899	0.2735	0.2326	0.577					
6809	5.2243	4.9914	4.3002	0.600					
6901	0.0377	0.0407	0.0389	0.850					
6902	1.0322	0.9419	0.7820	0.433					
6903	7.5329	6.8972	5.8126	0.331					
6904	0.4245	0.3975	0.3321	0.661					
6905	0.4039	0.3809	0.3217	0.641					
6906	0.1742	0.1796	0.1654	0.750					
6907	1.2878	1.2116	1.0271	0.584					
6908	0.4892	0.4624	0.3931	0.608					
6909	0.1266	0.1209	0.1037	0.640					
7100	0.0341	0.0321	0.0275	0.515					
7101	0.0255	0.0240	0.0206	0.485					
7102	4.4406	4.3195	3.7911	0.618					
7103	0.6159	0.5740	0.4826	0.558					
7104	0.0322	0.0307	0.0262	0.656					
7105	0.0338	0.0323	0.0276	0.679					
7106	0.2085	0.1989	0.1705	0.633					
7107	0.2390	0.2295	0.1988	0.596					
7108	0.2054	0.1972	0.1705	0.608					
7109	0.1395	0.1334	0.1143	0.646					
7110	0.3511	0.3264	0.2748	0.514					

((Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed

Class	2002	2003	2004	D-Ratio
0540	0.0223	0.0206	0.0171	0.482
0541	0.0133	0.0120	0.0101	0.448
0550	0.0295	0.0267	0.0221	0.382
0551	0.0171	0.0156	0.0129	0.392))

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

((Base Rates Effective January 1, 2007

Class	Accident Fund	Medical Aid Fund
0101	1.5102	0.7102
0103	1.9285	0.9063
0104	1.0954	0.5189
0105	1.4873	0.8554
0107	1.4779	0.6467
0108	1.0954	0.5189
0112	0.8855	0.4502
0201	2.9771	1.1228
0202	3.5865	1.7260
0210	1.4481	0.5946
0212	1.5741	0.6908

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
0214	1.5723	0.6391	1108	0.6894	0.4434
0217	1.2903	0.6064	1109	1.5396	0.9942
0219	1.0310	0.5979	1301	0.7669	0.3602
0301	0.6338	0.4127	1303	0.2400	0.1527
0302	2.4031	0.8991	1304	0.0296	0.0192
0303	2.2735	0.8789	1305	0.4356	0.2806
0306	1.2097	0.5013	1401	0.4876	0.3476
0307	1.0909	0.5375	1404	0.7669	0.5189
0308	0.5462	0.3967	1405	0.6008	0.3976
0403	1.8151	1.0914	1407	0.6165	0.4427
0502	1.8533	0.7421	1501	0.6346	0.3723
0504	1.6756	0.8618	1507	0.5820	0.3399
0507	3.1395	1.7331	1701	1.0239	0.5509
0508	2.4004	0.8899	1702	2.5949	0.9691
0509	1.9140	0.7798	1703	1.1204	0.3557
0510	1.6923	0.9163	1704	1.0239	0.5509
0511	1.9177	0.8731	1801	0.5826	0.3513
0512	1.8329	0.7927	1802	0.8068	0.4272
0513	0.9923	0.4630	2002	0.7386	0.5182
0514	2.1735	1.0436	2004	1.0135	0.6728
0516	1.8907	0.8933	2007	0.4854	0.3184
0517	1.9313	1.0352	2008	0.3401	0.2179
0518	1.9005	0.8052	2009	0.3930	0.3170
0519	2.6218	1.1503	2101	0.7007	0.4712
0521	0.6073	0.3376	2102	0.5642	0.4120
0601	0.7416	0.3729	2104	0.3307	0.2965
0602	0.9248	0.4189	2105	0.6213	0.4048
0603	1.2551	0.4830	2106	0.4365	0.3199
0604	1.0086	0.6823	2201	0.2530	0.1745
0606	0.5608	0.3679	2202	0.7733	0.4742
0607	0.5428	0.3239	2203	0.4765	0.3581
0608	0.4330	0.2432	2204	0.2530	0.1745
0701	2.7040	0.7317	2401	0.5360	0.3290
0803	0.4986	0.3150	2903	0.6629	0.4833
0901	1.9005	0.8052	2904	0.7700	0.5325
1002	1.0349	0.6322	2905	0.5443	0.4428
1003	0.8552	0.5082	2906	0.3483	0.2395
1004	0.5814	0.3011	2907	0.5409	0.3986
1005	9.6730	4.4009	2908	1.1619	0.6262
1007	0.4244	0.2189	2909	0.3916	0.2927
1101	0.7541	0.4688	3101	1.0863	0.5612
1102	1.5286	0.7283	3102	0.2872	0.1983
1103	1.3045	0.7863	3103	0.6003	0.3802
1104	0.5311	0.4052	3104	0.6744	0.3701
1105	1.0005	0.5747	3105	0.7886	0.5375
1106	0.3267	0.2807	3303	0.4653	0.3088

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
3304	0.4574	0.3817	4302	0.6992	0.4650
3309	0.4556	0.3036	4304	1.0132	0.7360
3402	0.5828	0.3664	4305	1.4391	0.6544
3403	0.2137	0.1418	4401	0.4070	0.2945
3404	0.5027	0.3517	4402	0.8309	0.6355
3405	0.3434	0.2232	4404	0.5665	0.4215
3406	0.1960	0.1695	4501	0.1849	0.1590
3407	0.7729	0.4525	4502	0.0399	0.0354
3408	0.1880	0.1246	4504	0.1011	0.1050
3409	0.1663	0.1403	4601	0.7733	0.5186
3410	0.2803	0.2240	4802	0.2979	0.2248
3411	0.5284	0.3058	4803	0.2438	0.2354
3412	0.6816	0.3328	4804	0.5360	0.3861
3414	0.6261	0.3601	4805	0.2812	0.2436
3415	0.8773	0.5152	4806	0.0566	0.0450
3501	1.1294	0.7094	4808	0.4945	0.3441
3503	0.2759	0.2748	4809	0.3766	0.3045
3506	1.3792	0.5391	4810	0.1332	0.1225
3509	0.3980	0.3263	4811	0.2506	0.2279
3510	0.3848	0.2760	4812	0.3967	0.3054
3511	0.7602	0.5032	4813	0.1493	0.1295
3512	0.3360	0.2880	4900	0.3884	0.1773
3513	0.4523	0.3564	4901	0.0867	0.0511
3602	0.1286	0.0963	4902	0.1098	0.0738
3603	0.4908	0.3451	4903	0.1675	0.1054
3604	0.8076	0.6067	4904	0.0304	0.0237
3605	0.5803	0.3382	4905	0.3208	0.2955
3701	0.2872	0.1983	4906	0.0986	0.0692
3702	0.4833	0.3360	4907	0.0513	0.0399
3708	0.7128	0.4106	4908	0.0799	0.1152
3802	0.1954	0.1415	4909	0.0381	0.0622
3808	0.4773	0.2627	4910	0.4829	0.3235
3901	0.1540	0.1481	4911	0.0697	0.0500
3902	0.5034	0.3777	5001	6.0252	2.4999
3903	1.0439	0.8858	5002	0.6557	0.3944
3905	0.1447	0.1398	5003	2.3613	0.9947
3906	0.4803	0.3556	5004	0.9584	0.6259
3909	0.2474	0.2162	5005	0.6550	0.3265
4002	1.6280	0.7618	5006	1.9073	0.8254
4101	0.3183	0.2031	5101	0.9648	0.6286
4103	0.4048	0.3771	5103	0.7356	0.5874
4107	0.1686	0.1219	5106	0.7356	0.5874
4108	0.1487	0.1119	5108	0.9177	0.6739
4109	0.2210	0.1513	5109	0.6542	0.3966
4201	0.8230	0.3679	5201	0.4666	0.2945
4301	0.6687	0.5001	5204	0.9946	0.6060

Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
5206	0.4708	0.2584	6502	0.0403	0.0313
5207	0.1551	0.1536	6503	0.0902	0.0447
5208	0.8852	0.5790	6504	0.3636	0.3535
5209	0.8151	0.4940	6505	0.0944	0.0974
5300	0.1098	0.0738	6506	0.0994	0.0899
5301	0.0330	0.0267	6509	0.3492	0.3076
5302	0.0207	0.0154	6510	0.5441	0.2700
5305	0.0498	0.0464	6511	0.3269	0.2768
5306	0.0605	0.0494	6512	0.2715	0.2105
5307	0.5858	0.3420	6601	0.1848	0.1493
6103	0.0753	0.0755	6602	0.4685	0.3511
6104	0.3560	0.2884	6603	0.3564	0.2275
6105	0.3714	0.2395	6604	0.0833	0.0656
6107	0.1224	0.1320	6605	0.2779	0.2818
6108	0.4166	0.3694	6607	0.1746	0.1260
6109	0.0980	0.0688	6608	0.6917	0.2648
6110	0.6353	0.4328	6620	4.8308	2.9905
6120	0.2971	0.1916	6704	0.1754	0.1209
6121	0.3714	0.2395	6705	0.6966	0.7926
6201	0.3576	0.2052	6706	0.3005	0.2637
6202	0.6582	0.4908	6707	3.4221	2.9240
6203	0.0825	0.1050	6708	6.9097	7.8371
6204	0.1219	0.1102	6709	0.2714	0.2477
6205	0.2469	0.1932	6801	0.6708	0.4154
6206	0.2350	0.1773	6802	0.4546	0.3395
6207	0.9090	0.9446	6803	1.0265	0.4432
6208	0.2207	0.2133	6804	0.2946	0.1943
6209	0.3010	0.2576	6809	4.7278	4.0617
6301	0.1529	0.0747	6901	0.0000	0.0584
6302	0.1776	0.1483	6902	1.2857	0.4644
6303	0.0725	0.0510	6903	8.6855	3.9709
6304	0.3757	0.3458	6904	0.4799	0.2432
6305	0.0909	0.0884	6905	0.4281	0.2567
6306	0.3406	0.2448	6906	0.0000	0.2567
6308	0.0669	0.0483	6907	1.3109	0.8611
6309	0.1776	0.1483	6908	0.4925	0.3340
6402	0.2832	0.2378	6909	0.1169	0.0963
6403	0.1593	0.1422	7100	0.0327	0.0243
6404	0.2184	0.1745	7101	0.0255	0.0175
6405	0.6377	0.3937	7102	3.0801	4.2970
6406	0.1116	0.0981	7103	0.6772	0.3641
6407	0.2793	0.2110	7104	0.0310	0.0234
6408	0.4131	0.2828	7105	0.0316	0.0254
6409	0.9934	0.5215	7106	0.1887	0.1614
6410	0.2946	0.2151	7107	0.2015	0.1987
6501	0.1719	0.1293	7108	0.1703	0.1730

<u>Class</u>	<u>Accident</u>		<u>Medical Aid</u>		<u>Class</u>	<u>Accident</u>		<u>Medical Aid</u>	
	<u>Fund</u>	<u>Fund</u>	<u>Fund</u>	<u>Fund</u>		<u>Fund</u>	<u>Fund</u>	<u>Fund</u>	<u>Fund</u>
<u>1304</u>	<u>0.0295</u>	<u>0.0220</u>	<u>0.0220</u>	<u>0.0220</u>	<u>3404</u>	<u>0.4833</u>	<u>0.4833</u>	<u>0.3932</u>	<u>0.3932</u>
<u>1305</u>	<u>0.4300</u>	<u>0.3236</u>	<u>0.3236</u>	<u>0.3236</u>	<u>3405</u>	<u>0.3089</u>	<u>0.3089</u>	<u>0.2430</u>	<u>0.2430</u>
<u>1401</u>	<u>0.4645</u>	<u>0.3825</u>	<u>0.3825</u>	<u>0.3825</u>	<u>3406</u>	<u>0.1892</u>	<u>0.1892</u>	<u>0.1884</u>	<u>0.1884</u>
<u>1404</u>	<u>0.7597</u>	<u>0.5933</u>	<u>0.5933</u>	<u>0.5933</u>	<u>3407</u>	<u>0.7525</u>	<u>0.7525</u>	<u>0.4867</u>	<u>0.4867</u>
<u>1405</u>	<u>0.6140</u>	<u>0.4667</u>	<u>0.4667</u>	<u>0.4667</u>	<u>3408</u>	<u>0.1849</u>	<u>0.1849</u>	<u>0.1446</u>	<u>0.1446</u>
<u>1407</u>	<u>0.5419</u>	<u>0.4532</u>	<u>0.4532</u>	<u>0.4532</u>	<u>3409</u>	<u>0.1583</u>	<u>0.1583</u>	<u>0.1501</u>	<u>0.1501</u>
<u>1501</u>	<u>0.6215</u>	<u>0.4104</u>	<u>0.4104</u>	<u>0.4104</u>	<u>3410</u>	<u>0.2708</u>	<u>0.2708</u>	<u>0.2416</u>	<u>0.2416</u>
<u>1507</u>	<u>0.5948</u>	<u>0.3963</u>	<u>0.3963</u>	<u>0.3963</u>	<u>3411</u>	<u>0.5005</u>	<u>0.5005</u>	<u>0.3348</u>	<u>0.3348</u>
<u>1701</u>	<u>0.9796</u>	<u>0.6133</u>	<u>0.6133</u>	<u>0.6133</u>	<u>3412</u>	<u>0.6373</u>	<u>0.6373</u>	<u>0.3612</u>	<u>0.3612</u>
<u>1702</u>	<u>2.5100</u>	<u>1.0602</u>	<u>1.0602</u>	<u>1.0602</u>	<u>3414</u>	<u>0.5950</u>	<u>0.5950</u>	<u>0.4029</u>	<u>0.4029</u>
<u>1703</u>	<u>1.0304</u>	<u>0.3841</u>	<u>0.3841</u>	<u>0.3841</u>	<u>3415</u>	<u>0.8608</u>	<u>0.8608</u>	<u>0.5840</u>	<u>0.5840</u>
<u>1704</u>	<u>0.9796</u>	<u>0.6133</u>	<u>0.6133</u>	<u>0.6133</u>	<u>3501</u>	<u>1.0809</u>	<u>1.0809</u>	<u>0.7812</u>	<u>0.7812</u>
<u>1801</u>	<u>0.5447</u>	<u>0.3893</u>	<u>0.3893</u>	<u>0.3893</u>	<u>3503</u>	<u>0.2621</u>	<u>0.2621</u>	<u>0.3000</u>	<u>0.3000</u>
<u>1802</u>	<u>0.7773</u>	<u>0.5017</u>	<u>0.5017</u>	<u>0.5017</u>	<u>3506</u>	<u>1.2340</u>	<u>1.2340</u>	<u>0.5977</u>	<u>0.5977</u>
<u>2002</u>	<u>0.7131</u>	<u>0.5700</u>	<u>0.5700</u>	<u>0.5700</u>	<u>3509</u>	<u>0.3815</u>	<u>0.3815</u>	<u>0.3569</u>	<u>0.3569</u>
<u>2004</u>	<u>0.9479</u>	<u>0.7397</u>	<u>0.7397</u>	<u>0.7397</u>	<u>3510</u>	<u>0.3560</u>	<u>0.3560</u>	<u>0.2995</u>	<u>0.2995</u>
<u>2007</u>	<u>0.4853</u>	<u>0.3658</u>	<u>0.3658</u>	<u>0.3658</u>	<u>3511</u>	<u>0.7162</u>	<u>0.7162</u>	<u>0.5477</u>	<u>0.5477</u>
<u>2008</u>	<u>0.3264</u>	<u>0.2425</u>	<u>0.2425</u>	<u>0.2425</u>	<u>3512</u>	<u>0.3240</u>	<u>0.3240</u>	<u>0.3196</u>	<u>0.3196</u>
<u>2009</u>	<u>0.3807</u>	<u>0.3486</u>	<u>0.3486</u>	<u>0.3486</u>	<u>3513</u>	<u>0.4304</u>	<u>0.4304</u>	<u>0.3916</u>	<u>0.3916</u>
<u>2101</u>	<u>0.6614</u>	<u>0.5199</u>	<u>0.5199</u>	<u>0.5199</u>	<u>3602</u>	<u>0.1277</u>	<u>0.1277</u>	<u>0.1074</u>	<u>0.1074</u>
<u>2102</u>	<u>0.5095</u>	<u>0.4368</u>	<u>0.4368</u>	<u>0.4368</u>	<u>3603</u>	<u>0.4635</u>	<u>0.4635</u>	<u>0.3881</u>	<u>0.3881</u>
<u>2104</u>	<u>0.3148</u>	<u>0.3351</u>	<u>0.3351</u>	<u>0.3351</u>	<u>3604</u>	<u>0.7732</u>	<u>0.7732</u>	<u>0.6913</u>	<u>0.6913</u>
<u>2105</u>	<u>0.5806</u>	<u>0.4454</u>	<u>0.4454</u>	<u>0.4454</u>	<u>3605</u>	<u>0.5549</u>	<u>0.5549</u>	<u>0.3756</u>	<u>0.3756</u>
<u>2106</u>	<u>0.4134</u>	<u>0.3594</u>	<u>0.3594</u>	<u>0.3594</u>	<u>3701</u>	<u>0.2751</u>	<u>0.2751</u>	<u>0.2146</u>	<u>0.2146</u>
<u>2201</u>	<u>0.2381</u>	<u>0.1895</u>	<u>0.1895</u>	<u>0.1895</u>	<u>3702</u>	<u>0.4540</u>	<u>0.4540</u>	<u>0.3592</u>	<u>0.3592</u>
<u>2202</u>	<u>0.7380</u>	<u>0.5282</u>	<u>0.5282</u>	<u>0.5282</u>	<u>3708</u>	<u>0.6557</u>	<u>0.6557</u>	<u>0.4400</u>	<u>0.4400</u>
<u>2203</u>	<u>0.4515</u>	<u>0.3858</u>	<u>0.3858</u>	<u>0.3858</u>	<u>3802</u>	<u>0.1974</u>	<u>0.1974</u>	<u>0.1626</u>	<u>0.1626</u>
<u>2204</u>	<u>0.2381</u>	<u>0.1895</u>	<u>0.1895</u>	<u>0.1895</u>	<u>3808</u>	<u>0.4560</u>	<u>0.4560</u>	<u>0.2873</u>	<u>0.2873</u>
<u>2401</u>	<u>0.5140</u>	<u>0.3497</u>	<u>0.3497</u>	<u>0.3497</u>	<u>3901</u>	<u>0.1501</u>	<u>0.1501</u>	<u>0.1667</u>	<u>0.1667</u>
<u>2903</u>	<u>0.6150</u>	<u>0.5222</u>	<u>0.5222</u>	<u>0.5222</u>	<u>3902</u>	<u>0.4621</u>	<u>0.4621</u>	<u>0.4047</u>	<u>0.4047</u>
<u>2904</u>	<u>0.7154</u>	<u>0.5709</u>	<u>0.5709</u>	<u>0.5709</u>	<u>3903</u>	<u>1.0038</u>	<u>1.0038</u>	<u>0.9838</u>	<u>0.9838</u>
<u>2905</u>	<u>0.5264</u>	<u>0.4830</u>	<u>0.4830</u>	<u>0.4830</u>	<u>3905</u>	<u>0.1408</u>	<u>0.1408</u>	<u>0.1541</u>	<u>0.1541</u>
<u>2906</u>	<u>0.3266</u>	<u>0.2656</u>	<u>0.2656</u>	<u>0.2656</u>	<u>3906</u>	<u>0.4536</u>	<u>0.4536</u>	<u>0.3941</u>	<u>0.3941</u>
<u>2907</u>	<u>0.5072</u>	<u>0.4335</u>	<u>0.4335</u>	<u>0.4335</u>	<u>3909</u>	<u>0.2394</u>	<u>0.2394</u>	<u>0.2380</u>	<u>0.2380</u>
<u>2908</u>	<u>1.1021</u>	<u>0.6958</u>	<u>0.6958</u>	<u>0.6958</u>	<u>4002</u>	<u>1.5407</u>	<u>1.5407</u>	<u>0.8397</u>	<u>0.8397</u>
<u>2909</u>	<u>0.3745</u>	<u>0.3222</u>	<u>0.3222</u>	<u>0.3222</u>	<u>4101</u>	<u>0.3230</u>	<u>0.3230</u>	<u>0.2363</u>	<u>0.2363</u>
<u>3101</u>	<u>0.9795</u>	<u>0.5905</u>	<u>0.5905</u>	<u>0.5905</u>	<u>4103</u>	<u>0.4079</u>	<u>0.4079</u>	<u>0.4155</u>	<u>0.4155</u>
<u>3102</u>	<u>0.2751</u>	<u>0.2146</u>	<u>0.2146</u>	<u>0.2146</u>	<u>4107</u>	<u>0.1664</u>	<u>0.1664</u>	<u>0.1351</u>	<u>0.1351</u>
<u>3103</u>	<u>0.5695</u>	<u>0.4117</u>	<u>0.4117</u>	<u>0.4117</u>	<u>4108</u>	<u>0.1476</u>	<u>0.1476</u>	<u>0.1286</u>	<u>0.1286</u>
<u>3104</u>	<u>0.6427</u>	<u>0.4175</u>	<u>0.4175</u>	<u>0.4175</u>	<u>4109</u>	<u>0.2091</u>	<u>0.2091</u>	<u>0.1674</u>	<u>0.1674</u>
<u>3105</u>	<u>0.7554</u>	<u>0.5842</u>	<u>0.5842</u>	<u>0.5842</u>	<u>4201</u>	<u>0.8008</u>	<u>0.8008</u>	<u>0.4084</u>	<u>0.4084</u>
<u>3303</u>	<u>0.4405</u>	<u>0.3380</u>	<u>0.3380</u>	<u>0.3380</u>	<u>4301</u>	<u>0.6214</u>	<u>0.6214</u>	<u>0.5537</u>	<u>0.5537</u>
<u>3304</u>	<u>0.4313</u>	<u>0.4127</u>	<u>0.4127</u>	<u>0.4127</u>	<u>4302</u>	<u>0.6824</u>	<u>0.6824</u>	<u>0.5197</u>	<u>0.5197</u>
<u>3309</u>	<u>0.4287</u>	<u>0.3277</u>	<u>0.3277</u>	<u>0.3277</u>	<u>4304</u>	<u>0.9661</u>	<u>0.9661</u>	<u>0.8251</u>	<u>0.8251</u>
<u>3402</u>	<u>0.5440</u>	<u>0.3996</u>	<u>0.3996</u>	<u>0.3996</u>	<u>4305</u>	<u>1.3483</u>	<u>1.3483</u>	<u>0.7513</u>	<u>0.7513</u>
<u>3403</u>	<u>0.2069</u>	<u>0.1570</u>	<u>0.1570</u>	<u>0.1570</u>	<u>4401</u>	<u>0.3929</u>	<u>0.3929</u>	<u>0.3434</u>	<u>0.3434</u>

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>	<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
4402	0.7973	0.6825	5209	0.7464	0.5384
4404	0.5516	0.4728	5300	0.1128	0.0840
4501	0.1757	0.1839	5301	0.0347	0.0302
4502	0.0386	0.0376	5302	0.0186	0.0156
4504	0.0999	0.1190	5305	0.0482	0.0494
4601	0.7442	0.5735	5306	0.0583	0.0557
4801	1.4067	1.8451	5307	0.5980	0.3891
4802	0.2945	0.2696	6103	0.0732	0.0830
4803	0.2465	0.2800	6104	0.3431	0.3189
4804	0.5029	0.4312	6105	0.3640	0.2618
4805	0.2677	0.2642	6107	0.1215	0.1500
4806	0.0552	0.0507	6108	0.4206	0.4159
4808	0.4795	0.4017	6109	0.0994	0.0777
4809	0.3456	0.3350	6110	0.6268	0.4957
4810	0.1255	0.1364	6120	0.2918	0.2190
4811	0.2483	0.2695	6121	0.3647	0.2738
4812	0.3805	0.3469	6201	0.3310	0.2269
4813	0.1392	0.1463	6202	0.6277	0.5453
4900	0.3535	0.1786	6203	0.0812	0.1155
4901	0.0796	0.0546	6204	0.1160	0.1170
4902	0.1128	0.0840	6205	0.2468	0.2154
4903	0.1628	0.1238	6206	0.2236	0.1936
4904	0.0275	0.0256	6207	0.8819	1.0671
4905	0.3193	0.3378	6208	0.2100	0.2356
4906	0.0948	0.0770	6209	0.2951	0.2877
4907	0.0502	0.0458	6301	0.1496	0.0818
4908	0.0765	0.1166	6302	0.1813	0.1700
4909	0.0369	0.0649	6303	0.0705	0.0553
4910	0.4665	0.3703	6304	0.3554	0.3852
4911	0.0632	0.0513	6305	0.0904	0.0974
5001	6.3769	3.0302	6306	0.3243	0.2626
5002	0.6271	0.4375	6308	0.0653	0.0559
5003	2.3266	1.1565	6309	0.1813	0.1700
5004	0.9026	0.6638	6402	0.2613	0.2535
5005	0.6307	0.3616	6403	0.1585	0.1652
5006	1.7478	0.8728	6404	0.2190	0.2029
5101	0.9144	0.6798	6405	0.5873	0.4198
5103	0.7143	0.6546	6406	0.1114	0.1138
5106	0.7143	0.6546	6407	0.2650	0.2341
5108	0.8699	0.7534	6408	0.4086	0.3195
5109	0.5894	0.4109	6409	0.8920	0.5342
5201	0.4337	0.3134	6410	0.2815	0.2407
5204	0.9380	0.6509	6501	0.1604	0.1403
5206	0.4408	0.2832	6502	0.0377	0.0327
5207	0.1506	0.1685	6503	0.0870	0.0517
5208	0.8031	0.6183	6504	0.3477	0.3881

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
<u>6505</u>	<u>0.0897</u>	<u>0.1099</u>
<u>6506</u>	<u>0.0973</u>	<u>0.0999</u>
<u>6509</u>	<u>0.3370</u>	<u>0.3377</u>
<u>6510</u>	<u>0.5078</u>	<u>0.2888</u>
<u>6511</u>	<u>0.3361</u>	<u>0.3188</u>
<u>6512</u>	<u>0.2180</u>	<u>0.1789</u>
<u>6601</u>	<u>0.1786</u>	<u>0.1643</u>
<u>6602</u>	<u>0.4819</u>	<u>0.4112</u>
<u>6603</u>	<u>0.3385</u>	<u>0.2516</u>
<u>6604</u>	<u>0.0803</u>	<u>0.0738</u>
<u>6605</u>	<u>0.2745</u>	<u>0.3171</u>
<u>6607</u>	<u>0.1653</u>	<u>0.1395</u>
<u>6608</u>	<u>0.6480</u>	<u>0.2810</u>
<u>6620</u>	<u>4.4945</u>	<u>3.1943</u>
<u>6704</u>	<u>0.1639</u>	<u>0.1298</u>
<u>6705</u>	<u>0.6547</u>	<u>0.8704</u>
<u>6706</u>	<u>0.2846</u>	<u>0.2813</u>
<u>6707</u>	<u>3.4185</u>	<u>3.7372</u>
<u>6708</u>	<u>6.6988</u>	<u>8.9057</u>
<u>6709</u>	<u>0.2625</u>	<u>0.2703</u>
<u>6801</u>	<u>0.6603</u>	<u>0.4714</u>
<u>6802</u>	<u>0.4751</u>	<u>0.4076</u>
<u>6803</u>	<u>1.0216</u>	<u>0.4912</u>
<u>6804</u>	<u>0.2899</u>	<u>0.2336</u>
<u>6809</u>	<u>4.5185</u>	<u>4.5429</u>
<u>6901</u>	<u>0.0000</u>	<u>0.0659</u>
<u>6902</u>	<u>1.1946</u>	<u>0.5072</u>
<u>6903</u>	<u>8.1636</u>	<u>4.3648</u>
<u>6904</u>	<u>0.4812</u>	<u>0.2802</u>
<u>6905</u>	<u>0.4155</u>	<u>0.2907</u>
<u>6906</u>	<u>0.0000</u>	<u>0.2907</u>
<u>6907</u>	<u>1.2985</u>	<u>1.0152</u>
<u>6908</u>	<u>0.4647</u>	<u>0.3585</u>
<u>6909</u>	<u>0.1126</u>	<u>0.1069</u>
<u>7100</u>	<u>0.0314</u>	<u>0.0269</u>
<u>7101</u>	<u>0.0244</u>	<u>0.0193</u>
<u>7102</u>	<u>2.9961</u>	<u>4.7722</u>
<u>7103</u>	<u>0.6616</u>	<u>0.4115</u>
<u>7104</u>	<u>0.0300</u>	<u>0.0270</u>
<u>7105</u>	<u>0.0314</u>	<u>0.0288</u>
<u>7106</u>	<u>0.1847</u>	<u>0.1800</u>
<u>7107</u>	<u>0.1957</u>	<u>0.2287</u>
<u>7108</u>	<u>0.1666</u>	<u>0.1858</u>
<u>7109</u>	<u>0.1230</u>	<u>0.1242</u>
<u>7110</u>	<u>0.3611</u>	<u>0.2224</u>
<u>7111</u>	<u>0.4214</u>	<u>0.2532</u>

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
<u>7112</u>	<u>0.6291</u>	<u>0.5454</u>
<u>7113</u>	<u>0.3275</u>	<u>0.3351</u>
<u>7114</u>	<u>0.4767</u>	<u>0.4703</u>
<u>7115</u>	<u>0.5213</u>	<u>0.5177</u>
<u>7116</u>	<u>0.6503</u>	<u>0.5550</u>
<u>7117</u>	<u>1.6093</u>	<u>1.4568</u>
<u>7118</u>	<u>1.2987</u>	<u>1.1337</u>
<u>7119</u>	<u>1.3315</u>	<u>1.0089</u>
<u>7120</u>	<u>6.1411</u>	<u>4.7003</u>
<u>7121</u>	<u>5.7028</u>	<u>4.3816</u>
<u>7122</u>	<u>0.4964</u>	<u>0.5236</u>
<u>7200</u>	<u>1.2949</u>	<u>0.7366</u>
<u>7201</u>	<u>1.6186</u>	<u>0.9208</u>
<u>7202</u>	<u>0.0370</u>	<u>0.0236</u>
<u>7203</u>	<u>0.1014</u>	<u>0.1418</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7301</u>	<u>0.4920</u>	<u>0.4202</u>
<u>7302</u>	<u>0.9354</u>	<u>0.8159</u>
<u>7307</u>	<u>0.4591</u>	<u>0.4187</u>
<u>7308</u>	<u>0.2779</u>	<u>0.3367</u>
<u>7309</u>	<u>0.2294</u>	<u>0.2507</u>
<u>7400</u>	<u>1.6186</u>	<u>0.9208</u>

((For work performed during the period July 1, 2007, through December 31, 2007, employers shall not be required to pay nor shall they be entitled to deduct from workers' pay, medical aid premium; such premiums shall be deemed to have been paid by the department out of the medical aid fund.))

In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Base Rates ((in Dollars Per Sq. Ft. of Wallboard)) Effective January 1, ((2007)) 2008

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
((0540	0.0268	0.0111	0.0005
0541	0.0161	0.0062	0.0005

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
0550	0.0375	0.0124	0.0005
0551	0.0218	0.0073	0.0005))
0540	0.0244	0.0118	0.0006
0541	0.0145	0.0066	0.0006
0550	0.0327	0.0131	0.0006
0551	0.0194	0.0077	0.0006

((For work performed during the period July 1, 2007, through December 31, 2007, employers shall not be required to pay nor shall they be entitled to deduct from workers' pay, medical aid premium; such premiums shall be deemed to have been paid by the department out of the medical aid fund.))

In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.

Base Rates ((Per License)) Effective January 1, ((2007)) 2008

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
((6614	44	35	+
6615	309	270	+
6616	14	10	+
6617	103	76	+
6618	99	50	+

Base Rates Per Twelve Horse Stalls Effective January 1, 2007

6622	565	449	+
6623	207	147	+))
6614	39*	20*	1
6615	284*	150*	1
6616	13*	6*	1
6617	100*	44*	1
6618	99*	25*	1
6622	526**	253**	1
6623	130**	54**	1

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

** These rates are calculated on a per 12 horse stalls for parimutuel race tracks and are base rated.

NEW SECTION

WAC 296-17-89505 2007 Rate holiday dividend. What is happening?

As part of the medical aid fund rate holiday for the third and fourth quarters of 2007, the department will be refunding to eligible state fund employers a percentage of accident fund premiums they reported and paid for the hours worked from July 1 to December 31, 2007.

Why is the department doing this?

The department is doing this so that retro and nonretro employers pay for the same fair share of their expected losses after the net retro refunds and dividends are taken into consideration.

Who is eligible?

To be eligible, an employer must have reported and paid accident fund premiums by June 1, 2008, for the work done in at least one quarter of the two quarters covered by the rate holiday and must not have participated in the retrospective rating program during that quarter.

Why are retro employers not eligible?

Instead of this dividend, retro employers in aggregate will be receiving larger retrospective rating adjustments because the department will be calculating adjustments as though employers had paid medical aid premiums for the third and fourth quarters of 2007.

How will the dividend work?

The department will fix the dividend percentage using data available to the department as of June 1, 2008, and then announce this to the public. The department will then apply that percentage to the amount of accident fund premiums each eligible employer paid for the work done in each quarter they were eligible to calculate the dividend amount. The dividend amount will then be distributed by the department either by applying a credit or issuing a check. Employers owing the department money will receive a credit to their industrial insurance account; employers not owing the department money will be sent a check (what the state calls a warrant drawn on the state treasury).

How will the department calculate the dividend percentage?

The department will calculate the dividend percentage using the following formula, rounded to four decimal places:

$$1.0 - (1.0 - 19\% \times \text{Standard Premium} / \text{Accident Fund Premium}) / 81\%$$

Standard Premium and the Accident Fund Premium are the sums of the standard premiums and accident fund premiums respectively for retrospective rating participants for hours worked during the period July 1, 2007, to December 31, 2007, using data evaluated on June 1, 2008.

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-90492 Table I.

((RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, 2007

Size Group Number	Standard Premium Range
63	\$4,700 - \$5,678
62	5,679 - 6,819
61	6,820 - 8,114
60	8,115 - 9,599
59	9,600 - 11,299
58	11,300 - 13,209
57	13,210 - 15,389
56	15,390 - 17,699
55	17,700 - 20,139
54	20,140 - 22,709
53	22,710 - 25,419
52	25,420 - 28,269
51	28,270 - 31,239
50	31,240 - 34,369
49	34,370 - 37,639
48	37,640 - 40,959
47	40,960 - 44,299
46	44,300 - 47,959
45	47,960 - 52,029
44	52,030 - 56,559
43	56,560 - 61,579
42	61,580 - 67,199
41	67,200 - 73,489
40	73,490 - 80,519
39	80,520 - 88,449
38	88,450 - 97,429
37	97,430 - 107,539
36	107,540 - 118,399
35	118,400 - 130,099
34	130,100 - 143,199
33	143,200 - 157,399
32	157,400 - 173,199
31	173,200 - 189,599
30	189,600 - 207,799
29	207,800 - 228,399
28	228,400 - 251,799
27	251,800 - 278,799
26	278,800 - 309,899
25	309,900 - 345,599
24	345,600 - 387,499

Size Group Number	Standard Premium Range
23	387,500 - 436,799
22	436,800 - 494,399
21	494,400 - 563,399
20	563,400 - 646,599
19	646,600 - 746,399
18	746,400 - 869,299
17	869,300 - 1,022,499
16	1,022,500 - 1,242,999
15	1,243,000 - 1,547,999
14	1,548,000 - 1,977,999
13	1,978,000 - 2,527,999
12	2,528,000 - 3,228,999
11	3,229,000 - 4,279,999
10	4,280,000 - 5,927,999
9	5,928,000 - 8,544,999
8	8,545,000 - 12,379,999
7	12,380,000 - 18,229,999
6	18,230,000 - 28,339,999
5	28,340,000 - 44,739,999
4	44,740,000 & Over

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, 2008

Size Group Number	Standard Premium Range
63	\$4,761 - \$5,751
62	5,752 - 6,907
61	6,908 - 8,219
60	8,220 - 9,723
59	9,724 - 11,445
58	11,446 - 13,379
57	13,380 - 15,589
56	15,590 - 17,929
55	17,930 - 20,399
54	20,400 - 22,999
53	23,000 - 25,749
52	25,750 - 28,629
51	28,630 - 31,639
50	31,640 - 34,809
49	34,810 - 38,129
48	38,130 - 41,489
47	41,490 - 44,869
46	44,870 - 48,579
45	48,580 - 52,699

<u>Size Group Number</u>	<u>Standard Premium Range</u>	<u>Standard Premium Range</u>
44	52,700	= 57,289
43	57,290	= 62,369
42	62,370	= 68,069
41	68,070	= 74,439
40	74,440	= 81,559
39	81,560	= 89,589
38	89,590	= 98,689
37	98,690	= 108,929
36	108,930	= 119,899
35	119,900	= 131,799
34	131,800	= 144,999
33	145,000	= 159,399
32	159,400	= 175,399
31	175,400	= 191,999
30	192,000	= 210,499
29	210,500	= 231,299
28	231,300	= 254,999
27	255,000	= 282,399
26	282,400	= 313,899
25	313,900	= 350,099
24	350,100	= 392,499
23	392,500	= 442,399
22	442,400	= 500,799
21	500,800	= 570,699
20	570,700	= 654,899
19	654,900	= 755,999
18	756,000	= 880,499
17	880,500	= 1,035,699
16	1,035,700	= 1,258,999
15	1,259,000	= 1,567,999
14	1,568,000	= 2,003,999
13	2,004,000	= 2,560,999
12	2,561,000	= 3,270,999
11	3,271,000	= 4,334,999
10	4,335,000	= 6,003,999
9	6,004,000	= 8,654,999
8	8,655,000	= 12,539,999
7	12,540,000	= 18,469,999
6	18,470,000	= 28,709,999
5	28,710,000	= 45,319,999
4	45,320,000 & Over	

AMENDATORY SECTION (Amending WSR 06-24-054, filed 12/1/06, effective 1/1/07)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ~~((33-4))~~ 39.1 mils (~~\$(0-0334))~~ 0.0391) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-891 Table IV-A.

**WSR 07-24-055
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed December 3, 2007, 4:15 p.m., effective January 3, 2008]

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

Purpose: RCW 82.12.022 and 82.14.230 impose state and local use taxes on the use of natural gas or manufactured gas by a consumer, if the person who sold the gas to the consumer has not paid public utility tax with respect to the gas. This use tax is imposed only for natural gas delivered to a consumer through a pipeline, and the tax rate that applies is the same rate as the state and city public utility taxes. Rule 17902 explains how this use tax applies and the reporting requirements.

Consumers currently report and pay this use tax on a separate "natural gas use tax return." Subsection (8) of the current rule explains that the tax liability is to be reported quarterly, on a stand-alone return that is filed and processed separately from the excise tax return used to report B&O, retail sales, or use tax liabilities. The proposed rule explained in subsection (9) that "starting no sooner than January of 2008, the department may eliminate the natural gas use tax return, and provide taxpayer with two alternatives to report and remit their natural gas use tax liability." The proposed rule noted that these two alternatives were to report and remit the brokered natural gas use tax using the excise tax return or to obtain a separate tax reporting account number to report the brokered natural gas use tax on a separate quarterly excise tax return.

The department intends to proceed with these two options in the future, but because of resource issues cannot at this time provide an estimate of when necessary system changes will be made. The proposed reporting instructions for the future change have been removed in the adopted rule.

The current rule's explanation that the tax is reported on a separate quarterly return is now replaced with the statutory language that the tax is to be reported on "forms and records prescribed by the department."

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-17902 Brokered natural gas—Use tax.

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

Other Authority: RCW 82.12.022 and 82.14.230.

Adopted under notice filed as WSR 07-11-065 on May 14, 2007.

Changes Other than Editing from Proposed to Adopted Version: The proposed reporting instructions explaining that "starting no sooner than January of 2008, the department may eliminate the natural gas use tax return," and the two alternatives has [have] been removed. The current rule's explanation that the tax is reported on a separate quarterly return is now replaced with the statutory language that the tax is to be reported on "forms and records prescribed by the department."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 3, 2007.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 90-17-068, filed 8/16/90, effective 9/16/90)

WAC 458-20-17902 Brokered natural gas—Use tax.

(1) **Introduction.** RCW 82.12.022 and 82.14.230 impose state and local use taxes on the use of natural gas or manufactured gas by a consumer, if the person who sold the gas to the consumer has not paid public utility tax on that sale. This use tax is imposed only for natural gas delivered to a consumer through a pipeline. The use tax is applied at the same rate as the state and city public utility taxes. This section explains how this use tax applies and how it is reported to the department.

(2) **Definitions.** For the purpose of this section:

(a) "Brokered natural gas" (~~as used in this section is~~) means natural gas purchased by a consumer from a source out of the state and delivered to the consumer in this state.

(b) "Value of gas consumed or used" (~~as used in this section shall be~~) means the purchasing price of the gas to the

consumer and generally (~~shall~~) must include all or part of the transportation charges as explained later.

~~((2))~~ (3) **Applicability of use tax.** The distribution and sale of natural gas in this state is generally taxed under the state and city public utility taxes. With changing conditions and federal regulations, it is now possible to have natural gas brokered from out of the state and sold directly to the consumer. If this occurs and the public utility taxes have not been paid, RCW 82.12.022 (state) and RCW 82.14.230 (city) impose a use tax on the brokered natural gas at the same rate as the state and city public utility taxes.

~~((3))~~ (4) **State tax.** When the use tax applies, the rate of tax imposed is equal to the public utility tax on gas distribution business under RCW 82.16.020 (1)(c). The rate of tax applies to the value of the gas consumed or used and is imposed upon the consumer.

~~((4))~~ (5) **City tax.** Cities are given the authority to impose a use tax on brokered natural gas. When imposed and applicable, the rate of tax is equal to the tax on natural gas business under RCW 35.21.870 on the value of gas consumed or used and is imposed on the consumer.

~~((5))~~ (6) **Transportation charges.**

(a) If all or part of the transportation charges for the delivery of the brokered natural gas are separately subject to the state's and cities' public utility taxes (RCW 82.16.020 (1)(c) and RCW 35.21.870), those transportation charges are excluded from measure of the use tax. The transportation charges not subject to the public utility taxes are included in the value of the gas consumed or used.

(b) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. In actual practice, the tax status of a situation must be determined after a review of all of the facts and circumstances.

(i) Public university purchases natural gas from an out of the state source through a broker. The natural gas is delivered by interstate pipeline to the local gas distribution system who delivers it to the university. The university pays the supplier for the gas, the pipeline for the interstate transportation charge, and the gas distribution system for its local transportation charge. The transportation charge by the pipeline is not subject to public utility tax because it is an interstate transportation charge. The transportation charge paid to the local gas distribution system is subject to the public utility taxes as an intrastate delivery. The value of the gas consumed or used is the purchase price paid to the supplier plus the transportation charge paid to pipeline company.

(ii) The above factual situation applies except that the natural gas is delivered directly by the interstate pipeline to the university. The university pays the supplier for the gas and the pipeline for the transportation charge. As the transportation charge is not subject to the public utility tax, it will be included in the measure of the tax. The value of the gas consumed or used is the purchase price plus the transportation charge paid to the pipeline.

~~((6))~~ (7) **Credits against the taxes.**

(a) A credit is allowed against the use taxes described in this section for any use tax paid by the consumer to another state which is similar to this use tax and is applicable to the gas subject to this tax. Any other state's use tax allowed as a

credit (~~(shall)~~) will be prorated to the state's and cities' portion of the tax based on the relative rates of the two taxes.

(b) A credit is also allowed against the use tax imposed by the state for any gross receipts tax similar that imposed pursuant to RCW 82.16.020 (1)(c) by another state on the seller of the gas with respect to the gas consumed or used.

(c) A credit is allowed against the use tax imposed by the cities for any gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another state or political subdivision of the state on the seller of the gas with respect to the gas consumed or used.

~~((7))~~ **(8) Reporting requirements.** The person who delivers the gas to the consumer (~~(shall)~~) must make and submit a report to the (~~(miscellaneous))~~ local sales and use tax section of the department's taxpayer account administration division (~~(of the department))~~ by the fifteenth day of the month following a calendar quarter. The report (~~(shall)~~) must contain the following information:

(a) The name and address of the consumer to whom gas was delivered,

(b) The volume of gas delivered to each consumer during the calendar quarter, and,

(c) Service address of consumer if different from mailing address.

~~((8))~~ **(9) Collection and administration.** (~~A separate quarterly return for~~) Use tax on brokered natural gas (~~(shall)~~) must be filed with the department by the consumer on (~~(or before the last day of the month following a calendar quarter))~~ forms and records prescribed by the department. Such forms and records must be accompanied by the remittance of the tax. (~~(The collection and administration for the cities of the use tax described in this section shall be done by the department under RCW 82.14.050.)~~) The department's authority to collect this tax is found in RCW 82.12.020 and 82.14.050.

WSR 07-24-057

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed December 4, 2007, 6:39 a.m., effective January 4, 2008]

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

Purpose: The board of boiler rules made changes to WAC 296-104-540 regarding nuclear repairs and was not aware at the time that these revisions would impact a business in Washington. The National Board's Pressure Relief Department stated that as long as the pressure relief valves are repaired under a documented quality program which is periodically audited by a third party, an equivalent level of safety will be maintained. Therefore the board drafted language to allow companies to continue to repair nuclear safety relief valves.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-540.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Adopted under notice filed as WSR 07-20-088 on October 2, 2007.

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 4, 2007.

Steven E. Bacon, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-540 Repairs—What are the requirements for nuclear repairs of safety devices? All nuclear pressure retaining items shall be safe-guarded by safety devices, as specified in the ASME Section III, Division 1, Class 1, 2, and 3.

(1) The resetting, repair, and restamping of these safety devices shall be performed only by organizations holding a valid National Board "NR" and "VR" Certificate of Authorization to repair ASME Section III Code safety devices. An owner's ASME Section XI program may be used in lieu of a "NR" Certificate of Authorization for repair activities of the owner's valves. The repair work shall be documented on the applicable NR-1/NVR-1 form or on an owner's NIS-2 form. All repair/replacement activities performed under the "NR" Certificate of Authorization or owner's Section XI Repair program must be in accordance with the provisions of the NBIC, ASME Section XI, and the rules of the jurisdiction.

(2) (~~(Nuclear plant owners with an approved ASME Section XI program, may authorize external adjustments to bring their installed safety valves and relief valves back to the stamped set pressure when performed by the owner's/user's trained, qualified, regular, and full-time employees. Refer to Appendix "J" of the National Board Inspection Code as referenced in WAC 296-104-102 for guidelines regarding training, documentation, and implementation of a quality system for the owner/user employees.~~)

~~(3) All such~~) External adjustments or repair activities performed by the owner shall be resealed with a metal tag showing the identification of the organization (~~(making the adjustments))~~) and the date.

~~((4) If any valve repairs are required, they shall be done by a qualified "VR" and "NR" certificate holder.)~~)

WSR 07-24-073
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed December 4, 2007, 4:15 p.m., effective January 4, 2008]

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

Purpose: The amended rules will assure that complaints against credentialed health care providers continue to move through the complaint process and will reduce delays. The amended rule eliminates a paper-based process for extensions. Management oversight is still required and the reasons for exceeding the basic timelines are documented in a timely manner.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-14-070 and 246-14-080; and amending WAC 246-14-010, 246-14-020, 246-14-030, 246-14-090, 246-14-100, 246-14-110, and 246-14-120.

Statutory Authority for Adoption: RCW 18.130.095.

Adopted under notice filed as WSR 07-18-087 on September 5, 2007.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 2.

Date Adopted: December 4, 2007.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-010 Intent. These rules establish basic time periods for processing and resolving complaints against credentialed health care providers and applicants. The rules also provide ~~((for extensions of the basic time periods and))~~ enforcement mechanisms to ensure timely disposition of complaints and adjudicative proceedings. The department of health does not anticipate that the basic time period will be used in all cases. These rules are adopted as required by RCW 18.130.095(1). The intent is to promote timely protection of the public and fairness to credential holders, applicants, and complainants, without sacrificing public safety.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-020 Definitions. (1) A "report" is information received by the department of health which raises concern about conduct, acts or conditions related to a creden-

tial holder or applicant or about the credential holder or applicant's ability to practice with reasonable skill and safety. If the disciplining authority determines a report warrants an investigation, the report becomes a "complaint."

(2) Basic time periods may be ~~((extended))~~ exceeded for "good cause." Good cause is determined on a case-by-case basis, balancing all relevant factors including risk of harm to the public. Some examples of relevant factors may be circumstances not within the control of the department or the disciplining authority, need for expert review not available within the department or the disciplining authority, and activities which cannot be completed within the time period despite effort to do so.

(3) "Days" are calendar days unless otherwise indicated. If a time period would end on a Saturday, Sunday, or state holiday, that time period will end on the next business day.

(4) "Enhanced management oversight" is enhanced direction of a case imposed by department management as an enforcement mechanism when ~~((an extension is granted))~~ a basic time period is exceeded. ~~((The person granting the extension))~~ Management will ~~((assure))~~ ensure the case moves through the stage promptly. Some examples of enhanced direction may be staffing changes, resource reallocation, and work planning.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-030 What happens if a time period expires? ~~((If a basic time period expires, the case cannot continue in its current stage unless an extension is granted. Department staff and a board or commission member, if applicable, are responsible for seeking an extension or moving the case to another stage. Extensions may be granted retroactively for good cause, but such extensions must meet all otherwise applicable criteria.))~~ When a basic time period expires, enhanced management oversight will occur. The reason for the delay will be noted in the tracking system, but work on the case will not be interrupted.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-090 Adjudication of statement of charges. (1) Procedures for adjudication of statements of charges are contained in chapters 246-10 and 246-11 WAC. Those rules provide for twenty days to file an answer, with a sixty-day extension for good cause, and thirty days to issue a scheduling order. They also provide for continuances.

(2) The basic time period for settlement, discovery, and commencement of hearing is one hundred eighty days or less, to be set in the scheduling order.

(3) The basic time period for issuing an order is forty-five days ~~((from the end of the hearing including deliberations when the disciplining authority is a board or commission))~~. For secretary professions, the forty-five day period begins upon completion of the hearing. For boards and commission professions, the forty-five day period begins upon completion of the hearing and deliberations. ~~((The secretary may grant a forty-five day limited extension.))~~

(4) If no answer is filed or default occurs during the adjudication, a proposed final order of default will be submitted to the disciplining authority within sixty days of notice of failure to respond or notice of default. A final order will be issued within forty-five days of the submission.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-100 Resolution of a statement of allegations. (1) If a statement of allegations is issued, the respondent will have ~~((fourteen))~~ twenty-eight days to make an initial response. ~~((The attorney handling the case for the program may grant a limited extension of fourteen days.))~~ If no response is made, the program's attorney may determine informal disposition has been rejected. The case will be returned to case disposition.

(2) If a response is made, the basic period for completion of informal resolution is sixty days. If informal resolution has not been reached within that time, the case will return to case disposition to determine appropriate action.

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-110 What happens if a case returns to a prior stage? If a case returns to a prior stage, any unused basic time period days ~~((or extensions))~~ in the prior stage may be used. ~~((If additional time is needed, extensions may be requested as in any other circumstance.))~~

AMENDATORY SECTION (Amending WSR 00-10-114, filed 5/3/00, effective 7/2/00)

WAC 246-14-120 Notice of applicable time periods. (1) Affected credential holders, applicants, and complainants will be notified of applicable time periods ~~((and the possibility of extensions))~~ as soon as possible consistent with effective case management.

(2) Other information about applicable time periods ~~((and extensions))~~ will be released according to public records law.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-14-070 Limited extensions of basic time periods.
- WAC 246-14-080 Extension with management oversight.

WSR 07-24-082
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed December 5, 2007, 9:24 a.m., effective January 5, 2008]

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

Purpose: In WAC 16-303-230 under the category "For all other kinds" the fee amount for a standard sampling was inadvertently lowered from \$0.15 per cwt to \$0.018 per cwt. when it was intended to be raised to \$0.18 per cwt. From March 1, 2007, to October 12, 2007, the Washington state department of agriculture worked with affected industry to modify its seed program fee schedules. The modifications realign certain fees to correspond to the amount of time necessary to render a particular service. To that end, some fees were raised, some were lowered. During the process, minutes were taken regarding the proposed level of fees to be assessed. However, the draft language requested from the office of the code reviser contained a typographical error that went unnoticed. With this filing, the typographical error is corrected.

Citation of Existing Rules Affected by this Order: Amending chapter 16-303 WAC.

Statutory Authority for Adoption: RCW 15.49.310.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-17-073 on August 13, 2007.

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

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

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

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

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

Date Adopted: October 12, 2007.

Robert W. Gore
 for Valoria Loveland
 Director

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-230 Official seed sampling or similar service. Fees for official sampling are in addition to travel time and mileage.

Crop	Fee	Minimum charge
Peas, beans, small grains or seeds of similar size	Standard sampling \$((0-05)) 0.07 Per cwt.	\$ ((30-00)) 35.00
	I.S.T.A. sampling \$ 0.09 Per cwt. plus \$ 7.50 Per lot	\$ 35.00 plus \$ 7.50 Per lot
For all other kinds	Standard sampling \$((0-15)) 0.18 Per cwt.	\$ ((30-00)) 35.00
	I.S.T.A. sampling \$ 0.22 Per cwt. plus \$ 7.50 Per lot	\$ 35.00 plus \$ 7.50 Per lot

WSR 07-24-093
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Psychology)

[Filed December 5, 2007, 11:34 a.m., effective September 1, 2009]

Effective Date of Rule: September 1, 2009.

Purpose: Rules are needed to define licensing requirements and clarify the minimum supervision experience required to become a licensed psychologist, consistent with 2004 ESSB 6554. WAC 246-924-040 and 246-924-060 are repealed. Adds new sections WAC 246-924-049 Practicum, 246-924-053 Preinternship, 246-924-056 Internship, and 246-924-059 Post-doctoral supervised experience.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-924-040 and 246-924-060.

Statutory Authority for Adoption: RCW 18.83.50 [18.83.050].

Adopted under notice filed as WSR 07-17-175 on August 22, 2007.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-924-053 was changed to require the goals of the preinternship experience be documented prior to the commencement of the preinternship experience. WAC 246-924-056 (2)(iii)(A) was changed to require that two or more psychologists must be available as a supervisor, one of whom must be licensed. This language was changed to be consistent with current national standards.

A final cost-benefit analysis is available by contacting Betty Moe, Department of Health, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4912, fax (360) 236-4909, e-mail Betty.Moe@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 0, Repealed 2.

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

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

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

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

Date Adopted: December 4, 2007.

Thomas W. Wall, Ph.D.
Board Chair

NEW SECTION

WAC 246-924-043 Education and experience requirements for licensure. (1) To obtain a license, applicants must complete:

(a) A doctoral degree program as described in WAC 246-924-046.

(b) A practicum of at least 300 hours as described in WAC 246-924-049; and

(c) An experience requirement consisting of no fewer than two years supervised experience totaling 3000 hours that includes:

(i) A minimum of 1500 hours of supervised experience that must be completed as an internship experience as outlined in WAC 246-924-056.

(ii) The remaining 1500 supervised hours may be obtained through:

(A) A preinternship as described in WAC 246-924-053;

(B) A postdoctoral experience as described in WAC 246-924-059; or

(C) A combination of preinternship and postdoctoral experience.

(2) The order of supervised experience must be graduated from more intensive to less intensive supervision.

NEW SECTION

WAC 246-924-046 Doctoral degree program. To meet the education requirements of RCW 18.83.070, an applicant must possess a doctoral degree from a regionally accredited institution. Regional accreditation is awarded to an institution by one of the regional accrediting agencies, each of which covers a specified portion of the United States and its territories, or equivalent accreditation in another country, upon approval by the board.

(1) The doctoral degree program must include:

(a) At least forty semester hours, or sixty quarter hours, of graduate courses in curriculum areas described in subsection (2) of this section. Courses must be clearly identified by title and course content as being part of an integrated psychology program.

(b) One year in residency as described in subsection (4) of this section;

(c) Submission of an original dissertation which is psychological in nature and endorsed by the program; and

(d) An organized, sequential and coordinated practicum and internship experience as described in WAC 246-924-049 and 246-924-056.

(2) The curriculum requirements: The doctoral degree program must encompass a minimum of three academic years of full-time graduate study or the equivalent. The applicant must complete courses in:

(a) History and systems;

(b) Research design and methodology; and

(c) Statistics and psychometrics.

(3) The applicant must complete three or more semester hours, or five or more quarter hours, of core study in each of the following content areas:

(a) Biological bases of behavior for example: Physiological psychology, comparative psychology, neural bases of behavior, sensation and perception, and biological bases of development;

(b) Cognitive-affective bases of behavior for example: Learning, thinking, motivation, emotion, and cognitive development;

(c) Social bases of behavior for example: Social psychology, organizational theory, community psychology, and social development;

- (d) Individual differences for example: Personality theory and psychopathology;
- (e) Scientific and professional ethics;
- (f) History and systems of psychology;
- (g) Statistics and psychometrics;
- (h) Research design and methodology;
- (i) Techniques of data analysis;
- (j) Human development (developmental psychology, child development, adult development and aging);
- (k) Cultural and individual differences and diversity;
- (l) Psychopathology and dysfunctional behaviors;
- (m) Theories and methods of assessment and diagnosis-minimum of two courses;
- (n) Effective psychological intervention and evaluation of the efficacy of interventions-minimum of three courses; and
- (o) Psychopharmacology.

Doctoral degree programs accredited by the American Psychological Association or the Canadian Psychological Association are recognized as having met the minimum education requirements.

(4) Residency requirement:

(a) The doctoral degree program must involve at least one continuous year of full-time residency at the institution which grants the degree or a minimum of 750 hours of student-faculty contact involving face-to-face individual or group educational meetings.

(b) Educational meetings:

(i) Must include both faculty-student and student-student interaction;

(ii) Be conducted by the psychology faculty of the institution at least seventy-five percent of the time;

(iii) Be fully documented by the institution and the applicant; and

(iv) Relate substantially to the program components specified.

NEW SECTION

WAC 246-924-049 Practicum. Applied experience: The doctoral degree program required in WAC 246-924-046 must include a practicum of at least two semesters or three quarters and at least 300 hours of direct experience, 100 hours of which must be in supervision. Supervision must include the following:

- (1) Discussion of services provided by the student;
- (2) Selection of service plan for and review of each case or work unit of the student;
- (3) Discussion of and instruction in theoretical concepts underlying the work;
- (4) Discussion of the management of professional practice and other administrative or business issues;
- (5) Evaluation of the supervisory process by the student and the supervisor;
- (6) Discussion of coordination of services among the professionals involved in the particular cases or work units;
- (7) Discussion of relevant state laws and rules;
- (8) Discussion of ethical principles including principles applicable to the work;

(9) Review of standards for providers of psychological services; and

(10) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

NEW SECTION

WAC 246-924-053 Preinternship. A preinternship experience occurs between the practicum required by WAC 246-924-049 and internship required by WAC 246-924-056. A preinternship can include up to 1500 hours of supervised experience, but is not required. If preinternship experience is used to satisfy the experience requirement of WAC 246-924-043 (1)(c), it must meet the following requirements:

(1) Before beginning the program, the student, the doctoral program, and the preinternship program must agree on and document the goals, the student's expectations, and the methods of the preinternship experience. The goals must meet the requirements of this section.

(2) Every 20 hours of preinternship experience must include the following:

(a) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the student; and

(b) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting cotherapy with a staff person including discussion of the case, and group supervision.

(3) At least sixty percent of the preinternship experience must be direct client contact providing assessment and intervention services.

(4) The preinternship experience must be supervised by the person(s) responsible for the assigned casework.

(a) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

(b) Up to twenty-five percent of the supervision may be completed by the following:

(i) A psychiatrist(s) with three years experience beyond residency;

(ii) A licensed mental health counselor(s) with five years post-license experience;

(iii) A licensed marriage and family therapist(s) with at least five years post-license experience;

(iv) A licensed advanced social worker(s) or licensed independent clinical social worker(s) with five years post-license experience; or

(v) A doctoral level psychologist(s) with three years post-doctoral experience who is exempt from licensure under RCW 18.83.200 (1), (2), (3) or (4), if the supervision occurs in the exempt setting.

(c) Supervision of the preinternship experience must include the following:

(i) Discussion of services provided by the student;

(ii) Selection of service plan for and review of each case or work unit of the student;

(iii) Discussion of and instruction in theoretical concepts underlying the work;

(iv) Discussion of the management of professional practice and other administrative or business issues;

- (v) Evaluation of the supervisory process by the student and the supervisor;
- (vi) Discussion of coordination of services among the professionals involved in the particular cases or work units;
- (vii) Discussion of relevant state laws and rules;
- (viii) Discussion of ethical principles including principles applicable to the work;
- (ix) Review of standards for providers of psychological services; and
- (x) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

NEW SECTION

WAC 246-924-056 Internship. Applicants must successfully complete an organized internship as part of the doctoral degree program described in WAC 246-924-046.

(1) The internship must include at least 1500 hours of supervised experience and be completed within twenty-four months.

(2) The internship program must:

(a) Be accredited by the American Psychological Association; or

(b) Be a member program of the Association of Psychology Postdoctoral and Internship Centers; or

(c) Meet the following requirements:

(i) Organization of the internship program.

(A) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(B) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(C) Interns must use titles indicating their training status.

(ii) Content of the internship program.

(A) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

(B) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(C) For every 40 hours of internship experience, the student must receive:

(I) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the intern; and

(II) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting cotherapy with a staff person including discussion of the case, and group supervision.

(iii) Supervision of the internship experience.

(A) The internship setting must have two or more psychologists available as supervisors, at least one of whom is licensed as a psychologist.

(B) The internship experience must be supervised by the person(s) responsible for the assigned casework.

(I) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

(II) Up to twenty-five percent of the supervision may be completed by the following:

- A psychiatrist(s) with three years experience beyond residency;

- A licensed mental health counselor(s) with five years post-license experience;

- A licensed marriage and family therapist(s) with at least five years post-license experience;

- A licensed advanced social worker(s) or licensed independent clinical social worker(s) with five years post-license experience; or

- A doctoral level psychologist(s) with three years post-doctoral experience who is exempt from licensure under RCW 18.83.200 (1), (2), (3) or (4), if the supervision occurs in the exempt setting.

NEW SECTION

WAC 246-924-059 Post-doctoral supervised experience. If 3000 hours of supervised experience has not been completed at the end of the doctoral degree program, then up to 1500 hours of supervised post-doctoral experience can be used to satisfy the total requirement. Post-doctoral supervised experience must be completed only if an applicant does not already have 3000 hours of supervised experience.

(1) Organization of the post-doctoral supervised experience.

(a) The supervisor is ethically and legally responsible for all supervisee work covered by the supervision agreement. Therefore, the supervisor has authority to alter service plans and direct the course of psychological work.

(b) Supervisees must use titles indicating their training status, such as "psychological resident," "psychological intern," or "psychological supervisee."

(c) Clients must be informed of the identity and responsibilities of the supervisor and how they can speak directly to the supervisor.

(d) Services rendered by the supervisee must not be represented to third parties as having been rendered by the supervisor. Insurance forms must be filled out indicating the nature of the supervisory relationship.

(2) The supervisor and supervisee must have a written agreement for supervision, including:

(a) The area(s) of professional activity in which supervision will occur;

(b) Hours of supervision and/or ratio of supervision to professional activity;

(c) Fees for supervision, if any;

(d) Processes for supervision including mode(s) of supervision, expectations for recordkeeping, evaluation, and feedback;

(e) Relevant business arrangements;

(f) How the supervisee will represent himself or herself; and

(g) How disagreements will be handled.

(3) Mode of supervision.

(a) The preferred mode of supervision is face-to-face discussion between the supervisor and the supervisee.

(b) The nature of the supervision may depend on the following:

- (i) The theoretical orientation of the supervisor;
- (ii) The training and experience of the supervisee; and
- (iii) The duration of the supervisory relationship.

(4) Some direct observation of the supervisee's work is required and the supervisor may use the following:

- (a) Detailed process notes and progress reports;
- (b) Audio and/or videotapes;
- (c) Client supplied information such as behavioral ratings; and
- (d) One-way mirror observation.

(5) Supervised experience must be appropriate to the area(s) of professional activity the person intends to practice.

(6) There must be at least one hour of individual supervision for every twenty hours of psychological work.

(7) The supervisor and the supervisee must keep records of experience and supervision hours.

(8) At the end of the supervision period, the supervisor must prepare and forward to the board a written evaluation, including the number of successfully completed supervised hours of psychological work and any hours not successfully completed.

If any hours were not successfully completed, the board may require additional hours of supervision.

(9) Supervision of the post-doctoral supervised experience.

(a) At least fifty percent of the post-doctoral supervision must be provided by a licensed psychologist.

(b) Up to fifty percent of the supervision may be provided by the following:

- (i) A licensed psychologist with two years post-license experience;
- (ii) A psychiatrist with three years of experience beyond residency;

(iii) A licensed mental health counselor, a licensed marriage and family therapist, a licensed advanced social worker, or a licensed independent clinical social worker, if the supervisor has five years post-license experience;

(iv) A doctoral level psychologist with three years post-doctoral experience who is exempt from licensure under RCW 18.83.200 (1), (2), (3) or (4), if the supervision occurs in the exempt setting.

(10) Supervision must include the following:

- (a) Discussion of services provided by the student;
- (b) Selection, service plan, and review of each case or work unit of the student;
- (c) Discussion of and instruction in theoretical concepts underlying the work;
- (d) Discussion of the management of professional practice and other administrative or business issues;
- (e) Evaluation of the supervisory process by the student and the supervisor;
- (f) Discussion of coordination of services among the professionals involved in the particular cases or work units;
- (g) Discussion of relevant Washington laws and rules;
- (h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-924-040 Psychologists—Education prerequisite to licensing.

WAC 246-924-060 Psychologists—Experience prerequisite to licensing.