

WSR 07-23-108
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed November 21, 2007, 9:28 a.m., effective December 22, 2007]

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

Purpose: The regulation amendments will allow the NWCAA to clarify various sections of our rules.

Amendatory Sections

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES.

- Update to accommodate new or revised rules.
- Replace July 1, 2005, with October 29, 2007, date.

SECTION 106 - PUBLIC RECORDS.

- Clarifications.

SECTION 113 - SERVICE OF NOTICE.

- Clarifications.

SECTION 114 - CONFIDENTIAL INFORMATION.

- Clarifications.

SECTION 120 - HEARINGS.

- Clarifications.

SECTION 121 - ORDERS.

- Clarifications.

SECTION 122 - APPEALS FROM ORDERS OR FORMAL ENFORCEMENT ACTION.

- Rename title.
- Clarifications.

SECTION 123 - STATUS OF ORDERS ON APPEAL.

- Clarifications.

SECTION 131 - NOTICE TO VIOLATORS.

- Rename title.
- Clarify enforcement procedures and authority.

SECTION 132 - CRIMINAL PENALTY.

- Clarifications.

SECTION 133 - CIVIL PENALTY.

- Clarifications.

SECTION 135 - ASSURANCE OF DISCONTINUANCE.

- Rename title.
- Clarifications.

SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES.

- Clarifications.

SECTION 200 - DEFINITIONS.

- Add definitions for "WASHINGTON ADMINISTRATIVE CODE (WAC)" and "HAZARDOUS AIR POLLUTANT (HAP)."

- Delete the following definitions related to agricultural burning; "AGRICULTURAL OPERATION," "FIELD GRASSES," "TURF GRASSES."
- Amend for clarification definitions of "CONTROL OFFICER," "STATE ACT" and "PREVENTION OF SIGNIFICANT DETERIORATION (PSD)."

SECTION 300 - NEW SOURCE REVIEW.

- Clarifications.
- Provide exemptions for some nonroad engines and coffee roasters.

SECTION 301 - TEMPORARY SOURCES.

- Correct PSD regulatory citation.

SECTION 305 - PUBLIC INVOLVEMENT.

- Correct reference to a state regulation citation.

SECTION 324 - FEES.

- Provide for the establishment of fee categories and fee schedules by resolution adopted by the board of directors of the NWCAA.

SECTION 325 - TRANSFER OR PERMANENT SHUTDOWN.

- Clarify.

SECTION 340 - REPORT OF BREAKDOWN AND UPSET.

- Clarify.

SECTION 428 - HAZARDOUS AIR POLLUTANTS.

- Add a 24-hour averaging period to the ambient formaldehyde limit.

SECTION 451 - EMISSION OF AIR CONTAMINANT - VISUAL STANDARD.

- Remove 40% opacity limit for existing petroleum catalytic cracking units.
- Remove opacity exemptions for wood waste burners.

SECTION 502 - OUTDOOR BURNING.

- Delete provision allowing for the recouping of fire suppression costs on behalf of fire departments.

SECTION 504 - AGRICULTURAL BURNING.

- Update provisions to be consistent with chapter 173-430 WAC.
- Revise fee schedule.

SECTION 506 - SOLID FUEL BURNING DEVICES.

- Clarifications.
- Update provision for curtailing woodstove use during air quality forecasts and episodes.

SECTION 570 - ASBESTOS CONTROL STANDARDS.

- Rewrite alternative means of compliance provisions.

SECTION 590 - PERCHLOROETHYLENE DRY CLEANERS.

- Rewrite to be consistent with MACT 40 C.F.R. 63 Subpart M and WAC 173-400-075(7).

Citation of Existing Rules Affected by this Order: See Purpose above.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 07-18-024 on August 27, 2007.

Changes Other than Editing from Proposed to Adopted Version: Section 104.2: **Adopt** as proposed with amendment.

Section 132.5: Language change.

Section 132.6: Language change.

Section 133.1: **Delete** amendment.

Section 150.1: **Table** proposed modification for further study and likely rewrite, clarifying the distinctions between new reporting requirements for non-Title V sources and requirements applicable to Title V sources.

Section 150.13: **Delete** proposed new language - "and greenhouse gas (GHG) pollutant."

Section 150.4: **Delete** this added subsection.

Section 200: **Delete** proposed amendment to term "modification." **Delete** proposed addition of definition of greenhouse gases.

Section 322.4: **Delete** proposed additional language at the end of subsection b)2). (No changes to this section, therefore removed from these regulation revisions.)

Section 324: **Add** the following language at the end of subsection 1 c and subsection 2 b:

"A proposed resolution that changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA, however no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered."

Section 340: **Delete** proposed amendatory language in subsection 1.

Section 428.3: **Delete** proposed amendatory language.

Substitute: "*Formaldehyde concentrations in the ambient air shall not exceed five hundredths of a part per million by volume (0.05 ppmv), 24-hour average concentration.*"

Section 461: **Table** proposed new section for further analysis and possible rewrite.

Section 462.4: **Table** proposed new section for further analysis and possible rewrite.

Section 580.26: **Table** proposed deletion of subsection for further analysis and possible rewrite.

Section 580.8: **Table** proposed amendments and additions for further analysis and possible rewrite.

A final cost-benefit analysis is available by contacting Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, phone (360) 428-1617, fax (360) 428-1620, e-mail masmundson@nwcleanair.org.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 27, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 27, 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 8, 2007.

Mark Asmundson

Director

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation of the NWCAA, is hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.05) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, (except – 035, -070(8), -099, -100, -101, -102, -104, -110, -114, -116, -171), WAC 173-401, WAC 173-406, WAC 173-407, WAC 173-420, (~~WAC 173-421, WAC 173-422~~), WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC 173-435, WAC 173-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, (~~WAC 173-480~~), WAC 173-481, WAC 173-490, WAC 173-491, WAC 173-492, WAC 173-495, WAC 173-802, and WAC 197-11.

104.2 All provisions of the following federal rules that are in effect as of (~~July 1, 2005~~) October 29, 2007 are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, (~~(S,)~~) U, V, W, X, Y, Z, AA, AAA, (~~(BB,)~~) CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, BBBB, CCCC, DDDD, EEEE, FFFF, HHHH, IIII, KKKK and Appendix A - I; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, J,

L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, ~~XX~~, WW, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, ~~DDDDDD, EEEEE, FFFFF, GGGGG~~; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION
SECTION 106 - PUBLIC RECORDS

106.1 The purpose of this section is to implement the requirements of RCW 42.56 Public Records. ~~((RCW 42.17-250-42.17.320 (Public Disclosure Law - Public Records)))~~

106.2 Definitions

106.21 The terms "agency", "public record", and "writing" shall have the same meaning as stated in RCW 42.17-.020.

106.3 Public records available

106.31 All public records of the NWCAA are available for public inspection and copying at its office located at 1600 South Second Street, Mount Vernon, Washington 98273-5202 pursuant to these rules subject to subsections 106.32, 106.33, and 106.34 of this section.

106.32 Availability of public records is subject to exemptions and requirements of RCW ~~((42.17.310))~~ 42.56-.070.

106.33 When a public record includes information, the disclosure of which would lead to an unreasonable invasion of personal privacy, and the NWCAA becomes aware of this fact, the NWCAA shall delete such information before making the record available.

106.34 ~~((Public records requested may not be readily available for immediate inspection. If the requested records are not readily available, the NWCAA shall notify the requester when such records will be available.))~~ Within 5 days of receiving a public records request the NWCAA will respond by either:

- (a) Providing the records requested
- (b) Acknowledging the request and providing a reasonable estimate of time the agency needs to respond to the request, or
- (c) Denying the public request.

106.4 Records Index. The NWCAA does not maintain an index of just the public records listed in RCW ~~((42.17-260))~~ 42.56.070. The NWCAA's Board of Directors are of the opinion that the establishment of such an index would be

unduly burdensome and interfere with the NWCAA's operation because a significant and integral portion of the NWCAA's records are exempt from public inspection and copying pursuant to RCW ~~((42.17.310))~~ 42.56.070. The release of such records would be an unreasonable invasion of personal privacy or the violation of the confidentiality of records and information provisions of the State Clean Air Act (RCW 70.94.205).

The NWCAA is in substantive compliance with RCW ~~((42.17.260))~~ 42.56.070 by making available for public inspection and copying public records listed in RCW ~~((42.17.260 (2)(a), (b), (c), (d), (e), and (f)))~~ 42.56.070 (7)(a)(b), (8) and (9). These include promulgated regulations of the NWCAA, final opinions made in adjudicated cases, minutes and resolutions of the Board of Directors, monthly activity reports, policy memorandums of the Control Officer, logs of Notice of Violations issued, upset, breakdown and startup reports, assessment of penalties, index of registered sources, annual emission inventor~~((ies))~~y summaries and summaries of ambient air monitoring data, annual state and federal grant applications, including the annual program plan, certification to operate, inspection reports for air pollution sources, variance and notice of construction records with confidential records and information deleted in accordance with RCW 70.94.205.

The Control Officer or designee shall assist any person to obtain public records requested from the NWCAA's record files.

106.5 Request for public records.

106.51 All requests for inspection or copying ~~((made in person at the NWCAA office))~~ of public records shall be made on a form ~~((substantially))~~ as follows:

106.52 REQUEST FOR PUBLIC RECORDS

Date: _____ Time: _____
Name: _____
Address: _____
Telephone No.: _____
Time and date for inspection of records: _____
Description of records: _____

I certify that lists of individuals ((names)) obtained through this request for public records will not be used for ~~((political or))~~ commercial purposes.

Signature: _____
FOR NWCAA USE:
Number of Copies: _____ Number of Pages: _____
Per Page Charge: \$ _____ Total Charge: \$ _____

All requests made in person may be made at the NWCAA ~~((@))~~office ~~((between the hours of 9:00 a.m. to 12:00 Noon and 1:00 p.m. to 4:00 p.m.))~~ during regular business hours, Monday through Friday, excluding legal holidays.

A request for inspection or copying of public records may be made by mail (~~(in a letter)~~), email or fax containing the following information:

(a) The name and address of the person making the request and the organization the person represents.

(b) The time of day and calendar date on which the person wishes to inspect the public records.

(c) A description of the public records requested.

(d) A statement whether access to copying equipment is desired.

(e) A phone number where the person can be reached in case the Control Officer or designee needs to contact the person for further description of the material or any other reason.

(f) A signed statement certifying that the person making the request will not use, for commercial purposes, any information which identifies an individual or individuals. (~~(A statement that the record will not be used for commercial purposes.)~~)

All requests (~~(by mail)~~) must be received by the NWCAA at least three business days before the requested date of inspection to allow the Control Officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection.

~~((The NWCAA may, in its discretion, fill requests made by telephone.))~~

106.6 Fees. No fee shall be charged for the inspection of public records. For printed, typed and written material a maximum size of 8 1/2" by 14", the NWCAA shall charge a reasonable fee, determined from time to time by the Control Officer, for providing copies of public records and for use of the NWCAA's copy equipment, payable at the time copies are furnished. This charge is the amount necessary to reimburse the NWCAA for its actual costs incident to such copying. Copies of maps, photos, reports, and other nonstandard items shall be furnished at the regular price established by the NWCAA. When other special copy work for nonstandard items is requested, the fee charged will reflect the total cost, including the time of NWCAA personnel.

106.7 Statement of reason for denial of public records request. When the NWCAA refuses, in whole or part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record withheld.

106.8 Review(s) of denials of public records request.

106.81 Any person who objects to the refusal of a written request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the Control Officer or designee which constituted or accompanied the refusal.

106.82 Immediately after receiving a written request for review of a decision denying a public record, the Control Officer or designee denying the request shall refer it to the ~~((Employer Committee of the))~~ NWCAA Board of Directors. The ~~((committee))~~ Board shall promptly consider the matter and either affirm or reverse such refusal. The final decision shall be sent to the objecting persons.

106.83 Whenever the agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request judicial review of the agency decision.

106.9 Protection of public records. In order to adequately protect the public records of the NWCAA, the following guidelines shall be adhered to by any person inspecting such public records:

106.91 No public records shall be removed from the NWCAA premises.

106.92 Inspection of any public record shall be conducted in the presence of a designated NWCAA employee.

106.93 No public records may be marked or defaced in any manner during inspection.

106.94 Public records, which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by the Control Officer or designee.

106.95 Access to file cabinets, shelves, ~~((vaults,))~~ and other storage areas is restricted to NWCAA personnel, unless other arrangements are made with the Control Officer or designee.

Passed: August 9, 1978

Amended: November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 113 - SERVICE OF NOTICE

113.1 Service of any written notice required by the Regulation of the NWCAA shall be made on the owner, operator ~~((or lessee of equipment,))~~ or his registered agent, as follows:

113.11 Either by mailing the notice ~~((in a prepaid envelope directed to the owner or lessee of the equipment, or his registered agent, at the address listed on his application or order or registration certificate or at the address where the equipment is located, by United States))~~ ~~((C))~~ certified ~~((M))~~ mail ~~((S))~~ with return receipt requested; or

113.12 By ~~((leaving notice with the owner or lessee of the equipment, or his registered agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with a managing officer or the registered agent of the corporation under RCW 23 as now or hereafter amended for domestic and foreign corporations respectively.))~~ personal service.

~~((113.2 Service of any written notice required by the Regulations of the NWCAA shall be made on the NWCAA as follows:~~

~~113.21 Either by mailing the notice in a prepaid envelope directed to the NWCAA at its office by United States Certified Mail, return receipt requested; or~~

~~113.22 By leaving the notice at the NWCAA office with an employee of the NWCAA.))~~

113.~~((3))~~2 Any individual, owner, operator, ~~((lessee, managing officer))~~ or registered agent of any business, corporation or government ~~((the NWCAA))~~ coming under the Regulations of the NWCAA may be required to submit evidence that said person is authorized to sign and execute documents

on behalf of said corporation, business or government. ~~((the NWCAA))~~.

Passed: January 8, 1969

Amended: February 14, 1973, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 114 - CONFIDENTIAL INFORMATION

114.1 Whenever any records or other information other than ambient air quality data or emission data furnished to or obtained by the NWCAA, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the NWCAA. ~~((Nothing herein shall be construed to prevent the use of records or information by the NWCAA in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: PROVIDED, that such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section: PROVIDED FURTHER, that emission data furnished to or obtained by the Board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the Board.))~~

114.2 Nothing herein shall be construed to prevent the use of records or information by the NWCAA in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: provided, that such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section: provided further, that emission data furnished to or obtained by the Board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the NWCAA.

Passed: January 8, 1969

Amended: October 1, 1969, January 8, 1970, February 14, 1973, July 11, 1973, April 14, 1993, March 13, 1997, November 8, 2007

AMENDATORY SECTION

SECTION 120 - HEARINGS

120.1 The Board shall retain authority to hold hearings, issue subpoenas for witnesses and evidence, and take testimony under oath and do all things not prohibited by or in a conflict with state law, in any hearing held under the Regulations of the NWCAA.

120.11 The Board shall admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. The Board shall give effect to the rules of priv-

ilege recognized by law. The Board shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

120.12 All evidence, including but not limited to records, and documents in the possession of the Board of which it desired to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

120.13 Every party shall have the right to cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

120.14 The Board may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Board may utilize their experience, technical competence, and their specialized knowledge in the evaluation of the evidence presented to them.

120.2 Any hearings held under this section, under the Washington Clean Air Act (RCW 70.94~~((or RCW 43.21A))~~) and 43.21B) shall be pursuant to the provisions of RCW 34.05 as now or hereafter amended.

Passed: January 8, 1969

Amended: July 8, 1970, February 14, 1977, April 14, 1993, November 8, 2007

AMENDATORY SECTION

SECTION 121 - ORDERS

121.1 If the Board or Control Officer has reason to believe that any provision of this Regulation has been violated, the Board or Control Officer, may, in addition to any other remedy of law, issue an order, or orders, that the necessary corrective action be taken within a reasonable time. Such order or orders may advise methods for the prevention, abatement or control of the emission involved for taking of such other corrective actions as may be appropriate. Any order or orders issued as a part of a notice or independently may prescribe the date or dates by which the violation or violations shall cease and may prescribe time schedules for necessary action in preventing, abating or controlling the emissions, and shall be reported to the Board at its next regular meeting.

121.2 In lieu of an order the Board may hold a hearing to determine if a violation has occurred or is occurring and ~~((is))~~ if a finding is made that a violation has occurred may issue an order under Section 121.1 of this Regulation.

121.3 In lieu of an order the Board or Control Officer may require that the alleged violator or violators appear before the ~~((Hearings))~~ NWCAA ~~((b))~~ Board pursuant to ~~((S))~~ state ~~((E))~~ law.

121.4 Any orders issued by the Board or Control Officer are subject to appeal under Section 122 of this Regulation and RCW 43.21.b.

Passed: January 8, 1969

Amended: July 8, 1970, February 14, 1973, November 8, 2007

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 122 - APPEALS FROM ORDERS OR ((VIOLATIONS)) FORMAL ENFORCEMENT ACTION

122.1 Any order ((or notice)) issued by the Board or Control Officer shall become final unless, no later than thirty (30) days after the date that ((notice and) the order ((are)) is served, the person aggrieved by the order ((or notice of violation)) appeals to the Pollution Control Hearings Board as provided by ((S))state ((E))law.

122.2 ((Any order issued by the)) The final decision and order of the Pollution Control Hearings Board after a hearing shall become final unless no later than thirty (30) days after the issuance of such order, a petition requesting judicial review is filed in ((accordance with the provisions Chapter 34 RCW as now or hereafter amended. When such a petition is filed, the)) Superior Court ((shall initiate a hearing pursuant to)) in accordance with RCW 34.05. ((within ninety (90) days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate court as soon as possible. Such appeal shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.))

PASSED: January 8, 1969 Amended: July 8, 1970, July 10, 2003, November 8, 2007

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 123 - STATUS OF ORDERS ON APPEAL

123.1 ((An)) Any order ((of the)) issued by the Board or Control Officer ((issued)) under the NWCAA Regulation ((of)) Section 121 may be appealed. ((Such appeal must be filed with the Pollution Control Hearings Board and served on the NWCAA within 30 days after mailing of the order. This is the exclusive means of appeal of such an order.))

123.2 ((The order)) Any order issued by the Board or Control Officer, under appeal in accordance with RCW 43.21B shall remain in effect during the pendency of such appeal unless the Board or Control Officer, at their discretion, issues a((n)) ((Order staying the effectiveness of the original order)) Stay of the original order.

123.3 The appellant may also apply to the Pollution Control Hearings Board at any time for a stay of such order per RCW 43.21B.320.

123.4 Such notice of appeal to the Pollution Control Hearings Board must contain the following information:

- (a) The appellant's name and address;((-))
- (b) The date and ((date)) number of the order((-)) or permit ((or license)) that is subject to the appeal;((-))

(c) Description of the substance of the order((-)) or permit ((or license)) that is the subject of the appeal;((-))

(d) A clear, separate and concise statement of each error alleged to have been committed;((-))

(e) A clear, separate and concise statement of facts upon which the appellant relies to sustain the statements of error((-)); and

(f) A statement setting forth the relief sought.

123.5 The Board or Control Officer may request the attorney for the NWCAA to bring action in Superior Court((-) and attorney, upon request, shall bring an action in Superior Court of the county where the violation has occurred, or the violation may occur,)) to obtain any such relief as is necessary to insure compliance with said order, including injunctive relief.

No bond shall be required from the NWCAA as a condition of granting any restraining order or temporary injunction.

Passed: January 8, 1969

Amended: July 8, 1970, February 14, 1973, November 15, 1988, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 131 - ((VIOLATION NOTICES)) NOTICE TO VIOLATORS

131.1 If the Board or Control Officer has reason to believe that a violation of this Regulation has occurred or is occurring, the Board, Control Officer, or duly authorized representative may cause written notice of violation to be served upon the alleged violator. The notice shall summarize ((and)) the facts alleged to constitute a violation. ((thereof)). Written notice shall be served at least thirty days prior to the commencement of the imposition of a penalty under RCW 70.94.430 and 70.94.431.

131.2 The Board, Control Officer, or duly authorized representative upon issuance of notice of violation may do any or all of the following:

131.21 Require that the alleged violator respond in writing or in person within thirty (30) days of the notice and specify the corrective action being taken.

131.22 Issue an order pursuant to Section 121 of this Regulation.

131.23 Initiate action pursuant to Sections 132, 133, 134 and 135 of this Regulation.

131.24 Hold a hearing pursuant to Section 120 of this Regulation.

131.25 Require the alleged violator or violators appear before the Board.

131.26 Avail itself of any other remedy provided by law.

131.3 Failure to respond as required in Section 131.21 shall constitute a prima facie violation of this Regulation and the Board or Control Officer may initiate action pursuant to Sections 132, 133, 134, 135 of this Regulation.

~~((131.4 Any suspended civil penalty, issued under Section 133 of this Regulation, which is issued as part of a violation shall be applicable in future penalties against the same~~

person for not more than five years from the date of the same suspension. After five years the suspended portion of the Penalty shall be considered void and of no force or effect, appeals notwithstanding.)

Amended: April 14, 1993, March 13, 1997, July 14, 2005, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 132 - CRIMINAL PENALTY

132.1 Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or 70.120 RCW, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA, shall be guilty of a ~~((crime))~~ gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (10,000) per day per violation, or by imprisonment in the county jail for not more than one year, or by both.

132.2 Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a ~~((crime))~~ gross misdemeanor and shall, upon conviction thereof shall be punished by a maximum fine of not less than ten thousand dollars (\$10,000) per day per violation, or by imprisonment for not more than one year, or both.

132.3 Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, shall be guilty of a ~~((crime))~~ class C felony and shall, upon conviction thereof shall be punished by a maximum fine of not less than fifty thousand dollars, or by imprisonment for not more than ~~((one))~~ five years, or both.

132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a maximum fine of not ~~((less))~~ more than five thousand dollars.

132.5 Any person who knowingly renders inaccurate any required monitoring device or method ~~((as))~~ required by RCW 70.94, or any ordinance, resolution, or regulation in force pursuant thereto, ((40 CFR 70.11 (a)(3)(iii))) shall be guilty of a crime and upon conviction ~~((thereof))~~ shall be punished by a fine of not less than ten thousand dollars (\$10,000) per day per violation.

132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or report ~~((required by a permit as))~~ required by RCW 70.94, or any ordinance, resolution, or regulation ((40 CFR 70.11 (a)(3)(iii))) shall be guilty of a crime and upon conviction thereof shall be punished by a maximum fine of

not less than ten thousand dollars (\$10,000) per day per violation.

Passed: January 6, 1969

Amended: April 14, 1993, October 13, 1994, March 13, 1997, November 8, 2007

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, Chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Clean Air Agency shall be liable for a civil penalty in an amount of not more than ~~((fourteen thousand five hundred dollars (\$14,500)))~~ fifteen thousand dollars (\$15,000) per day per violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than ~~((fourteen thousand five hundred dollars (\$14,500)))~~ fifteen thousand dollars (\$15,000) for each day of continued non-compliance.

133.2 ~~((Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty.))~~ The penalty shall become due and payable ~~((when the person incurring the same receives))~~ 30 days after a notice is served ~~((in writing from the Control Officer of the NWCAA describing the violation with reasonable particularity and advising such person that the penalty is due))~~ unless ((a request is made for a hearing to)) an appeal is filed with the Pollution Control Hearings Board (PCHB). ((Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty. If the amount of such penalty is not paid to the NWCAA within thirty (30) days after receipt of notice imposing the same and request for a hearing has not been made, the attorney for the NWCAA, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of Skagit County or of the County in which the violation occurred. All penalties recovered under this section by the Board shall be paid into the treasury of the NWCAA and credited to its funds.))

~~((To secure the penalty incurred under this Section, the NWCAA shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60.36.050.))~~

133.21 Within thirty days after the Notice is served, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall

remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty.

133.22 If such penalty is not paid to the NWCAA within thirty (30) days after such payment is due, the Board or Control Officer may direct the attorney for the NWCAA to bring an action to recover the penalty in Superior Court.

133.23 Any judgment shall bear interest as provided by statute until satisfied.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020. ~~((on the date that the penalty becomes due and payable.))~~ If ~~((violations or))~~ penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the ~~((s))~~State ~~((o))~~Office of the ~~((e))~~Economic and ~~((r))~~Revenue ~~((f))~~Forecast ~~((e))~~Council.

133.4 In addition to other penalties provided, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.

133.5 The suspended portion of any civil penalty, issued under Section 133 of this Regulation, shall be due and payable in the event of future penalties against the same person within five years from the date of the same suspension. After five years the suspended portion of the Penalty shall be considered void and of no force or effect.

Passed: January 8, 1969

~~A((MENDED))~~mended: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

[AMENDATORY SECTION]

SECTION 135 - ASSURANCE OF DISCONTINUANCE ~~((ADDITIONAL ENFORCEMENT - COMPLIANCE SCHEDULES))~~

135.1 ~~((As an additional means of enforcing the Regulations of t))~~The NWCAA ~~((the Board or Control Officer))~~ may accept an assurance of discontinuance of any act or practice deemed in violation of these Regulations from any person engaging in, or who has engaged in, such an act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of these Regulations or an order ~~((and/or violation))~~ issued ~~((pursuant thereto))~~ which makes the practice unlawful for the purpose of securing an ~~((y))~~ injunction or other relief from the Superior Court as provided in Section 134.

~~((135.2 Any assurance of discontinuance or other compliance schedule shall specify, if appropriate, the amount of~~

~~time required within the overall time limit to accomplish each of the following:~~

~~135.21 When plans for compliance will be filed with the NWCAA.~~

~~135.22 When a notice of construction will be filed with the NWCAA.~~

~~135.23 When the necessary equipment will be ordered and verification that an order has been placed and when delivery of the equipment is expected.~~

~~135.24 When the equipment will be installed.~~

~~135.25 When the equipment will be tested for compliance with the Regulations)).~~

Passed: January 8, 1969

Amended: February 14, 1973, August 9, 1978, November 8, 2007

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION

SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES

150.1 Every person operating a registered air contaminant source with actual annual emissions of 25 tons or more of a single air pollutant or a source subject to the operating permit program shall file annually at a time determined by the NWCAA and on forms furnished by the NWCAA a report setting forth:

150.11 The nature of the enterprise.

150.12 A list of process materials which are potentially significant sources of emissions used in, and incidental to, its manufacturing processes, including by-products and waste products.

150.13 The estimated calendar year emissions of each criteria air pollutant, hazardous air pollutant, volatile organic compound (VOC). Every person filing an annual emissions inventory shall retain at the facility the calculations and emission factors used to obtain the estimates. ~~((annual total production of wastes discharged into the air in units and contaminants designated by the NWCAA.))~~

150.14 Annual calendar year emission reports shall be submitted to the NWCAA by no later than April 15 of the following year (e.g., 2010 emission report is due April 15, 2011). ~~((within 105 days after the end of the previous calendar year.))~~ If the emission report is not submitted by the required date and the emissions are used to determine operating permit fees as described in Section 322.4, ~~((then))~~ potential to emit may ~~((will))~~ be used to determine said fees.

150.2 Every person operating a registered source other than those identified in 150.1 may be required by the Control Officer to submit periodic emission reports ~~((based on the nature and amount of pollutants emitted)).~~

150.3 Every person operating ~~((Notwithstanding any exemptions under these Regulations or State or Federal laws)),~~ any source or sources which directly or indirectly emits or contributes air contaminants ~~((to))~~ within the jurisdictional area of the NWCAA may be required to report

~~((annually))~~ to the Control Officer, at a time or times, selected by the Control Officer, ~~((and on forms provided by the Control Officer,))~~ such as ~~((emission))~~ production rates, ~~((or))~~ sales or other data (including quantities of products used or any other information) ~~((and quantities))~~ as may be required to estimate the emissions from the various air contaminant sources. Data will be held confidential under Section 114 if so requested ~~((stipulated))~~ by the owner or manager and such request meets the requirements of Section 114 ~~((same))~~. Such sources include, but are not limited to, dealers in gaseous liquid or solid fossil fuels for public consumption in motor vehicles or for space heating purposes.

Passed: February 14, 1973

Amended: September 8, 1993, December 8, 1993, November 12, 1999, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION SECTION 200 - DEFINITIONS

ACTUAL EMISSIONS - The actual rate of emissions of a pollutant from an emission unit, as determined in accordance with a) through c) of this definition.

a) In general, the actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal stationary source operation. The NWCAA shall allow the use of a different time period upon a determination by the NWCAA that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b) The NWCAA may presume that stationary source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

ADVERSE IMPACT ON VISIBILITY - Adverse impact on visibility is defined in WAC 173-400-117.

~~((AGRICULTURAL OPERATION - The growth of crops, the raising of fowl, animals or bees as a gainful occupation.))~~

CONTROL OFFICER - Air Pollution Control Officer of the NWCAA, also known as Director.

~~((FIELD GRASSES - Canary grass, broomegrass, oatgrass, timothy, ryegrass, wheatgrass, and orchard grass planted for seed production.))~~

HAZARDOUS AIR POLLUTANT (HAP) - any air pollutant listed in or pursuant to section 112(b) of the federal Clean Air Act, 42 U.S.C. §7412.

~~((MERCURY CHLOR ALKALI CELL - A device which is basically composed of an electrolyzer section and a denuder (decomposer) section and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.))~~

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) - The program in WAC 173-400-~~720~~ through -750~~((141))~~.

STATE ACT - Washington Clean Air Act (RCW 70.94) and ~~((RCW 43.21A and))~~ 43.21B.

~~((TURF GRASSES - All blue grasses, fescues, and bent grass planted for seed production.))~~

WASHINGTON ADMINISTRATIVE CODE (WAC) - Regulations of executive branch agencies in the state of Washington such as the Department of Ecology.

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION SECTION 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

300.2 Regardless of any other subsection of this section, a Notice of Construction or PSD permit application must be filed and an order of approval or PSD permit issued by the NWCAA prior to establishment of any of the following new sources:

a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Subpart ((Part)) AAA((?)) (Wood stoves) and such provisions of Subpart III pertaining to owners and operators of emergency stationary compression ignition internal combustion engines ~~((in effect on February 20, 2001))~~;

b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants) ~~((in effect on February 20, 2001))~~, except for asbestos demolition and renovation projects subject to 40 CFR 61.145;

c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines ~~((in effect on February 20, 2001))~~;

d) Any project that qualifies as a new major stationary source, or a major modification;

e) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

300.3 New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing stationary source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-113, as applicable.

300.4 Emission unit and activity exemptions.

Except as provided in NWCAA 300.1 and 300.2 of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction application.

a) Maintenance/construction:

- 1) Cleaning and sweeping of streets and paved surfaces;
- 2) Concrete application, and installation;
- 3) Dredging wet spoils handling and placement;
- 4) Paving application and maintenance, excluding asphalt plants;
- 5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

6) Plumbing installation, plumbing protective coating application and maintenance activities;

7) Roofing application;

8) Insulation application and maintenance, excluding products for resale;

9) Janitorial services and consumer use of janitorial products.

b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks therefore it is recommended that the owner or operator contact the NWCAA to determine the exemption status of storage tanks prior to their installation.

1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

4) Process and white water storage tanks;

5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

6) Operation, loading and unloading of storage tanks, less than or equal to 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21° C;

7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

c) A project with combined aggregate heat input capacity ((~~of~~) from combustion units, less than or equal to any (~~of~~)) of the following:

1) Less than or equal to 500,000 Btu/hr (~~(using)~~) coal with less than or equal to 0.5% sulfur or other fuels with less than or equal to 0.5% sulfur;

2) Less than or equal to 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

3) Less than or equal to 400,000 Btu/hr wood waste or paper;

4) Less than 1,000,000 Btu/hr (~~(using)~~) kerosene, #1, or #2 fuel oil and with less than or equal to 0.05% sulfur;

5) Less than or equal to ((4))10,000,000 Btu/hr (~~(using)~~) natural gas, propane, or LPG.

Note: the heat input capacity of each combustion unit shall be based on the higher heating value of fuel to be used.

d) Material handling:

1) Continuous digester chip feeders;

2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture;

3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%;

4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

e) Water treatment:

1) Septic sewer systems, not including active wastewater treatment facilities;

2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

3) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

4) Process water filtration system and demineralizer vents;

5) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

6) Demineralizer tanks;

7) Alum tanks;

8) Clean water condensate tanks.

f) Environmental chambers and laboratory equipment:

1) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

2) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

3) Installation or modification of a single laboratory fume hood;

4) Laboratory calibration and maintenance equipment.

g) Monitoring/quality assurance/testing:

- 1) Equipment and instrumentation used for quality control/assurance or inspection purpose;
- 2) Hydraulic and hydrostatic testing equipment;
- 3) Sample gathering, preparation and management;
- 4) Vents from continuous emission monitors and other analyzers.

h) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent.

i) Emergency Stationary Compression Ignition (CI) Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance and operating less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

j) (~~h~~) Miscellaneous:

- 1) Single-family residences and duplexes;
- 2) Plastic pipe welding;
- 3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
- 4) Comfort air conditioning;
- 5) Flares used to indicate danger to the public;
- 6) Natural and forced air vents and stacks for bathroom/toilet activities;
- 7) Personal care activities;
- 8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
- 9) Tobacco smoking rooms and areas;
- 10) Noncommercial smokehouses;
- 11) Blacksmith forges for single forges;
- 12) Vehicle maintenance activities, not including vehicle surface coating;
- 13) Vehicle or equipment washing (see c) of this subsection for threshold for boilers);
- 14) Wax application;
- 15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- 16) Ozone generators and ozonation equipment;
- 17) Solar simulators;
- 18) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
- 19) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- 20) Pulse capacitors;
- 21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- 22) Fire suppression equipment;
- 23) Recovery boiler blow-down tank;

24) Screw press vents;

25) Drop hammers or hydraulic presses for forging or metal working;

26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

27) Kraft lime mud storage tanks and process vessels;

28) Lime grits washers, filters and handling;

29) Lime mud filtrate tanks;

30) Lime mud water;

31) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

32) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

33) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

34) Surface coating, aqueous solution or suspension containing less than or equal to 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

35) Cleaning and stripping activities and equipment using solutions having less than or equal to 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

36) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

300.5 Exemptions Based on Emissions Thresholds

a) Except as provided in NWCAA 300.1 and 300.2 of this section and in this subsection:

1) A new emissions unit that has an uncontrolled potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

2) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the NWCAA thirty (30) days prior to beginning actual construction on the project. If the NWCAA determines that the project will have more than a de Minimus impact on air quality as defined in 300.5 d), the NWCAA shall require the filing of a Notice of Construction or PSD permit application. The NWCAA may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. In accordance with NWCAA 324.2, a filing and NOC applicability determination fee shall apply when the NWCAA issues a written determination that a project is exempt for new source review.

c) The owner or operator may begin actual construction on the project thirty-one (31) days after the NWCAA receives the project summary, unless the NWCAA notifies the owner or operator within thirty (30) days that the proposed new

source requires a Notice of Construction or PSD permit application.

d) Exemption threshold table:

POLLUTANT THRESHOLD LEVEL (ton per year)

1) Total Suspended Particulates: 1.25

2) PM-10: 0.75

3) Sulfur Oxides: 2.0

4) Nitrogen Oxides: 2.0

5) Volatile Organic Compounds: total 2.0

6) Carbon Monoxide: 5.0

7) Lead: 0.005

8) Ozone Depleting Substances: total 1.0 (in effect on July 1, 2000)

9) Toxic Air Pollutants: as specified in chapter 173-460 WAC.

300.6 The Control Officer may require that a new source, that would otherwise be exempt under this section, submit a Notice of Construction application and be granted approval as specified in this section. This discretionary determination shall be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall:

a) be submitted on forms provided by the NWCAA;

b) be accompanied by the appropriate fee specified in NWCAA 324.2;

c) be accompanied by a completed State Environmental Policy Act (SEPA) checklist consistent with (~~WAC 197-10-365 and NWCAA Section 312~~) WAC 197-11; and

d) include a "top down" BACT analysis, as defined at the time of submittal, except where the Federal Clean Air Act requires LAER; and

e) An applicant filing a Notice of Construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, shall send a copy of the application to the responsible federal land manager.

300.8 Notice of Construction - Completeness Determination.

a) Within thirty (30) days after receiving a Notice of Construction or PSD permit application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of additional information necessary to complete the application.

b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

c) For a project subject to PSD review under WAC 173-400-720 through -750(~~144~~), a completeness determination includes a determination that the application provides all information required to conduct the PSD review.

300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA shall either issue a final decision on the application or initiate

public notice under NWCAA Section 305 on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-720 through -750(~~144~~), a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and

2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the (~~(p)~~)Pollution (~~(e)~~)Control (~~(h)~~)Hearings (~~(b)~~)Board as provided in chapter 43.21B RCW. The NWCAA shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the (~~(p)~~)Pollution (~~(e)~~)Control (~~(h)~~)Hearings (~~(b)~~)Board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA may approve the request provided the NWCAA finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA to determine compliance with an emissions standard;

4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720 through -750((144)), as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 Incorporation of State NSR Regulations

In order to facilitate complete implementation of this section, WAC 173-400-112, -113, -117, ~~-560~~, -700, -710, -720, -730, -740, and -750 are hereby incorporated by reference.

300.15 Order of Approval - Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

PASSED: November 12, 1998 Amended: November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**SECTION 301 - TEMPORARY SOURCES**

301.1 This section applies to temporary sources not exempt under NWCAA 300.4 or 300.5, which locate temporarily at sites within the jurisdiction of the NWCAA. Nonroad engines regulated by this section are limited to those listed in a) 3) of the definition of "nonroad engine" found in Section 200 of this Regulation (i.e., those that are portable or transportable, but operate in a stationary manner). The regulation of nonroad engines under this section is subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 - State Regulation of Nonroad Internal Combustion Engines.

301.2 The owner or operator of a temporary source shall be allowed to operate at a temporary location without filing a Notice of Construction application or, for nonroad engines, obtaining a regulatory order from the NWCAA providing that:

a) The owner or operator notifies the NWCAA each calendar year of the intent to operate within the jurisdiction of the NWCAA at least fifteen (15) days prior to starting operation and pays the appropriate fees identified in NWCAA Section 324.1;

b) The owner or operator notifies the NWCAA of the intent to relocate within the jurisdiction of the NWCAA at least fifteen (15) days prior to relocation;

c) The owner or operator supplies sufficient information to enable the NWCAA to determine that the operation will comply with all applicable air pollution rules and regulations;

d) The operation does not cause a violation of ambient air quality standards;

e) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards;

f) The temporary source operates in compliance with all applicable air pollution rules and regulations;

g) A temporary source that is considered a major stationary source within the meaning of WAC 173-400-113 shall also comply with the requirements in WAC 173-400-720 through -750~~((141))~~;

h) Except for nonroad engines, all temporary sources shall have a valid Order of Approval to Construct from an air quality permitting organization in the State of Washington. The temporary source shall operate in compliance with the conditions set forth in the Order of Approval to Construct. Any reports required by the Order of Approval to Construct shall be submitted to the NWCAA;

i) Permission to operate shall not exceed ninety (90) operating days in any calendar year anywhere within the jurisdiction of the NWCAA. The NWCAA may set specific conditions for operating during that time period. No source shall continue to operate beyond the allowable 90-day period unless an Order of Approval to Construct, or for nonroad engines, a regulatory order, has been issued by the NWCAA. For the purpose of this section, an operating day shall be considered any time equipment operates within a calendar day; and

j) Except for nonroad engines, based on the source type and emission quantity, temporary sources may be subject to new source review at the discretion of the Control Officer.

PASSED: November 12, 1998 Amended: March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.2 Actions Requiring Public Notice and Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with 305.3 through 305.8 of this Section, before approving or denying any of the following types of applications or other actions:

(1) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2005) as part of review under Section 300 of this Regulation;

(2) Any order to determine Reasonably Available Control Technology (RACT);

(3) Any order to establish a compliance schedule or a variance;

(4) Any order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;

(5) Any order to authorize an emissions bubble pursuant to WAC 173-400-~~((134))~~120;

(6) Any regulatory order to establish or debit of emission reduction credits (ERC);

(7) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit;

(8) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area;

(9) The original issuance and any revisions to a general Order of Approval issued under WAC 173-400-560;

(10) Any Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest;

(11) Any Notice of Construction application or proposed Order of Approval to Construct revision that receives a request for a public comment period in accordance with 305.1 of this Section.

(12) Any Notice of Construction application or proposed Order of Approval to Construct revision that would result in a significant emissions increase defined as follows.

Air Pollutant	Potential to Emit in Tons per Year
Carbon Monoxide (CO)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide (SO ₂)	40.0
Nitrogen Oxides (NO _x)	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM-10)	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist (H ₂ SO ₄)	7.0
Hydrogen Sulfide (H ₂ S)	10.0
Total Reduced Sulfur (including H ₂ S)	10.0

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in WAC 173-401.

Passed: July 14, 2005

Amended: November 8, 2007

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

a) The NWCAA shall levy annual registration program fees as set forth in Section 324.1(c) to cover the costs of administering the registration program.

b) Upon assessment by the NWCAA, registration fees are due and payable. A source shall be assessed a late penalty in the amount of twenty-five percent (25%) of the registration

fee for failure to pay the registration fee within thirty (30) days after the due date. The late penalty shall be in addition to the registration fee.

c) All registered air pollution sources shall pay the appropriate registration fee(s) ~~((listed in Section 324.1.))~~ as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. A proposed resolution that changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA, however no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

((REGISTERED-SOURCES	Fee-Code	2005	2006	2007
Wastewater treatment plants w/sludge incinerators	RS01	\$615	\$635	\$655
Temporary asphalt plants	RS02	\$360	\$375	\$390
Permanent asphalt plants	RS03	\$725	\$745	\$770
Temporary thermal soil-desorption units	RS04	\$360	\$375	\$390
Permanent thermal soil-desorption units	RS05	\$725	\$745	\$770
Odor source	RS06	\$725	\$745	\$770
Petroleum-coke handling facility	RS07	\$1,445	\$1490	\$1535
Perchloroethylene dry-cleaners	RS08	\$180	\$190	\$200
Gasoline stations	RS09	\$180	\$190	\$200
Bulk plants	RS10	\$180	\$190	\$200
Chrome plating	RS11	\$180	\$190	\$200
Other sources as determined by the Control Officer	RS12	\$180	\$190	\$200
Other temporary sources	RS13	\$180	\$190	\$200
FOR SOURCES NOT LISTED ABOVE: ACTUAL EMISSIONS OF TOTAL CRITERIA AND TOXIC AIR POLLUTANTS				
<10 tons per year	EM01	\$180	\$190	\$200
10 tons per year, < 25 tons per year	EM02	\$905	\$930	\$960

((REGISTERED-SOURCES	Fee-Code	2005	2006	2007
-25 tons per year, < 50 tons per year	EM03	\$1,800	\$1855	\$1910
50 tons per year	EM04	\$2,995	\$3085	\$3180
ADDITIONAL FEES				
Each source test per pollutant, per unit as required in the Approval Order (except initial source test)	STR	\$360	\$375	\$390
Operation of a Continuous Emission or Opacity Monitor (per CEM or COM)	CEM	\$360	\$375	\$390
Each stationary source subject to NSPS, per applicable subpart. Excluding 40 CFR 60 subpart Dc (small boilers) and 40 CFR 60 subpart AAA (woodheaters)	NSPS	\$615	\$635	\$655
Each stationary source subject to NESHAP, per applicable subpart. Excluding 40 CFR 63 subpart M (dry cleaners) and 40 CFR 60 subpart N (chrome platers)	NESHAP	\$615	\$635	\$655
Synthetic minor designation	SM	\$615	\$635	\$655
Odor source	ODOR	\$725	\$745	\$770))

324.2 New Source Review Fees

a) New source fees ~~((listed in Section 324.2))~~ shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

b) The applicable fee(s) shall be established in the current fee schedule adopted by Resolution by the Board of Directors of the NWCAA. A proposed resolution that changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA, however no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

	<u>((2005</u>	<u>2006</u>	<u>2007</u>
Filing fee	\$130	\$135	\$140
NSR FEES IN ADDITION TO THE FILING FEE: for each piece of equipment or control equipment			
General (not classified below)	\$615	\$635	\$655
Fuel Burning Equipment (as an aggregate)			
0.5 MM Btu/hr, but <10 MM Btu/hr	\$310	\$320	\$330
10 MM Btu/hr, but <100 MM Btu/hr	\$1,205	\$1,240	\$1,275
100 MM Btu/hr, but <250 MM Btu/hr	\$11,940	\$12,300	\$12,670
250 MM Btu/hr, but <500 MM Btu/hr	\$17,935	\$18,475	\$19,030
500 MM Btu/hr, but <1000 MM Btu/hr	\$29,925	\$30,825	\$31,750
1000 MM Btu/hr	\$47,850	\$49,285	\$50,765
Minor Order of Approval to Construct change	\$310	\$320	\$330
Asphalt plant	\$905	\$930	\$960
Coffee roaster	\$310	\$320	\$330
Dry cleaner	\$180	\$185	\$190
Chrome plater	\$180	\$185	\$190
Gasoline stations	\$360	\$370	\$380
Bulk plants	\$360	\$370	\$380
Refuse burning equipment			
<6 tons per day	\$1,205	\$1,240	\$1,275
6 tons per day, but <12 tons per day	\$3,595	\$3,705	\$3,815
12 tons per day, but <250 tons per day	\$23,890	\$24,605	\$25,345
250 tons per day	\$47,775	\$49,210	\$50,685
Paint spray booth	\$180	\$185	\$190
Other sources as determined by the Control Officer	\$180	\$185	\$190
ADDITIONAL FEES			
Synthetic minor determination	\$905	\$930	\$960
SEPA threshold determination (NWCAA lead agency, 14-day comment period)	\$310	\$320	\$330
Air toxics review	\$490	\$505	\$520
Major stationary source, major modification, PSD thresholds	\$2,400	\$2,470	\$2,545

	<u>((2005</u>	<u>2006</u>	<u>2007</u>
Filing fee	\$130	\$135	\$140
PSD applicability analysis	\$3,610	\$3,720	\$3,830
Each stationary source subject to NSPS, per subpart, excluding 40-CFR 60 subpart De (small boilers) and 40-CFR 60 subpart AAA (woodheaters)	\$1,205	\$1,240	\$1,275
Each stationary source subject to NESHAP, per subpart, excluding 40-CFR 63 subpart M (dry cleaners) and 40-CFR 60 subpart N (chrome platers)	\$1,205	\$1,240	\$1,275
Public notice (plus publication fee)	\$260	\$270	\$280
Public hearing (plus publication fee)	\$615	\$635	\$655
NOC applicability determination	\$260	\$270	\$280))
Each CEM, COM, or alternate monitoring device required	\$615	\$635	\$655
Each source test per pollutant, per unit as required in Approval Order	\$615	\$635	\$655
Bubble application	\$1,205	\$1,240	\$1,275
Netting analysis	\$615	\$635	\$655
Non-exempt units under Title IV acid rain program))	\$2,870	\$2,955	\$3,045)

324.3 Variance Fee. ((~~\$3,000.00~~)) The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.4 Issuance of Emission Reduction Credits. ((~~\$850.00~~)) The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

PASSED: November 12, 1998

Amended: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 325 - TRANSFER OR PERMANENT SHUTDOWN

325.1 A registration, regulatory order, approval to construct, operate or use any article, machine, equipment, or other contrivance, shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another provided that, registered sources which are designed to be portable and are moved from one location to another may retain the same registration so long as they abide by the requirements of NWCAA Sections 300 and 301.

325.2 The registered owner or operator shall report the transfer of ownership or permanent shutdown of a registered (~~(the)~~)source(~~(s)~~) to the NWCAA within ninety (90) days of shutdown or transfer. The report shall contain the following information:

- a) Legal name of the existing business as registered with the NWCAA (~~(owner or operator)~~);
- b) Effective date of the shutdown or transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the (~~(registered)~~) owner, (~~(s or)~~) operator, (~~(s)~~) and authorized representative.
- e) The new legal name of the business, and legal names and contact information for the owner, operator and registered agent.

325.3 Any party that assumes ownership and/or operational control of a registered "source" shall file a written report with the NWCAA within ninety (90) days of completing transfer of ownership and/or assuming operational control. The report shall contain the following information:

- a) Legal name of the business before and after the transfer (~~(company or)~~) and individuals involved in the transfer;
- b) Effective date of the transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the owner (~~(s or)~~) operator (~~(s)~~) and authorized representative.

325.4 In the case of a permanent shutdown, process and pollution control equipment may remain in place and on site, but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g., disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation).

Passed: February 4, 1970 Amended: February 14, 1973, July 10, 2003, July 14, 2005, November 8, 2007

AMENDATORY SECTION

SECTION 340 - REPORT OF BREAKDOWN AND UPSET

340.1 If a breakdown or upset condition occurs which results in or may have resulted in an exceedance of an emission and/or ambient air quality standard established by this Regulation or an emission release to the air that requires NWCAA notification as specified in 40 CFR 302 (CERCLA)

or 40 CFR 355 (SARA), the owner or operator of the source shall take the following actions:

a) The upset or breakdown shall be reported as promptly as possible and in no event later than twelve (12) hours to the NWCAA.

b) For Title V Air Operating Permit sources, the responsible official, or their designee, shall submit a full report no later than 30 days after the end of the calendar month in which the breakdown or upset occurred that resulted in an exceedance of an ambient or emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at a minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

340.2 Compliance with the requirements of this section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this Regulation nor from the resulting liabilities for failure to comply.

340.3 It shall be prima facie evidence of violation of this Regulation if:

- a) any control equipment is turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1, or
- b) any other equipment creates new or increased emissions to the atmosphere as the result of being turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1.

340.4 Excess emissions due to breakdowns and upsets shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that:

- a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
- b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; (~~(and)~~)
- c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice; and(~~(-)~~)
- d) The emissions did not result in a violation of an ambient air quality standard.

Amended: November 14, 1984, October 14, 1987, April 14, 1993, October 13, 1994, February 8, 1996, July 14, 2005, November 8, 2007

AMENDATORY SECTION

SECTION 428 - HAZARDOUS AIR POLLUTANTS

428.1 Chlorine concentrations in the ambient air shall not exceed one (1.0) part per million on a one (1) hour time weighted average.

428.11 Chlorine concentration in the ambient air shall not exceed seven (7.0) parts per million for more than 5 minutes.

428.2 Ambient emissions standards for mercury. Emissions to the atmosphere from sources including the processing of mercury or to recover mercury, chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, shall not exceed 2300 grams of mercury per twenty-four (24) hour period.

428.21 Testing methods shall be in accordance with the US-EPA CFR, Title 40, Chapter 61, National Emission Standards for Hazardous Air Pollutants, Appendix B—Test Methods of other test methods approved by the Control Officer.

428.3 Formaldehyde (~~(concentrations)~~) in the ambient air shall not exceed five hundredths of a part per million by volume (0.05 ppmv) 24-hour average concentration.

428.4 Ambient standards for other hazardous or toxic air pollutants may be adopted by the Control Officer based upon best available information on health risk.

Amended: November 14, 1984, April 14, 1993, November 8, 2007

AMENDATORY SECTION

SECTION 451 - EMISSION OF AIR CONTAMINANT - VISUAL STANDARD

451.1 No person shall cause or permit the emission, for any period aggregating more than 3 minutes in any 1 hour, of an air contaminant from any source which, at the point of emission, or within a reasonable distance of the point of emission, exceeds 20% opacity except as follows:

451.11 When the owner or operator of a source supplies valid data to show that the opacity is in excess of 20% as a result of the presence of condensed water droplets, and that the concentration of the particulate matter, as shown by a source test approved by the Control Officer, is less than 0.10 (0.23 g/m₃) grain/dscf.

451.12 Excess emissions as a result of soot blowing or grate cleaning shall not occur for more than fifteen minutes in any eight hour period or another schedule approved by the Control Officer provided that the owner or operator can demonstrate to the satisfaction of the Control Officer that the time limitations of this subsection are not being exceeded.

~~((451.13 Emissions from a wood waste burner during:~~

~~451.131 One startup period not to exceed 30 consecutive minutes in any consecutive 24 hour period.~~

~~451.132 Thirty consecutive minutes in any 8 hour period during break and lunch periods, provided that the emissions do not exceed 60% opacity for a period of more than 6 consecutive minutes. Provided further, that the operator takes immediate action to correct the condition.~~

~~451.14 Emissions from existing petroleum catalytic cracking units shall not exceed 40% opacity for more than an aggregate of 3 minutes in any 1 hour.))~~

Amended: April 14, 1993, October 13, 1994, May 11, 1995, November 8, 2007

AMENDATORY SECTION

SECTION 502 - OUTDOOR BURNING

.....
502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

.....
C. FEES.

1. Permitting agencies may charge a fee for any permit issued, provided that a fee must be charged for all permits issued for weed abatement fires and fire fighting instruction fires.

2. All fees must be set by rule and must not exceed the level necessary to recover the costs of administering and enforcing a permit program.

TYPE OF PERMIT	FEE
Annual training (single location)	<u>\$325.00</u> ((\$250.00))/year
Extinguisher Training	\$25.00/training exercise
Structure training	<u>\$150.00</u> ((\$50.00))/training exercise
Weed abatement	\$2.00/acre; \$25.00 minimum per location

D. PERMIT DECISIONS.

1. Permitting agencies must approve with conditions, or deny outdoor burning permits as needed to achieve compliance with this section.

2. All permits must include conditions to satisfy general prohibitions and requirements that apply to all outdoor burning.

3. All permits may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combustion practice, and restricting burning to specified weather conditions.

4. Permitting agencies may also include conditions to comply with other laws pertaining to outdoor burning.

5. Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is discharged.

E. RESIDENTIAL BURNING BY GENERAL PERMIT.

1. A general permit for residential burning is adopted for use:

- a. Where the NWCAA has adopted the general permit by reference, and
- b. Any designated enforcing agencies have agreed that a general permit is appropriate for residential burning, and
- c. The public has been notified where the permit applies.

2. All burning under a general permit must:

- a. Comply with condition (4) of this subsection.
- b. Be restricted to the first and second weekends (Saturday and Sunday) in April and the third and fourth weekends in October unless the enforcing agency substitutes alternative days and adequate notice of the substitution is provided to the public. Alternative days may only be substituted if condi-

tions on the prescribed days are unsuitable due to such things as poor air quality, high fire danger, unfavorable meteorology, likely interference with a major community event, or difficulty for enforcement.

3. The NWCAA may adopt a general permit for residential burning that prescribes a different set of days, not to exceed eight days per year, provided that adequate public notice of where and when the permit will apply is given.

4. The following conditions apply to all residential burning allowed, in the nonurban areas of any county with an unincorporated population of less than fifty thousand, without a permit or allowed under a general, verbal, or electronic permit. Persons unable to meet these and any other requirements must apply and receive a written permit before burning. Failure to comply with all requirements voids any applicable permit.

a. The person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions of each day.

b. A fire may not be ignited, and must be extinguished, if an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning, is declared for the area.

c. The fire must not include prohibited materials, construction/demolition debris or any substance other than natural vegetation.

d. The fire must not include materials hauled from another property.

e. If any emission from the fire is detrimental to the health, safety, or welfare of any person, if it causes damage to property or business, or if it causes a nuisance, the fire must be extinguished immediately.

f. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

g. No fires are to be within fifty feet of structures.

h. Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.

i. Any burn pile must not be larger than four feet in diameter and three feet high.

j. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

k. If an outdoor container is used for burning, it must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than one-half inch.

l. No fire is permitted within five hundred feet of forest slash.

F. FIELD RESPONSE AND ENFORCEMENT

1. Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.

2. Except for enforcing Section 502.4 (E)(1)(d), the NWCAA will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from per-

mits in areas of its jurisdiction, unless another agency agrees to be responsible.

3. Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed (~~under their the NWCAA~~) if they discover noncompliance.

4. ~~((A fire protection the NWCAA called to respond to, control, or extinguish an illegal or out of control fire may charge, and recover from the person responsible for the fire, the costs of its response and control action. The NWCAA may assist a fire protection the NWCAA, in fire suppression cost recovery, when assessing a penalty associated with a Notice of Violation.))~~

PASSED: June 14, 2001. Amended: July 10, 2003, July 14, 2005, November 8, 2007

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 504 - AGRICULTURAL BURNING

~~((All definitions in Section 200 are fully applicable to Section 504~~

~~AG TASK FORCE—Means the agricultural burning practices and research task force.~~

~~AGRICULTURAL OPERATION—Means a farm that can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or proof that the land is designated in a classification for agricultural use. It also includes activities conducted by irrigation district or drainage district personnel as part of water system management.~~

~~AGRICULTURAL LAND—Land that is designated in a classification for agricultural use or land that is used for the operation of commercial agriculture and can be substantiated by the most recent year's IRS schedule F form.~~

~~BEST MANAGEMENT PRACTICE—Means the criteria established by the agricultural burning practices and research task force (Ag task force).~~

~~FARMER—Means any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.~~

~~FIELD GRASSES—Canary grass, brome grass, oat grass, timothy grass, wheat grass, forage grass, and orchard grass planted for seed production.~~

~~TURF GRASSES—All blue grasses, fescues, and bent grass and perennial rye grass planted for seed production.))~~

504.1 Purpose. This section establishes fees and controls for agricultural burning in the NWCAA jurisdiction in order to minimize adverse health effects and environmental impacts, consistent with best management practices and the responsibilities of the NWCAA under WAC 173-430, RCW 70.94.650, 70.94.656, and 70.94.745. All agricultural burning as defined in WAC 173-430 shall be conducted in accordance with the provisions of that chapter.

504.2 Applicability. This section applies to agricultural burning in all areas of the NWCAA jurisdiction unless specifically exempted. Nothing in Section 504 shall apply to silvicultural burning or ~~((open))~~ other outdoor burning (Chapter 173-425 WAC).

504.3 ~~((Prohibitions))~~ Conditions. All agricultural burning, except for agricultural burning that is incidental to commercial agricultural activities (RCW 70.94.745), requires a permit and payment of a fee ((an agricultural burning permit) issued by the Authority. ((No person shall practice or permit the practice of agricultural burning in any of the following circumstances and locations:))

504.4 Fees. All agricultural burning permits require a fee in accordance with Chapter 70.94.650. Propane flaming for the purpose of vegetative debris removal is considered agricultural burning (WAC 173-430-030(1)). The fee shall be the greater of the minimal fee level and the variable fee level.

<u>Fee Level</u>	<u>Section</u>	<u>Local Administration</u>	<u>Research</u>	<u>Ecology Administration</u>
<u>\$25.00</u>	<u>WAC 173-430-040 (4)(a)(i)</u>	<u>\$12.50</u>	<u>\$12.50</u>	<u>\$0</u>
<u>\$50.00</u>	<u>WAC 173-430-040 (4)(a)(ii)</u>	<u>\$12.50</u>	<u>\$12.50</u>	<u>\$25.00</u>
<u>2007 - \$2.00 per acre</u>	<u>WAC 173-430-040 (4)(b)(i)</u>	<u>\$1.25 per acre</u>	<u>\$0.25 per acre</u>	<u>\$0.50 per acre</u>
<u>2008 and beyond - \$2.25 per acre</u>	<u>WAC 173-430-040 (4)(b)(ii)</u>	<u>\$1.25 per acre</u>	<u>\$0.50 per acre</u>	<u>\$0.50 per acre</u>

~~((504.31 When the applicant is not a farmer with an agricultural operation or a government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.~~

~~504.32 When the materials to be burned include anything other than natural vegetation.~~

~~504.33 During a no burn day as declared by the Authority or during an air pollution episode for a defined geographical area.~~

~~504.34 When burning causes a nuisance or the Authority determines that a nuisance is likely to result from burning.~~

~~504.35 If the applicant is unable to show to the satisfaction of the Authority that burning, as requested, is reasonably necessary to successfully carry out the enterprise in which the applicant is engaged; and constitutes a best management practice; and is necessary because no practical alternative is reasonably available.~~

~~504.36 If the burning includes any material other than natural vegetation generated on the property, which is the burning site, or material transported to the burning site by wind or water.~~

~~504.4 General Conditions. Considering population density and local conditions affecting air quality, the Authority shall establish conditions for all permits to minimize air pollution as much as practical. Conditions may include but are not limited to restricting the permissible hours of burning, restricting burning to a defined season, restricting the size of fires, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. Any person who practices or permits the practice of agricultural burning shall, in addition to any specific permit conditions imposed, comply with all of the following conditions:~~

504.41 - Minimum fee levels:

504.411 - Twenty-five dollars per calendar year per agricultural operation based on burning up to ten acres or equivalent:

504.412 - Fifty dollars for orchard tear-out burning per calendar year per agricultural operation based on burning debris of up to twenty acres or equivalent.

504.42 - Variable fee levels (based on acreage or equivalent):

504.421 - Through calendar year 2007, the fee is two dollars per acre.

504.422 - Beginning in calendar year 2008, the fee is two dollars and twenty-five cents per acre.

504.43 - Permit fee uses. The permit fee is used to offset the cost of administering and enforcing the agricultural burning permit program. There are three components: Local administration, research, and ecology administration. The permit fee shall be distributed as follows:

~~504.41 Whenever any stage of an air pollution episode or no burn day is declared, all fires shall be extinguished by withholding new fuel as appropriate, and allowing the fire to burn down.~~

~~504.42 The fire shall be attended by a person who is responsible for the fire and is capable of extinguishing the fire. The fire must be extinguished before it is left unattended.~~

~~504.43 Burning shall occur during daylight hours only, or a more restrictive period as determined by the Authority. No burning is allowed at night except as a best management practice.~~

~~504.44 Permission from a landowner, or the owner's designated representative, must be obtained before starting the fire.~~

~~504.45 The responsible person shall notify the local fire district prior to igniting a fire. Compliance with all fire safety regulations of the local fire protection agency, including any no burn directives they may issue, is required~~

~~504.46 If it becomes apparent at any time to the Authority that limitations must be imposed to reduce smoke and prevent air pollution and/or protect property and the health, safety, and comfort of persons from the effects of burning, the Authority shall notify the permittee or responsible person and any limitation so imposed shall become a condition under which the permit is issued.~~

~~504.47 Burning only natural vegetation.~~

~~504.48 Burning when wind takes smoke away from roads, homes population centers, or other public areas, to the greatest extent possible.~~

~~504.49 No burning during adverse meteorological conditions.~~

~~504.5 Administrative requirements.~~

~~504.51 All agricultural burning permits require a fee. This fee shall not exceed the level determined by the agricultural burning practices and research task force, pursuant to Chapter 70.94.650 RCW.~~

~~504.52 The fee shall be the greater of:~~

~~504.521 A minimum fee of twenty five dollars per year per farm which shall be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund, and the remaining twelve dollars and fifty cents will be kept by the Authority to cover the costs of administering and enforcing this regulation; or~~

~~504.522 A variable fee based on the acreage or equivalent of agricultural burning, as well as the means of burning, which will be used as follows: Up to one dollar per acre for applied research, twenty five cents per acre for ecology administration and one dollar and twenty five cents per acre for local permit program administration. If the agricultural burn is to be accomplished by using a propane or natural gas fired mobile field burning unit, then the local permit program administration fee shall be sixty cents per acre.~~

~~504.53 The Authority shall act on a complete permit application within seven days from the date such complete application is filed.~~

~~504.6 Exemptions. Burning that is incidental to commercial agricultural activities shall be allowed without applying for any permit and without the payment of any fee if all of the following conditions are met:~~

~~504.61 The operator notifies the local fire department within the area where the burning is to be conducted;~~

~~504.62 The burning does not occur during a no burn day, or any stage of impaired air quality declared under RCW 70.94.715; and~~

~~504.63 Only the following items are burned: orchard prunings, organic debris along fence lines or irrigation or drainage ditches, or organic debris blown by wind.~~

~~504.64 Standing vegetation to be burned is one acre or less in size. This exempt acre (or less) may be burned in addition to that acreage included in fence lines or irrigation or drainage ditches.~~

~~504.7 Other laws. Nothing herein shall relieve any applicant for a permit hereunder from obtaining any permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.))~~

PASSED: February 14, 1973; AMENDED: By Adoption of WAC 18-16 January 24, 1972, August 9, 1978, June 7, 1990, May 9, 1996, May 14, 1998, November 12, 1998, November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 506 - SOLID FUEL BURNING DEVICES ~~((STANDARDS))~~

506.1 PURPOSE.

This Section establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to maintain com-

pliance with the National Ambient Air Quality Standards (NAAQS) for fine particulates and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS.

Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning as defined in Chapter 173-433-030 WAC:

ADEQUATE SOURCE OF HEAT - means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.

ANTIQUUE WOOD STOVE - is a stove manufactured before 1940 which has a current market value substantially greater than a common wood stove manufactured during the same time period.

CERTIFIED - means a solid fuel-burning device that meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in the Code of Federal Regulation - Title 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters as amended through July 1, 1990; or a solid fuel-burning device that has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457.

COOKSTOVE - means a wood-fired appliance designed primarily for cooking food and containing an integrally built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate, ash pan and an ash clean-out below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.

ECOLOGY - means the Washington State Department of Ecology.

EPA - means the United States Environmental Protection Agency.

SEASONED WOOD - means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

SOLID FUEL BURNING DEVICE - means a device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes wood stoves or any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input of less than one million British thermal units per hour.

SUBSTANTIALLY REMODELED - means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

TREATED WOOD - means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering or deterioration.

WOOD STOVE - means a wood-fueled appliance, other than a cookstove, capable of and intended for residential space heating and domestic water heating that meets the criteria contained in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" ~~((as amended~~

through July 1, 1990)). Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a wood stove, is considered a wood stove.

506.3 EMISSION PERFORMANCE STANDARDS.

(A) Solid Fuel Burning Devices - A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" (~~as amended through July 1, 1990~~), complies with WAC 173-433-100, and meets the following particulate air contaminant emission standards:

(1) Two and one-half grams per hour for catalytic wood stoves; and

(2) Four and one-half grams per hour for all other solid fuel burning devices.

(B) Fireplaces. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory built fireplace unless it has been tested in accordance with procedures and criteria specified in WAC 51-50-31200. Particulate emission factors for factory-built fireplaces shall not exceed 7.3 g/kg.

506.4 INSTALLATION OF SOLID FUEL HEATING DEVICES.

(A) No new solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality (~~(phase)~~) Phase II or US EPA certified to meet current Washington State standards or a pellet stove either certified or exempt from certification in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.455)

(B) No used solid fuel burning device shall be installed in new or existing buildings unless such device has been certified and labeled in accordance with (~~(is)~~) either Oregon Department of Environmental Quality (~~(phase)~~) Phase II or US EPA (~~(certified)~~) certification standard or is a pellet stove either certified or exempt from certification by the US EPA in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.-455)

(C) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to

(1) Areas designated by a county to be an urban growth area under RCW 36.70A; and

(2) Areas designated by the EPA as being in non-attainment for particulate matter. (RCW 70.94.455 and WAC 51-40-0510)

(D) After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 EPA standards for wood stoves or equivalent standard established by the state building code council by rule in accordance with 70.94.457 RCW.

506.5 OPACITY STANDARDS.

(A) Opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. This restriction does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

(B) Test methods and procedures. EPA reference method 9 - Visual Determination of Opacity of Emissions from Stationary Sources shall be used to determine compliance with this Section.

(C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This Regulation will be enforced on a complaint basis and through observations of inspectors certified to read opacity. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 PROHIBITED FUEL TYPES

(A) A person shall not burn any substance, other than properly seasoned fuel-wood, in a solid fuel burning device (RCW 70.94.477).

(B) A person shall not burn paper in a solid fuel burning device other than the amount of colorless paper necessary to start a fire.

506.7 LIMITATIONS ON BURNING WOOD FOR HEAT

(A) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(1) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(2) Not burn wood in any solid fuel burning device except those which are either Oregon Department of Environmental Quality Phase II or US EPA certified or certified by Ecology under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the US EPA in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters (RCW 70.94.455), in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by NWCAA or any authority, for that area. A first stage of impaired air quality is reached when:

(a) Fine particulates are at an ambient level of thirty-five micrograms per cubic meter measured on a twenty-four hour average; and

(b) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below thirty-five (35) micrograms per cubic meter for a period of forty-eight hours or more from the time that the fine particulates are measured at the trigger level; and

(B) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by NWCAA or any authority, for that area. A second stage of impaired air quality is reached when:

(1) A first stage of impaired air quality has been in force and not been sufficient to reduce the increasing fine particle [particulate] pollution trend;

(2) Fine particulates are at an ambient level of sixty micrograms (60) per cubic meter measured on a twenty-four hour average; and

(3) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below sixty micrograms (60) per cubic meter for a period of forty-eight hours or more from the time that the fine particulates are measured at the trigger level.

~~((CURTAILMENT~~

~~(A) Except as provided in Section 506.9, any person in a residence or commercial establishment that has an adequate source of heat without using a solid fuel burning device shall not use any solid fuel burning device under the following circumstances:~~

~~(1) Whenever Ecology has declared curtailment under an air pollution episode for the geographical area.~~

~~(2) Whenever Ecology or the NWCAA has declared curtailment under the first stage of impaired air quality for the geographical area unless the device is either Oregon Department of Environmental Quality Phase II or EPA certified or certified by Ecology or a pellet stove either certified or exempt from certification in accordance with Title 40 Part 60 of the Code of Federal Regulations. A first stage of impaired air quality is reached when particulates two and one-half microns and smaller in diameter are at an ambient level of thirty-five micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average.~~

~~(3) Whenever Ecology or the NWCAA has declared curtailment under a second stage of impaired air quality. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.))~~

~~((B)) (C) Any person responsible for a solid fuel burning device already in operation at the time curtailment is declared under a stage of impaired air quality or an episode shall extinguish that device by withholding new solid fuel for the duration of the episode.~~

~~((C)) (D) Compliance with the above solid fuel burning device curtailment rules may be enforced after a time period of 3 hours has elapsed from the time the curtailment is declared. Smoke visible from a chimney, flue or exhaust duct three hours from the time of declaration of the curtailment shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.~~

506.8 GENERAL EMISSION STANDARDS.

(A) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, in sufficient amounts and of such characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interfere with enjoyment of life and property.

(B) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoy-

ment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

506.9 EXEMPTIONS.

(A) The provisions of Section 506.7 shall not apply to any person who possesses a valid written exemption approved by the NWCAA. The NWCAA may allow written exemptions to any person who demonstrates any of the following to the satisfaction of the NWCAA:

~~(1) ((B))~~ An economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance under the low income energy assistance program.

~~(2) ((C))~~ That his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions.

~~(a) ((4))~~ That there is no adequate source of heat and the structure was constructed or substantially remodeled prior to July 1, 1992.

~~(b) ((2))~~ That there is no adequate source of heat and the structure was constructed or substantially remodeled after July 1, 1992 and is outside an urban growth area, as defined in RCW 36.70A.

~~(B) ((D))~~ Written exemptions shall be valid for a period determined by the NWCAA and shall not exceed one year from the date of approval.

Passed: July 14, 2005 Amended: November 8, 2007

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency 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

SECTION 570 - ASBESTOS CONTROL STANDARDS

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~~570.7 ((ALTERNATE MEANS OF COMPLIANCE))~~ COMPLIANCE WITH OTHER RULES

Other government agencies have adopted rules that may apply to asbestos projects regulated under these rules including, but not limited to, the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, and the Department of Labor and Industries. Nothing in the Agency's rules shall be construed as excusing any person from complying with any other applicable local, state, or federal requirement.

~~((a) Friable Asbestos-Containing Material Removal Alternative~~

An alternate asbestos removal method may be employed for friable asbestos-containing material if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in Section 570.6(b) of this Regulation in controlling asbestos emissions. The property owner or the owner's agent shall document through air monitoring at the exhaust from

the controlled area that the asbestos fiber concentrations outside the controlled area do not exceed 0.01 fibers/cc, 8-hour average.

The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by 570.6(b), and may revoke the Order of Approval for cause.

b) ~~Nonfriable Asbestos-Containing Material Removal Alternative~~

An alternate asbestos removal method may be employed for nonfriable asbestos-containing material if a Competent Person or AHERA Project Designer has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in 570.6(b) of this Regulation in controlling asbestos emissions.

The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by 570.6(b), and may revoke the Order of Approval for cause.

e) ~~Leaving Nonfriable Asbestos-Containing Material in Place During Demolition~~

Nonfriable asbestos-containing material may be left in place during a demolition, if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the asbestos-containing material will remain nonfriable during all demolition activities and the subsequent disposal of the debris.

The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the asbestos-containing material remains nonfriable, and may revoke the Order of Approval for cause:))

Passed: November 12, 1998 Amended: July 14, 2005, November 8, 2007

AMENDATORY SECTION

SECTION 590 PERCHLOROETHYLENE DRY CLEANERS

590.1 Applicability. This section applies to all dry cleaning systems using perchloroethylene.

590.2 Definitions.

AREA SOURCE - Any perchloroethylene dry cleaning facility that does not have the potential to emit more than 10 tons per year of perchloroethylene to the atmosphere.

BIWEEKLY - Any 14-day period of time.

CARBON ADSORBER - A bed of activated carbon into which an air-perchloroethylene gas-vapor stream is routed and which adsorbs the perchloroethylene on the carbon.

DESORPTION - Regeneration of a carbon adsorber by removal of the perchloroethylene adsorbed onto the carbon.

HALOGENATED HYDROCARBON DETECTOR - A portable device capable of detecting vapor concentrations of perchloroethylene of 25 parts per million by volume and indicating a concentration of 25 parts per million by volume or greater by

emitting an audible or visual signal that varies as the concentration changes.

PERCEPTIBLE LEAKS - Any perchloroethylene vapor or liquid leaks that are obvious from:

a. The odor of perchloroethylene; or

b. Visual observation, such as pools or droplets of liquid; or

c. The detection of gas flow by passing fingers over the surface of equipment.

PERCHLOROETHYLENE GAS ANALYZER - A flame ionization detector, photoionization detector, or infrared analyzer capable of detecting vapor concentrations of perchloroethylene of 25 parts per million by volume.

RECONSTRUCTION - For the purpose of section 590, means the replacement of any components of a dry cleaning system to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new dry cleaning system.

RESIDENCE - Any dwelling or housing in which people reside excluding short-term housing that is occupied by the same person for a period of less than 180 days (such as a hotel room).

VAPOR LEAK - A perchloroethylene vapor concentration exceeding 25 parts per million by volume (50 parts per volume as methane) as indicated by a halogenated hydrocarbon detector or perchloroethylene gas analyzer.

590.3 ((2)) ((General Requirements.)) Machine Design:

a. It shall be unlawful for any person to cause or allow the operation of a perchloroethylene dry cleaning system unless all the air-perchloroethylene gas-vapor stream is vented through a carbon adsorber or refrigerated condenser. Dry cleaning machines installed ((after)) between September 21, 1993 and December 21, 2005 shall use a refrigerated condenser((-), and shall comply with 590.41(a).

b. The owner of operator of each dry cleaning system installed after December 21, 2005, at an area source shall route the air-perchloroethylene gas-vapor stream contained within each dry cleaning machine through a refrigerated condenser and pass the air-perchloroethylene gas-vapor stream from inside the dry cleaning machine drum through a non-vented carbon absorber or equivalent control device immediately before the door of the dry cleaning machine is opened. The carbon absorber must be desorbed in accordance with manufacturer's instructions.

c. All dry cleaning machines shall use a refrigerated condenser and a carbon adsorber as described in 590.2(b), and shall comply with 590.41(b) by July 28, 2008.

590.4((3)) General Operation and Maintenance Requirements. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system unless all of the following conditions are met:

590.((3))41 Leak Detection and Repair

a. Conduct a visual inspection of the dry cleaning system at least once a week for perceptible leaks while the system is operating. ((All perceptible leaks shall be repaired within 24 hours of detection. If repair parts must be ordered to repair a leak, the parts shall be ordered within 2 working days of detecting the leak, and the repair parts shall be installed within 5 working days after receipt;))

b. An inspection must include an examination of these components for condition and perceptible leaks

1. Hose and pipe connections, fittings, couplings, and valves;

2. Door gaskets and seats;

3. Filter gaskets and seats;

4. Pumps;

5. Solvent tanks and containers;

6. Water separators;

7. Muck cookers;

8. Stills;

9. Cartridge filter housings.

c. Conduct vapor leak inspections monthly while the dry cleaning system is running using a halogenated hydrocarbon detector or perchloroethylene gas analyzer that is operated according to the manufacturer's instructions. The operator shall place the probe inlet at the surface of each component interface where leakage could occur and move it slowly along the interface periphery. Any inspection conducted according to this paragraph shall satisfy the requirements to conduct an inspection for perceptible leaks as described in 590.41(a).

d. All perchloroethylene dry cleaning systems shall be in compliance with 590.41(c) by July 28, 2008.

e. All perceptible and/or vapor leaks shall be repaired within 24 hours of detection. If repair parts must be ordered to repair a leak, the parts shall be ordered within 2 working days of detecting the leak, and the repair parts shall be installed within 5 working days after receipt.

590.~~(3)~~42 Drain cartridge filters in their housing or other sealed container for at least 24 hours before discarding the cartridges;

590.~~(3)~~43 Close the door of each dry cleaning machine except when transferring articles to or from the machine;

590.~~(3)~~44 Store all perchloroethylene, and wastes containing perchloroethylene, in a closed container; and

590.~~(3)~~45 Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.

590.46 Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

590.47 Keep a copy on-site of the design specifications and operating manuals for all emission control devices.

590.~~5~~(4) Requirements for Refrigerated Condensers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a refrigerated condenser unless all of the following conditions are met:

590.~~(4)~~51 The air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine(~~-dryer, or reclaimer~~) must reach 45°F (7°C) or less during the cool-down period. Compliance shall be determined by continuously monitoring the outlet temperature during the cool-down period using a permanently installed temperature sensor that is accurate to within 2°F (1°C);

590.~~(4)~~52 The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11°C). Compliance shall be determined by continuously monitoring the inlet and outlet temperatures during the cool-down period

using permanently installed temperature sensors that are accurate to within 2°F (1°C);

590.~~((4))~~53 The refrigerated condenser shall be operated ~~((with a diverter valve))~~ so that ~~((prevents))~~ air drawn into the dry cleaning machine does not ~~((from))~~ pass~~((ing))~~ through the refrigerated condenser when the door of the machine is open; and

590.~~((4))~~54 The refrigerated condenser shall not vent the air-perchloroethylene gas-vapor stream while the dry cleaning machine drum is rotating ~~((or, if installed on a washer, until the washer door is opened))~~.

590.~~6~~(5) Requirements for Carbon Adsorbers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a carbon adsorber unless all of the following conditions are met:

590.~~((5))~~61 The concentration of perchloroethylene at the exhaust of the carbon adsorber shall not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber; and

590.~~((5))~~62 Compliance shall be determined by weekly measurements of the concentration of perchloroethylene at the outlet of the carbon adsorber using a halogenated hydrocarbon detector or perchloroethylene gas analyzer ~~((colorimetric detector tube))~~ that is accurate to within 25 ppm. ~~((If the dry cleaning system was constructed on or before December 8, 1991, monitoring shall commence by September 23, 1996. If the dry cleaning system was constructed after December 8, 1991, monitoring shall commence immediately.))~~

590.~~7~~((6)) Recordkeeping. Each dry cleaning facility shall have an Operation and Maintenance Plan and the following records which shall be kept on-site and available for inspection upon request by the NWCAA.

590.~~((6))~~71 A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system.

590.~~((6))~~72 If a refrigerated condenser is used on a dry-to-dry machine(~~-dryer, or reclaimer~~), a weekly record of the air temperature measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with Subsection 590.~~((4))~~51.

~~((590.63 If a refrigerated condenser is used on a washer, a weekly record of the difference between the air temperatures measured at the inlet and outlet of the refrigerated condenser to verify compliance with Subsection 590.42.))~~

590.~~((64))~~73 If a carbon adsorber is used on a dry cleaning system, a weekly record of outlet perchloroethylene concentration to verify compliance with 590.~~((51))~~61.

590.~~((65))~~74 A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous 12 months. All receipts of perchloroethylene purchases must be retained for 5 years.

590.~~8~~((7)) Prohibitions.

a. It shall be unlawful to operate a multi-machine dry cleaning operation in which washing and drying are performed in different machines (transfer system) after December 31, 1999.

b. After July 27, 2006 it shall be unlawful to install or reconstruct a dry cleaning system in a building with a residence.

c. After December 21, 2020, it shall be unlawful to operate a dry cleaning system that is located in a building with a residence.

590.2 ((&)) Major Source Requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

~~((590.9 Exemptions. Dry cleaning systems that commenced construction or reconstruction prior to December 8, 1991 are exempt from 590.4 and 590.5 if the amount of perchloroethylene purchased over the previous 12 months is less than 140 gallons.))~~

590.10 New sources subject to Section 590 that begin operation after October 1, 2007 shall notify the NWCAA within thirty (30) days of start-up. This notice shall include the name and address of the facility, its owner and or operator, and a statement on the facility's status of compliance with this section.

PASSED: February 8, 1996 Amended: July 14, 2005, ~~November 8, 2007~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

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]

In the matter of adopting rules to implement the Energy Independence Act, chapter 19.285 RCW, chapter 480-109 WAC, relating to electric companies acquisition of minimum quantities of conservation and renewable energy.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 07-17-154, filed with the code reviser on August 21, 2007. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, and chapter 19.285 RCW.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts these rules on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rule published in the reg-

ister and the rule adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, these documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order adopts the following sections of the Washington Administrative Code: Adopting WAC 480-109-001 Purpose and scope, 480-109-002 Application of rules, 480-109-003 Exemptions from rules in chapter 480-109 WAC, 480-109-004 Additional requirements, 480-109-006 Severability, 480-109-007 Definitions, 480-109-010 Conservation resources, 480-109-020 Renewable resources, 480-109-030 Alternatives to the renewable resource requirement, 480-109-040 Annual reporting requirements, and 480-109-050 Administrative penalties.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on January 24, 2007, at WSR 07-03-171.

8 The statement advised interested persons that the commission was considering entering a rule making to implement the requirements of the Energy Independence Act (act). The commission provided notice of this CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3). The commission also provided notice to registered electric companies, persons that received notices in the commission's previous least cost plan rule making (Docket UE-030311), persons that received notices in the request for proposal rule making (Docket UE-030423), persons interested in agency rule makings (rule list A), persons interested in electric rule makings (rule list E), as well as to attorneys representing these persons and companies.

9 As part of the CR-101 notice, the commission invited public comment on issues related to conservation targets and performance, renewable resource targets and exceptions, penalties for noncompliance, and reporting requirements. The commission received ten comments in response to this notice. Following receipt and review of these comments, interested persons were notified the commission would hold a workshop to consider an initial set of draft rules suggested by commission staff. The workshop notice emphasized that the draft rules were a starting point for discussion of possible rules to implement the act. The notice stated that the draft rules "may be far from final, both in terms of content and organization." In addition to the draft rules, the commission attached to its notice a summary of comments received.

10 Following the workshop, the commission provided a second opportunity for public comment on the draft rules. However, just prior to the due date for these comments, Puget Sound Energy (PSE), Avista Corporation (Avista) and PacificCorp informed the commission that they were attempting to

develop a consensus recommendation with other interested persons on rule language. To facilitate this effort the commission granted the companies' request for a delay in the time to file comments for nearly one month. No consensus recommendation was achieved. The commission received comments on the draft rules from seven interested persons.

11 Based on this second round of comments, the commission staff substantially revised the draft rules and a third notice requesting comment was issued. Immediately following this notice, the commission hosted an informal gathering of interested persons to explain and discuss the commission's approach and motivations in crafting the revised draft rules. Seven interested persons commented on the revised draft rules.

12 NOTICE OF PROPOSED RULE MAKING: After reviewing the third round of public comments the commission further revised the draft rules and filed a notice of proposed rule making (CR-102) on August 21, 2007, at WSR 07-17-154. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 07-17-154 at 1:30 p.m., Wednesday, October 24, 2007, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons a fourth opportunity to submit written comments to the commission.

13 WRITTEN COMMENTS: The commission received written comments from Avista, PacifiCorp, Renewable Northwest Project (RNP), public counsel, Northwest Energy Efficiency Council (EEC), Northwest Energy Coalition (NVEC), Industrial Customers of Northwest Utilities (ICNU), and PSE.

14 Considering the written comments, commission staff recommended two changes to the proposed rules in preparation for the October 24, 2007, adoption hearing. First, staff recommended replacing the term "portfolio" with the term "system" in WAC 480-109-030(1). This change makes clear that the utility must measure the difference in total system costs considering the eligible renewable resource and the noneligible resource to determine whether the utility meets the 4% of annual retail revenue requirement alternative compliance mechanism available in RCW 19.285.050 (1)(a). Second, an inadvertently omitted time period ("After December 7, 2006") specified in the act was added to the rules at WAC 480-109-030 (3)(b). The RNP submitted comments that led to these recommended changes.

15 RULE-MAKING HEARING: The commission considered the proposed rules for adoption with staff's recommended changes at a rule-making hearing on Wednesday, October 24, 2007, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The commission heard oral comments from Nicolas Garcia, representing commission staff, Brent Gale representing PacifiCorp, Larry Labolle representing Avista, Nancy Hirsch representing the Northwest Energy Efficiency Council and NW Energy Coalition, Ann Gravatt representing the RNP, and Tom DeBoer representing PSE.

16 ORAL COMMENTS: Brent Gale representing PacifiCorp stated that the most important outcome of the rule making was clear direction to utilities about what they must do to comply with the act. Mr. Gale said that in certain areas Paci-

fiCorp remained unsure of its compliance requirements, referring specifically to the use of forecasts versus actual numbers for demand and production. Mr. Gale also stated concern that the rule, as written, may inadvertently prevent the use of owned qualifying renewable generation to comply with the rules. Finally, Mr. Gale requested that following the issuance of these rules, the commission hold a workshop to further refine how utilities will comply with the act.

17 Nancy Hirsch of the NW Energy Coalition focused her comments on the conservation provisions of the rule making. Ms. Hirsch asserted that the rules provide utilities flexibility in this area beyond what is allowed by the act. Specifically, Ms. Hirsch objected to the definition of "pro rata" in the rules, asserting that the term should mean equal portions. Ms. Hirsch also objected to the use of a range rather than a single number to establish each utility's conservation target. Ms. Hirsch stated that if there is to be a range it should be bounded to within 5 to 10% around a point estimate. Ms. Hirsch also asserted that language in the rule dealing with cogeneration was too broad and that the act limited the use of cogeneration in place of conservation to situations where the electricity produced is used directly by the owner of the cogeneration facility.

18 Ann Gravatt representing RNP generally supported the rules as written. Ms. Gravatt requested that the commission take up in a subsequent rule making the issue of compliance auditing to confirm that utilities actually received the claimed renewable emission credits or megawatt-hours from their own qualifying renewable generating facilities. Ms. Gravatt also reiterated a previously articulated concern that the "retail revenue requirement" should be based on revenue needed in the compliance year rather than the most recently approved general rate case, as provided in the rules.

19 Larry Labolle representing Avista and Tom DeBoer representing PSE both indicated that even with the proposed rules areas of uncertainty remain regarding compliance with the act. Mr. Labolle suggested an additional rule making may be needed.

20 RECOMMENDED CHANGES TO THE PROPOSED RULES THAT ARE ACCEPTED: In addition to accepting the two previously discussed changes to the proposed rules, the commission also accepts three changes suggested at the adoption hearing or in prior written comments. First, Mr. Gale's concern that, as proposed, the rules may inadvertently prevent the use of utility-owned qualifying renewable generation is well taken. The rules we adopt by this order more closely follow the wording of the act and make clear that utilities may use their own qualifying renewable resources to meet the renewable generation mandate.

21 Second, Ms. Hirsch correctly pointed out that the act limited the use of cogeneration in place of conservation to situations where the electricity produced is used directly by the owner of the cogeneration facility. We modify the rule language to be consistent with this restriction.

22 Finally, in its comments to the proposed rules, Avista suggested that the definition of "renewable resource" under proposed WAC 480-109-007 (18)(i) should be clarified to state that eligible renewable electricity produced by biomass should be based on the portion of the fuel supply that is made

up of eligible biomass fuels. We agree and have revised the proposed rule accordingly.

23 RECOMMENDED CHANGES TO THE PROPOSED RULES THAT ARE REJECTED: The commission's responsibility in this matter is to develop rules that "ensure the proper implementation and enforcement of [the act] as it applies to investor owned utilities." *RCW 19.285.080(1)*. Most sections of the act are specific and provide the commission little discretion in determining the optimal implementation path. As a result, other than the five revisions discussed above, the commission rejects all other suggested changes to the rules, as discussed below.

24 RNP comments that the definition of "annual retail revenue requirement" in WAC 480-109-007(1) is not consistent with the law because it does not take into account increases in costs from year to year. The commission uses the phrase "annual retail revenue requirement" as a term of art in various contexts. The term, and its use by the commission, are understood by the regulated utilities. We reject RNP's suggestion because we do not wish to define this term in this rule given its established use in other contexts.

25 The EEC, NWEC and RNP comment that the term "pro rata," as used in WAC 480-109-007(14), deviates from the dictionary definition of pro rata. They request that the rule reflect conservation goals of equal portions for every biennial period. We find the proposed definition for pro rata appropriate considering statutory requirements. The term, as defined, allows utilities flexibility to meet realistic conservation implementation schedules.

26 PSE and PacifiCorp express concerns that conservation targets established in one biennial period will be retroactively revised for the same period using new conservation assumptions. PSE suggests adding a definition for "gross electric savings" to avoid the potential that the assumptions used to determine electric savings may be retroactively adjusted. PacifiCorp seeks clarity that new best available information will not be retroactively applied to prior targets. The rules we adopt identify a range for potential conservation and resulting targets. This mitigates potential variations between projected electricity savings and the achieved electricity savings and thus addresses the companies' concerns.

27 PSE and PacifiCorp suggest adding a definition for the phrase "real-time basis without shaping, storage or integration services." They state the lack of a definition leaves utilities facing uncertainty when they acquire resources. We acknowledge the uncertainty, but find there is no industry standard definition for the term "real-time." Statutory time constraints governing the calendar for this rule making do not allow sufficient time for a full analysis concerning whether and, if so, how the commission should define the term as used in the quoted phrase. The commission may consider establishing a definition in this context in a later rule making.

28 Public counsel, NWEC and the EEC suggest the language in WAC 480-109-010 (2)(c) be modified to set biennial conservation targets as a point rather than as a range. Both claim the bottom of the range will become the "de facto point target." Public counsel further states the commission will need a point target "so that utilities are aware of when administrative penalties could be assessed." We note that the act does not limit a utility's conservation potential or conser-

vation target to a single number and that a conservation range allows flexibility to realistically match the target to the implementation schedule. Moreover, WAC 480-109-010(4) provides that the commission will approve, approve with conditions, or reject the utility's ten-year achievable conservation potential and biennial conservation target, thus minimizing the risks identified by the commenters.

29 Public counsel recommends that utilities be required to use stakeholder advisory panels to develop their projected ten-year conservation potential. We agree that stakeholders should be involved in the process and WAC 480-109-010 (3)(a) makes this point. The jurisdictional utilities currently have public processes and stakeholder groups involved in the development of conservation programs and we expect that to continue.

30 Avista recommends that WAC 480-109-010 (4)(c), concerning comments and commission review of a utility's ten-year achievable conservation potential or its biennial conservation target, include March 31 as the date by which the commission will make a determination of the utility's conservation targets. The commission always endeavors to complete its deliberations in an expeditious manner. Because adjudicative processes vary significantly in terms of complexity and must ensure adequate time for due process to all participants in every proceeding, the commission should retain its discretion concerning the date by which it will complete its review of conservation targets. Accordingly, the proposed deadline is not included in the rules.

31 PacifiCorp requests that the commission remove WAC 480-109-020. We reject this proposal. The rule language provides important context and detail needed to implement the act in terms of its requirements for utilities to meet annual targets for renewables, as discussed below.

32 WAC 480-109-020(1), which proposes that utilities meet annual targets for using renewable resources and acquiring renewable energy credits (RECs), generated comments from ICNU, PSE, PacifiCorp, and Avista. ICNU suggests a more permissive interpretation of the statutory language. PSE claims the draft rules are inconsistent with the language and spirit of the statute. PacifiCorp questions the reference to a single day in relation to the annual target. Avista suggests that the commission should follow language from rules drafted by the department of community, trade and economic development (CTED). We find the language in RCW 19.285.040(2) does not allow us to alter the compliance date or the date by which utilities must acquire the rights to future RECs. We disagree with an interpretation of the act that allows compliance by the conclusion of a target year rather than by January 1 of a calendar year.

33 RNP, PSE and PacifiCorp comment on WAC 480-109-020(2). The utilities desire to use generation from owned renewable resources in prior or subsequent years to meet their renewable target. RNP states only renewable energy credits from prior or subsequent years may be used to meet the target and company-generated megawatt-hours must be converted to RECs prior to counting them towards compliance. The statute requires, and the rules provide, that by January 1, 2012, a utility must demonstrate that 3% of its average load for 2010 and 2011 was either produced by renewable resources during 2011, and/or RECs acquired by

January 1, 2012. The rule provision that RECs may represent megawatt-hours generated in 2010, 2011, or 2012 is consistent with the statute.

34 Avista, PSE, and PacifiCorp all note that WAC 480-109-020(3) requires utilities to meet a renewable energy target based on the average of two years of megawatt-hour loads that ends the day before the target must be met. The rule follows the language of RCW 19.285.040 (2)(a) and (c). By January 1 of a given year, the utility must meet a given percentage of its "annual load based on the average of the utility's load for the previous two years." Therefore, by January 1, 2012, a utility must have acquired RECs or used during 2011 sufficient eligible renewable resources to have met 3% of the average of its load in 2010 and 2011. WAC 480-109-020(2) allows for the use of RECs acquired prior to January 1, although the renewable generation backing the REC may be produced in the prior or subsequent year. This degree of flexibility allows the utilities to meet a target that may not be known until after January 1.

35 PSE argues for greater definition of the costs that may be included in the term "incremental costs of eligible renewable resources" in WAC 480-109-030(1), which addresses alternatives to the renewable resource requirement. The proposed rule mirrors language in RCW 19.285.050 (1)(a) and (b). The commission has the authority to conduct fact-based adjudications to test compliance if a utility follows this alternative approach.

36 The EEC and NWEAC suggest WAC 480-109-040 (1)(a), which addresses annual reporting requirements, should be restricted to "energy consumption avoided at that site by the cogeneration facility owner." We find that the statute does not limit the use of the electrical output of a cogeneration facility only to that facility's site.

37 RNP requests that WAC 480-109-040 (1)(c) should allow interested persons the right to adjudication any time a utility relies on an alternative compliance mechanism. We reject this suggestion. Interested persons will have an opportunity to comment on whether a utility has made a sufficient demonstration that its alternative compliance mechanism meets the requirements set forth in WAC 480-109-030. The commission will consider such comments and determine on a case-by-case basis if adjudication is warranted.

38 RNP and PacifiCorp seek clarification on the reporting requirements in WAC 480-109-040 (1)(d). The rule is sufficiently clear that in the first report submitted on June 1, 2012, a utility must demonstrate that it complied with the requirements of WAC 480-109-020 and describe its progress towards meeting the January 1, 2013, renewable target.

39 PSE asks that WAC 480-109-040(4) not require utilities to provide a copy of current and historical reports to any person on request, suggesting that posting such reports on a company web site is sufficient. We find it is reasonable to require the utilities to provide a copy of the reports to the public on request. This may be the only way some interested individuals can access and review the reports. If this requirement becomes a burden to a utility, the utility may petition the commission for an exemption.

40 PSE requests flexibility in the methods identified in WAC 480-109-040(5) to notify customers. The rule lan-

guage allows for alternative methods and does not require revision.

41 Avista, RNP, and PacifiCorp commented on WAC 480-109-040. Avista requests clarity on how utilities should report underperformance of renewable resources or contracted-for RECs. RNP also comments on potential underperformance of generating resources or RECs. PacifiCorp requests clarity on when the commission will assess compliance for any given year. The report due in June of each year will state how the utility met the requirements of WAC 480-109-020 for the prior calendar year and its progress in meeting those requirements in the current year. The act establishes specific targets, reports, and timelines. The act does not establish an auditing regime. The concerns expressed by these commenters are speculative and may or may not be experienced in practice. The earliest these issues will become relevant is in the year 2012. Absent further statutory directive or demonstration of a real and serious problem, it is not necessary to address these issues at this time.

42 ICNU requests clarity that the commission's determination of compliance for an annual report filed under WAC 480-109-040 does not constitute authorization for cost recovery by the utility. We find RCW 19.285.050 and [19.285]-080(2) adequately address this subject, such that there is no need to clarify this issue in rule.

43 ICNU, public counsel, EEC, NWEAC, RNP and PSE all comment on the recoverability of administrative penalties in WAC 480-109-050(4). The commission will address the recovery of penalties on a case-by-case basis. The prudence of a utility's choice to pay a penalty rather than acquire renewable resources or conservation will be decided through a fact-based inquiry. PSE also asks about the possibility of mitigating penalties for missing conservation targets in cases of force majeure. Any utility may present a force majeure argument in the context of a conservation compliance report and the commission will decide then whether that argument is allowed under the act and adequate under the given set of circumstances.

44 PSE states the act provides for possible incentives to exceed targets, but the rules are silent on this issue. We find there is no need to elaborate on this issue in rules. RCW 19.285.060(4) allows for commission consideration of positive incentives that exceed targets. Any utility may propose incentives and the commission will consider them on a case-by-case basis.

45 PSE notes that RCW 19.285.050(2) entitles investor-owned utilities to recover all prudently incurred costs associated with compliance with the act, but that the draft rules do not address this section. The statute simply reiterates the commission's longstanding practice concerning cost recovery of any investment. No rule language is necessary.

46 PSE requests that the commission establish rules concerning "conservation credits" by or before June 30, 2009. We reject this request because the act neither defines nor refers to conservation credits.

47 Finally, we note that implementation of the act will be informed by time and experience. While various participants in this rule making identified certain regulatory ambiguities and possible obstacles to the efficient compliance and enforcement of the act's provisions, our responsibility is to

implement the law as written. If the legislature finds in the future that there are issues that should be addressed by statutory amendment, the commission will respond, if necessary, with amended rules.

48 COMMISSION ACTION: After considering all of the information in the rule-making record as discussed in this order and as documented at the commission, the commission finds and concludes that it should adopt the rules as proposed in the CR-102 at WSR 07-17-154 with the changes described below.

49 CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 07-17-154:

- The term "portfolio" is replaced by the term "system" along with minor conforming changes in WAC 480-109-030(1). This change makes clear that the utility must measure the difference in total system costs considering the eligible renewable resource and the noneligible resource to determine whether it meets the 4% of annual retail revenue requirement alternative compliance mechanism authorized by RCW 19.285.050 (1)(a).
- The word "use" is added and the word "acquire" is moved in WAC 480-109-020 (1)(a), (b), and (c). This language more closely follows the wording of the act and makes clear that utilities may use their own qualifying renewable resources to meet the renewable generation mandate.
- The time period, "after December 7, 2006," is added to WAC 480-109-030 (3)(b). This date is specified in the act, but was inadvertently omitted from the proposed rules.
- The phrase "owned and used by a retail electric customer" is added to WAC 480-109-040 (1)(a). This addition better aligns the language of the rule to the requirements in the act.
- The following phrase is added to the definition of "renewable resource" in WAC 480-109-007 (18)(i): "Eligible renewable resources produced by biomass facilities should be based on the portion of the fuel supply that is made up of eligible biomass fuels."

50 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-109-001, 480-109-002, 480-109-003, 480-109-004, 480-109-006, 480-109-007, 180-109-010, 480-109-020, 480-109-030, 480-109-040, and 480-109-050 should be adopted to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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 11, 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.

ORDER

51 THE COMMISSION ORDERS:

52 The commission adopts WAC 480-109-001, 480-109-002, 480-109-003, 480-109-004, 480-109-006, 480-09-007, 480-109-010, 480-109-020, 480-109-030, 480-109-040, and 480-109-050 to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

53 This order and the rules set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, November 26, 2007.

Washington State Utilities and Transportation Commission

Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

Chapter 480-109 WAC

ELECTRIC COMPANIES—ACQUISITION OF MINIMUM QUANTITIES OF CONSERVATION AND RENEWABLE ENERGY AS REQUIRED BY THE ENERGY INDEPENDENCE ACT (CHAPTER 19.285 RCW)

NEW SECTION

WAC 480-109-001 Purpose and scope. The purpose of this chapter is to establish rules that electric utilities will use to comply with the requirements of the Energy Independence Act, chapter 19.285 RCW.

NEW SECTION

WAC 480-109-002 Application of rules. (1) The rules in this chapter apply to any electric utility that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(2) Any affected person may ask the commission to review the interpretation of these rules by a utility by making an informal complaint under WAC 480-07-910, Informal complaints, or by filing a formal complaint under WAC 480-07-370, Pleadings—General.

(3) No exception from the provisions of any rule in this chapter is permitted without prior written authorization by the commission. Such exceptions may be granted only if consistent with the public interest, the purposes underlying regulation, and applicable law. Any deviation from the pro-

visions of any rule in this chapter without prior commission authorization will be subject to penalties as provided by law.

NEW SECTION

WAC 480-109-003 Exemptions from rules in chapter 480-109 WAC. The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exemptions from and modifications to commission rules; conflicts involving rules).

NEW SECTION

WAC 480-109-004 Additional requirements. (1) These rules do not relieve any utility from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains its authority to impose additional or different requirements on any utility in appropriate circumstances, consistent with the requirements of law.

NEW SECTION

WAC 480-109-006 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 480-109-007 Definitions. (1) "Annual retail revenue requirement" means the total revenue the commission authorizes a utility an opportunity to recover in Washington rates pursuant to a general rate proceeding or other general rate revision.

(2) "Commission" means the Washington utilities and transportation commission.

(3) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(4) "Conservation council" means the Pacific Northwest electric power and conservation council.

(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(7) "Department" means the department of community, trade, and economic development or its successor.

(8) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(9) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where:

(i) The facility is located in the Pacific Northwest; or

(ii) The electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(10) "High-efficiency cogeneration" means a cogeneration facility with a useful thermal output of no less than thirty-three percent of the total energy output, under normal operating conditions. Electrical output will be calculated as the kWh output of the facility over a period of time, converted to BTUs using the conversion factor of 3413 BTUs/kWh. Total energy output must be calculated by summing all useful energy outputs of the cogeneration facility over the same period of time expressed in BTU units.

(11) "Integrated resource plan" or "IRP" means the filing made every two years by an electric utility in accordance with WAC 480-100-238, Integrated resource planning.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers. Load does not include off-system sales or electricity delivered to transmission-only customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pro rata" means the calculation used to establish a minimum level for a conservation target based on a utility's projected ten year conservation potential.

(15) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(16) "Request for proposal" or "RFP" means the documents describing an electric utility's solicitation of bids for delivering electric capacity, energy, or capacity and energy, or conservation.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the non-power attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(18) "Renewable resource" means:

(a) Water;

(b) Wind;

(c) Solar energy;

(d) Geothermal energy;

(e) Landfill gas;

- (f) Wave, ocean, or tidal power;
 - (g) Gas from sewage treatment facilities;
 - (h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and
 - (i) Biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include:
 - (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic;
 - (ii) Black liquor by-product from paper production;
 - (iii) Wood from old growth forests; or
 - (iv) Municipal solid waste.
- (19) "Utility" means an electrical company that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.
- (20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

NEW SECTION

WAC 480-109-010 Conservation resources. (1) By January 1, 2010, and every two years thereafter, each utility must project its cumulative ten-year conservation potential.

(a) This projection need only consider conservation resources that are cost-effective, reliable and feasible.

(b) This projection must be derived from and reasonably consistent with one of two sources:

(i) The utility's most recent IRP, including any information learned in its subsequent resource acquisition process, or the utility must document the reasons for any differences. When developing this projection, utilities must use methodologies that are consistent with those used by the conservation council in its most recent regional power plan. A utility may, with full documentation on the rationale for any modification, alter the conservation council's methodologies to better fit the attributes and characteristics of its service territory.

(ii) The utility's proportionate share, developed as a percentage of its retail sales, of the conservation council's current power plan targets for the state of Washington.

(2) Beginning January 2010, and every two years thereafter, each utility must establish a biennial conservation target.

(a) The biennial conservation target must identify all achievable conservation opportunities.

(b) The biennial conservation target must be no lower than a pro rata share of the utility's ten-year cumulative achievable conservation potential. Each utility must fully document how it prorated its ten-year cumulative conservation potential to determine the minimum level for its biennial conservation target.

(c) The biennial conservation target may be a range rather than a point target.

(3) On or before January 31, 2010, and every two years thereafter, each utility must file with the commission a report identifying its ten-year achievable conservation potential and its biennial conservation target.

(a) Participation by the commission staff and the public in the development of the ten-year conservation potential and the two-year conservation target is essential. The report must outline the extent of public and commission staff participation in the development of these conservation metrics.

(b) This report must identify whether the conservation council's plan or the utility's IRP and acquisition process were the source of its ten-year conservation potential. The report must also clearly state how the utility prorated this ten-year projection to create its two-year conservation target.

(c) If the utility uses its integrated resource plan and related information to determine its ten-year conservation potential, the report must describe the technologies, data collection, processes, procedures and assumptions the utility used to develop these figures. This report must describe and support any changes in assumptions or methodologies used in the utility's most recent IRP or the conservation council's power plan.

(4) Commission staff and other interested persons may file written comments regarding a utility's ten-year achievable conservation potential or its biennial conservation target within thirty days of the utility's filing.

(a) After reviewing any written comments, the commission will decide whether to hear oral comments regarding the utility's filing at a subsequent open public meeting.

(b) The commission, considering any written or oral comments, may determine that additional scrutiny is warranted of a utility's ten-year achievable conservation potential or biennial conservation target. If the commission determines that additional review is needed, the commission will establish an adjudicative proceeding or other process to fully consider appropriate revisions.

(c) Upon conclusion of the commission review, the commission will determine whether to approve, approve with conditions, or reject the utility's ten-year achievable conservation potential and biennial conservation target.

NEW SECTION

WAC 480-109-020 Renewable resources. (1) Each utility must meet the following annual targets.

(a) By January 1 of each year beginning in 2012 and continuing through 2015, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least three percent of its load for the remainder of each year.

(b) By January 1 of each year beginning in 2016 and continuing through 2019, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least nine percent of its load for the remainder of each year.

(c) By January 1 of each year beginning in 2020 and continuing each year thereafter, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least fifteen percent of its load for the remainder of each year.

(2) Renewable energy credits produced during the target year, the preceding year or the subsequent year may be used to comply with this annual renewable resource requirement

provided that they were acquired by January 1 of the target year.

(3) In meeting the annual targets of this subsection, a utility must calculate its annual load based on the average of the utility's load for the previous two years.

(4) A renewable resource within the Pacific Northwest may receive integration, shaping, storage or other services from sources outside of the Pacific Northwest and remain eligible to count towards a utility's renewable resource target.

NEW SECTION

WAC 480-109-030 Alternatives to the renewable resource requirement. Instead of meeting its annual renewable resource target in WAC 480-109-020, a utility may make one of three demonstrations.

(1) A utility may invest at least four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both. The incremental cost of an eligible renewable resource is the difference between the levelized delivered portfolio cost of the eligible renewable resource and the levelized delivered cost of an equivalent amount of reasonably available nonrenewable resource. The portfolio analysis used will be reasonably consistent with principles used in the utility's resource planning and acquisition analyses.

(2) A utility may demonstrate that events beyond its reasonable control that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events may include weather-related damage, mechanical failure, strikes, lockouts, or actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource owned by or under contract to a qualifying utility.

(3) A utility may demonstrate all of the following:

(a) Its weather-adjusted load for the previous three years on average did not increase.

(b) All new or renewed ownership or purchases of electricity from nonrenewable resources other than daily spot purchases were offset by equivalent renewable energy credits.

(c) It invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

NEW SECTION

WAC 480-109-040 Annual reporting requirements.

(1) On or before June 1, 2012, and annually thereafter, each utility must file a report with the commission and the department regarding its progress in meeting its conservation and renewable resource targets during the preceding year.

(a) The report must include the conservation target for that year, the expected and actual electricity savings from conservation, and all expenditures made to acquire conservation.

The report may count electricity savings from new high-efficiency cogeneration facilities owned and used by a retail electric customer operating within the utility's service area

towards the utility's conservation target during the biennium when the cogeneration facility commences operation. The electricity savings reported for each high-efficiency cogeneration facility is the amount of energy consumption avoided by the sequential production of electricity and useful thermal energy from a common fuel source.

(b) The report must include the utility's annual load for the prior two years, the total number of megawatt-hours from eligible renewable resources and/or renewable resource credits the utility needed to meet its annual renewable energy target by January 1 of the target year, the amount (in megawatt-hours) and cost of each type of eligible renewable resource used, the amount (in megawatt-hours) and cost of renewable energy credits acquired, the type and cost (per megawatt-hour) of the least-cost substitute resources available to the utility that do not qualify as eligible renewable resources, the incremental cost of eligible renewable resources and renewable energy credits, and the ratio of this investment relative to the utility's total annual retail revenue requirement.

(c) The report must state if the utility is relying upon one of the alternative compliance mechanisms provided in WAC 480-109-030 instead of meeting its renewable resource target. A utility using an alternative compliance mechanism must include sufficient data, documentation and other information in its report to demonstrate that it qualifies to use that alternative mechanism.

(d) The report must describe the steps the utility is taking to meet the renewable resource requirements for the current year. This description should indicate whether the utility plans to use or acquire its own renewable resources, plans to or has acquired contracted renewable resources, or plans to use an alternative compliance mechanism.

(2) Commission staff and other interested persons may file written comments regarding a utility's report within thirty days of the utility's filing.

(a) After reviewing any written comments, the commission will decide whether to hear oral comments regarding the utility's filing at a subsequent open meeting.

(b) The commission, considering any written or oral comments, may determine that additional scrutiny of the report is warranted. If the commission determines that additional review is needed, the commission will establish an adjudicative proceeding or other process to fully consider appropriate revisions.

(c) Upon conclusion of the commission review of the utility's report, the commission will issue a decision determining whether the utility complied with its conservation and renewable resource targets. If the utility is not in compliance, the commission will determine the amount in megawatt-hours by which the utility was deficient in meeting those targets.

(3) If a utility revises its report as a result of the commission review, the utility must submit the revised final report to the department.

(4) All current and historical reports required in subsection (1) of this section must be posted on the utility's web site and a copy of any report must be provided to any person upon request.

(5) Each utility must provide a summary of this report to its customers by bill insert or other suitable method. This

summary must be provided within ninety days of final action by the commission on this report.

NEW SECTION

WAC 480-109-050 Administrative penalties. (1) A utility that fails to achieve either its conservation target or its renewable resource target must pay an administrative penalty for each megawatt-hour of shortfall in the amount of fifty dollars adjusted annually, beginning in 2007, to reflect changes in the gross domestic product-implicit price deflator, as published by the Bureau of Economic Analysis of the United States Department of Commerce or its successor.

(2) Administrative penalties are due within fifteen days of a commission determination, pursuant to WAC 480-109-040(2), that a utility failed to achieve its conservation or renewable resource target.

(3) A utility that pays an administrative penalty under subsection (2) of this section, must notify its retail electric customers within three months of incurring a penalty stating the size of the penalty, the reason it was incurred and whether the utility expects to seek recovery of the penalty amounts in rates. The utility must provide this notification in a bill insert, a written publication mailed to all retail electricity customers, or another approach approved by the commission.

(4) A utility may request an accounting order from the commission authorizing the deferral of the cost of any administrative penalty assessed under this section. The approval of an accounting order to defer penalties does not constitute approval of recovery of penalties in rates. A utility may seek to recover deferred administrative penalties in a general rate case or power cost only type rate proceeding. If a utility seeks to recover deferred administrative penalties in rates, the utility must demonstrate the prudence of its decisions and actions when it failed to meet the renewable resource targets or one of the compliance alternatives provided in WAC 480-109-030, or the energy conservation targets. When assessing a request for recovery of deferred administrative penalties, the commission will consider the intent of the Energy Independence Act, other laws governing commission actions, policies and precedents of the commission, and the commission's responsibility to act in the public interest.

WSR 08-01-006
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed December 6, 2007, 1:35 p.m., effective January 6, 2008]

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

Purpose: The Surface Mining Act requires the posting of reclamation performance securities for each surface mine to cover the cost of reclamation, RCW 78.44.087. In 2006, the legislature authorized surface mine permit holders or landowners to post blanket performance securities to cover the potential reclamation cost of multiple surface mines to an amount not to exceed the sum of the reclamation security calculated for their two surface mines with the largest performance security obligations. RCW 78.44.350.

Statutory Authority for Adoption: RCW 78.44.350 and 78.44.040.

Adopted under notice filed as WSR 07-20-113 on October 3, 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 1, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, 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: December 6, 2007.

Bonnie Bunning
Executive Director
Policy and Administration

NEW SECTION

WAC 332-18-145 Blanket performance security—Rules to obtain and maintain a blanket performance security for multiple surface mines. (1) A permit holder or landowner may use a blanket performance security for multiple surface mines if authorized by DNR under RCW 78.44.-350 and this rule. The amount must equal the sum of the estimated reclamation cost calculated by DNR for the two covered surface mines with the largest performance security obligations. The process for obtaining DNR's approval includes a preliminary review, submittal of a complete request, and DNR review of a complete request.

(2) A permit holder or landowner must first request DNR's preliminary review of eligibility and the state of the proposed surface mines. The request shall identify permit holders and proposed surface mines by permit number, if any. DNR will issue a preliminary review decision on each mine indicating which mines would be eligible within sixty days. The preliminary review period may be extended by DNR with written notice to the applicant. If any requested sites are denied after the preliminary review, the DNR will state in writing why the site was denied and the applicant may request a meeting and/or reapply for preliminary review.

(a) A permit holder must meet the following conditions for it or the landowner to be eligible to submit and continue to use a blanket performance security:

(i) The permit holder must not be in violation of any final order of DNR;

(ii) The permit holder must have held at least one valid reclamation permit for longer than ten years;

(iii) The permit holder must demonstrate exemplary mining and reclamation practices that have been accepted by DNR. For purposes of this rule, "exemplary" means that the permit holder is substantially complying with chapters 78.44

RCW and 332-18 WAC, its effective reclamation permit and plan, and department orders for each of its surface mines and that the permit holder has not received more than two enforcement orders within the most recent calendar year;

(iv) The permit holder must, before obtaining a blanket performance security and every other year thereafter, submit a sworn statement by a responsible company official under penalty of perjury for false or misleading statements that the permit holder is financially able to pay for the DNR-approved estimated reclamation cost of all covered surface mines within one year; and

(v) The permit holder must before obtaining and every other year thereafter, submit an updated reclamation cost estimate on DNR's Standard Performance Security Calculation Form (SM-10) for each covered surface mine.

(b) Proposed sites must not include metal or fuel surface mines.

(c) To determine the likelihood of approval, DNR shall consider the permit holder's current and past compliance history in addition to the state of the existing surface mines of the permit holder. DNR may deem a surface mine "inappropriate" for coverage if inconsistent with (b) of this subsection or any of the following factors:

(i) The reclamation plan for the surface mine should be appropriate for the site's conditions and chapter 78.44 RCW;

(ii) The surface mine should be in substantial compliance with its effective reclamation permit and plan;

(iii) The surface mine condition should satisfy all of the topsoil requirements stated in the applicable reclamation permit and plan.

(3) If eligible, a permit holder or landowner may request DNR's acceptance of a blanket performance security by submitting all of the following items:

(a) An acceptable and adequate performance security on a DNR-approved form that equals the sum of the reclamation security calculated by the DNR for the two covered surface mines with the largest performance security obligations.

(b) A DNR Risk of Lien Form, signed by all landowners; and

(c) The estimated reclamation cost on a DNR Standard Performance Security Calculation Form (SM-10) for each included surface mine. Thereafter, the permit holder providing the blanket performance security shall submit documentation per subsection (2)(a)(iv) and (v) of this section. DNR shall review and confirm or correct each estimated reclamation cost according to its form and RCW 78.44.087.

(4) DNR may only approve a request for a blanket performance security when the request contains all required documents, is accurate, complete, and is submitted by or on behalf of eligible permit holders. DNR shall further consider the factors identified in subsection (2)(b) and (c) of this section. DNR will provide a written decision approving or disapproving the request, which is appealable.

(5) If surface mine conditions change so that the cumulative estimated reclamation cost for any two covered surface mines is greater than the initially calculated amount, the blanket performance security must be increased. DNR may recalculate estimated reclamation costs and may require a new blanket performance security under RCW 78.44.087 and 78.44.350.

(6) DNR may require substitute individual performance securities for all covered surface mines if the permit holder loses eligibility under subsection (2) of this section. Further, DNR may require a substitute individual performance security for each surface mine that becomes inappropriate for blanket coverage. The permit holder shall comply with the DNR written substitute performance security demand within thirty days of notice. DNR may require the substitute performance security until the permit holder regains eligibility or the surface mine is restored to an appropriate condition for blanket coverage. DNR may use the blanket security for the reclamation of any originally covered surface mine unless DNR approves cancellation of the original blanket performance security or approves a substitute blanket performance security excluding that surface mine.

WSR 08-01-017

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 7, 2007, 1:44 p.m., effective January 7, 2008]

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

Purpose: WAC 458-20-277 Certified service providers—Compensation, is a new rule establishing certified service provider (CSP) compensation for those CSP's performing all of a volunteer seller's sales and use tax functions other than the obligation of the seller to remit sales and use tax on its own purchases. The rule also explains some of the roles and responsibilities of certified service providers retained by sellers in Washington.

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

Other Authority: RCW 82.32.715.

Adopted under notice filed as WSR 07-19-089 on September 18, 2007.

Changes Other than Editing from Proposed to Adopted Version: Only editing changes were made to the proposed rule.

A final cost-benefit analysis is available by contacting Roseanna Hodson, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-0127, e-mail RoseannaH@dor.wa.gov.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: December 7, 2007.

Janis P. Bianchi
 Assistant Director
 Interpretations and
 Technical Advice Division

NEW SECTION

WAC 458-20-277 Certified service providers—Compensation. (1) **Introduction.** This section explains compensation paid to certified service providers (CSPs) as defined in Substitute Senate Bill No. 5089 (SSB 5089), chapter 6, Laws of 2007 and RCW 82.58.080. The section also lists rights and responsibilities applicable to these CSPs when collecting and remitting retail sales and use taxes in Washington. On March 22, 2007, Washington enacted SSB 5089, a legislative package that brings Washington's sales and use tax laws into conformity with the streamlined sales and use tax agreement (SSUTA). For more information concerning the SSUTA, visit <http://www.streamlinedsalestax.org>. The web sites referenced in this section are not maintained by Washington or the department of revenue (department). These referenced web sites may contain recommendations that require a change to Washington law prior to becoming effective in Washington.

(2) **CSP compensation for volunteer sellers.**

(a) **What is a CSP?** A CSP is an agent of the seller certified under the SSUTA to perform all of a seller's retail sales and use tax functions, other than the seller's obligation to remit retail sales and use tax on its own purchases. For more information concerning CSP certification or a list of current CSPs, visit the SSUTA web site located at: <http://www.streamlinedsalestax.org>.

(b) **What is a volunteer seller?** A volunteer seller is any seller that has selected a CSP, as agent, to perform all of that seller's retail sales and use tax functions, other than the obligation to remit retail sales and use tax on the seller's own purchases and who has voluntarily registered through the SSUTA central registration system (CRS) in accordance with the terms of the CSP contract (CSP contract). The CSP contract is the agreement executed between each CSP and the streamlined sales tax governing board under which CSPs perform services in SSUTA associate and member states.

(c) **What are member states and associate member states?** Member states are those states that have petitioned and been granted full membership under the SSUTA. Associate member states are those states that have petitioned and been designated associate member status under the SSUTA. Washington became an associate member state on July 1, 2007. Washington has been granted full membership status as of July 1, 2008. For a list of the current member and associate member states, visit the SSUTA web site at: <http://www.streamlinedsalestax.org>.

(d) **What are monetary allowances?** As a condition of becoming an associate member and member state, Washington has agreed to permit CSPs to act as agents for sellers in collecting and remitting sales and use taxes in Washington. Washington has agreed to provide monetary allowances to CSPs acting as agents for volunteer sellers. A CSP will obtain these monetary allowances by retaining a portion of

the Washington retail sales and use tax they collect. However, monetary allowances will not reduce the retail sales and use taxes collected for and remitted to local taxing jurisdictions. The calculation of these monetary allowances is discussed in subsection (3) of this section.

(e) **What is a certified automated system (CAS)?** A certified automated system is software certified by Washington under the SSUTA: To calculate the sales and use tax imposed by each taxing jurisdiction on a transaction; to determine the amount of tax to remit; and to maintain a record of the transaction.

(3) **How are monetary allowances calculated?** The formula for determining monetary allowances is set forth in the CSP contract. This monetary allowance is the CSP's sole form of compensation with respect to volunteer sellers during the term of the CSP contract and is the same with respect to all CSPs.

This monetary allowance is calculated by using the following formula: (The combined volume of taxes due to all member and associate member states from a volunteer seller in such capacity) multiplied by (the applicable base rate). Simply stated, the formula is (combined collected taxes) x (base rate). Affiliated volunteer sellers will be treated as a single volunteer seller if they are related persons under 267(b) or 707(b) of the United States Internal Revenue Code. The base rate resets annually. Table A below sets forth the schedule for "combined collected taxes" and the applicable "base rate":

Table A

Combined Collected Taxes:		Base Rate:
\$0.00	- \$250,000	8%
\$250,000.01	- \$1,000,000	7%
\$1,000,000.01	- \$2,500,000	6%
\$2,500,000.01	- \$5,000,000	5%
\$5,000,000.01	- \$10,000,000	4%
\$10,000,000.01	- \$25,000,000	3%
Over \$25,000,000.01		2%

(a) **Can volunteer sellers lose volunteer seller status?** Volunteer seller status ceases when the seller conducts activities in Washington that would require the seller to legally register in Washington as described in the CSP contract.

(b) **Seller statements.** Each volunteer seller must periodically send written statements (statement) to the CSP verifying that the seller continues to qualify as a volunteer seller in Washington. The volunteer seller must send the first statement twenty-four consecutive months from the date on which the CSP began remitting sales and use taxes for the volunteer seller in Washington. Subsequently, volunteer sellers will send a statement every twelve consecutive months thereafter. A CSP may request a statement verifying a seller's volunteer seller status at any time. The CSP must notify the department when a seller loses volunteer seller status and this notification must be sent no later than ten business days after receipt of a seller's statement indicating the seller is no longer a volunteer seller. Notice to the department must be provided consistent with the notice provisions contained in the CSP contract.

Entitlement to monetary allowances will be terminated after a seller sends a statement that the seller is no longer a volunteer seller.

(c) **When will monetary allowances terminate?** A CSP is entitled to retain monetary allowances granted prior to receiving a statement indicating that the seller has lost volunteer seller status. However, entitlement to monetary allowances will end on the first day of the month following receipt of such statement. Regardless, a CSP will be entitled to monetary allowances for services performed under this section with respect to a volunteer seller for a period of twenty-four months (beginning on the date the CSP commenced remitting sales and use taxes for the volunteer seller in Washington and ending twenty-four consecutive months later).

(4) **CSP rights and responsibilities.**

(a) **Responsibility for retail sales and use taxes.** A CSP is liable to the member states and associate member states for the retail sales and use taxes on the sales transactions that it processes.

If the CSP does not remit the collected retail sales and use taxes when due, those taxes are delinquent. Washington may send a notice of delinquency to a CSP for these delinquent taxes. The CSP must then remit the delinquent taxes within ten business days of that notification. If the CSP does not remit the delinquent taxes within those ten business days, the CSP is not entitled to monetary allowances with respect to the delinquent taxes and is liable for the payment of the taxes along with penalties and interest. However, if the taxes are delinquent because a seller has not remitted part or all of the delinquent taxes to the CSP, the CSP will be given relief if it properly notifies the department. In order to obtain this relief, the CSP must notify the department of the seller's failure to remit the retail sales and use taxes to the CSP within ten business days of the date on which those delinquent taxes should have been remitted to the department. Notice by the CSP under this subsection must be provided consistent with the notice provisions contained in the CSP contract.

(b) **CSP liability relief.** A CSP is not liable for charging or collecting the incorrect amount of sales or use tax where that error results from reliance on incorrect data provided in the department's taxability matrix, or from tax rates, boundaries, and taxing jurisdiction assignments listed in Washington's rates and boundaries data bases. To obtain a copy of the taxability matrix, visit the SSUTA web site located at: <http://www.streamlinedsalestax.org>. Additionally, CSPs will be held harmless and not liable for sales and use taxes, interest, and penalties on those taxes not collected due to reliance on Washington's certification of the CSP's CAS. Pursuant to RCW 82.58.080, sellers that contract with a CSP are not liable to Washington for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresents the type of items it sells or commits fraud.

(c) **Seller's contract with the CSP.** A CSP must provide the department with a copy of its agreement with contracting sellers if requested.

(d) **Credits or refunds with respect to bad debt.** A CSP may, on the behalf of a seller, claim credits or refunds for sales taxes paid on bad debts. Bad debts have the same meaning provided in 26 U.S.C. Section 166, as amended in 2003. Bad debts do not include expenses incurred in collect-

ing bad debts; repossessed property; and amounts due on property in the possession of the seller until the full purchase price has been paid. See section 103, SSB 5089 and WAC 458-20-196 for more information regarding bad debts.

(e) **Retention of personally identifiable consumer information.** With limited exceptions, CSPs must perform their services without retaining personally identifiable consumer information. A CSP may retain personally identifiable consumer information only as long as it is needed to ensure the validity of tax exemptions or to show the intended use of the goods or services purchased. See section 601, SSB 5089 for more information regarding personally identifiable consumer information.

(f) **Filing of tax returns and remittance of retail sales and use taxes.** CSP will file retail sales and use excise tax returns using Washington's electronic filing system (E-file). CSPs will remit retail sales and use taxes due with respect to these returns using ACH Debit, ACH Credit, or the Fedwire Funds Transfer System.

**WSR 08-01-025
PERMANENT RULES
OFFICE OF**

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2005-04—Filed December 10, 2007, 9:03 a.m., effective January 10, 2008]

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

Purpose: WAC 284-43-260 requires health carriers to permit a contracted network provider to select another provider who will serve as a substitute in the absence of the contracted provider. This is commonly referred to as a "locum tenens" provision. The rule sets standards for providers who act as substitutes, permits carriers to require the use of separate billing codes, and exempts medicare advantage plans from the rule.

WAC 284-43-262 requires carriers to permit network providers who are called to active military service to seek reinstatement within one hundred twenty days after returning to civilian life upon a showing that the provider meets the carrier's then-current credentialing standards, even if the carrier's network is otherwise closed or full.

Statutory Authority for Adoption: RCW 48.02.060 and 48.43.515.

Adopted under notice filed as WSR 07-17-165 on August 22, 2007.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 284-43-260 introductory paragraphs: Added intent paragraph regarding the importance [of] patient safety and quality of care.

2. WAC 284-43-260 (1)(e): Added requirement that a substitute provider must have a current drug enforcement agency certificate, if applicable.

3. WAC 284-43-260(3): Added a provision allowing the carrier to require the contracted provider to use the "Q6 modifier" when billing for services provided by the substitute provider. (The Q6 modifier is a commonly used billing code that alerts a carrier that a substitute provider supplied the billed services.)

4. WAC 284-43-260(4): Clarified that nothing in the rule is intended to prevent the carrier from requiring the substitute provider to accept the carrier's fee schedule or accept the carrier's usual and customary charge as payment in full. (This should prevent the substitute provider from balance billing the patient.)

5. WAC 284-43-260(5): Added an exception for medicare advantage or other health plans administered by the federal government that require precredentialing of all participating providers.

A final cost-benefit analysis is available by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail KacyS@oic.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: December 10, 2007.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-43-260 Standards for temporary substitution of contracted network providers—"Locum tenens" providers. It is a longstanding and widespread practice for contracted network providers to retain substitute providers to take over their professional practices when the contracted network providers are absent for reasons such as illness, pregnancy, vacation, or continuing medical education, and for contracted network providers to bill and receive payment for the substitute providers' services as though they were provided by the contracted network provider. The contracted network provider generally pays the substitute provider based on an agreement between the contracted network provider and the substitute provider, and the substitute provider has the status of an independent contractor rather than an employee of the contracted network provider. These substitute providers are commonly called "locum tenens" providers.

In order to protect patients and ensure that they benefit from seamless quality care when contractual network providers are away from their practices, and that patients receive quality care from qualified substitute providers, carriers may require substitute providers to provide the information required in subsection (1) of this section.

The following are minimum standards for temporary provider substitution and do not prevent a carrier from entering into other agreed arrangements with its contracted network providers for terms that are less restrictive or more favorable to providers.

Carriers must permit the following categories of contracted network provider to arrange for temporary substitution by a substitute provider: Doctor of medicine, doctor of osteopathic medicine, doctor of dental surgery or dental medicine, doctor of chiropractic, podiatric physician and surgeon, doctor of optometry, doctor of naturopathic medicine and advanced registered nurse practitioner.

(1) At the time of substitution, the substitute provider:

(a) Must have a current Washington license and be legally authorized to practice in this state;

(b) Must provide services under the same scope of practice as the contracted network provider;

(c) Must not be suspended or excluded from any state or federal health care program;

(d) Must have professional liability insurance coverage; and

(e) Must have a current drug enforcement certificate, if applicable.

(2)(a) Carriers must allow a contracted network provider to arrange for a substitute provider for at least sixty days during any calendar year.

(b) A carrier must grant an extension if a contracted network provider demonstrates that exceptional circumstances require additional time away from his or her practice.

(3) A carrier may require that the contracted network provider agree to bill for services rendered by the substitute provider using the carrier's billing guidelines, including use of HIPAA compliant code sets, commonly known as the Q-6 modifier, or any other code or modifier that the Centers for Medicare and Medicaid Services (CMS) adopts in the future.

(4) Nothing in this section is intended to prevent the carrier from requiring:

(a) That the contracted network provider require acceptance by the substitute provider of the carrier's fee schedule; or

(b) Acceptance by the substitute provider of the carrier's usual and customary charge as payment in full.

(5) This rule does not apply to Medicare Advantage or other health plans administered by the federal government that require precredentialing of all providers.

NEW SECTION

WAC 284-43-262 Rule concerning contracted network providers called to active duty military service. In lieu of substitution of a provider during a period of active duty military service longer than sixty continuous days, carriers must provide contracted network providers with the opportunity to return to the carrier's network after the provider's active duty military service is completed.

(1)(a) A carrier must allow the provider a period of at least one hundred twenty days to request a return to contracted network provider status after the provider returns to civilian status.

(b) The one hundred twenty-day period must begin no earlier than the date the provider's period of active duty ends.

(2)(a) As a condition for return to the carrier's network, the carrier may require that the provider provide evidence that he or she meets the carrier's then-current standards for credentialing.

(b) If the provider meets or exceeds the credentialing standards of the carrier and timely requests a return to contracted network provider status, the carrier must grant the request whether or not the carrier's network is otherwise closed.

WSR 08-01-026

PERMANENT RULES

DEPARTMENT OF CORRECTIONS

[Filed December 10, 2007, 9:05 a.m., effective January 10, 2008]

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

Purpose: To correct the web address for the department's public disclosure records index.

Citation of Existing Rules Affected by this Order: Amending WAC 137-08-180.

Statutory Authority for Adoption: RCW 72.01.090.

Adopted under notice filed as WSR 07-12-074 on June 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 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 10, 2007.

E. Vail
Secretary

AMENDATORY SECTION (Amending WSR 06-19-058, filed 9/18/06, effective 10/19/06)

WAC 137-08-180 Records index. The record index may be accessed on the department's web site in the public disclosure section at: ((<http://www.doc.wa.gov/PublicDisclosure/PublicDisclosure.htm>)) <http://www.doc.wa.gov/aboutdoc/publicdisclosure.asp>.

WSR 08-01-037

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket UE-061895, General Order R-546—Filed December 10, 2007, 3:21 p.m., effective January 10, 2008]

In the matter of adopting rules to implement the Energy Independence Act, chapter 19.285 RCW, chapter 480-109 WAC, relating to electric companies acquisition of minimum quantities of conservation and renewable energy.

ORDER CORRECTING TEXT OF WAC 480-109-007 (18)(j), 480-109-030(1), and 480-109-030 (3)(b) SUBMITTED FOR ADOPTION.

1 On November 27, 2007, the Washington utilities and transportation commission (commission) filed with the code reviser an order adopting rules permanently in chapter 480-109 WAC, related to Electric companies—Acquisition of minimum quantities of conservation and renewable energy as required by the Energy Independence Act (chapter 19.285 RCW). The order is filed at WSR 07-24-012. The effective date for the adoption of the rules is December 28, 2007.

2 Recently the commission learned that an intended addition of a phrase from subsection (18)(j) of WAC 480-109-007 as published at WSR 07-24-012, was erroneously omitted in the rule submitted for adoption. The phrase that should have been included in subsection (18)(j) of WAC 480-109-007 is set out below in italics:

WAC 480-109-007 Definitions.

(18)(j) *Eligible renewable resources produced by biomass facilities should be based on the portion of the fuel supply that is made up of eligible biomass fuels.*

3 In addition, the commission learned that the intended term "portfolio" from subsection (1) of WAC 480-109-030 as published at WSR 07-24-012, was erroneously included in the rule submitted for adoption. The term that should have replaced "portfolio" is set out below in italics:

WAC 480-109-030 Alternatives to the renewable resource requirement.

(1) A utility may invest at least four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both. The incremental cost of an eligible renewable resource is the difference between the levelized delivered *portfolio system* cost of the eligible renewable resource and the levelized delivered cost of an equivalent amount of reasonably available nonrenewable resource. The *portfolio system* analysis used will be reasonably consistent with principles used in the utility's resource planning and acquisition analyses.

4 The commission also learned that a date from subsection (3)(b) of WAC 480-109-030 as published at WSR 07-24-012, was erroneously omitted in the rule submitted for adoption. The date that should have been included is set out below in italics:

(b) *After December 7, 2006*, all new or renewed ownership or purchases of electricity from nonrenewable resources other than daily spot purchases were offset by equivalent renewable energy credits.

5 Failure to add the phrase "Eligible renewable resources produced by biomass facilities should be based on the portion

of the fuel supply that is made up of eligible biomass fuels" to WAC 480-109-007 (18)(j), replace the term "portfolio" with "system" in WAC 480-109-030(1), and add the time period "After December 7, 2007" to WAC 480-109-030 (3)(b), submitted to the code reviser with the adoption order constitutes an oversight. Accordingly, the commission enters this order to correct the rules by adding the phrase to WAC 480-109-007 (18)(j), replacing the term "portfolio" with "system" in WAC 480-109-030(1), and adding the time period "After December 7, 2006" in subsection (3)(b) of WAC 480-109-030. A copy of the corrected rules is shown below to this Order as Appendix A.

DATED at Olympia, Washington, December 10, 2007.

Washington State Utilities and Transportation Commission
 Mark H. Sidran, Chairman
 Patrick J. Oshie, Commissioner
 Philip B. Jones, Commissioner

Appendix A

NEW SECTION

WAC 480-109-007 Definitions. (1) "Annual retail revenue requirement" means the total revenue the commission authorizes a utility an opportunity to recover in Washington rates pursuant to a general rate proceeding or other general rate revision.

(2) "Commission" means the Washington utilities and transportation commission.

(3) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(4) "Conservation council" means the Pacific Northwest electric power and conservation council.

(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(7) "Department" means the department of community, trade, and economic development or its successor.

(8) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(9) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where:

(i) The facility is located in the Pacific Northwest; or

(ii) The electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(10) "High-efficiency cogeneration" means a cogeneration facility with a useful thermal output of no less than thirty-three percent of the total energy output, under normal operating conditions. Electrical output will be calculated as the kWh output of the facility over a period of time, converted to BTUs using the conversion factor of 3413 BTUs/kWh. Total energy output must be calculated by summing all useful energy outputs of the cogeneration facility over the same period of time expressed in BTU units.

(11) "Integrated resource plan" or "IRP" means the filing made every two years by an electric utility in accordance with WAC 480-100-238, Integrated resource planning.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers. Load does not include off-system sales or electricity delivered to transmission-only customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pro rata" means the calculation used to establish a minimum level for a conservation target based on a utility's projected ten year conservation potential.

(15) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(16) "Request for proposal" or "RFP" means the documents describing an electric utility's solicitation of bids for delivering electric capacity, energy, or capacity and energy, or conservation.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the non-power attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(18) "Renewable resource" means:

(a) Water;

(b) Wind;

(c) Solar energy;

(d) Geothermal energy;

(e) Landfill gas;

(f) Wave, ocean, or tidal power;

(g) Gas from sewage treatment facilities;

(h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and

(i) Biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include:

(i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic;

(ii) Black liquor by-product from paper production;

(iii) Wood from old growth forests; or

(iv) Municipal solid waste.

(j) Eligible renewable resources produced by biomass facilities should be based on the portion of the fuel supply that is made up of eligible biomass fuels.

(19) "Utility" means an electrical company that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 480-109-030 Alternatives to the renewable resource requirement. Instead of meeting its annual renewable resource target in WAC 480-109-020, a utility may make one of three demonstrations.

(1) A utility may invest at least four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both. The incremental cost of an eligible renewable resource is the difference between the levelized delivered ~~portfolio~~ system cost of the eligible renewable resource and the levelized delivered cost of an equivalent amount of reasonably available nonrenewable resource. The ~~portfolio~~ system analysis used will be reasonably consistent with principles used in the utility's resource planning and acquisition analyses.

(2) A utility may demonstrate that events beyond its reasonable control that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events may include weather-related damage, mechanical failure, strikes, lockouts, or actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource owned by or under contract to a qualifying utility.

(3) A utility may demonstrate all of the following:

(a) Its weather-adjusted load for the previous three years on average did not increase.

(b) After December 7, 2006, ~~All~~ new or renewed ownership or purchases of electricity from nonrenewable resources other than daily spot purchases were offset by equivalent renewable energy credits.

(c) It invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

Reviser's note: The unnecessary underscoring and strikethrough in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 08-01-041 PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed December 12, 2007, 9:20 a.m., effective December 1, 2008]

Effective Date of Rule: December 1, 2008.

Purpose: The department is extending the effective date of the permanent rule filed as WSR 07-23-080 for WAC 388-501-0100 Subrogation. The new effective date is December 1, 2008.

Citation of Existing Rules Affected by this Order: Amending WAC 388-501-0100.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.185.

Adopted under notice filed as WSR 07-13-087 on June 19, 2007.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-501-0100 (6)(a), removed "department will presume" and added "department's rebuttable presumption is": "In the absence of evidence to the contrary as discussed below in subsection (6)(c), the department will presume department's rebuttable presumption is that..."

A final cost-benefit analysis is available by contacting Roy Vervair, P.O. Box 45561, Olympia, WA 98504-5561, phone (360) 725-1060, fax (360) 753-3077, e-mail vervarf@dshs.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: December 12, 2007.

Robin Arnold-Williams
Secretary

WSR 08-01-045 PERMANENT RULES DEPARTMENT OF ECOLOGY

[Order 07-06—Filed December 12, 2007, 10:40 a.m., effective January 12, 2008]

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

Purpose: The adoption of these rule amendments is needed to protect instream values within the Wenatchee River basin, to avoid injury to existing water rights from future appropriations of water, and implement the recom-

mendations of the Wenatchee watershed planning unit. The amendment modifies minimum instream flows at several existing control points; establishes minimum instream flows at three new control points; establishes a water reservation to provide a reliable water supply for the twenty-year projected population growth and sets maximum allocations for new uses of water not eligible for the reservation and new storage projects.

Citation of Existing Rules Affected by this Order: Amending chapter 173-545 WAC.

Statutory Authority for Adoption: Chapters 90.82, 90.54, 90.22, 90.03, and 90.44 RCW.

Adopted under notice filed as WSR 07-14-140 on July 3, 2007.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 173-545-090(5) was modified to explicitly require measuring and reporting of reservation water uses and that measuring and reporting requirements to support the reservation accounting system may be applied to local permits and approvals. The draft language implied a measuring and reporting requirement based on the requirement for a reservation accounting system to be maintained by the Chelan County natural resources department and ecology.

(2) WAC 173-545-110(1) was clarified to state that if the criteria in (a) or (b) is met, a permit may be issued without applying the instream flow conditions. The draft language implied an "or." The final rule language is explicit.

A final cost-benefit analysis is available by contacting Lanessa Inman, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6862, fax (360) 407-6574, e-mail linm461@ecy.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 7, Amended 9, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 5, Amended 9, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 1, Repealed 1.

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

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

Date Adopted: December 11, 2007.

Jay J. Manning
Director

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-010 General ((provision)). These rules apply to waters within the Wenatchee River basin, WRIA 45, as defined in WAC 173-500-040. This chapter is ~~((promulgated pursuant to))~~ adopted under chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), chapter ~~((75.20))~~ 77.57 RCW (state

fisheries code), chapter 90.82 RCW (Watershed Planning Act), and in accordance with chapter 173-500 WAC (water resources management program).

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-020 Purpose. The purposes of this chapter ~~((is))~~ are to retain perennial rivers, streams, and lakes in the Wenatchee River basin with instream flows and levels necessary to ~~((provide protection for))~~ protect water quality, wildlife, fish, ((scenic, aesthetic,)) and other environmental values, as well as aesthetics, recreation, navigation((;)), and ((water quality)) to meet certain future out-of-stream water needs identified in the Wenatchee watershed management plan.

(1) The Wenatchee watershed management plan approved by the Wenatchee planning unit and the Chelan County commission under RCW 90.82.130 is the basis for amendments to the June 3, 1983 rule. The plan recommendations were approved on April 26, 2006, by the Wenatchee watershed planning unit, a group composed of a broad base of water use interests, and on June 26, 2006, by the Chelan County commission. The plan recommendations are therefore considered an expression of the public interest.

(2) This chapter sets forth the department's policies to guide the protection, use and management of Wenatchee River basin surface water and interrelated ground water resources. It protects existing water rights, establishes instream flows, and sets forth a program for the administration of future water allocation and use.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-030 ((Establishment of instream flows.)) Definitions. ~~((1))~~ Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No.-Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es) including Tributaries
12-4570-00 Wenatchee River at Plain	46.2 Sec. 12, T. 26N., R. 17E. W.M	From Plain Road Bridge, R.M. 46.2, to headwaters
12-4585-00 Iceicle Cr. near Leavenworth	1.5 Sec. 24, T. 24N., R. 17E. W.M	Headwaters of Iceicle Creek to its mouth
12-4590-00 Wenatchee River at Peshastin	21.5 Sec. 8, T. 24N., R. 18E. W.M	From confluence of Derby Creek to Plain Road Bridge, R.M. 46.2 excluding Derby Creek and Iceicle Creek
12-4625-00 Wenatchee River at Monitor	7.0 Sec. 11, T. 23N., R. 19E. W.M	From mouth to confluence of Derby Creek, including Derby Creek and excluding Mission Creek

Control Station No.-Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream-Reach(es) including Tributaries
12-4620.00	1.5	From mouth to headwaters
Mission Creek near Cashmere	Sec. 8, T. 23N, R. 19E. W.M	

Month	Day	12-4620.00 Mission Cr. near Cashmere	12-4625.00 Wenatchee R. at Monitor
Jul	1	14	1700
	15	10	1200
Aug	1	7	800
	15	5	700
Sep	1	4	700
	15	4	700
Oct	1	4	700
	15	5	700
Nov	1	6	800
	15	6	800
Dec	1	6	800
	15	6	800

(2) Instream flows are established for the stream management units in WAC 173-545-030(1) as follows:

Instream Flows in the Wenatchee River basin
(instantaneous cubic feet per second)

Month	Day	12-4570.00 Wenatchee R. at Plain	12-4580.00 Ielele Cr. near Leavenworth	12-4590.00 Wenatchee R. at Peshastin
Jan	1	550	120	700
	15	550	120	700
Feb	1	550	120	700
	15	550	120	700
Mar	1	550	150	750
	15	700	170	940
Apr	1	910	200	1300
	15	1150	300	1750
May	1	1500	450	2200
	15	2000	660	2800
Jun	1	2500	1000	3500
	15	2000	660	2600
Jul	1	1500	450	1900
	15	1200	300	1400
Aug	1	880	200	1000
	15	700	170	840
Sep	1	660	130	820
	15	620	130	780
Oct	1	580	130	750
	15	520	130	700
Nov	1	550	150	750
	15	550	150	750
Dec	1	550	150	750
	15	550	150	750

Instream Flows in the Wenatchee River basin (cont'd)
(instantaneous cubic feet per second)

Month	Day	12-4620.00 Mission Cr. near Cashmere	12-4625.00 Wenatchee R. at Monitor
Jan	1	6	820
	15	6	820
Feb	1	6	820
	15	6	800
Mar	1	6	800
	15	11	1040
Apr	1	22	1350
	15	40	1750
May	1	40	2200
	15	40	2800
Jun	1	28	3500
	15	20	2400

(3) Instream flow hydrographs, as represented in the document entitled "Wenatchee River basin instream resources protection program, figs. 7, 8, 9, pgs. 30 and 31," shall be used for identification of instream flows on those days not specifically identified in WAC 173-545-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water from the main stem Wenatchee River and perennial tributaries shall be expressly subject to instream flows established in WAC 173-545-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream, except for those exemptions described in WAC 173-545-070 (1) through (3).

(5) Projects that would reduce the flow in a portion of a stream's length (e.g., hydroelectric diversion projects) will be considered consumptive with respect to the bypassed portion of the stream and will be subject to specific instream flow requirements as specified by the department for the bypassed reach notwithstanding WAC 173-545-030 (1) through (3). The department may require detailed, project-specific instream flow studies to determine a specific instream flow for the bypassed reach.

(6) If department investigations determine that withdrawal of ground water from the source aquifers would not interfere significantly with stream flow during the period of stream closure or with maintenance of minimum flows, then applications to appropriate public ground waters may be approved and permits or certificates issued.) For the purposes of this chapter, the following definitions shall be used:

(1) "Allocation" means the designation of specific amounts of water for specific beneficial uses.

(2) "Appropriation" means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes.

(3) "Beneficial uses" means uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(4) **"Consumptive use"** means a use of water whereby there is a diminishment of the overall amount or quality of water in the water source.

(5) **"Closure"** means a finding by the department that no water is available for future appropriations. WAC 173-545-100 identifies the periods when, and in what quantities, water may be available for future appropriation. If the maximum allocation is zero, no water is available. Practically, it means a permit to appropriate water for a beneficial use will not be approved from a stream or aquifer that results in a diminishment of the stream or aquifer during any period of time that water is unavailable and, unless otherwise excepted, no water is available for new or expanded exempt withdrawals under RCW 90.44.050.

(6) **"Department"** means the Washington state department of ecology.

(7) **"Domestic water use"** means, for the purposes of the reservation of water in this chapter, use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, and other incidental household uses.

(8) **"Existing water right"** includes perfected riparian rights, federal Indian and non-Indian reserved rights or other perfected and inchoate appropriative rights.

(9) **"Hydraulic continuity"** means the interrelation between ground water (water beneath land surfaces or surface water bodies) and surface water (water above ground, such as lakes and streams).

(10) **"Instream flow"** as used in this chapter, has the same meaning as a minimum instream flow under chapter 90.82 RCW, a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW, or management flow in the Wenatchee watershed plan. The instream flow constitutes a water right under chapter 90.03 RCW.

(11) **"Irrigation associated with a residence"** means irrigation of not more than one-half acre of lawn or garden per dwelling.

(12) **"Nonconsumptive use"** means a type of water use where either there is no withdrawal from a water source or there is no diminishment in the overall amount or quality of water in the water source.

(13) **"Plan"** or **"watershed plan"** means the Wenatchee watershed management plan, approved by the Wenatchee watershed planning unit on April 26, 2006, and by the Chelan County commissioners on June 26, 2006.

(14) **"Planning unit"** means the Wenatchee watershed planning unit (WWPU), or a successor approved by the WWPU. The WWPU was established in 1999 in accordance with chapter 90.82 RCW, Watershed Planning Act. The WWPU presently consists of the main planning unit, the steering committee, several technical subcommittees (e.g., water quantity/instream flow, habitat, water quality, growth and land use, outreach), and other interested stakeholders.

(15) **"Public water system"** means any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm. Water use shall be consistent with WAC 246-290-020 or as it may be recodified.

(16) **"Reservation"** means an allocation of water set aside for future domestic use, municipal use, and stock water use (except feedlots). For the purposes of this chapter, the reservation is not subject to the instream flows set in WAC 173-545-050 and 173-545-060. "Reservation" is the same as "reserve" and "reserved water" in the Wenatchee watershed management plan.

(17) **"Stock water"** means the use of water by animals consistent with the Chelan County Code, Section 11.88.030. It does not apply to feedlots and other activities which are not related to normal grazing land uses.

(18) **"Stream management unit"** means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular use, action, instream flow level or reservation of water applies. Each of these units contains a control station. A map of the control points is included in this chapter (WAC 173-545-170).

(19) **"Withdrawal"** means the extraction of ground water or diversion of surface water.

(20) **"WRIA"** means water resource inventory area. This term can be used interchangeably with "basin" and "watershed."

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-040 Stream ((closure)) management units. ((The department has determined that additional diversions of water from Peshastin Creek during the period June 15 to October 15 would deplete instream flows required to protect instream values. Peshastin Creek is, therefore, closed to further consumptive appropriation from June 15 to October 15 each year. During the nonclosed period, minimum instream flows will be controlled and measured from the control station on the Wenatchee River at Monitor.)) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

<u>Control Station No.</u> <u>Stream Management Unit Name</u>	<u>Control Station by</u> <u>River Mile and</u> <u>Section, Town-</u> <u>ship, and Range</u>	<u>Affected Stream</u> <u>Reach(es) including</u> <u>Tributaries</u>
12-4570.00 Wenatchee River at Plain	46.2 Sec. 12, T. 26N., R. 17E. W.M.	From Beaver Valley Hwy. R.M. 46.2, to headwaters
12-4585.00 Icicle Cr. near Leavenworth	2.6 Sec. 23, T. 24N., R. 17E. W.M.	Headwaters of Icicle Creek to its mouth
12-4590.00 Wenatchee River at Peshastin	21.5 Sec. 8, T. 24N., R. 18E. W.M.	From confluence of Derby Creek to Beaver Valley Hwy., R.M. 46.2 excluding Derby Creek and Icicle Creek

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es) including Tributaries	1983 Instream Flows in the Wenatchee River (instantaneous cubic feet per second)				
			Month	Day	12-4570.00 Wenatchee R. at Plain	12-4580.00 Icicle Cr. near Leavenworth	12-4590.00 Wenatchee R. at Peshastin
12-4625.00 Wenatchee River at Monitor	7.0 Sec. 11, T. 23N., R. 19E. W.M.	From mouth to confluence of Derby Creek, including Derby Creek and excluding Mission Creek	Jan	1	550	120	700
				15	550	120	700
			Feb	1	550	120	700
				15	550	120	700
			Mar	1	550	150	750
				15	700	170	940
12-4620.00 ¹ Mission Creek near Cashmere	1.5 Sec. 9, T. 23N., R. 19E. W.M.	From mouth to headwaters	Apr	1	910	200	1300
				15	1150	300	1750
			May	1	1500	450	2200
				15	2000	660	2800
			Jun	1	2500	1000	3500
				15	2000	660	2600
12-4565.00 Chiwawa River near Plain	6.2 Sec. 13, T. 27N., R. 17E. W.M.	From the confluence of the Chiwawa River and the Wenatchee River upstream to the headwaters of the Chiwawa River	Jul	1	1500	450	1900
				15	1200	300	1400
			Aug	1	880	200	1000
				15	700	170	840
			Sep	1	660	130	820
				15	620	130	780
ECY 45J070 Nason Creek near mouth	0.2 Sec. 33, T. 27N., R. 17E. W.M.	From the confluence of Nason Creek and the Wenatchee River upstream to the Nason Creek headwaters	Oct	1	580	130	750
				15	520	130	700
			Nov	1	550	150	750
				15	550	150	750
			Dec	1	550	150	750
				15	550	150	750

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es) including Tributaries	1983 Instream Flows in the Wenatchee River (instantaneous cubic feet per second)			
			Month	Day	12-4620.00 Mission Cr. near Cashmere	12-4625.00 Wenatchee R. at Monitor
ECY 45F070 Peshastin Creek at Green Bridge Rd.	1.4 Sec. 28, T. 24N., R. 18E. W.M.	From the confluence of Peshastin Creek and the Wenatchee River upstream to the Peshastin Creek headwaters	Jan	1	6	820
				15	6	820
			Feb	1	6	820
				15	6	800
			Mar	1	6	800
				15	11	1040
AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)	WAC 173-545-050 ((Policy statement for future permitting actions.))	Instream flows established on June 3, 1983. ((Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate base flow in all streams and rivers as well as the water levels in all lakes in the Wenatchee River basin by encouraging the use of alternate sources of water which include (1) ground water, (2) storage water, or (3) purchase of other valid water rights.)) (1) The following instream flows were established June 3, 1983. Water rights established after that date and prior to the effective date of this rule are subject to these instream flows. The June 3, 1983, instream flows for the following stream management units in WAC 173-545-040 are as follows:	Apr	1	22	1350
				15	40	1750
			May	1	40	2200
				15	40	2800
			Jun	1	28	3500
				15	20	2400
			Jul	1	14	1700
				15	10	1200
			Aug	1	7	800
				15	5	700
			Sep	1	4	700
				15	4	700
			Oct	1	4	700
				15	5	700
			Nov	1	6	800
				15	6	800

¹This station is used for regulation of permits issued subject to the minimum instream flows listed in WAC 173-545-050.

²This station is to be used for regulation of any permits issued subject to the minimum instream flows in WAC 173-545-060.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-050 ((Policy statement for future permitting actions.)) Instream flows established on June 3, 1983. ((Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate base flow in all streams and rivers as well as the water levels in all lakes in the Wenatchee River basin by encouraging the use of alternate sources of water which include (1) ground water, (2) storage water, or (3) purchase of other valid water rights.)) (1) The following instream flows were established June 3, 1983. Water rights established after that date and prior to the effective date of this rule are subject to these instream flows. The June 3, 1983, instream flows for the following stream management units in WAC 173-545-040 are as follows:

Month	Day	12-4620.00	12-4625.00
		Mission Cr. near Cashmere	Wenatchee R. at Monitor
Dec	1	6	800
	15	6	800

(2) Instream flow hydrographs, WAC 173-545-170, Appendix 1 to this rule, shall be used for identification of instream flows on those days not specifically identified in WAC 173-545-050(1).

(3) The instream flows in subsection (1) of this section shall retain their original priority date and quantities, except where the flows in WAC 173-545-060(7) are lower than the flows in subsection (1) of this section. In those instances, existing water rights subject to subsection (1) of this section will instead be subject to the lower flow in WAC 173-545-060(7). However, the priority date of the original right remains unchanged. If, at a future date, it is determined that the higher flows in subsection (1) of this section are required to retain flows necessary to preserve fish, wildlife, scenic, aesthetic, or other environmental values, the department will issue an order notifying the holders of the conditioned permits and certificates of such a decision and the justification.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-060 (~~Lakes~~) Instream flows based on watershed planning. ~~(In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.)~~ (1) The instream flows established in this section are based on the recommendations of the Wenatchee watershed planning unit and public input received during the rule-making process. These instream flows are established under RCW 90.82.080, and are necessary to meet the water resource management and ecosystem maintenance objectives of the Wenatchee watershed plan.

(2) Instream flows established in this section protect stream flows from future appropriations, and preserve flow levels that are necessary to protect wildlife, fish, water quality, aesthetic and other environmental values, recreation, and navigational values.

(3) Instream flows in subsection (7) of this section established at new locations or in larger amounts than the instream flows in WAC 173-545-050(1) are water rights with a priority date of November 2, 2001.

(4) All water rights (surface and ground water) established after the effective date of this rule, and not covered under the reservation in WAC 173-545-090, are subject to these instream flows. Water rights junior to the instream flow may be exercised when flow or ground water conditions will provide enough water to satisfy senior rights, including the instream flows. New appropriations which would conflict with instream flows shall be authorized only in situations where it is clear that the overriding considerations of the public interest will be served.

(5) Based upon the department's determination of overriding considerations of public interest, the reservation of water established in WAC 173-545-090 is not subject to the instream flows in subsection (7) of this section or WAC 173-545-050(1).

(6) Instream flows are expressed in cubic feet per second (cfs). Instream flows are measured at the control stations identified in WAC 173-545-040.

(7) Instream flows are established for the stream management units in WAC 173-545-040, as follows:

Instream Flows in the Wenatchee River Basin
Based on Watershed Planning
(instantaneous cubic feet per second)

Month	Day	12-4570.00	12-4585.00	12-4590.00	ECY 45J070
		Wenatchee R. at Plain	Icicle Cr. near Leavenworth	Wenatchee R. at Peshastin	Nason Cr. near Mouth
Jan	1	550	267	1933	120
	15	550	267	1933	120
Feb	1	550	267	1933	120
	15	550	566	2800	160
Mar	1	550	518	2800	160
	15	700	518	2800	160
Apr	1	910	650	2800	160
	15	1150	650	2800	160
May	1	1500	650	2800	160
	15	2000	650	2800	160
Jun	1	2500	650	2800	160
	15	2000	550	1933	210
Jul	1	1500	550	1933	210
	15	1200	550	1933	210
Aug	1	880	400	1933	180
	15	700	343	1400	180
Sep	1	660	275	1311	165
	15	620	275	1311	165
Oct	1	580	267	1932	120
	15	520	267	2672	120
Nov	1	550	267	2900	120
	15	550	267	2900	120
Dec	1	550	267	1933	120
	15	550	267	1933	120

Instream Flows in the Wenatchee River Basin (cont'd)
(instantaneous cubic feet per second)

Month	Day	12-4625.00	ECY 45F070	Chumstick Cr. at
		Wenatchee R. at Monitor	Peshastin Cr. at Green Bridge Rd.	North Road
Jan	1	1867	53	To be determined (tbd)
	15	1867	53	
Feb	1	1867	53	tbd
	15	2400	120	
Mar	1	2400	120	tbd
	15	2400	120	
Apr	1	2400	120	tbd
	15	2400	120	
May	1	2400	120	tbd
	15	2400	120	

Month	Day	12-4625.00	ECY 45F070	Chumstick Cr. at North Road
		Wenatchee R. at Monitor	Peshastin Cr. at Green Bridge Rd.	
Jun	1	2400	120	tbd
	15	1600	110	
Jul	1	1600	110	tbd
	15	1600	110	
Aug	1	1600	80	tbd
	15	900	80	
Sep	1	900	80	tbd
	15	1338	80	
Oct	1	1723	53	tbd
	15	2427	53	
Nov	1	2800	53	tbd
	15	2800	53	
Dec	1	1867	53	tbd
	15	1867	53	

(8) Instream flow hydrographs, WAC 173-545-170, Appendix 1 to this rule, shall be used for identification of instream flows on those days not specifically identified in WAC 173-545-060(7).

(9) Future consumptive water right permits issued hereafter for the withdrawal of surface and ground water from the mainstem Wenatchee River and tributaries shall be subject to instream flows established in subsection (7) of this subsection, except for those withdrawals eligible for the reservation under WAC 173-545-090.

(10) Projects that would reduce the flow in a portion of a stream's length (e.g.: Hydroelectric diversion projects) are consumptive with respect to the bypassed portion of the stream and are subject to specific instream flow requirements for the bypassed reach. The department may require detailed, project-specific instream flow studies to determine a specific instream flow for the bypassed reach. The flows established in subsection (7) of this section shall apply to the bypassed stream reach unless the department, by order, determines that different flows may be maintained in the bypassed reach.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-070 ((Exemptions.)) Lakes and ponds. ((1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Future requests for group domestic uses, including municipal supply, may be exempted from the minimum instream flow provisions of this chapter when it is determined by the department, in consultation with the departments of fisheries and game, that overriding considerations of the public interest will be served.

(3) Single domestic and stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter. If the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for instream uses, then only single

domestic in-house use shall be exempt if no alternative source is available.

(4) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.)) In accordance with RCW 90.54.020(3), lakes and ponds in the Wenatchee watershed shall be retained substantially in their natural condition, including those in the Wenatchee National Forest. Water withdrawals from lakes and ponds for purposes eligible under the reservation in WAC 173-545-090 are not subject to instream flows. All other water withdrawals from lakes and ponds or storage projects sited within or upon existing lakes or ponds are subject to instream flows and maximum future allocations.

AMENDATORY SECTION (Amending Order DE 83-8, filed 6/3/83)

WAC 173-545-080 ((Future rights.)) Interim closure. ((No rights to divert or store public surface waters of the Wenatchee River basin, WRIA 45, shall hereafter be granted which shall conflict with the purpose of this chapter.)) The Chumstick Creek subbasin shall be closed to all future appropriations other than those provided by the interim reservation in WAC 173-545-090 (1)(d)(vi) until the department adopts a rule establishing instream flows, closes Chumstick Creek permanently, or determines that instream flows or a closure are not required.

AMENDATORY SECTION (Amending Order 88-11, filed 6/9/88)

WAC 173-545-090 ((Enforcement.)) Reservation of water for certain future uses. ((In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.)) (1) Using the watershed plan as a primary expression of public interest, and consistent with the authority under RCW 90.54.050(1) and 90.82.130(4), the department's director determines that it is an overriding consideration of the public interest to reserve an amount of surface and ground water, up to 4 cubic feet per second, for future beneficial uses as follows:

(a) The priority date for uses under the reservation is the effective date of this chapter.

(b) The reservation is not subject to the instream flows established in WAC 173-545-050 and 173-545-060.

(c) Beneficial uses of water eligible for the reservation are limited to:

(i) Permitted uses for domestic purposes, irrigation associated with a residence, potable domestic water requirements associated with municipal, commercial, and industrial purposes, and stock water (as defined in WAC 173-545-030 (17)).

(ii) Permit-exempt uses for domestic purposes, irrigation associated with a residence, domestic water requirements associated with municipal, commercial, and industrial purposes, and stock water (as defined in WAC 173-545-030 (17)).

(d) The reservation of water for future use is limited to the following locations and amounts:

(i) Chiwawa River near Plain (USGS 12-4565.00), up to 0.5 cfs.

(ii) Nason Creek near mouth, up to 0.16 cfs.

(iii) Wenatchee River at Plain (USGS Gage No. 12-4570.00), up to 1.0 cfs inclusive of actual water use associated with the subbasin reservations in (d)(i) and (ii) of this subsection.

(iv) Icicle Creek near Leavenworth: Up to 0.1 cfs. Reservation of an additional 0.4 cfs will be considered after completion of flow restoration efforts targeting habitat between the city of Leavenworth and Icicle Irrigation District's point of diversion and the U.S. Fish and Wildlife Service hatchery return. Rule making will be required to establish this additional reservation.

(v) Peshastin Creek at Green Bridge: Up to 0.1 cfs.

(vi) Chumstick Creek at North Road: Up to 0.043 cfs as an interim reservation to meet projected growth for the three years immediately following the effective date of this rule. At the end of three years, or sooner if the interim reservation is fully appropriated, allocation of any water remaining in the interim reservation and water above the interim reservation, up to a total of 0.13 cfs, is subject to additional conditions described in subsection (10) of this section.

(vii) Mission Creek near Cashmere: Up to 0.03 cfs for an interim reservation to meet projected growth for the two years immediately following the effective date of this rule. The interim reservation is subject to additional conditions described in subsection (11) of this section.

(viii) Wenatchee River at Monitor (USGS Gage No. 12-4625.00): Up to 4 cfs inclusive of actual water use associated with the subbasin reservations in (d)(i) through (vii) of this subsection.

(2) A water right permit allocating water from the reservation must be consistent with the requirements of RCW 90.03.290.

(3) All water uses from the reservation must implement water use efficiency and conservation practices, consistent with the watershed plan.

(4) This reservation of water is intended to meet needs identified for the basin within the Wenatchee watershed plan. The department shall deny all applications for water from this reservation for use not conforming to subsection (1)(c) of this section.

(5) All water uses relying on the reservation must be measured and reported. The manner and form of such measuring and reporting to support the accounting system for the reservation water uses may be specified by the department, Chelan County, or by a local government, utility, or other public water purveyor in a permit, approval, license, or order. An accounting of all appropriations from the reservation shall be maintained by the department and the Chelan County natural resource department. The accounting shall, at a minimum, include estimated and measured use in gallons per day.

(6) All permitted and permit-exempt uses from the reservation will have the same priority date. The following will guide water supply decisions in times of water shortage:

(a) Among the use categories: Domestic and stock-watering uses will be met first, followed by domestic water

requirements associated with municipal, commercial and industrial use, and then residential irrigation.

(b) Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.

(7) The reservation will be evaluated by the department and the Wenatchee planning unit prior to 2010, 2015, 2020, and 2025. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be established through rule making, if needed.

(8) The department shall notify both Chelan County and the planning unit or its successor, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of the total reservation is appropriated. The department shall also issue a public notice in a newspaper of general circulation for the region at the same three junctures.

(9) The department shall require measuring and reporting for permitted surface and ground water appropriation from the reservation. If more accurate water use data are needed, the department may, after consulting with the planning unit and Chelan County, require measuring and reporting for ground water withdrawals otherwise exempted from permit requirements under RCW 90.44.050.

(10) For Chumstick Creek, allocation of the full 0.13 cfs reservation will be considered only after completion of an instream flow assessment and a cumulative impacts assessment. Rule making will be required to establish Chumstick Creek instream flows. A cumulative impacts assessment will be used to determine if outdoor water use associated with permit-exempt ground water uses initiated after June 6, 1983, interferes with the instream flows in WAC 173-545-050. Rule making will also be required to either terminate the interim closure of the Chumstick Creek subbasin or to make it permanent.

(11) For Mission Creek, the interim reservation will terminate after two years. A cumulative impacts assessment will be used to determine if outdoor water use associated with permit-exempt ground water uses initiated subsequent to June 6, 1983, interferes with the adopted instream flows in WAC 173-545-050.

AMENDATORY SECTION (Amending Order 88-11, filed 6/9/88)

WAC 173-545-100 ((Regulation review-)) Maximum future allocation. ~~((The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions-))~~ (1)(a) The department determines that there are certain times when there are surface waters above the instream flows, referred to as "high flows." These high flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and fish migration. In order to protect the frequency and duration of these higher flows, the department hereby establishes maximum amounts of water/flow that can be withdrawn from specific streams at specific times, subject to the flows in WAC 173-545-060.

(b) A maximum allocation shall be used to review future applications for beneficial uses from the mainstem Wenatchee and tributary rivers and creeks.

Maximum Allocations in the Wenatchee River Basin
(instantaneous cubic feet per second)

Month	Day	12-4570.00	12-4585.00	12-4590.00
		Wenatchee R. at Plain	Icicle Cr. near Leavenworth	Wenatchee R. at Peshastin
Jan	1	82	21	113
	15	82	21	113
Feb	1	78	20	111
	15	78	0	111
Mar	1	96	0	147
	15	96	0	147
Apr	1	243	59	335
	15	243	59	335
May	1	525	149	711
	15	525	149	711
Jun	1	604	175	800
	15	604	175	800
Jul	1	296	76	376
	15	296	76	376
Aug	1	102	28	122
	15	102	0	122
Sep	1	0	0	0
	15	0	0	0
Oct	1	0	0	0
	15	0	0	0
Nov	1	95	23	128
	15	95	23	128
Dec	1	92	25	122
	15	92	25	122

Maximum Allocations in the Wenatchee River Basin (cont'd)
(instantaneous cubic feet per second)

Month	Day	ECY 45F070	12-4625.00	ECY 45E070 Mis-
		Peshastin Cr. near Green Bridge	Wenatchee R. at Monitor	sion Cr. near Cashmere
Jan	1	6	132	0.6
	15	6	132	0.6
Feb	1	6	148	1.2
	15	6	148	1.2
Mar	1	7	192	1.4
	15	7	192	1.4
Apr	1	16	360	2.7
	15	16	360	2.7
May	1	38	710	3.1
	15	38	710	3.1
Jun	1	44	813	1.9
	15	44	813	1.9
Jul	1	20	373	0
	15	20	373	0
Aug	1	0	117	0
	15	0	117	0.3
Sep	1	0	72	0

Month	Day	ECY 45F070	12-4625.00	ECY 45E070 Mis-
		Peshastin Cr. near Green Bridge	Wenatchee R. at Monitor	sion Cr. near Cashmere
Oct	1	0	0	0
	15	0	0	0
Nov	1	7	139	0.4
	15	7	139	0.4
Dec	1	7	130	0.4
	15	7	130	0.4

Maximum Allocations in the Wenatchee River Basin (cont'd)
(instantaneous cubic feet per second)

Month	Day	ECY 45J070	12-4565.00
		Nason Cr. near Mouth	Chiwawa R. near Plain
Jan	1	13	12
	15	13	12
Feb	1	12	12
	15	12	0
Mar	1	15	0
	15	15	16
Apr	1	44	58
	15	44	58
May	1	99	139
	15	99	139
Jun	1	114	147
	15	114	147
Jul	1	54	71
	15	54	71
Aug	1	17	24
	15	17	0
Sep	1	0	0
	15	0	0
Oct	1	0	0
	15	0	0
Nov	1	15	16
	15	15	16
Dec	1	15	16
	15	15	16

(2) The designation of a maximum allocation limit does not constitute a determination by the department that a permit to appropriate public waters will be issued. RCW 90.03.290 and 90.44.060 require that a permit can be issued only upon a determination that: Water is available; the use will not impair existing rights; water will be applied to a beneficial use; and the use is not detrimental to the public interest. Establishment of a water right within the limit of the allocation occurs after proper authorization from the department and after the water is first put to beneficial use. The water rights are subject to the instream flows established in WAC 173-545-060, and other provisions established in statutory, administrative and case law.

(3) The department shall require the metering and reporting of all permitted surface and ground water withdrawals for which a maximum allocation applies.

(4) The department will maintain a record of the amount of water appropriated from the Wenatchee River and tributar-

ies specified above. Once the maximum amounts are fully appropriated, the department shall notify Chelan County and the planning unit in writing. The department shall also issue a public notice in a newspaper of general circulation for the region.

NEW SECTION

WAC 173-545-110 Permitting actions. (1) Surface and ground water permits not subject to the instream flows established in WAC 173-545-060 may be issued if:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter; or

(b) The water use qualifies for the reservation established in WAC 173-545-090.

(2)(a) Future applications for surface waters that are not part of the reservation established in WAC 173-545-090 may be approved subject to the instream flows established in WAC 173-545-060 and the maximum water allocation limits established in WAC 173-545-100, unless the source is closed to further appropriation.

(b) Future applications for ground waters that are not part of the reservation established in WAC 173-545-090 may be approved subject to the instream flows established in WAC 173-545-060 and the maximum water allocation limits established in WAC 173-545-100 (except if there is a closure). Based upon existing data and the findings in the watershed plan, the department determines that there is a high likelihood of hydraulic continuity between surface water and ground water sources within both the Wenatchee River management units and tributaries established in WAC 173-545-040. Therefore, water rights without instream flow limitations may be issued for ground water only if the department determines that the withdrawal of ground water with proposed mitigation in place would not adversely affect or impair the instream flows.

(3) No right to withdraw or store the public surface or ground waters of the Wenatchee River basin that conflicts with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices and report the data to the department in accordance with permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

NEW SECTION

WAC 173-545-120 Changes and transfers. No changes to, or transfers of, existing surface and ground water rights in the Wenatchee River basin shall hereafter be granted if they conflict with the purpose of this chapter. Any change or transfer proposal can be approved only if there is a finding that existing rights, including the instream flows established in WAC 173-545-050 and 173-545-060, will not be impaired.

NEW SECTION

WAC 173-545-130 Compliance and enforcement. (1) To obtain compliance with this chapter, the department, with assistance from Chelan County, the planning unit or its successor and partners, shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall first attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(3) To obtain compliance and enforce this chapter, the department may impose such sanctions as appropriate under authorities vested in it, including, but not limited to, issuing regulatory orders under RCW 43.27A.190; and imposing civil penalties under RCW 43.83B.336, 90.03.400, 90.03.-410, 90.03.600, 90.44.120 and 90.44.130.

NEW SECTION

WAC 173-545-140 Appeals. All final written decisions of the department pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter can be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

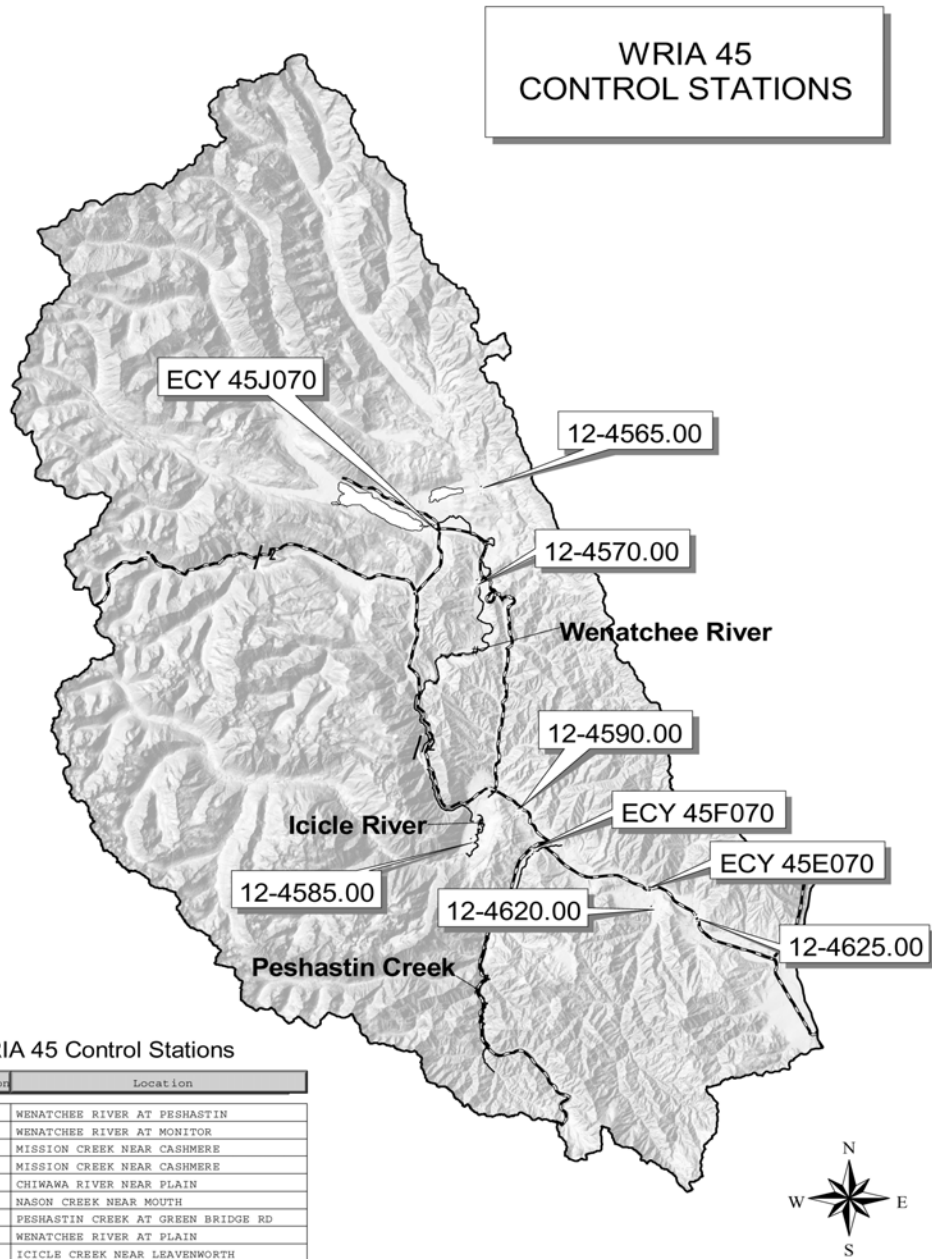
NEW SECTION

WAC 173-545-150 Regulation review. Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, statutory changes are enacted that are determined by the department to require review of the chapter, or if modifications are necessary based on the reviews described in WAC 173-545-080 and 173-545-090. Chelan County, the planning unit, or other interested citizens with standing may request that the department initiate a review at any time. If the department initiates a review, it will consult with Chelan County and the planning unit or its successor. If necessary, the department will modify the appropriate provisions of this chapter by rule.

The reservation will be evaluated by the department and the Wenatchee planning unit prior to 2010, 2015, 2020, and 2025. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

NEW SECTION

WAC 173-545-160 Map. For the purposes of administering this chapter, the boundaries of the Wenatchee River basin identified in the figure below are presumed to accurately reflect the basin hydrology.

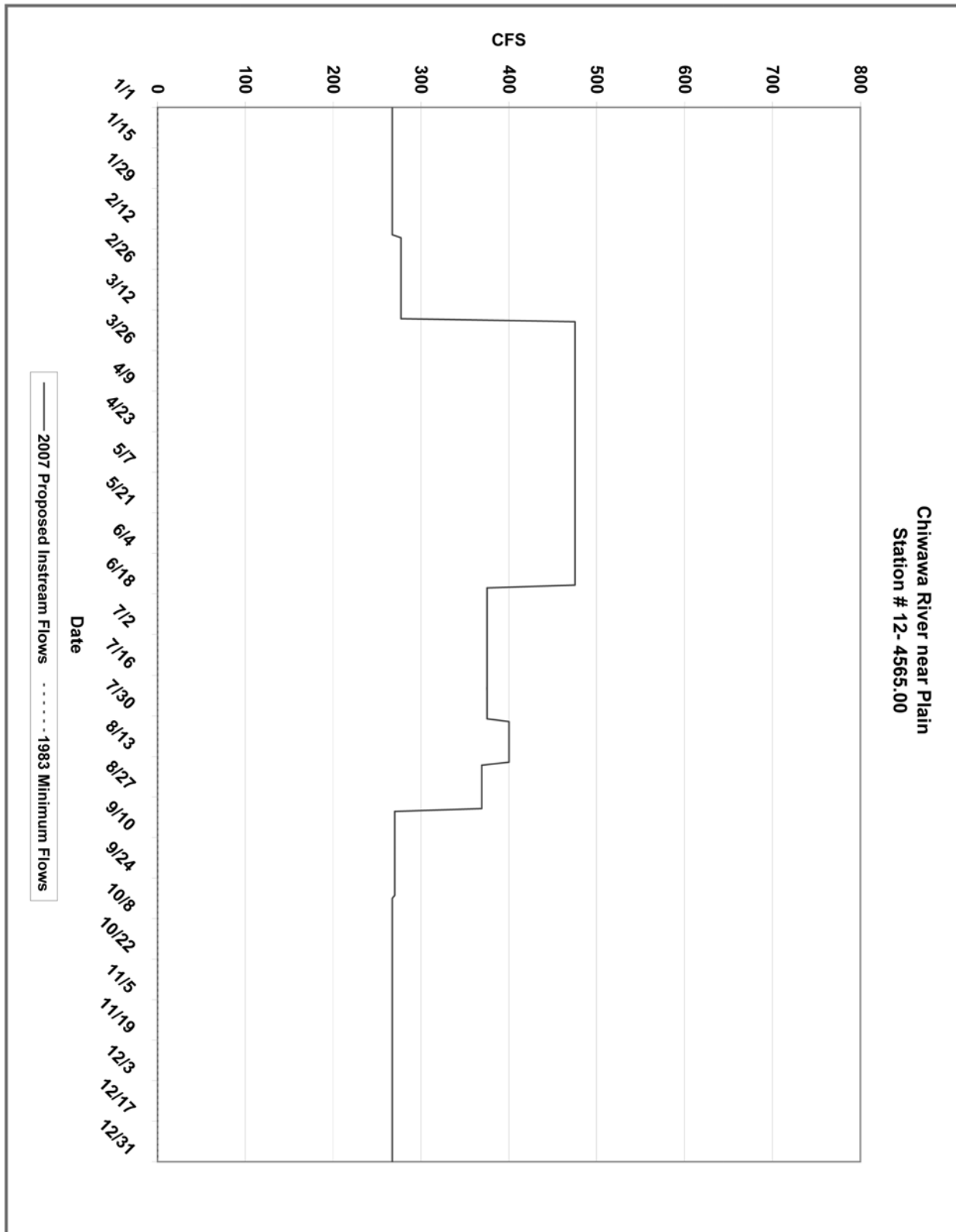


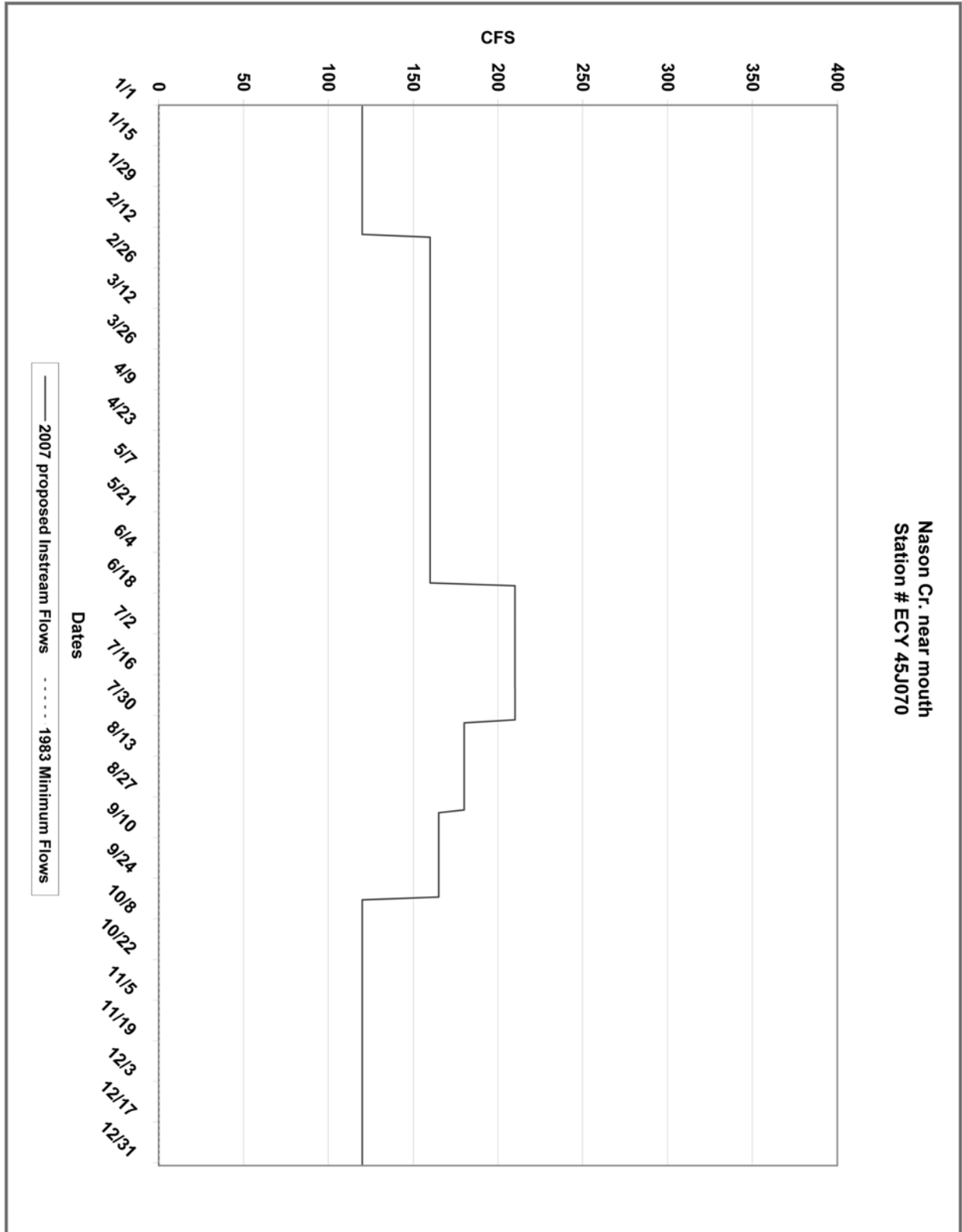
WRIA 45 Control Stations

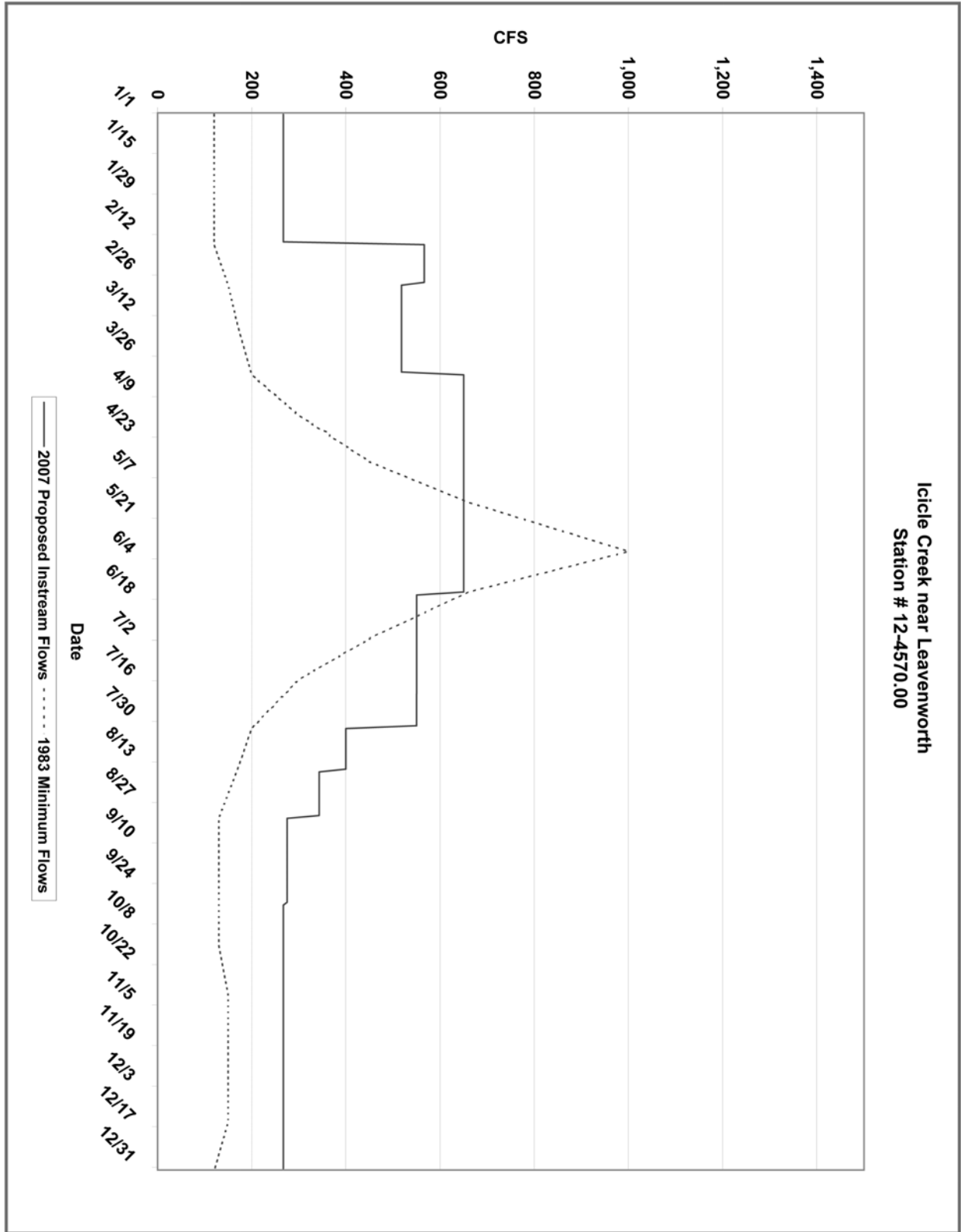
Control Station	Location
12-4590.00	WENATCHEE RIVER AT PESHASTIN
12-4625.00	WENATCHEE RIVER AT MONITOR
12-4620.00	MISSION CREEK NEAR CASHMERE
ECY 45E070	MISSION CREEK NEAR CASHMERE
12-4565.00	CHIWAWA RIVER NEAR PLAIN
ECY 45J070	NASON CREEK NEAR MOUTH
ECY 45F070	PESHASTIN CREEK AT GREEN BRIDGE RD
12-4570.00	WENATCHEE RIVER AT PLAIN
12-4585.00	ICICLE CREEK NEAR LEAVENWORTH

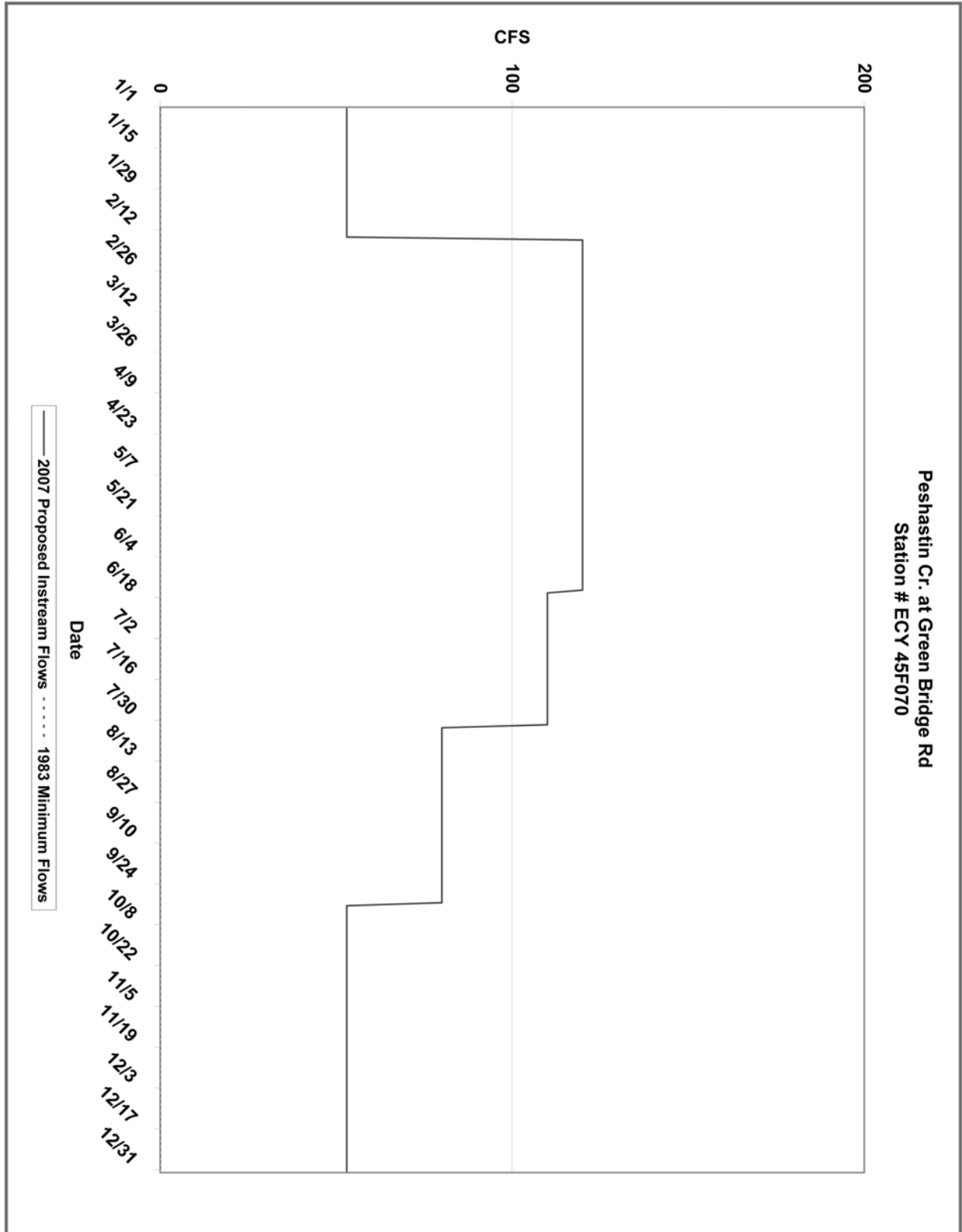
NEW SECTION

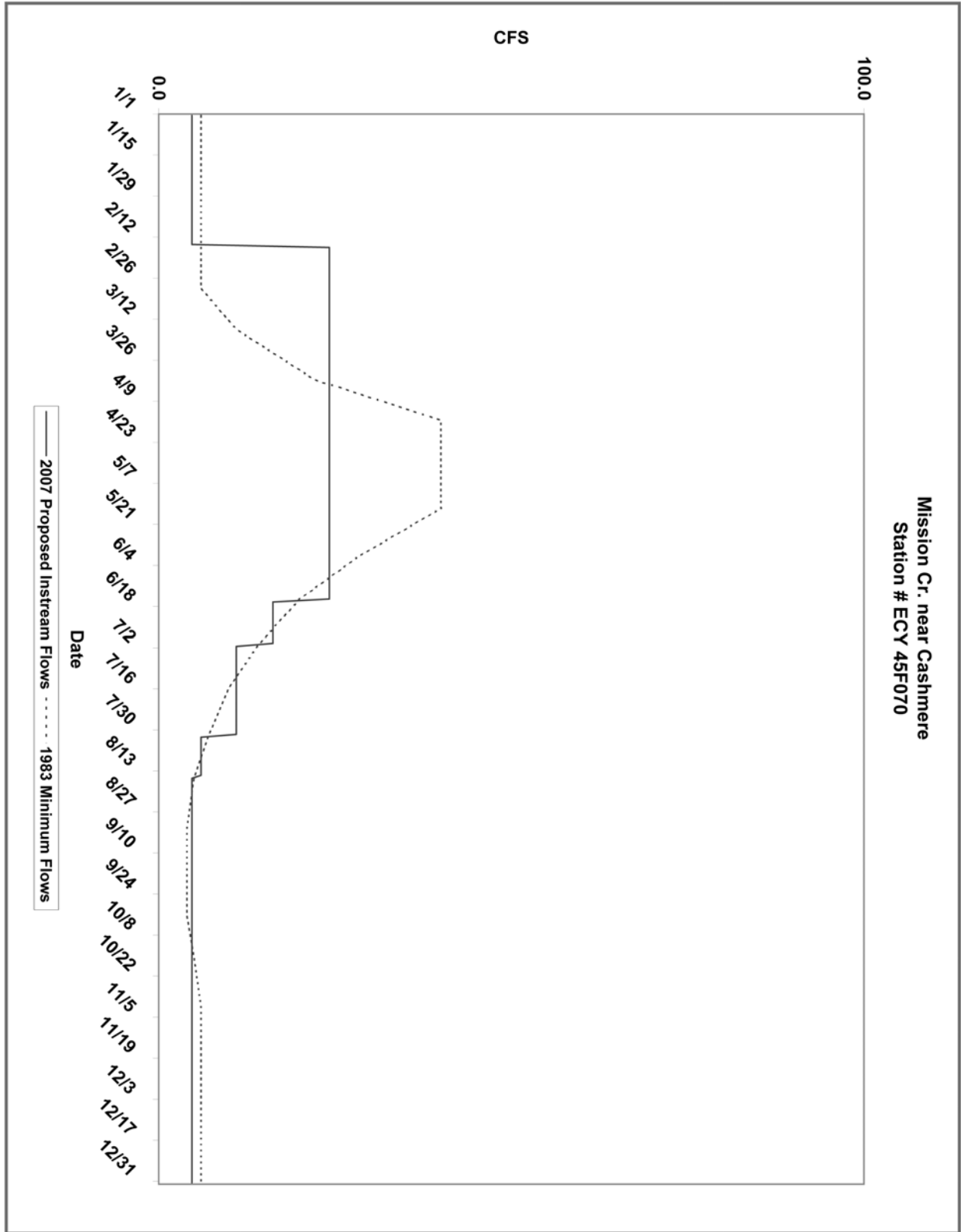
WAC 173-545-170 Appendix 1: Hydrographs.

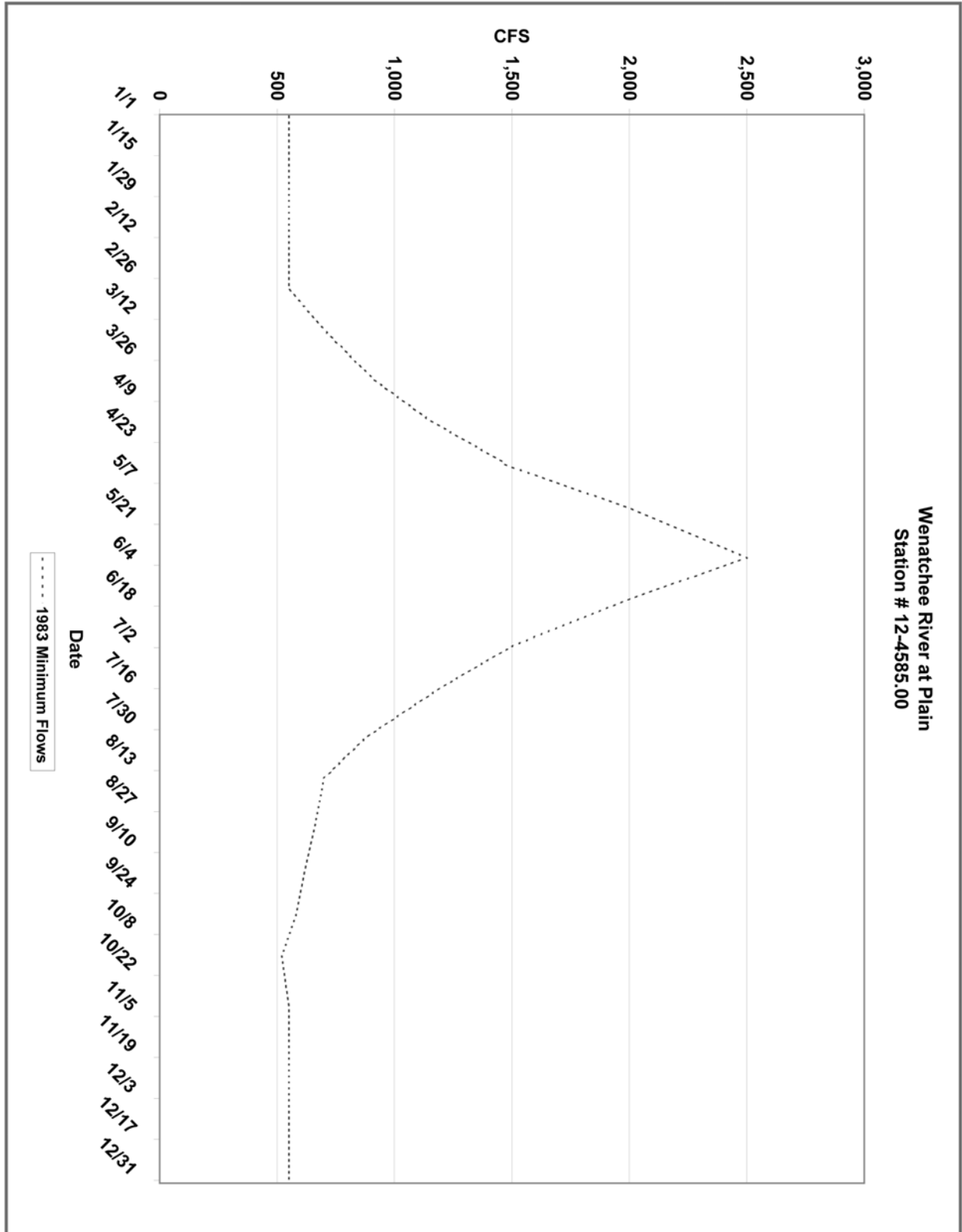


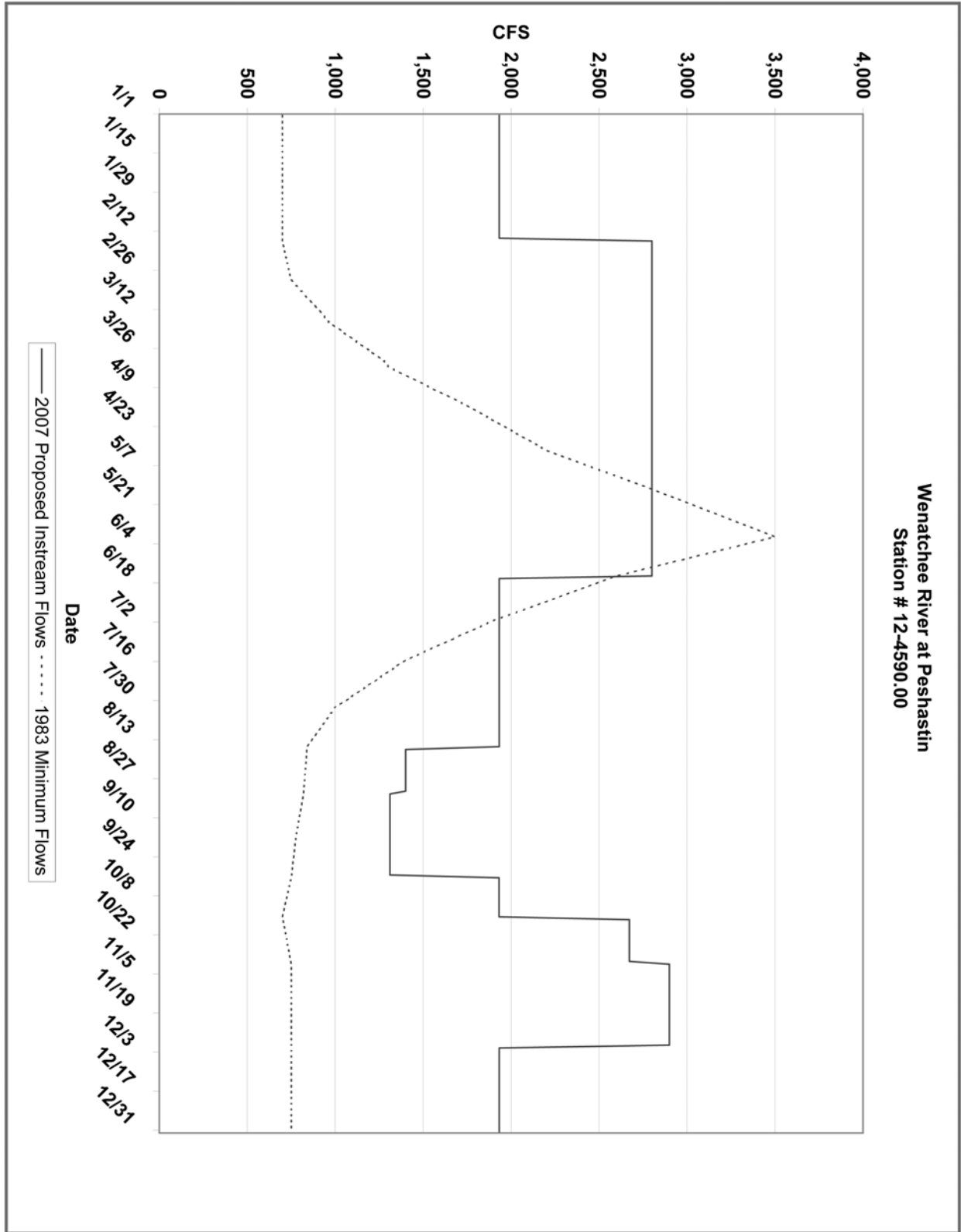


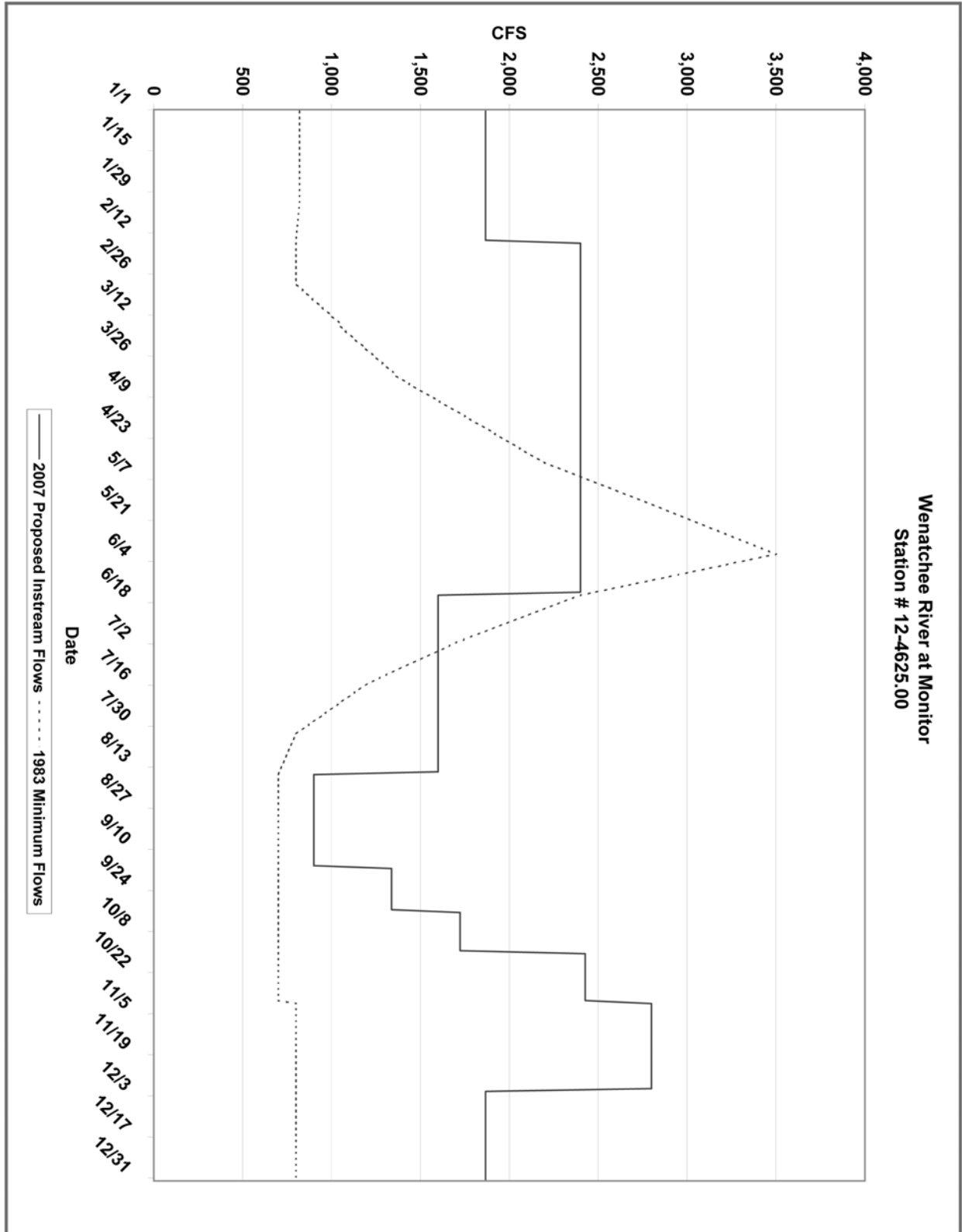












REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-545-095 Appeals.

WSR 08-01-052
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-292—Filed December 13, 2007, 11:18 a.m., effective January 13, 2008]

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

Purpose: Amend WAC 232-12-068 Nontoxic shot requirements, 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits, 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations, 232-28-294 Multiple season big game permits, 232-28-299 Mandatory report of hunting activity, and 232-28-337 Deer and elk area descriptions.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-068, 232-28-282, 232-28-286, 232-28-294, 232-28-299, and 232-28-337.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.020.

Adopted under notice filed as WSR 07-19-099 on September 18, 2007.

Changes Other than Editing from Proposed to Adopted Version: *WAC 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations.*

Changes, if any, from the text of the proposed rule and reasons for difference:

- Change the hunt area for North Skagit from "That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, Longview Fiber, and Blodel Timber companies" to "That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, and Grandy Lake Timber Company." These changes were made because Longview Timber Lands and Blodel Timber companies decided not to participate in the spring bear hunt within the North Skagit hunt area at this time.
- Change the hunt area for Monroe from "That portion of GMU 448 that is designated as the hunt area by DNR, Green Crow, and Longview Fiber" to "That portion of GMU 448 that is designated as the hunt area by DNR and Longview Timber Lands." These changes were made because Green Crow has decided not to participate in the spring bear hunt at this time and the correct name is Longview Timber Lands, not Longview Fiber.
- Change the permit level for Monroe from 30 to 25. This change was made because the landowners and the department reached mutual agreement on 25 permits.

WAC 232-28-299 Mandatory report of hunting activity.

Changes, if any, from the text of the proposed rule and reasons for difference:

Under subsection (3)

- Change the report of hunting activity from "January 31" to "the reporting deadline." This change was made to be consistent with subsection (1)(c).

WAC 232-28-337 Deer and elk area descriptions.

Changes, if any, from the text of the proposed rule and reasons for difference:

Under Elk Area 3911 Fairview

- Substitute a semicolon for the period after Cle Elum Ridge Road. The change is to provide clarification and consistency of WAC language.

Under Elk Area 3912 Old Naches, add the following changes:

- **Elk Area No. 3912 Old Naches (Yakima County):** Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the bighorn sheep feeding site in T15N, R16E, Section 36; south on the feeding site access road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the intersection of the metal footbridge and the elk fence at the south end of the bridge in T14N, R16E, Section 3; ~~((due))~~ south along the elk fence to the top of the cliff/rimrock line; southwest along the top of the cliff/rimrock line to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; south along the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; downstream along the South Fork Ahtanum Creek and Ahtanum Creek to the Yakima River; upstream along the Yakima River to Roza Canal and point of beginning.

These changes clarify the boundary language and make the boundaries more discernable on the ground.

A final cost-benefit analysis is available by contacting Lori Preuss, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail preuslmp@dfw.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2007.

Susan Yeager
for Jerry Gutzwiler, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 06-181, filed 8/2/06, effective 9/2/06)

WAC 232-12-068 Nontoxic shot requirements. It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes the following approved types:

Approved Nontoxic Shot Type*	Percent Composition by Weight
bismuth-tin	97 bismuth, 3 tin
iron (steel)	iron and carbon
iron-tungsten	any proportion of tungsten, ≥ 1 iron
iron-tungsten-nickel	≥ 1 iron, any proportion of tungsten, up to 40 nickel
tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, 0.6 iron; and 60 tungsten, 35.1 copper, 3.9 tin, 1 iron
tungsten-iron-copper-nickel	40-76 tungsten, 37 iron, 9-16 copper, 5-7 nickel
tungsten-matrix	95.9 tungsten, 4.1 polymer
tungsten-polymer	95.5 tungsten, 4.5 nylon 6 or 11
tungsten-tin-iron	any proportions of tungsten and tin, ≥ 1 iron
tungsten-tin-bismuth	any proportions of tungsten, tin, and bismuth
tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, 2.8 nickel
*Coatings of copper, nickel, tin, zinc, zinc chloride, and zinc chrome on approved nontoxic shot types also are approved.	

The director may adopt additional nontoxic shot types consistent with federal regulations.

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot in the following areas:

- Bridgeport Bar segment of the Well's Wildlife Area
- Cowlitz Wildlife Area
- Lake Terrell Wildlife Area (including Tennant Lake and other segments)
- Shillapoo Wildlife Area
- Skagit Wildlife Area (all segments)
- Snoqualmie Wildlife Area (all segments)
- Sunnyside Wildlife Area
- The Driscoll Island, Hegdahl, and Kline Parcel segments of the Sinlahekin Wildlife Area
- Vancouver Lake Wildlife Area

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for game birds or game animals in the following areas:

- Chehalis River pheasant release site
- Dungeness Recreation Area
- Hunter Farms pheasant release site
- Raymond Airport pheasant release site
- Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge
- All Whidbey Island pheasant release sites
- Chinook pheasant release site

AMENDATORY SECTION (Amending Order 06-300, filed 12/14/06, effective 1/14/07)

WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.

BIG GAME AUCTION PERMITS

The director will select a conservation organization(s) to conduct annual auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey auctions shall be conducted consistent with WAC 232-28-292.

SPECIES - ONE WESTSIDE DEER PERMIT

Hunting season dates: September 1 - December 31
Hunt Area: Western Washington EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.
Bag limit: One additional any buck deer

SPECIES - ONE EASTSIDE DEER PERMIT

Hunting season dates: September 1 - December 31, 2008
Hunt Area: Eastern Washington EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.
Bag limit: One additional any buck deer

SPECIES - ONE MULE DEER PERMIT

Hunting season dates: Starting in 2009 September 1 - December 31
Hunt Area: Eastern Washington EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.
Bag limit: One additional any buck mule deer

SPECIES - ONE WHITE-TAILED DEER PERMIT

Hunting season dates: Starting in 2009 September 1 - December 31
Hunt Area: Eastern Washington EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

Weapon: Any legal weapon.
Bag limit: One additional any buck white-tailed deer

SPECIES - ONE WESTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE EASTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Eastern Washington EXCEPT GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE CALIFORNIA BIGHORN SHEEP PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Any open sheep unit with two (2) or more permits during the respective license year, except sheep units in Walla Walla, Columbia, Garfield, Asotin, or Pend Oreille counties are not open.

Weapon: Any legal weapon.

Bag limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Any open moose unit.

Weapon: Any legal weapon.

Bag limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 1 - December 31

Hunt Area: Any open goat unit with two (2) or more permits during the respective license year.

Weapon: Any legal weapon.

Bag limit: One mountain goat of either sex

RAFFLE PERMITS

Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct annual raffles. Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey raffles shall be conducted consistent with WAC 232-28-290.

RAFFLE PERMIT HUNT(S)

WESTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Western Washington EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

EASTSIDE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Eastern Washington EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31, 2008

Weapon: Any legal weapon.

Number of permits: 1

MULE DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck mule deer

Open area: Eastern Washington EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission.

Open season: Starting in 2009 September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

WHITE-TAILED DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck white-tailed deer

Open area: Eastern Washington EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

Open season: Starting in 2009 September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

WESTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31

Weapon: Any legal weapon.

Number of permits: 1

EASTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Eastern Washington EXCEPT GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 1

CALIFORNIA BIGHORN SHEEP RAFFLE PERMIT HUNT

Bag limit: One bighorn ram

Open area: Any open bighorn sheep unit with two (2) or more permits during the respective license year, except sheep units in Walla Walla, Columbia, Garfield, Asotin, or Pend Oreille counties are not open.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 1

MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex

Open area: Any open moose unit.

Open season: September 1 - December 31.

Weapon: Any legal weapon.

Number of permits: 2

MOUNTAIN GOAT RAFFLE PERMIT HUNT

Bag limit: One mountain goat of either sex
 Open area: Any open goat unit with two (2) or more permits during the respective license year.
 Open season: September 1 - December 31.
 Weapon: Any legal weapon.
 Number of permits: 2

TURKEY RAFFLE PERMIT HUNTS

Bag limit: Three (3) additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.
 Open area: Statewide.
 Open season: April 1 - May 31 AND September 1 - December 31.
 Weapon: Archery or shotgun only.
 Number of permits: ((2)) 1

DIRECTOR AUTHORIZED BIG GAME AUCTION OR RAFFLE PERMITS

The director shall determine which method of permit opportunity, auction or raffle, taking into consideration impacts to the wildlife resource, opportunity to the hunting community, other resource management issues, and expected revenue. The director may select a conservation organization(s) to conduct annual auction(s) or raffle(s). Selection of the conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game auctions and raffles shall be conducted consistent with WAC 232-28-292.

ROCKY MOUNTAIN BIGHORN SHEEP AUCTION OR RAFFLE PERMIT

Hunting season dates: September 1 - December 31
 Hunt Area: GMUs 169, 172, 181, 186.
 Weapon: Any legal weapon.
 Bag limit: One bighorn ram

SPECIAL INCENTIVE PERMITS

Hunters will be entered into a drawing for special deer and elk incentive permits for prompt reporting of hunting activity in compliance with WAC 232-28-299.

(a) There will be two (2) any elk special incentive permits for Western Washington.

Open area: Western Washington EXCEPT GMUs 418, 485, 522, and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.
 Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.
 Bag limit: One additional elk.

There will be two (2) any elk special incentive permits for Eastern Washington.

Open area: Eastern Washington EXCEPT GMU 157 and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

(b) There will be five (5) statewide any deer special incentive permits, for use in any area open to general or permit hunting seasons EXCEPT GMUs 157, 418, 485, 522, and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons and any legal weapon at other times if there are no firearm restrictions.

Bag limit: One additional any deer.

Auction, raffle, and special incentive hunt permittee rules

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area or entering the region to hunt outside the general season.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(5) The permit is valid during the hunting season dates for the year issued.

(6) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

(7) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

(8) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.

AMENDATORY SECTION (Amending Order 06-300, filed 12/14/06, effective 1/14/07)

WAC 232-28-286 2007, 2008, and 2009 Spring black bear seasons and regulations.

Who may apply: Anyone with a valid Washington big game license, which includes black bear as a species option.

Hunt areas, permit levels, and season dates for each license year:

Hunt name	Hunt area	Permits	Season dates ^b
Sherman	GMU 101	15	April 15 – May 31
Kelly Hill	GMU 105	10	April 15 – May 31
Douglas	GMU 108	5	April 15 – May 31
Aladdin	GMU 111	10	April 15 – May 31
49 Degrees North	GMU 117	15	April 15 – May 31
Huckleberry	GMU 121	15	April 15 – May 31
Blue Creek	GMU 154	30	April 15 – May 31
Dayton	GMU 162	22	April 15 – May 31
Tucannon	GMU 166	7	April 15 – May 31
Wenaha	GMU 169	45	April 15 – May 31
Mt. View	GMU 172	22	April 15 – May 31
Lick Creek	GMU 175	22	April 15 – May 31
Grande Ronde	GMU 186	7	April 15 – May 31
North Skagit	<u>That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, and Grandy Lake Timber company.</u>	<u>20</u>	<u>April 15 – May 31</u>
Monroe	<u>That portion of GMU 448 that is designated as the hunt area by DNR and Longview Timber Lands.</u>	<u>25</u>	<u>April 15 – May 31</u>
Copalis ^a	That portion of GMU 642 that is designated as the hunt area by Rainier Timber Company.	100	April 15 – June 15
Kapowsin ^a	That portion of GMUs 653 and/or 654 that is designated as the hunt area by Hancock Forest Management	100	April 15 – June 15
Capitol Forest ^a	That portion of Capitol Forest within GMU 663	50	April 15 – June 15
^a Spring black bear hunting seasons under this area constitute a pilot program to reduce black bear damage to trees.			
^b Permits are valid for the license year they are issued.			

Bag limit: One black bear per black bear special permit season.

License required: A valid big game hunting license, which includes black bear as a species option, is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option.

Hunting method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of dogs or bait to hunt black bear is prohibited statewide.

Submitting bear teeth: Successful bear hunters must submit the black bear premolar located behind the canine tooth of the upper jaw.

AMENDATORY SECTION (Amending Order 06-09, filed 1/30/06, effective 3/2/06)

WAC 232-28-294 Multiple season big game permits. The commission may, by rule, offer permits for hunters to hunt deer or elk during more than one general season.

An annual drawing will be conducted by the department for multiple season permits.

(1) Multiple season big game hunting permit applications:

(a) To apply for multiple season big game hunting season permits for deer or elk, applicants must purchase (~~and submit~~) a permit application.

(b) No refunds or exchanges for applications will be made for persons applying for multiple season big game hunting season permits after the drawing has been held.

(c) An applicant may purchase only one application for a multiple season big game hunting season permit for each species.

(d) Permits will be randomly drawn by computer selection.

(e) Incomplete applications will not be accepted.

(f) The department will establish application and drawing dates.

(2) The bag limit for this permit is one deer or elk.

(3) Multiple season permits:

(a) Hunters who are drawn will be required to purchase their original deer or elk license, corresponding to their permit, and the multiple season big game permit.

(b) Successful applicants must purchase their multiple season permit within (~~thirty~~) fifteen days of the drawing notification date. If they have not purchased the multiple season permit by the deadline, the next person drawn will be offered the permit.

(c) The permits are not transferable.

(4) Permit holders are required to follow all rules and restrictions for general season hunters within the game management unit or area hunted.

Number of Permits	Dates	Game Management Units (GMUs)	Legal Animal	Eligible Hunters
Multiple Season Deer Permits				
1500	Sept. 1 - December 31 within established general seasons and regulations for deer by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal buck consistent with the game management unit or area restrictions	<u>Any licensed deer hunter</u>
<u>50</u>	<u>Sept. 1 - December 31 within established general seasons and regulations for deer by the commission</u>	<u>Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters</u>	<u>Any legal buck consistent with the game management unit or area restrictions</u>	<u>Hunter education instructors, meeting qualifications and selection criteria established by the department</u>
Multiple Season Elk Permits				
500	Sept. 1 - December 31 within established general seasons and regulations for elk by the commission	Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters	Any legal bull consistent with the game management unit or area restrictions	<u>Any licensed elk hunter</u>
<u>25</u>	<u>Sept. 1 - December 31 within established general seasons and regulations for elk by the commission</u>	<u>Statewide in those GMUs with general seasons for archery, muzzleloader, or modern firearm hunters</u>	<u>Any legal bull consistent with the game management unit or area restrictions</u>	<u>Hunter education instructors, meeting qualifications and selection criteria established by the department</u>

AMENDATORY SECTION (Amending Order 05-174, filed 8/15/05, effective 9/15/05)

WAC 232-28-299 Mandatory report of hunting activity. (1) All hunters purchasing a hunting license must report their hunting activity for deer, elk, bear, or turkey.

(a) Hunters must report hunting activity, for each tag acquired, by January 31 or within 10 days after the close of an eligible hunt, whichever date is later.

(b) Reports must be made using the department's designated automated telephone hunter reporting system (toll free) or internet hunter reporting system.

(c) Any hunter not reporting, for each tag acquired, by ~~(January 31)~~ the reporting deadline will be in noncompliance of reporting requirements.

(d) Compliance will be credited for each species for which a transport tag is acquired.

(2) As an incentive for prompt reporting, all successful hunters who report harvest within 10 days of killing an animal and unsuccessful hunters who report by midnight January 10 or within 10 days after the last day of their permit hunt will be entered into a drawing for special deer and elk incentive permits. To be eligible for the drawing, hunters must report their hunting activity for each transport tag acquired.

(3) Hunters who have not reported hunting activity by ~~(January 31)~~ the reporting deadline for deer, elk, bear, or turkey tags acquired the previous year will be required to pay a \$10 penalty before a new license that includes deer, elk, bear, or turkey tags will be issued. A hunter may only be penalized a maximum of \$10 during a license year.

AMENDATORY SECTION (Amending Order 06-300, filed 12/14/06, effective 1/14/07)

WAC 232-28-337 Deer and elk area descriptions.

ELK AREAS

Elk Area No. 1008 West Wenaha (Columbia County): That part of GMU 169 west of USFS trail 3112 (East Butte Creek Trail) and Butte Creek.

Elk Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties): That part of GMU 169 east of USFS trail 3112 (East Butte Creek Trail) and Butte Creek.

Elk Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1011 (Columbia County): That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

Elk Area No. 1012 (Columbia County): That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1013 (Asotin County): GMU 172, excluding National Forest lands.

Elk Area No. 1014 (Columbia-Garfield counties): That part of GMU 166 Tucannon west of the Tucannon River and USFS Trail No. 3110 (Jelly Spr.-Diamond Pk. Trail).

Elk Area No. 1015 Turnbull (Spokane County): Located in GMU 130, designated areas within the boundaries of Turnbull National Wildlife Refuge.

Elk Area No. 2032 Malaga (Kittitas and Chelan counties): Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

Elk Area No. 2033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); west on USFS 7101 Road to Mission Creek Road; north on Mission Creek Road to USFS 7104 Road (Sand Creek Road); west on USFS 7104 Road (Sand Creek Road) to Camas Creek; west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; north along USFS 7200 Road to U.S. Highway 97; north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); north on the USFS 7300 Road to the Wenatchee River at Leavenworth; down the Wenatchee River and Columbia River to the point of beginning.

Elk Area No. 2051 Tronsen (Chelan County): All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingersol Road (WDFW Rd 1); north and east on Ingersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to Naneum Ridge Road; west on Naneum Ridge Road to Ingersol Road and the point of beginning.

Elk Area No. 3068 Klickitat Meadows (Yakima County): Beginning at Darland Mountain, southeast along the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to the point due west of the headwaters of Reservation Creek (Section 18, T12N, R14E); then along a line due west to Spencer Point (as represented in the DNR 100k map); northeast from Spencer Point to US Forest Service (USFS) Trail 1136; north along USFS Trail 1136 to USFS Trail 615; east on USFS Trail 615 to Darland Mountain and the point of beginning.

Elk Area No. 3721 Corral Canyon (Benton and Yakima counties): That part of GMU 372 beginning at the Yakima River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the Hanford Reach National Monument's (HRNM) southwest corner boundary; east and south along the HRNM boundary to SR 225; south on SR 225 to the Yakima River Bridge in Benton City; west (upstream) along Yakima River to point of beginning (SR 241 Bridge).

Elk Area No. 3722 Blackrock (Benton and Yakima counties): That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids Dam; east along Columbia River to the Hanford Reach National Monument's (HRNM) western boundary; south along the HRNM boundary to the Rattlesnake Ridge Road; west on Rattlesnake Ridge Road to SR 241; south on SR 241 to the Yakima River Bridge just north of Mabton; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

Elk Area No. 3911 Fairview (Kittitas County): Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and Interstate 90; east along the power lines to Highway 903 (Salmon La Sac Road); northwest along Highway 903 to ~~((USFS Road 4305 (Bear Creek Road); east on USFS Road 4305 to Corral Creek, east along Corral Creek))~~ Pennsylvania Avenue; northeast along Pennsylvania Avenue to No. 6 Canyon Road; northeast along No. 6 Canyon Road to Cle Elum Ridge Road; north along Cle Elum Ridge Road to Carlson Canyon Road; northeast along Carlson Canyon Road to West Fork Teanaway River; east along West Fork Teanaway River to North Fork Teanaway River; north along North Fork Teanaway River to Teanaway Road; southeast on Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; northeast on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to Parke Creek; north on Parke Creek to Whiskey Jim Creek; east on Whiskey

Jim Creek to Beacon Ridge Road; south on Beacon Ridge Road to the Vantage Highway; east along the Vantage Highway to I-90; west along I-90 to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umtanum Road; north on Umtanum Road to South Branch Canal; west on South Branch Canal to Bradshaw Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to the Cabin Creek Road; east and north on Cabin Creek Road to Easton and I-90; east on I-90 to point of beginning.

Elk Area No. 3912 Old Naches (Yakima County): Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the big-horn sheep feeding site in T15N, R16E, Section 36; south on the feeding site access road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the intersection of the metal footbridge and the elk fence at the south end of the bridge in T14N, R16E, Section 3; ~~((due))~~ south ~~((from the start of))~~ along the elk fence to the top of the cliff/rimrock line; southwest along the top of the cliff/rimrock line to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; south along the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; downstream along the South Fork Ahtanum Creek ~~((to))~~ and Ahtanum Creek to the Yakima River; ~~((up))~~ upstream along the Yakima River to Roza Canal and point of beginning.

Elk Area No. 3944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); north to USFS Road 1712; east on USFS Road 1712 (Clemen Ridge Road) to the east edge of Waterworks Canyon; south along the east edge of Waterworks Canyon to the elk fence ~~((gate (T15N; R17E; Section 23 NE 1/4) at the top of Austin Spur Road))~~; ~~((south and))~~ west along the elk fence to Highway 410 to the point of beginning.

Elk Area No. 4041 Grandy Creek (Skagit County): Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road; west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

Elk Area No. 4941 Skagit River (Skagit County): That portion of GMU 437 beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to ((Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to)) Cape Horn Road NE; south down Cape Horn Road NE to the power line crossing which passes over the Skagit River; east on the power line to the Skagit River; south and west down the Skagit River to Pressentine Creek; south up Pressentine Creek to the South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

Elk Area No. 5029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

Elk Area No. 5049 Ethel (Lewis County): That part of GMU 505 beginning at the intersection of Jackson Highway and Highway 12; south along Jackson Highway to Buckley Road; south on Buckley Road to Spencer Road; east on Spencer Road to Fuller Road; north on Fuller Road to Highway 12; east on Highway 12 to Stowell Road; north on Stowell Road to Gore Road; west on Gore Road to Larmon Road; west on Larmon Road to Highway 12; west on Highway 12 to Jackson Highway and point of beginning.

Elk Area No. 5050 Newaukum (Lewis County): That part of GMU 505 beginning at the intersection of Interstate 5 and Highway 12; east on Highway 12 to Larmon Road; east on Larmon Road to Leonard Road; north on Leonard Road through the town of Onalaska to Degler Road; north on Degler Road to Middle Fork Road; east on Middle Fork Road to Beck Road; north on Beck Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Logan Hill Road; south then west on Logan Hill Road to Jackson Highway; south on Jackson Highway to the Newaukum River; west along the Newaukum River to Interstate 5; south on Interstate 5 to Highway 12 and point of beginning.

Elk Area No. 5051 Green Mountain (Cowlitz County): Beginning at the junction of the Cowlitz River and the Toutle River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser

4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

Elk Area No. 5052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5054 Boistfort (Lewis County): Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

Elk Area No. 5056 Grays River Valley (Wahkiakum County): On or within 3/4 mile of agricultural land in the Grays River Valley within the following sections: T10N, R7W, Sections 8, 9, 17, 18 and T10N, R8W, Sections 13, 23, 24, 26.

Elk Area No. 5057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 5058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 5060 Merwin (Cowlitz County): Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

Elk Area No. 5061 Wildwood (Lewis County): Beginning at the junction of the Pacific West Timber (PWT) 600 Road and the Wildwood Road (SE1/4 S29 T11N R3W); southwest on the 600 Road to the 800 Road (NW1/4 S36 T11N R4W); southwest on the 800 Road to the 850 Road (SW1/4 S3 T10N R4W); northwest on the 850 Road to the Weyerhaeuser 4720 Road (S20 T11N R4W); north on the Weyerhaeuser 4720 Road to the Weyerhaeuser 4700 Road (S17 T11N R4W); east on the Weyerhaeuser 4700 Road to the Weyerhaeuser 5822 Road (NW1/4 S16 T11N R4W); east on the Weyerhaeuser 5822 Road to the Weyerhaeuser 5820 Road (NW1/4 S10 T11N R4W); southeast on the Weyerhaeuser 5820 Road to the PWT 574 Road (SE1/4 S10 T11N R4W); south on the PWT 574 Road to the 570 Road (NW1/4 S14 T11N R4W); south on the 570 Road to the 500 Road (NW1/4 S14 T11N R4W); northeast on the 500 Road to the 560 Road (SW1/4 S12 T11N R4W); east on the 560 Road to the 540 Road (SE1/4 S12 T11N R4W); east and south on the 540 Road to the 500 Road (SE1/4 S18 T11N R3W); east on the PWT 500 Road to the Wildwood Road (N1/2 S20 T11N R3W); south on the Wildwood Road to the point of beginning, the PWT 600 Road junction (SE1/4 S29 T11N R3W).

Elk Area No. 5062 Trout Lake (Klickitat County): Those portions of GMUs 560 (Lewis River) and 578 (West Klickitat) beginning at the intersection of SR 141 and Sunnyside Road; north on Sunnyside Road to Mount Adams Recreational Area Road; north on Mount Adams Recreational Area Road to USFS Road 23; north on USFS Road 23 to DNR T-4300 Road; west on DNR T-4300 Road to Trout Lake Creek Road; south on Trout Lake Creek Road to SR 141; east and south on SR 141 to the intersection of SR 141 and Sunnyside Road to the point of beginning.

Elk Area No. 5063 Pumice Plain (Cowlitz and Skamania counties): That part of GMU 522 beginning at the confluence of the N. Fork Toutle River and Castle Creek; East along the N. Fork Toutle River to USFS trail 207; south along USFS trail 207 to USFS trail 216E; southwest along USFS trail 216E to USFS trail 216; west along USGS trail 216 to USGS 216G; northwest along USFS trail 216G to USGS trail 221; north along USFS 221 to Castle Creek; northwest along Castle Creek to N. Fork Toutle River and point of beginning.

Elk Area No. 5064 Upper Smith Creek (Skamania County): That part of GMU 522 beginning at the U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 (Smith Creek Trail) junction; south on Trail 225 to Ape Canyon Creek; south and west up Ape Canyon Creek to U.S. Forest Service Trail 216 (Loowit Trail); north on Trail 216 to U.S. Forest Service Trail 216D (Abraham Trail); north on Trail 216D to U.S. Forest Service Trail 207 (Truman Trail); north and east on Trail 207 to U.S. Forest Service Rd. 99; north and east on U.S. Forest Service Rd. 99 to the junction of U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 and the point of beginning.

Elk Area No. 5065 Mount Whittier (Skamania County): That part of GMU 522 beginning at the U.S. Forest Service Trail 1 (Boundary Trail) and U.S. Forest Service Trail 214 (Whittier Ridge Trail) junction; west on the U.S. Forest Service Trail 1 to U.S. Forest Service Trail 230 (Coldwater Trail); north on U.S. Forest Service Trail 230 to U.S. Forest Service Trail 211 (Lakes Trail); east on Trail 211 to U.S. Forest Service Trail 214; south on U.S. Forest Service Trail 214 to the junction of U.S. Forest Service Trail 214 and U.S. Forest Service Trail 1 and the point of beginning.

Elk Area No. 5090 JBH (Wahkiakum County): The mainland portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

Elk Area No. 5099 Mudflow (Cowlitz County): That part of GMU 522 (Loo-wit) that is within the boundary of the St. Helens Wildlife Area.

Elk Area No. 6010 Mallis (Pacific County): That part of GMUs 506, 672, and 673 within one mile either side of State Road 6 between the east end of Elk Prairie Road and the Mallis Landing Road.

Elk Area No. 6011 Centralia Mine (Lewis County): That portion of GMU 667 within Centralia Mine property boundary.

Elk Area No. 6012 Tri Valley (Grays Harbor and Mason counties): Those portions of GMUs 648 (Wynoochee) and 651 (Satsop) within one mile of Brady-Matlock Road from State Highway 12 north to the junction with Schaefer State Park Road (east Satsop Road) and all lands within one mile of Wynoochee Valley Road from State Highway 12 north to the junction with Cougar Smith Road, and all lands within one mile of Wishkah Valley Road from north Aberdeen city limit to the junction with Wishkah-East Hoquiam Road and all lands within 2 miles north of SR 12 between the Satsop River and Schouweiler and Hurd roads and then a line north from the end of Hurd Road to a point 2 miles north of SR 12.

Elk Area No. 6054 Puyallup River (Pierce County): Beginning at the intersection of the Mount Rainier National Park western boundary and the Nisqually River, west down Nisqually River to mouth of Mashel River; north up Mashel

River to SR 161 bridge (Eatonville-LaGrande Rd); north on SR 161 through Eatonville to Orville Rd E (Kapowsin-Eatonville Rd); north on Orville Rd E to Hancock's Kapowsin Tree Farm ownership boundary at the north end of Ohop Lake (Kapowsin and Buckley Tree Farms map); east along Kapowsin Tree Farm boundary to Mount Rainier National Park boundary; south long Mount Rainier National Park boundary to Nisqually River and point of beginning.

Elk Area No. 6061 Twin Satsop Farms (Mason County): That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

Elk Area No. 6062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

Elk Area No. 6063 (Grays Harbor and Jefferson counties): Private lands within Elk Area 6064 east of Highway 101.

Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) within the Quinault River watershed.

Elk Area No. 6066 Chehalis Valley (Grays Harbor County): That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

Elk Area No. 6067 North Minot (Grays Harbor County): The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank to South State Street (Oakville); north on South State Street to U.S. 12; northwest and west on U.S. 12 to State Route 107; south and

southwest on SR 107 to the Melbourne A-line and the point of beginning.

Elk Area No. 6068 Willapa (Grays Harbor County): That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

Elk Area No. 6069 Hanaford (Lewis and Thurston counties): That part of GMU 667 (Skookumchuck) beginning at the intersection of Salzer Valley Road and Centralia-Alpha Road; east and north on Salzer Valley Road to Little Hanaford Road; west on Little Hanaford Road to Teitzel Road; north on Teitzel Road to Big Hanaford Road; west on Big Hanaford Road to State Route 507; north on State Route 507 to Skookumchuck Road; east on Skookumchuck Road to the first bridge over the Skookumchuck River; east along the Skookumchuck River to the Skookumchuck Road bridge; east on Skookumchuck Road to the steel tower power line; southwest along the power line to Big Hanaford Road; east and south along Big Hanaford Road to Weyerhaeuser Road E150; east on Weyerhaeuser Road E150 to Weyerhaeuser Road E247; south and west on Weyerhaeuser Road E247 to Weyerhaeuser Road E240; south on Weyerhaeuser Road E240 to North Fork Road; south on North Fork Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Salzer Valley Road and the point of beginning.

Elk Area No. 6071 Dungeness (Clallam County): Portions of GMUs 621 (Olympic) and 624 (Coyle) beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan De Fuca to the mouth of Jimmycome-lately Creek on Sequim Bay; south and west up Jimmycome-lately Creek to Don Schmith Road; north on Don Schmith Road to Palo Alto Road; west and southwest on Palo Alto Road to US Forest Service Road 2880; southwest on US Forest Service Road 2880 to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

Elk Area No. 6072 Sol Duc Valley (Clallam County): That portion of GMU 607 (Sol Duc) between the Sol Duc River and Hwy 101 from a point at the Sol Duc River bridge over Hwy 101 approximately 2 miles north of Forks to the westernmost Sol Duc River bridge over Hwy 101 at a point approximately 1 mile east of Lake Pleasant.

Elk Area No. 6073 Clearwater Valley (Jefferson County): That portion of GMU 615 (Clearwater) within one mile of the Clearwater Road from the Quinault Indian Reservation boundary to a point 4 miles to the north.

DEER AREAS

Deer Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Deer Area No. 1020 Prescott (Columbia and Garfield counties): That portion of GMU 149 between Hwy 261 and Hwy 127.

Deer Area No. 1021 Clarkston (Asotin County): That portion of GMU 178 beginning at the junction of the Highway 12 bridge and Alpowa Creek; east on Highway 12 to Silcott Road; south and east on Silcott Road to Highway 128; southwest on Highway 128 to McGuire Gulch Road; southeast along the bottom of McGuire Gulch to Asotin Creek; east on Asotin Creek to the Snake River; north and west on the Snake River to Alpowa Creek; southwest of Alpowa Creek to the Highway 12 bridge and the point of beginning.

Deer Area No. 1030 Flat Creek (Stevens County): That portion of GMU 105, beginning at the junction of Northport-Flat Creek Rd (Co. 4005) and Bull Hill Rd; north on Bull Hill Rd to USFS Rd 240; north on USFS Rd 240 to USFS Rd 230 (Belshazzar Mtn Rd); east and north on USFS Rd 230 to East Boundary of Colville National Forest at Section 24; north on Forest Boundary to Sheep Creek Rd (USFS 15, Co. 4220); west on Sheep Creek Rd to USFS Rd 170 at Kiel Springs; south on USFS Rd 170 to Lael-Flat Creek Rd (USFS 1520); south on Lael-Flat Creek Rd (USFS 1520, Co. 4181) to Northport-Flat Creek Rd; north on Northport-Flat Creek Rd to Bull Hill Rd junction and point of beginning.

Deer Area No. 1040 Summit Lake (Stevens County): That portion of GMU 105, beginning at the intersection of Sand Creek Rd (Co. 4017) and the Kettle River at the Rock Cut Bridge; north and east on Sand Cr Rd to Lael-Flat Cr Rd (Co. 4181, USFS Churchill Mine Rd, 1520); east on Lael-Flat Cr Rd (Churchill Mine Rd) to intersection with USFS Rd 15 near Fisher Cr; north and east on USFS Rd 15 to USFS Rd 180; north and west on USFS Rd 180 and continue west on Box Canyon-Deep Creek Rd (USFS Rd 030, Co. 4212) to the intersection of Box Canyon-Deep Creek Rd and the Kettle River; south on the Kettle River to the intersection of Sand Creek Rd and the Kettle River at the Rock Cut Bridge and the point of beginning.

Deer Area No. 2010 Benge (Adams County): That part of GMU 284 beginning at the town of Washtucna; north on SR 261 to Weber Road; east on Weber Road to Bengel Road; north on Bengel Road to Wellsandt Road; east on Wellsandt Road to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to Rock Creek; south along Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Washtucna and the point of beginning.

Deer Area No. 2011 Lakeview (Grant County): That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Davis Canyon Road; north on Davis Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

Deer Area No. 2012 Methow Valley (Okanogan County): All private land in the Methow Watershed located outside the external boundary of the Okanogan National Forest and north

of the following boundary: starting where the Libby Creek Road (County road 1049) intersects the Okanogan National Forest boundary; ((west) east on road 1049 to State Hwy 153; north on Hwy 153 to the Old Carlton Road; east on the Old Carlton Road to the Texas Creek Road (County road 1543); east on the Texas Creek Road to the Vintin Road (County road 1552); northeast on the Vintin Road to the Okanogan National Forest boundary.

Deer Area No. 3071 Whitcomb (Benton County): That part of GMU 373 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3072 Paterson (Benton County): That part of GMU 373 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 4004 (San Juan County): That part of GMU 410 made up of Shaw Island.

Deer Area No. 4005 (San Juan County): That part of GMU 410 made up of Lopez Island.

Deer Area No. 4006 (San Juan County): That part of GMU 410 made up of Orcas Island.

Deer Area No. 4007 (San Juan County): That part of GMU 410 made up of Decatur Island.

Deer Area No. 4008 (San Juan County): That part of GMU 410 made up of Blakely Island.

Deer Area No. 4009 (Skagit County): That part of GMU 410 made up of Cypress Island.

Deer Area No. 4010 (San Juan County): That part of GMU 410 made up of San Juan Island.

Deer Area No. 4011 (Island County): That part of GMU 410 made up of Camano Island.

Deer Area No. 4012 (Island County): That part of GMU 410 made up of Whidbey Island.

Deer Area No. 4013 (King County): That part of GMU 454 made up of Vashon and Maury islands.

Deer Area No. 6014 (Pierce County): That part of GMU 652 made up of Anderson Island.

Deer Area No. 4926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Deer Area No. 3088 High Prairie (Klickitat County): That portion of GMU 388 (Grayback) that is south of SR 142.

WSR 08-01-053

PERMANENT RULES

HORSE RACING COMMISSION

[Filed December 13, 2007, 1:49 p.m., effective January 13, 2008]

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

Purpose: To amend WAC 260-44-150 to prohibit the use of toe grabs with a height greater than four millimeters to

be worn on the front shoes of any thoroughbred horse while racing or training.

Citation of Existing Rules Affected by this Order: Amending WAC 260-44-150.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 07-21-099 on October 19, 2007.

Changes Other than Editing from Proposed to Adopted Version: Rather than prohibiting the use of toe grabs on "all" horses (proposed version), the adopted version only prohibits the use of toe grabs on thoroughbred horses.

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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 13, 2007.

R. J. Lopez
Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-07-035, filed 3/12/07, effective 4/12/07)

WAC 260-44-150 Horseshoes. (1) A horse starting in a race must be fully shod with racing plates.

(2) During off-track conditions the trainer is required to report any additional traction devices to the board of stewards or designee.

(3) For turf racing, horses must be shod with racing plates approved by the association.

(4) Toe grabs with a height greater than four millimeters, worn on the front shoes of thoroughbred horses while racing or training on any surface or conditions are prohibited.

WSR 08-01-054

PERMANENT RULES

HORSE RACING COMMISSION

[Filed December 13, 2007, 1:50 p.m., effective January 13, 2008]

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

Purpose: To amend WAC 260-20-160 to require all racing associations to have a properly equipped medical aid vehicle staffed with two emergency medical technicians during racing and to require Class A and B racing association to have a first aid room with at least two beds and other appropriate equipment.

Citation of Existing Rules Affected by this Order:
Amending WAC 260-20-160.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 07-21-074 on October 15, 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 13, 2007.

R. J. Lopez
Deputy Secretary

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

WAC 260-20-160 (~~(Ambulances-)~~) Medical aid.
~~((Racing associations shall furnish and maintain both a man ambulance and a horse ambulance each day that their tracks may be opened for racing or exercising horses, equipped and ready for immediate duty.))~~ (1) Racing associations must provide a vehicle properly equipped and staffed with two emergency medical technicians, one hour before post time until the last race is official, each day the track is open for racing.

(2) Class A or B racing associations must also provide a first-aid room equipped with at least two beds and other appropriate equipment.

WSR 08-01-058

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed December 14, 2007, 9:34 a.m., effective January 14, 2008]

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

Purpose: To revise monetary reporting thresholds for mini reporting and amend the criteria used when changing from the mini to full reporting option.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-105, 390-16-111, and 390-16-125.

Statutory Authority for Adoption: RCW 42.17.370 (1) and (8).

Adopted under notice filed as WSR 07-22-040 on October 30, 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 3, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: December 6, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 05-11-001, filed 5/4/05, effective 6/4/05)

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person other than the candidate within such aggregate exceed ~~((three))~~ five hundred dollars. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person exceed ~~((three))~~ five hundred dollars.

(3) A continuing political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures during a calendar year exceed ~~((three))~~ five thousand ~~((five hundred))~~ dollars and no contribution or contributions from any person exceed ~~((three))~~ five hundred dollars.

(4) Candidates and political committees are required to comply with all applicable provisions of chapter 42.17 RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

AMENDATORY SECTION (Amending WSR 01-10-051, filed 4/26/01, effective 6/1/01)

WAC 390-16-111 Mini campaign reporting—Special fund raising events. The term "any person" as used in WAC 390-16-105 does not mean a fund-raising activity conducted pursuant to RCW 42.17.067. Candidates and committees using mini reporting as provided in chapter 390-16 WAC shall not be limited to receiving (~~three~~) five hundred dollars from a fund-raising event provided that the payments from any person do not exceed (~~three~~) five hundred dollars from all fund raising conducted during a campaign or calendar year as provided in WAC 390-16-105.

AMENDATORY SECTION (Amending WSR 05-11-001, filed 5/4/05, effective 6/4/05)

WAC 390-16-125 Mini campaign reporting—Exceeding limitations. (1) A candidate or political committee shall apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17.065 - 42.17.090;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17.090 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the commission for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are postmarked or delivered to the commission.

(3) If a complete application is postmarked or delivered to the commission on or before thirty business days prior to the date of the election, the application shall be approved by the executive director.

(4) If a complete application is postmarked or delivered to the commission on or after twenty-nine business days prior

to the election, the application shall be approved by the executive director only if one or more of the following factors are present:

(a) The applicant's campaign had its respective C1 or C1pc on file with the commission forty-one or more days before the election and the commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the thirtieth business day deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least forty business days before the election to the campaign's electronic mail address or postal service mailing address specified on the registration statement;

(b) The applicant is a candidate and, within thirty business days of the election, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

(c) Within thirty business days of the election, an independent expenditure as defined in RCW 42.17.020 is made in support of the applicant's opponent or in opposition to the applicant; or

(d) When a candidate or political committee on one side of an election campaign or proposition has been approved to change reporting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent postmarks or delivers a complete application to the commission.

(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17 RCW or 390-17 WAC.

WSR 08-01-059

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed December 14, 2007, 9:35 a.m., effective January 14, 2008]

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

Purpose: To amend existing form to implement the requirements of RCW 42.17.093 (1)(g) by adjusting the dollar amount for inflation.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-050.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 07-22-043 on October 30, 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 1, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 6, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 06-18-035, filed 8/28/06, effective 9/28/06)

WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees. The official form for the report required by RCW 42.17.093 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 is designated "C-5," revised ((8/06)) 1/08. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

((STRICKEN GRAPHIC))



Form C5 8/06	This space for office use P O S T R E C E I V E D
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OUT OF STATE COMMITTEE CONTRIBUTIONS TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee:	
Name and address	Title

5. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political Party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot Number	For or Against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here if continued

8. Total contributions and expenditures (Add parts 5, 6, 7)

((STRICKEN GRAPHIC))

((STRICKEN GRAPHIC _____))

9. Contributions received from Washington residents: List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and address	Date	Amount

Check here if continued on an attached sheet

10. Contributions received from persons residing outside of Washington: List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,500 in the aggregate to this out-of-state committee during the current calendar year.

Contributor's name, Address, City, State, Zip	Employer's Name, City and State	Date	Amount

Check here if continued on an attached sheet

11. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

12. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____	Name – Typed or Printed _____
Title _____	Daytime Telephone No. () _____
	E-Mail Address _____

_____ STRICKEN GRAPHIC))

~~((STRICKEN GRAPHIC~~

INSTRUCTIONS
(Statutory reference: RCW 42.17.093)

WHO MUST REPORT

An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state.

A political committee is considered "out-of-state" if it maintains its office or headquarters in another state or the District of Columbia. If there is no office or headquarters, then the political committee is considered "out-of-state" if its treasurer resides in another state or the District of Columbia.

WHEN TO REPORT

A C-5 report is due no later than the 10th day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10th day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report is considered filed as of the postmark date.

SEND REPORT TO

**Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, Washington 98504-0908**

Questions?

Contract PDC at www.pdc.wa.gov, toll free at 1-877-601-2828 or 1-360-753-1111

~~STRICKEN GRAPHIC))~~



Form C5 1/08	This space for office use P M O A S R T K R E C E I V E D
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OUT OF STATE COMMITTEE CONTRIBUTIONS TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
-----------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee:

Name and address	Title
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5. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political Party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot Number	For or Against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here if continued _____

8. Total contributions and expenditures (Add parts 5, 6, 7)

9. Contributions received from Washington residents: List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and address	Date	Amount

Check here if continued on an attached sheet

10. Contributions received from persons residing outside of Washington. List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,550 in the aggregate to this out-of-state committee during the current calendar year.

Contributor's name, Address, City, State, Zip	Employer's Name, City and State	Date	Amount

Check here if continued on an attached sheet

11. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

12. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official

Name – Typed or Printed

Title

Daytime Telephone No. () _____

E-Mail Address _____

INSTRUCTIONS
(Statutory reference: RCW 42.17.093)

WHO MUST REPORT

An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state.

A political committee is considered "out-of-state" if it maintains its office or headquarters in another state or the District of Columbia. If there is no office or headquarters, then the political committee is considered "out-of-state" if its treasurer resides in another state or the District of Columbia.

WHEN TO REPORT

A C-5 report is due no later than the 10th day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10th day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report is considered filed as of the postmark date.

SEND REPORT TO

**Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, Washington 98504-0908**

Questions?

Contract PDC at www.pdc.wa.gov, toll free at 1-877-601-2828 or 1-360-753-1111

WSR 08-01-062

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed December 14, 2007, 9:39 a.m., effective January 14, 2008]

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

Purpose: The rule amendment is designed to conform to 2006 legislative changes impacting RCW 42.17.710.

Citation of Existing Rules Affected by this Order: Amending WAC 390-17-400.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 07-16-002 on July 18, 2007.

Changes Other than Editing from Proposed to Adopted Version: In WAC 390-17-400 (3)(b) add a time specific (11:59 p.m.) when the freeze period ends.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 6, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 98-23-016, filed 11/6/98, effective 12/7/98)

WAC 390-17-400 Time limit to solicit or accept contributions. The purpose of this rule is to clarify and implement RCW 42.17.710.

(1) **"Campaign debt,"** as used in RCW 42.17.710 and this rule, means any debt incurred by a candidate seeking election to a nonfederal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) **"Known candidates"** means individuals who are, or who become, candidates for state or local office during a legislative session freeze period.

(3) **"Legislative session freeze period"** means the period of time in RCW 42.17.710 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends at 11:59 p.m. on the ~~((thirtieth day following))~~ day of adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, the freeze period ends at 11:59 p.m. on the day the special session adjourns ~~((or at~~

~~11:59 p.m. on the thirtieth day following adjournment of the regular legislative session, whichever is later)).~~

(c) If a special session is held other than within ~~((30))~~ thirty days before ~~((or after))~~ a regular legislative session, the freeze period begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17.710 until sworn into office.

(5) A state official must comply with RCW 42.17.710 until he or she no longer holds state office.

(6) **"Person employed by or acting on behalf of a state official"** includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.

(7) **State officials may do the following.** During a legislative session freeze period, the activities in which state officials may engage include, but are not limited to:

(a) Soliciting or accepting contributions to assist his or her own campaign for federal office;

(b) Accepting gifts or other items permitted under chapter 42.52 RCW, so long as the gift or other item is not

- A contribution to an incumbent state official or known candidate,
- A contribution to a public office fund,
- Used to pay a nonreimbursed public office related expense, or
- Used to retire a campaign debt;

(c) Attending and speaking at a fund raising event held by or on behalf of a bona fide political party, so long as the contributions raised are not earmarked or otherwise designated for any incumbent state official or known candidate;

(d) Transferring their own personal funds, as defined in WAC 390-17-305, or their own surplus funds, as defined in RCW 42.17.020, to their own campaign account, so long as the funds are properly reported;

(e) Soliciting or accepting contributions on behalf of a nonprofit charity; or

(f) Soliciting or accepting contributions on behalf of any political committee, including a caucus political committee, a bona fide political party or a ballot measure committee, so long as the political committee does not spend the contributions for the benefit of incumbent state officials or known candidates.

(8) **State officials may not do the following.** During a legislative session freeze period, a state official, or a person employed by or acting on behalf of a state official, may not solicit or accept contributions that:

- (a) Go to an incumbent state official or known candidate;
- (b) Go to a public office fund;
- (c) Are used to pay a nonreimbursed public office related expense;

(d) Are used to retire a campaign debt;

(e) Go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or

(f) Go to a bona fide political party or a political committee if the political party or committee spends the contribu-

tions for the benefit of incumbent state officials or known candidates.

(9) **Caucus political committees.** During a legislative session freeze period, a caucus political committee

(a) May solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17.020;

(b) May not solicit or accept contributions for any of the purposes specified in subsection (8) of this rule.

(10) **Persons acting on behalf of state officials.** During a legislative session freeze period, a person employed by or acting on behalf of a state official may not solicit or accept contributions for any of the purposes specified in subsection (8) of this rule.

(11) **Bona fide political parties.** During a legislative session freeze period, a bona fide political party may not solicit or accept contributions that are

- Used for a public office fund,
- Used for a state official's nonreimbursed public office related expenses,
- Used for retiring a state official's campaign debt, or
- Earmarked contributions to specific incumbent state officials or known candidates.

However, a bona fide political party may solicit or accept contributions for its own fund raising purposes.

(12) **Segregating session freeze funds.** During a legislative session freeze period, if a state official, a caucus political committee, or another person employed by or acting on behalf of a state official solicits or accepts contributions to

- A caucus political committee,
- A bona fide political party, or
- Any political committee that supports or opposes state or local office candidates, the contributions are presumed to violate RCW 42.17.710, unless the contributions are
- Deposited into a separate bank account and
- Not spent for the benefit of incumbent state officials or known candidates.

However, nothing in this subsection authorizes a state official, a caucus political committee or any person employed by or acting on behalf of a state official to take any of the actions prohibited by subsections (8) or (9)(b) of this rule.

(13) **Session freeze solicitations.** If a person is solicited for a contribution during the legislative session freeze period

- By a state official, a caucus political committee, or another person employed by or acting on behalf of a state official, and
- The contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office, and
- The person makes a contribution during or after the freeze period in response to this solicitation, the contribution is subject RCW 42.17.710 and subsection (12) of this rule.

(14) **Spending contributions to benefit incumbents or known candidates.** For purposes of complying with subsections (7)(f), (8)(e) and (f), and (12) of this rule, contributions

are considered spent for the benefit of incumbent state officials or known candidates if the contributions are used at any time for one or more of the following purposes.

(a) Contributions to incumbent state officials or known candidates.

(b) Independent expenditures supporting incumbent state officials or known candidates, or opposing their opponents, whether or not the opponents are themselves known candidates during a legislative session freeze period.

(c) Payments to staff, consultants or advisors for performing activities that directly assist or promote the election of incumbent state officials or known candidates.

(d) Polls or surveys that relate to incumbent state officials, known candidates or their districts, or to general voter attitudes or preferences, unless

- A poll or survey is produced, conducted, tabulated and analyzed according to the terms of a written confidentiality agreement and, if the agreement is breached, all reasonable steps are taken to enforce it, and
- The results of a poll or survey are not provided by the spender, or with the spender's permission or prior knowledge, to incumbent state officials, known candidates or their agents.

However, candidate recruitment poll or survey results may be provided to an individual who later becomes a known candidate without the expenditure being considered as benefiting a known candidate so long as the poll or survey does not constitute a contribution to the individual or does not otherwise support or promote his or her election to state or local office. For purposes of this subsection, a "candidate recruitment poll or survey" is a poll or survey that is conducted for the sole purpose of recruiting candidates to run for public office and only determines

- The respondent's party preference,
- The level of support the incumbent currently has and how strong that support is, but not why he or she has that support,
- Whether respondents recognize the names of individuals who may decide to seek that elective office,
- Whether respondents currently hold a favorable opinion about these individuals, their abilities or fitness for elective office, but not why such opinions are held,
- Whether respondents would likely vote for one or more of these individuals were they to seek office, but not why respondents would vote in the manner they indicated or whether they could be persuaded to change their vote, and
- The validity of the poll or survey results.

(e) Any other expenditure that directly benefits or promotes the election to state or local office of incumbent state officials or known candidates.

WSR 08-01-069**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed December 14, 2007, 3:15 p.m., effective January 14, 2008]

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

Purpose: To implement ESB 6128 (chapter 358, Laws of 2007), including clarifying "ministerial functions," amending registration forms for candidates and political committees, and amending the definition of contribution.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-210, 390-05-245, 390-16-011, and 390-16-012.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 07-21-088 on October 17, 2007.

Changes Other than Editing from Proposed to Adopted Version: A one-word change in new WAC 390-05-243, removed "and," in subsection (1)(e) and replacing it with "or."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 4, 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 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 4, Repealed 0.

Date Adopted: December 6, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in RCW 42.17.020 shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) **Duplicating political advertising.** The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or

political committee is a contribution to the candidate or political committee.

(3) **Consulting with a state, local or judicial candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:

(a) Any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; or

(b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(4) **Consulting with a caucus political committee.** An expenditure, that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent when:

(a) Any arrangement, coordination or direction by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that caucus political committee or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the caucus political committee's plans, projects or needs provided to the expending person by the caucus political committee, its agent or another political committee financed, con-

trolled or operated by the caucus with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the caucus political committee or another political committee financed, controlled or operated by the caucus; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(5) **Consulting with a bona fide political party.** An expenditure, that does not qualify as ~~((an))~~ a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent is a contribution to such bona fide political party. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party when:

(a) Any arrangement, coordination or direction by the bona fide political party, its agent or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that bona fide political party or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) An expenditure is made based on information about the bona fide political party's plans, projects or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the bona fide political party or a political committee financed, controlled or operated by the bona fide political party; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent or a political committee financed, controlled or operated by the bona fide political party. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of the bona fide political party, a political committee financed, controlled, or operated by a bona fide political party or their agents, when a person per-

forms only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

(6) **Consulting with other political committees.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee when:

(a) Any arrangement, coordination or direction by the political committee, its agent or another political committee financed, controlled or operated by the committee is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person benefiting that political committee; or

(b) An expenditure is made based on information about the political committee's plans, projects or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; or

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) An expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent or another political committee financed, controlled or operated by the committee. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17.020 and WAC 390-05-243.

NEW SECTION

WAC 390-05-243 Ministerial functions by persons holding administrative offices. For the purposes of RCW 42.17.020 and 42.17.040:

(1) "Ministerial functions" mean the activities and duties of an administrative office that satisfy RCW 42.17.020 (15) and (34) and require:

- (a) Data entry for a candidate or political committee;
- (b) Filing reports that have been reviewed and approved for filing by the candidate or political committee officer;
- (c) Maintaining campaign finance and other similar records including making them available for inspection upon direction by the candidate or political committee officer;
- (d) Writing and depositing checks at the direction of the candidate or political committee officer;
- (e) Communications related to ministerial functions (to respond to questions about data entry, to discuss or review a candidate or committee's bank account balance, to schedule times to receive contribution checks at events, to review

reports with the candidate or committee prior to filing, and similar communications) but do not involve attending strategy or campaign planning meetings or portions of meetings with candidates or political committee officers or their agents; or

(f) Other similar campaign finance activities and duties.

(2) "Administrative office" means a person performing campaign finance related clerical support or recordkeeping activities on behalf of candidates and political committees, when, for the purposes of RCW 42.17.020 (15) and (34), those activities:

(a) Are directed by the candidate or political committee officer and require performance of activities by the administrative office in a prescribed manner;

(b) Are approved by the candidate or political committee officer for whom the services are performed;

(c) Do not involve the exercise of personal judgment or discretion, including authorizing expenditures;

(d) Do not involve the disclosure, except as required by law, of any information regarding a candidate or committee's plans, projects, activities or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available, or otherwise engage in activity that is a contribution; and

(e) Do not involve the performance of functions other than ministerial functions.

(3) A person performing only ministerial functions on behalf of two or more candidates or political committees is not:

(a) Considered an agent so long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee; or

(b) An officer pursuant to WAC 390-05-245. However, that person's name, address and title must be reported on the C-1 or C-1pc registration form.

AMENDATORY SECTION (Amending WSR 96-09-015, filed 4/8/96, effective 5/9/96)

WAC 390-05-245 Officer of a candidate's committee or political committee—Definition. For purposes of chapter 42.17 RCW and Title 390 WAC, "officer of a candidate's authorized committee," or "officer of a candidate's committee" or "officer of a political committee" includes the following persons: ~~((The treasurer,))~~ Any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.

AMENDATORY SECTION (Amending WSR 06-08-039, filed 3/29/06, effective 4/29/06)

WAC 390-16-011 Forms—Registration statement for political committees. The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc," revised ~~((3/06))~~ 1/08. Copies of this form are available at the Commission Office, 711 Cap-

itol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.


~~((STRICKEN GRAPHIC~~

Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

Who Must File	Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.
When To File	<p><u>Within 2 weeks of organizing a committee</u> or first expecting to receive contributions or make expenditures, whichever occurs first. (Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)</p> <p>File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. <u>For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.</u></p> <p>Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.</p>
Where To File	Send the original to PDC at the above address. Send a copy to County Auditor (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records.
"Officer" of a Political Committee – Definition	<p>Officer of a political committee includes the following persons:</p> <ul style="list-style-type: none"> • the treasurer, • any person designated as an officer on the C-1pc registration statement, and • any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

For Instruction Manuals and Reporting Forms or look under the "Filer Assistance" menu category on PDC's Web Site: www.pdc.wa.gov

~~STRICKEN GRAPHIC))~~

 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 763-1111 Toll Free 1-877-601-2828</p>	<h2>Political Committee Registration</h2>	<h1>C1PC</h1> <p>(1/2008)</p>	
Committee Name (Show entire official name.)		Acronym:	
Mailing Address		Telephone: ()	
		Fax: ()	
City _____ County _____ Zip + 4 _____		E-mail: _____	
NEW OR AMENDED REGISTRATION? <input type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.		COMMITTEE STATUS <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)	
1. What is the purpose or description of the committee? <input type="checkbox"/> Bona Fide Political Party Committee - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.			
<input type="checkbox"/> Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: _____		Ballot Number _____	FOR <input type="checkbox"/> AGAINST <input type="checkbox"/>
<input type="checkbox"/> Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: _____			
For single election-year only committees (not continuing committees): Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party: _____			
2. Related or affiliated committees. List name, address and relationship. <input type="checkbox"/> Continued on attached sheet.			
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options. <input type="checkbox"/> MINI REPORTING Mini Reporting is selected. No more than \$5,000 will be raised or spent and no more than \$500 in the aggregate will be accepted from any one contributor.			
		<input type="checkbox"/> FULL REPORTING Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.	
4. Campaign Manager's or Media Contact's Name and Address		Telephone Number: ()	
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ____ No ____ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached sheet.		Daytime Telephone Number: ()	
6. Persons who perform only ministerial functions on behalf of this committee <u>and</u> on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.			
7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet.			
8. Campaign Bank or Depository	Branch	City	
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. Street Address, Room Number, City where campaign books will be available for inspection In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()			
10. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State. <input type="checkbox"/> A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).		11. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge. Committee Treasurer's Signature _____ Date _____	

SEE INSTRUCTIONS ON NEXT PAGE

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.



Who Must File – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

When To File – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File – Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records.

“Officer” of a Political Committee – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee's eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate's and political committee's registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17.020 (15)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17.020(34). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17.020(34) and WACs 390-05-243 and 390-05-210]

For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at www.pdc.wa.gov


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Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

Who Must File	<p>Candidates who seek</p> <ul style="list-style-type: none"> • state office (legislative or statewide executive), • a state supreme court or state court of appeals position, • local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.
When To File	<p><u>Within 2 weeks of becoming a candidate.</u> A person becomes a candidate for PDC purposes when he or she first does any of the following:</p> <ul style="list-style-type: none"> • receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy; • purchases commercial advertising space or broadcast time to promote his or her candidacy; • authorizes another person to take one of these above actions on his or her behalf; • announces publicly that he or she is seeking office; or • files a declaration of candidacy with the appropriate elections official. <p>File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.</p>
Where To File	<p>Send the original to PDC at the above address. Send a copy to County Auditor (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy as part of the campaign's records.</p>
“Officer” of a Candidate’s Committee – Definition	<p>Officer of a candidate’s authorized committee or officer of a candidate’s committee includes the following persons:</p> <ul style="list-style-type: none"> • the treasurer, • any person designated as an officer on the C-1 registration statement, and • any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

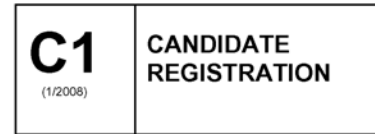
For Instruction Manuals and Reporting Forms look under the “Filer Assistance” menu category on PDC’s Web Site: www.pdc.wa.gov

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 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 763-1111 Toll Free 1-877-601-2828</p>	<h2 style="margin: 0;">Candidate Registration</h2>	<h1 style="margin: 0;">C1</h1> <p style="font-size: small;">(1/2008)</p>	
Candidate's Name (Give candidate's full name.)		Telephone Number ()	
Candidate's Committee Name (Do not abbreviate.)		Fax Number ()	
Mailing Address		Candidate's E-Mail Address	
City	County	Zip + 4	Campaign E-Mail Address
1. What office are you running for?		Legislative District, County or City	Position No.
		Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>	
2. Political party (if partisan office)		3. Date of general or special election	
4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.			
<input type="checkbox"/> Option I MINI REPORTING: In addition to my filing fee of \$ _____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.			
<input type="checkbox"/> Option II FULL REPORTING: I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.			
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___ See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.		Daytime Telephone Number ()	
		<input type="checkbox"/> Continued on attached sheet.	
6. Persons who perform only ministerial functions on your behalf <u>and</u> on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details.			
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer."			
8. Campaign Bank or Depository		Branch	City
9. Related or Affiliated Political Committees. List name, address and relationship.			
10. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address.			
Street Address, Room Number, City where campaign books will be available for inspection			
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()			
11. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge.			
Candidate's Signature			Date

SEE INSTRUCTIONS ON NEXT PAGE

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.



Who Must File – Candidates who seek:

- state office (legislative or statewide executive),
- a state supreme court or state court of appeals position,
- local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county,
- local office in jurisdictions of any size if the candidate receives or expects to receive \$5,000 or more in contributions.

When To File – Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she **first** does any of the following:

- receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
- purchases commercial advertising space or broadcast time to promote his or her candidacy;
- authorizes another person to take one of these above actions on his or her behalf;
- announces publicly that he or she is seeking office; or
- files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File – Send the **original to PDC** at the above address. Send a **copy to County Auditor** (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy for the campaign's records.

“Officer” of a Candidate’s Committee – Officer of a candidate’s committee includes the following persons:

- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17.020(15)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17.020(34). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17.020(34) and WACs 390-05-243 and 390-05-210]

For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at www.pdc.wa.gov

WSR 08-01-070**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed December 14, 2007, 3:19 p.m., effective January 14, 2008]

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

Purpose: To amend existing thresholds and code values for reports of financial affairs.

Citation of Existing Rules Affected by this Order: Amending WAC 390-24-010, 390-24-020, 390-24-202, and 390-24-301.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 07-22-041 on October 30, 2007.

Changes Other than Editing from Proposed to Adopted Version: Reinserted ".241 (1)(l) Food and Beverages \$50" in WAC 390-24-301.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.


Date Adopted: December 6, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 07-04-084, filed 2/5/07, effective 3/8/07)

WAC 390-24-010 Forms for statement of financial affairs. The official form for statements of financial affairs as required by RCW 42.17.240 is designated "F-1," revised ((2/07)) 1/08. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

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 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828</p>	PDC FORM F-1 (2/07)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M PDC OFFICE USE O A S R T K R E C E I V E D												
Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DOLLAR CODE</th> <th style="text-align: left;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$2,999</td> </tr> <tr> <td>B</td> <td>\$3,000 to \$14,999</td> </tr> <tr> <td>C</td> <td>\$15,000 to \$29,999</td> </tr> <tr> <td>D</td> <td>\$30,000 to \$74,999</td> </tr> <tr> <td>E</td> <td>\$75,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$2,999	B	\$3,000 to \$14,999	C	\$15,000 to \$29,999	D	\$30,000 to \$74,999	E	\$75,000 or more	
DOLLAR CODE	AMOUNT														
A	\$1 to \$2,999														
B	\$3,000 to \$14,999														
C	\$15,000 to \$29,999														
D	\$30,000 to \$74,999														
E	\$75,000 or more														
Last Name _____ First _____ Middle Initial _____		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.													
Mailing Address (Use PO Box or Work Address) _____															
City _____ County _____ Zip + 4 _____															
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ year _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____													
1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in Item 3 on reverse)															
Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation _____	Occupation or How Compensation Was Earned _____	Amount: (Use Code) _____												
Check Here <input type="checkbox"/> if continued on attached sheet															
2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement)															
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received												
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms												
		Security Given	Mortgage Amount - (Use Code) Original Current												
All Other Property Entirely or Partially Owned															
Check here <input type="checkbox"/> if continued on attached sheet															

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3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS		List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.	
A. Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.			
C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			
Check here <input type="checkbox"/> if continued on attached sheet.			

4 CREDITORS		List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.		AMOUNT (USE CODE)	
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present	
Check here <input type="checkbox"/> if continued on attached sheet.					

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

- A. At any time during the reporting period were you, your spouse or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ___ If yes, complete Supplement, Part A.
- B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.
- E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

<p>ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p>CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <p>Signature _____ Date _____</p> <p>Contact Telephone: () _____</p> <p>Email: _____(work)</p> <p>Email: _____(Home)</p>
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REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

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Information Continued

F-1

Name					
1 INCOME (continued)					
Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation		Occupation or How Compensation Was Earned	Amount: (Use Code)	
2 REAL ESTATE (continued)					
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser		Nature and Amount (Use Code) of Payment or Consideration Received	
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current
All Other Property Entirely or Partially Owned					
3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS (continued)					
A. Name and address of each bank or financial institution	Type of Account or Description of Asset		Asset Value (Use Code)	Income Amount (Use Code)	
B. Name and address of each insurance company					
C. Name and address of each company, association, government agency					
4 CREDITORS (continued)				AMOUNT (USE CODE)	
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present	

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 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828 EMAIL: pdc@pdc.wa.gov</p>	PDC FORM F-1 SUPPLEMENT (207)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT	
PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD			
Last Name	First	Middle Initial	DATE
<p>A OFFICE HELD, BUSINESS INTERESTS: Provide the following information if, during the reporting period, you, your spouse or dependents</p> <p>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</p> <p>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</p> <ul style="list-style-type: none"> • Legal Name: Report name used on legal documents establishing the entity. • Trade or Operating Name: Report name used for business purposes if different from the legal name. • Position or Percent of Ownership: The office, title and/or percent of ownership held. • Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered. • Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received. • Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation. • Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met. 			
ENTITY NO. 1 LEGAL NAME:		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP	
TRADE OR OPERATING NAME:			
ADDRESS:			
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:			
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:			
Purpose of payments		Amount (actual dollars)	
		\$	
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:			
Customer name:		Purpose of payment (amount not required)	
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):			
Check here <input type="checkbox"/> if continued on attached sheet			

CONTINUE PARTS B AND C ON NEXT PAGE

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Page 2

F-1 Supplement

Name				
ENTITY NO. 2		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>		
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP		
TRADE OR OPERATING NAME:				
ADDRESS:				
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:				
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:				
Purpose of payments		Amount (actual dollars)		
		\$		
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:				
Customer name:		Purpose of payment (amount not required)		
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):				
Check here <input type="checkbox"/> if continued on attached sheet				
B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.				
Person to Whom Services Rendered		Description of Legislation, Rules, Etc.		Compensation (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				
C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	
Check here <input type="checkbox"/> if continued on attached sheet				

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Information Continued


F-1 Supplement

Name	
ENTITY NO. LEGAL NAME: TRADE OR OPERATING NAME: ADDRESS: BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:	Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE: Purpose of payments Amount (actual dollars) \$	
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE: Customer name: Purpose of payment (amount not required)	
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):	

B LOBBYING: (Continued)		
Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

C FOOD TRAVEL SEMINARS (continued)				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

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 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828</p>	PDC FORM F-1 (1/08)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M PDC OFFICE USE O A R S A R T K R E C E I V E D
Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION		DOLLAR CODE AMOUNT A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more	
Last Name First Middle Initial		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.	
Mailing Address (Use PO Box or Work Address)			
City County Zip + 4			
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ year _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____	
1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)			
Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
Check Here <input type="checkbox"/> if continued on attached sheet			
2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)			
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received
Property Purchased or Interest Acquired		Creditor's Name/Address Payment Terms	Security Given Mortgage Amount - (Use Code) Original Current
All Other Property Entirely or Partially Owned			
Check here <input type="checkbox"/> if continued on attached sheet			

CONTINUE ON NEXT PAGE

3	ASSETS / INVESTMENTS - INTEREST / DIVIDENDS	List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.		
A.	Name and address of each bank or financial institution in which you or a family member had an account over \$20,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B.	Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$20,000 during the period.			
C.	Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$2,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			
Check here <input type="checkbox"/> if continued on attached sheet.				

4	CREDITORS	List each creditor you or a family member owed \$2,000 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.			AMOUNT (USE CODE)
	Creditor's Name and Address	Terms of Payment	Security Given	Original	Present
Check here <input type="checkbox"/> if continued on attached sheet.					

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

- A. At any time during the reporting period were you, your spouse or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ___ If yes, complete Supplement, Part A.
- B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.
- E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

<p>ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p>CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <p>Signature _____ Date _____</p> <p>Contact Telephone: () _____</p> <p>Email: _____(work)</p> <p>Email: _____(Home)</p>
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REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

Information Continued

F-1

Name				
1 INCOME (continued)				
Show Self (S) Spouse (SP) Dependent (D)				
	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)	
2 REAL ESTATE (continued)				
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser		Nature and Amount (Use Code) of Payment or Consideration Received
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given
All Other Property Entirely or Partially Owned		Mortgage Amount - (Use Code) Original Current		
3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS (continued)				
A. Name and address of each bank or financial institution	Type of Account or Description of Asset		Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company				
C. Name and address of each company, association, government agency				
4 CREDITORS (continued)				AMOUNT (USE CODE)
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present

 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828 EMAIL: pdc@pdc.wa.gov</p>	PDC FORM F-1 SUPPLEMENT (1/08)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT	
PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD			
Last Name	First	Middle Initial	DATE
<p>A OFFICE HELD, BUSINESS INTERESTS: Provide the following information if, during the reporting period, you, your spouse or dependents</p> <p>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</p> <p>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</p> <ul style="list-style-type: none"> • Legal Name: Report name used on legal documents establishing the entity. • Trade or Operating Name: Report name used for business purposes if different from the legal name. • Position or Percent of Ownership: The office, title and/or percent of ownership held. • Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered. • Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received. • Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$10,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation. • Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met. 			
ENTITY NO. 1		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>	
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP	
TRADE OR OPERATING NAME:			
ADDRESS:			
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:			
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:		Amount (actual dollars)	
Purpose of payments		\$	
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:		Purpose of payment (amount not required)	
Agency name:			
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE		Purpose of payment (amount not required)	
Customer name:			
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):			
Check here <input type="checkbox"/> if continued on attached sheet			

CONTINUE PARTS B AND C ON NEXT PAGE

Name

ENTITY NO. 2 Reporting For: Self Spouse Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments Amount (actual dollars)
 \$

PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:
 Agency name: Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE
 Customer name: Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

Check here if continued on attached sheet

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

Check here if continued on attached sheet

Information Continued

F-1 Supplement

Name

ENTITY NO. Reporting For: Self Spouse Dependent
LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP
TRADE OR OPERATING NAME:
ADDRESS:
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments Amount (actual dollars)
\$
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:
 Agency name: Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE:
 Customer name: Purpose of payment (amount not required)

 WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):

B LOBBYING: (Continued)

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

C FOOD TRAVEL SEMINARS (continued)

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

AMENDATORY SECTION (Amending WSR 05-06-070, filed 3/1/05, effective 4/1/05)

WAC 390-24-020 Forms for amending statement of financial affairs. (1) The official form for amending statements of financial affairs as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is designated Form "F-1A," revised (~~(2/05)~~) 1/08.

(2) No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new statement of financial affairs (Form F-1) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of Form F-1A are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



PDC FORM F-1A (2/05)	PERSONAL FINANCIAL AFFAIRS STATEMENT Short Form	P M PDC OFFICE USE O A S R T K												
The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.		R E C E I V E D												
<table border="1"> <tr> <th>DOLLAR CODE</th> <th>AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$2,999</td> </tr> <tr> <td>B</td> <td>\$3,000 to \$14,999</td> </tr> <tr> <td>C</td> <td>\$15,000 to \$29,999</td> </tr> <tr> <td>D</td> <td>\$30,000 to \$74,999</td> </tr> <tr> <td>E</td> <td>\$75,000 or more</td> </tr> </table>		DOLLAR CODE	AMOUNT	A	\$1 to \$2,999	B	\$3,000 to \$14,999	C	\$15,000 to \$29,999	D	\$30,000 to \$74,999	E	\$75,000 or more	
DOLLAR CODE	AMOUNT													
A	\$1 to \$2,999													
B	\$3,000 to \$14,999													
C	\$15,000 to \$29,999													
D	\$30,000 to \$74,999													
E	\$75,000 or more													

Last Name	First	Middle Initial	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.
Mailing Address (Use PO Box or Work Address)			
City	County	Zip + 4	

Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional Staff	Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____
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Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

NO CHANGE REPORT. I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period.

MINOR CHANGES REPORT. I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.

Check here if continued on attached sheet


FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box. <input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns. <input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.	CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge. <hr/> Signature _____ Date _____ Contact Telephone: () _____ Email: _____ (work) Email: _____ (Home)
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Report Not Acceptable Without Filer's Signature

(STRICKEN GRAPHIC))

 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828</p>	PDC FORM <h1 style="margin:0;">F-1A</h1> (1/08)	<h2 style="margin:0;">PERSONAL FINANCIAL AFFAIRS STATEMENT</h2> Short Form	P M PDC OFFICE USE O A S R T K R E C E I V E D												
The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DOLLAR CODE</th> <th style="text-align: left;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$3,999</td> </tr> <tr> <td>B</td> <td>\$4,000 to \$19,999</td> </tr> <tr> <td>C</td> <td>\$20,000 to \$39,999</td> </tr> <tr> <td>D</td> <td>\$40,000 to \$99,999</td> </tr> <tr> <td>E</td> <td>\$100,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$3,999	B	\$4,000 to \$19,999	C	\$20,000 to \$39,999	D	\$40,000 to \$99,999	E	\$100,000 or more	
DOLLAR CODE	AMOUNT														
A	\$1 to \$3,999														
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D	\$40,000 to \$99,999														
E	\$100,000 or more														
Last Name _____ First _____ Middle Initial _____ Mailing Address (Use PO Box or Work Address) _____ City _____ County _____ Zip + 4 _____		Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.													
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature		Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____													
Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information. <input type="checkbox"/> NO CHANGE REPORT. I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period. <input type="checkbox"/> MINOR CHANGES REPORT. I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.															
Check here <input type="checkbox"/> if continued on attached sheet															
FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.															
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)											
Check here <input type="checkbox"/> if continued on attached sheet															
ALL FILERS EXCEPT CANDIDATES. Check the appropriate box. <input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns. <input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.		CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge. _____ Signature Date Contact Telephone: () Email: _____(work) Email: _____(Home)													

Report Not Acceptable Without Filer's Signature

Information Continued

F-1A

Name

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

- NO CHANGE REPORT.** I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period.
- MINOR CHANGES REPORT.** I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers describing changes. Provide all information required on F-1 report.

**FOOD
TRAVEL
SEMINARS** (Continued)

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount \$	Value (Use Code)

AMENDATORY SECTION (Amending WSR 92-08-105, filed 4/1/92, effective 5/2/92)

WAC 390-24-202 Report of compensation from sales commissions. When a person receives compensation in the form of a commission on sales, the reporting of the compensation, required in RCW 42.17.241, shall include:

(1) The name and address of the person or persons through whom a commission was paid;

(2) For purposes of RCW 42.17.241 (1)(f), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$~~((1,000))~~ 2,000 or more in the aggregate;

(3) For purposes of RCW 42.17.241 (1)(g)(i), the name and address of each governmental unit for whom a service was rendered or to whom a product was sold that resulted in a commission;

(4) For purposes of RCW 42.17.241 (1)(g)(ii), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$~~((5,000))~~ 10,000 or more in the aggregate.

AMENDATORY SECTION (Amending WSR 97-23-020, filed 11/10/97, effective 1/1/98)

WAC 390-24-301 Changes in dollar amounts of reporting thresholds and code values. Pursuant to the commission's authority in RCW 42.17.370(11) to revise the monetary reporting thresholds and code values found in chapter 42.17 RCW to reflect changes in economic conditions, the following revisions are made:

Statutory Section	Subject Matter	Amount Enacted or Last Revised	Revision Effective January 1, ((1998)) <u>2008</u>
.241(1)(b)	Bank Accounts	\$ ((10,000)) <u>15,000</u>	\$ ((15,000)) <u>20,000</u>
.241(1)(b)	Other Intangibles	\$ ((1,000)) <u>1,500</u>	\$ ((1,500)) <u>2,000</u>
.241(1)(c)	Creditors	\$ ((1,000)) <u>1,500</u>	\$ ((1,500)) <u>2,000</u>
.241(1)(f)	Compensation	\$ ((1,000)) <u>1,500</u>	\$ ((1,500)) <u>2,000</u>
.241(1)(g)(ii)	Compensation to Business Entity	\$ ((5,000)) <u>7,500</u>	\$ ((7,500)) <u>10,000</u>
.241(1)(g)	Bank Interest Paid	\$ ((1,200)) <u>1,800</u>	\$ ((1,800)) <u>2,400</u>
.241(1)(h)	Real Property—Acquired	\$ ((5,000)) <u>7,500</u>	\$ ((7,500)) <u>10,000</u>
.241(1)(i)	Real Property—Divested	\$ ((5,000)) <u>7,500</u>	\$ ((7,500)) <u>10,000</u>
.241(1)(j)	Real Property—Held	\$ ((5,000)) <u>7,500</u>	\$ ((7,500)) <u>10,000</u>
.241(1)(k)	Real Property—Business	\$ ((10,000)) <u>15,000</u>	\$ ((15,000)) <u>20,000</u>

Statutory Section	Subject Matter	Amount Enacted or Last Revised	Revision Effective January 1, ((1998)) <u>2008</u>
.241(1)(l)	Food and Beverages	\$50	((50))
.241(2)	Dollar Code A	Up to \$ ((1,999)) <u>2,999</u>	Up to \$ ((2,999)) <u>3,999</u>
	Dollar Code B	((2,000—9,999)) <u>\$3,000—14,999</u>	((3,000—14,999)) <u>\$4,000—19,999</u>
	Dollar Code C	((10,000—19,999)) <u>\$15,000—29,999</u>	((15,000—29,999)) <u>\$20,000—39,999</u>
	Dollar Code D	((20,000—49,999)) <u>\$30,000—74,999</u>	((30,000—74,999)) <u>\$40,000—99,999</u>
	Dollar Code E	\$ ((50,000)) <u>75,000</u> and up	\$ ((75,000)) <u>100,000</u> and up

**WSR 08-01-076
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2004-03—Filed December 17, 2007, 8:30 a.m., effective January 17, 2008]

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

Purpose: This new rule provides clarification of insurable interest requirements in the context of corporate-owned life insurance in Washington state.

Statutory Authority for Adoption: RCW 48.02.060 and 48.18.586.

Adopted under notice filed as WSR 07-17-166 on August 22, 2007.

Changes Other than Editing from Proposed to Adopted Version: 1. In subsection (3), the insurer is required to keep, or require the employer to keep, throughout the period of insurance, evidence that the insured was a "key person" at the time the contract was made. The rule as proposed would have required the insurer to keep such evidence.

2. In subsection (5), the definition of "key person" was amended to recognize the definitions of "highly compensated individual" and "highly compensated employee" in the Internal Revenue Code. The rule as proposed had included some requirements that did not quite match standards found in the Internal Revenue Code.

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

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

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

Date Adopted: December 17, 2007.

Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-23-580 Insurer must obtain and keep evidence that insured is a key person—Definition of "key person." (1) If a business entity seeks to be the owner and beneficiary of a contract of life insurance on an employee, the insurer must obtain and keep evidence that the business entity had an "insurable interest" in the life of the insured as required by RCW 48.18.030(3) and that the insured was a "key person" at the time the contract was made.

(2) An insurer issuing employer-owned key person life insurance to a business entity shall establish and apply appropriate underwriting guidelines to ensure that the employees or other persons on whose lives key person life insurance policies are written are actually key persons.

(3) An insurer issuing employer-owned life insurance policies or certificates must keep or require the employer to keep throughout the period of insurance, evidence that the insured has applied for or consented to the contract in writing. Consent requirements include, but are not limited to RCW 48.18.030, 48.18.060, and 48.18.580.

(4) If a contract of insurance is entered into pursuant to an exchange under Section 1035 of the Internal Revenue Code, an insurer is not required to obtain a new consent by the insured employee (as required at RCW 48.18.580(2)) only if the insurer to be replaced provides the replacing insurer with a copy of the original signed consent.

(5) The term "key person" means a person that, during the year the contract was made, was:

- (a) A director;
- (b) A shareholder who owns more than five percent in value of the stock of the employer; or
- (c) A "highly compensated individual" or "highly compensated employee" within the meaning of Internal Revenue Code sections 414(q), 105(h) or 101(j), as applicable.

**WSR 08-01-077
PERMANENT RULES
OFFICE OF**

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2006-10—Filed December 17, 2007, 8:36 a.m., effective January 17, 2008]

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

Purpose: These rules amend several sections of the actuarial opinion and memorandum regulation (WAC 284-07-310 through 284-07-400) to bring them in line with the model regulation of accreditation part A standards of the National Association of Insurance Commissioners.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-07-360 and 284-07-370; and amending

WAC 284-07-310, 284-07-330, 284-07-340, 284-07-350, 284-07-380, and 284-07-390.

Statutory Authority for Adoption: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260.

Adopted under notice filed as WSR 07-17-164 on August 22, 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 6, Repealed 2.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 2.

Date Adopted: December 17, 2007.

Mike Kreidler
Insurance Commissioner

ACTUARIAL OPINION AND MEMORANDUM REGULATION

AMENDATORY SECTION (Amending Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-310 Purpose. The purpose of this regulation, WAC 284-07-310 through and including WAC 284-07-400, called the actuarial opinion and memorandum regulation, is to prescribe:

(1) Guidelines and standards for statements of actuarial opinion (~~(that are to be)~~) submitted in accordance with the requirements of RCW 48.74.025, 48.36A.250, 48.36A.260, and for supporting memoranda (~~(in support thereof)~~);

(2) ~~(Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from RCW 48.74.025(2); and~~

~~(3))~~ Rules applicable to the appointment of an appointed actuary; and

(3) Guidelines and standards relating to "adequacy of reserves."

AMENDATORY SECTION (Amending Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-330 Scope. (1) This regulation applies to all life insurance companies and fraternal benefit societies doing business in this state, to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities, or disability insurance business in this state; and to all disability insurers that file annual statements on the life and accident and health blank. This regulation requires the appointed actuary to use his or her professional judgment in performing the required asset analysis and

developing the actuarial opinion and supporting memoranda consistent with relevant actuarial standards of practice. The commissioner may specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's opinion, such specifications are necessary.

(2) This regulation applies to all annual statements filed with the commissioner on and after ~~((the effective date of this regulation))~~ December 31, 2007. ~~((Except with respect to companies which are exempted pursuant to WAC 284-07-360, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with WAC 284-07-380, and a memorandum in support thereof in accordance with WAC 284-07-390, shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to WAC 284-07-370.~~

(3) ~~Notwithstanding the foregoing, the commissioner may require any company otherwise exempt pursuant to this regulation to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with WAC 284-07-380 and 284-07-390 if, in the opinion of the commissioner, an asset adequacy analysis is necessary with respect to the company.)~~

AMENDATORY SECTION (Amending Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-340 Definitions. The following definitions apply throughout this regulation:

(1) "Actuarial opinion" means(:

(a) ~~With respect to WAC 284-07-380, 284-07-390, or 284-07-400,))~~ the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy ~~((test))~~ analysis set forth in ~~((accordance with))~~ WAC 284-07-380 and ~~((with presently accepted))~~ according to applicable actuarial standards(;

(b) ~~With respect to WAC 284-07-370, the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with WAC 284-07-370 and with those presently accepted actuarial standards which specifically relate to this opinion))~~ of practice.

(2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means that statement required by RCW 48.05.250 to be filed annually by the company with the commissioner.

(4) "Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in WAC 284-07-350(3) to provide the actuarial opinion and supporting memorandum as required by RCW 48.74.-025.

(5) "Asset adequacy analysis" means an analysis that meets the standards and other requirements ~~((referred to))~~ set forth in WAC 284-07-350(4)~~((; it may take many forms, including, but not limited to, cash flow testing, sensitivity testing, or applications of risk theory)).~~

(6) "Company" means an insurance company, fraternal benefit society, or reinsurer subject to this regulation.

(7) ~~((("Noninvestment-grade bonds" means those bonds designated as classes 3, 4, 5, or 6 by the National Association of Insurance Commissioners (NAIC) Securities Valuation Office (SVO).~~

~~((8))~~ "Qualified actuary" means an individual who meets the requirements set forth in WAC 284-07-350~~((2))~~ (1).

AMENDATORY SECTION (Amending Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-350 General requirements. The statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with WAC 284-07-380, and a memorandum in support thereof in accordance with WAC 284-07-390, are required each year.

~~((1))~~ Submission of) Statement of actuarial opinion(-):

~~((a))~~ There is to be included on or attached to page 1 of the annual statement for each year beginning with the annual statement for 1994, the statement of an appointed actuary, entitled "statement of actuarial opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with WAC 284-07-380. Provided, however, That any company exempted pursuant to WAC 284-07-360 from submitting a statement of actuarial opinion in accordance with WAC 280-07-380 shall include on or attach to page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with WAC 284-07-370.

(b) If in the previous year a company provided a statement of actuarial opinion in accordance with WAC 284-07-370, and in the current year fails the exemption criteria of WAC 284-07-360 (3)(a), (b), or (c) to again provide an actuarial opinion in accordance with WAC 284-07-370, the statement of actuarial opinion in accordance with WAC 284-07-380 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with WAC 284-07-370 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with WAC 284-07-380.

~~((c))~~ In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

~~((d))~~ Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

~~((2))~~ (1) "Qualified actuary" means an individual who:

(a) Is a member in good standing of the American Academy of Actuaries; and

(b) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements or equivalent standards acceptable to the commissioner; and

(c) Is familiar with the valuation requirements applicable to life and health insurance companies; and

(d) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice to have:

(i) Violated any provision of, or any obligation imposed by, Title 48 RCW or other law or any applicable regulation or order of the commissioner in the course of his or her dealings as a qualified actuary;

(ii) Been found guilty of fraudulent or dishonest practices;

(iii) Demonstrated his or her (~~incompetency~~) incompetence, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(iv) Submitted to the commissioner during the past five years, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation or standards set by the Actuarial Standards Board; or

(v) Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(e) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under (d) of this subsection.

(f) The commissioner may accept equivalent qualifications in place of those in (a) and (b) of this subsection if the individual has otherwise demonstrated his or her actuarial competence to the satisfaction of the commissioner, and meets the qualifications in (c), (d), and (e) of this subsection.

~~((3))~~ (2) "Appointed actuary" means a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this regulation; either directly by, or by the authority of, the board of directors through an executive officer of the company.

(a) The company shall give the commissioner timely written notice of the following: The name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary (~~and shall~~).

(b) The company must state in (~~such~~) its notice that the (~~person~~) appointed actuary meets the requirements set forth in subsection ~~((2))~~ (1) of this section.

~~((One))~~ (c) After the company furnishes the notice (~~is furnished~~), no further notice is required with respect to this person, (~~provided that~~) except the following, if applicable:

(i) The company (~~shall~~) must give the commissioner timely written notice (~~in the event~~) if the actuary ceases to be appointed or retained as an appointed actuary (~~or~~); and

(ii) The company must give the commissioner timely written notice if the actuary fails to meet the requirements set forth in subsection (2) of this section.

(d) If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice (~~shall so state~~) must include that information and give the reasons for replacement.

~~((4))~~ (3) Standards for asset adequacy analysis: (~~Except to the extent~~) Unless the commissioner approves

equivalents in advance, the asset adequacy analysis required by this regulation:

~~((Shall))~~ Must conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and to any additional standards under this regulation, (~~which standards are to~~) and must form the basis of the statement of actuarial opinion in accordance with (~~WAC 284-07-380~~) this regulation; and

~~((Shall))~~ Must be based on methods of analysis (~~as~~) that are deemed appropriate for such purposes by the Actuarial Standards Board.

~~((5))~~ (4) Liabilities to be covered~~(-)~~:

~~((Under authority of))~~ As required by RCW 48.74.025, the statement of actuarial opinion (~~shall apply~~) applies to all in force business on the statement date regardless of when or where issued, (~~e.g.,~~) including reserves of Exhibits ~~((8, 9, and 10))~~ 5, 6, and 7, and claim liabilities in Exhibit ~~((H))~~ 8, Part 1 and equivalent items in the separate account statement or statements.

(b) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company (~~and~~) calculated in accordance with methods set forth in RCW 48.74.-040, 48.74.070, 48.74.080, and 48.74.090, the company (~~shall~~) must establish (~~such~~) the appropriate additional reserve.

~~((For years ending prior to December 31, 1995, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than two times the additional reserve divided by three.~~

~~((t))~~ Additional reserves established under (b) (~~or (e))~~) of this subsection and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of (~~such~~) these reserves (~~would~~) will not be deemed an adoption of a lower standard of valuation.

AMENDATORY SECTION (Amending Matter No. R 2006-04, filed 6/6/06, effective 7/7/06)

WAC 284-07-380 Statement of actuarial opinion based on an asset adequacy analysis. (1) General description: The statement of actuarial opinion (~~submitted in accordance with this section shall consist of~~) must include the following:

(a) A paragraph identifying the appointed actuary and his or her qualifications (see subsection (2)(a) of this section);

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see subsection (2)(b) of this section) and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, e.g., anticipated cash flows from currently owned assets, including variation

in cash flows according to economic scenarios (see subsection (2)(c) of this section), supported by a statement of each ~~((such))~~ expert relied on in the form prescribed by subsection (5) of this section; and

(d) An opinion paragraph expressing the appointed actuary's opinion ~~((with respect to))~~ concerning the adequacy of the supporting assets to mature the liabilities (see subsection (2)(f) of this section).

(e) One or more ~~((additional))~~ of the following paragraphs ~~((may be appropriate))~~ will be needed in individual company cases, as follows:

(i) If the appointed actuary considers it necessary to state a qualification of his or her opinion;

(ii) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

~~((iii))~~ ~~((If the appointed actuary must disclose reliance upon any portion of the assets supporting the asset valuation reserve (AVR), interest maintenance reserve (IMR), or other mandatory or voluntary statement of reserves for asset adequacy analysis;~~

~~((iv)))~~ If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

~~((v)))~~ ~~((iv))~~ If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or

~~((vi)))~~ ~~((v))~~ If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) Recommended language: The following paragraphs ~~((are to))~~ must be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary ~~((shall use language which))~~ must clearly express~~((es))~~ his or her professional judgment. ~~((However,))~~

In any event, the opinion ~~((shall retain))~~ must include all pertinent aspects of the language provided in this section.

(a) The opening paragraph ~~((shall))~~ must generally ~~((indicate))~~ state the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion ~~((shall))~~ must read substantially as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of that ~~((insurer))~~ company to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(ii) For a consulting actuary, the opening paragraph ~~((shall))~~ must contain a statement substantially similar to the following:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(b) The scope paragraph ~~((shall))~~ must include a statement substantially similar to the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit ((8)) 5					
A Life Insurance					
B Annuities					
C Supplementary Contracts ((Involving)) <u>With</u> Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous					

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Total (Exhibit ((8)) 5 Item 1, Page 3)					
Exhibit ((9)) 6					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit ((9)) 6 Item 2, Page 3)					
Exhibit ((10)) 7					
((1)) Premiums and Other Deposit Funds (Column 6, Line 14)					
((1.1) Policyholder Premiums (Page 3, Line 10.1)					
1.2)) Guaranteed Interest Contracts ((Page 3, Line 10.2)) (Column 2, Line 14)					
((1.3 Other Contract Deposit Funds (Page 3, Line 10.3)) Annuities Certain (Column 3, Line 14					
((2 Supplementary) Supplemental Contracts ((Not Involving Life Contingencies (Page 3, Line 3)) (Column 4, Line 14)					
((3) Dividend ((and Coupon)) Accumulations or Refunds ((Page 3, Line 5)) Column 5, Line 14)					
Total (Exhibit ((10)) 7, Item 3, Page 3)					
Exhibit ((11)) 8 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, ((Life)) Line 4.2)					
Total Exhibit ((11)) 8, Part 1					
Separate Accounts (Page 3((, Line 27)) of the Annual Statement of the Separate Accounts, Lines 1 and 2)					
TOTAL RESERVES					

IMR (General Account, Page 3, Line (11.4) 9.4)	
IMR (Separate Accounts, Page 3, Line 3)	
AVR (Page 3, Line 24.1)	(c)
Net Deferred and Uncollected Premium	

Notes to table of reserves and related actuarial items:

Page and line numbers refer to the ~~(1992)~~ 2005 blank. Corresponding entries from blanks from later years ~~(shall)~~ are to be substituted as appropriate.

- (a) The additional actuarial reserves are the reserves established under WAC 284-07-350 (5)(b) ~~(or (e))~~.
- (b) The appointed actuary ~~(shall indicate)~~ must state the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in WAC 284-07-350(4), by means of symbols which shall be defined in footnotes to the table.
- (c) Allocated amount of Asset Valuation Reserve (AVR)."

(c) If the appointed actuary has relied on other experts to develop ~~(certain)~~ any portion~~(s)~~ of the analysis, the reliance paragraph ~~(shall)~~ must include a statement substantially similar to ~~(one of)~~ the following:

- ~~((i))~~ "I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios~~(-and)~~, or certain critical aspects of the analysis performed in conjunction with forming my opinion] as certified in the attached statement~~(,-)~~. I have reviewed the information relied upon for reasonableness."
- ~~((ii))~~ ~~"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."~~

A statement of reliance on other experts ~~(should)~~ must be accompanied by a statement by each ~~(of such experts of)~~ expert in the form prescribed by subsection (5) of this section.

(d) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph ~~(shall)~~ must also include substantially the following statement:

"My examination included ~~(such)~~ a review of the actuarial assumptions ~~(and)~~, actuarial methods ~~(and of)~~, the underlying basic asset and liability records, and ~~(such)~~ other tests of the actuarial calculations ~~(as)~~ I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

(e) If the appointed actuary has not examined the underlying records, but has relied upon listings ~~(and)~~ or summaries of policies in force, or asset records, or both prepared by

the company ~~(or a third party)~~, the reliance paragraph ~~(shall)~~ must include a statement substantially similar to ~~(one of)~~ the following:

- ~~((i))~~ "In forming my opinion on [specify types of reserves] I ~~(have)~~ relied upon ~~(listings and summaries [of policies and contracts, of asset records])~~ data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects my examination included ~~(such)~~ review of the actuarial assumptions and actuarial methods used and ~~(such)~~ tests of the actuarial calculations ~~(as)~~ I considered necessary."
- ~~((ii))~~ ~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."~~

~~Such a section shall)~~ The paragraph must be accompanied by a signed statement by each person relied upon based on the form ~~(prescribed by)~~ set forth in subsection (5) of this section.

(f) The opinion paragraph ~~(shall)~~ must include a statement substantially similar to the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

- (i) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
- (ii) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- (iii) Meet the requirements of the insurance laws and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
- (iv) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);
- (v) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items includ-

ing, but not limited to, the investment earnings on ~~((such))~~ the assets, and the considerations anticipated to be received and retained under ~~((such))~~ the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion must include the names of the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies must provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness of the items, as applicable. This certification must include the signature, title, company's legal name, address and telephone number of the person providing the certification, and the date on which it is signed. This certification must include the reporting date, the name of the appointed actuary, and must be attached to the opinion ~~((the statement of a company officer or accounting firm who prepared such underlying data)), in a form~~ substantially similar to ~~((either or both of))~~ the following~~((, as appropriate))~~:

~~((a))~~ "I [name of officer], [title], of [name of company ~~((or accounting firm))~~], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 20[], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary⁽¹⁾

Date"

Signature of the Officer of the Company
~~((or Accounting Firm))~~

Address of the Officer of the Company
~~((or Accounting Firm))~~

Telephone Number of the Officer of the Company
~~((or Accounting Firm⁽¹⁾))~~

Date"

(3) Assumptions for new issues: The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.

(4) Adverse opinions: If the appointed actuary is unable to form an opinion, then he or she ~~((shall))~~ must refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she ~~((shall))~~ must issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for ~~((such))~~ the adverse opinion. This statement ~~((should))~~ must follow the scope paragraph and precede the opinion paragraph.

(5) Reliance on data furnished by other persons~~((:))~~: If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force or ~~((asset-oriented information, there shall))~~ if the actuary relies on the certification of others on matters

~~((b))~~ "I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company,
Accounting Firm or the Security Analyst

Address of the Officer of the Company,
Accounting Firm or the Security Analyst

Telephone Number of the Officer of the
Company, Accounting Firm or
the Security Analyst")

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 Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-390 Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary. (1)(a) In accordance with RCW 48.74.025, the appointed actuary (~~shall~~) must prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves (~~under a WAC 284-07-380 opinion~~). The memorandum (~~shall~~) must be made available for examination by the commissioner upon his or her request but (~~shall~~) will be returned to the company after (~~such~~) the examination and (~~shall~~) will not be considered a record of the commissioner or subject to automatic filing with the commissioner.

(b) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of WAC 284-07-350(2), with respect to the areas covered in such memoranda, and (~~shall so state~~) must include a statement to that effect in their memoranda.

(c) If the commissioner requests a memorandum and an adequate memorandum is not provided within ten days (~~of~~) after the request, or, if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this regulation, the commissioner may designate a qualified actuary to review the opinion and prepare the supporting memorandum required for review. All reasonable and necessary expenses of the independent review (~~shall~~) must be paid by the company but all expenses (~~connected therewith shall~~) related to the review will be directed and controlled by the commissioner.

(d)(i) The reviewing actuary (~~shall~~) must have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary (~~shall~~) must be retained by the commissioner (~~Provided, however, That any~~). Information provided by the company to the reviewing actuary and included in the work papers (~~shall~~) will be considered material provided by the company to the commissioner and (~~shall~~) will be kept confidential to the same extent as prescribed by law with respect to other material provided by the company to the commissioner (~~pursuant to the statute governing this regulation~~).

(ii) The reviewing actuary (~~shall~~) must not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the (~~insurer pursuant to this regulation~~) company for the current year or any one of the preceding three years.

(e) In accordance with RCW 48.74.025, the appointed actuary must prepare a regulatory asset adequacy issues summary according to the requirements set forth in subsection (3) of this section. The regulatory asset adequacy issues summary must be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. Except for a domestic life insurance company, the regulatory asset adequacy issues summary must be submitted only upon request of the commissioner. The regulatory asset adequacy issues summary has the standing of a memorandum in support of the actuarial opinion, and will be kept confidential to the extent and under the conditions provided for in RCW 48.74.025(4).

(2) When an actuarial opinion (~~under WAC 284-07-380~~) is provided, the memorandum (~~shall~~) must demonstrate that the analysis has been completed in accordance with the standards for asset adequacy (~~referred to~~) set forth in WAC 284-07-350(4) and any additional standards required by the commissioner. The memorandum (~~shall specify~~) must include the following:

(a) For reserves:

(i) Product descriptions including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;

(ii) Sources of liabilities in force;

(iii) Reserve methods and bases;

(iv) Investment reserves;

(v) Reinsurance arrangements;

(vi) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;

(vii) Documentation of assumptions, including comparisons with experience, to test reserves for the following:

(A) Lapse rates, both base and excess;

(B) Interest crediting rate strategy;

(C) Mortality;

(D) Policyholder dividend strategy;

(E) Competitor or market interest rate;

(F) Annuitization rates;

(G) Commissions and expenses; and

(H) Morbidity.

The documentation of the assumptions must allow an actuary reviewing the actuarial memorandum to form a conclusion regarding the reasonableness of the assumptions.

(b) For assets:

(i) Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;

(ii) Investment and disinvestment assumptions;

(iii) Sources of asset data;

(iv) Asset valuation bases;

(v) Documentation of assumptions made for:

(A) Default costs;

(B) Bond call function;

(C) Mortgage prepayment function;

(D) Determining market value for assets sold due to disinvestment strategy; and

(E) Determining yield on assets acquired through the investment strategy.

The documentation of the assumptions must allow an actuary reviewing the actuarial memorandum to form a conclusion regarding the reasonableness of the assumptions.

(c) Analysis basis:

(i) Methodology;

(ii) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

(iii) Rationale for degree of rigor in analyzing different blocks of business, including the level of "materiality" that was used in determining how rigorously to analyze different blocks of business;

(iv) Criteria for determining asset adequacy, including the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions, as specified in relevant actuarial standards of practice;

(v) ~~(Effect))~~ Consideration of the impact of federal income taxes ~~(, reinsurance, and other relevant factors.~~

~~(d) Assumptions:~~

~~(i) Lapse rates, including a comparison of assumed lapse rates with actual lapse rates, if lapse experience studies have been performed;~~

~~(ii) Interest crediting rate strategy;~~

~~(iii) Mortality rates, either specified directly or stated with reference to nonproprietary, published tables;~~

~~(iv) Dividend strategy;~~

~~(v) Competitor or market interest rate;~~

~~(vi) Annuitization rates;~~

~~(vii) Commissions and expenses, including a comparison of assumptions with recent actual commissions and expenses;~~

~~(viii) Asset default costs;~~

~~(ix) Bond call function;~~

~~(x) Mortgage prepayment function;~~

~~(xi) Determination of market value for assets sold due to disinvestment strategy;~~

~~(xii) Anticipated yield on assets acquired through the investment strategy.~~

~~(e)); and~~

(vi) The method of treating reinsurance in the asset adequacy analysis.

(d) Sensitivity testing: Impact of changes in assumptions used in asset adequacy analysis, based on sensitivity tests performed.

(e) Material changes: Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.

(f) Results:

(i) Schedules under each required scenario showing the cash flows by each of the major items of income, benefits, and expenses, statutory gains or losses, and statutory balance sheet, as modeled, for each year in the projection period ~~(= Provided however, That for 1994, abbreviated schedules, appropriate in the judgment of the appointed actuary, are acceptable.); and~~

(ii) Summary of results.

(g) Conclusion(s).

(3) The regulatory asset adequacy issues summary must contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and must be

signed and dated by the appointed actuary providing the actuarial opinion. The regulatory asset adequacy issues summary must include all of the following:

(a) Descriptions of the scenarios tested, including whether those scenarios are stochastic or deterministic, and the sensitivity testing performed relative to those scenarios.

(i) If certain tests produce negative ending surplus in the aggregate, the actuary must describe those tests and state the amount of additional reserve as of the valuation date that, if held, would eliminate the negative aggregate surplus values.

(ii) The actuary must determine ending surplus values by either:

(A) Extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial; or

(B) Adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

(b) An explanation of the extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different from the assumptions used in the previous asset adequacy analysis.

(c) A description of the amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion.

(d) Comments on any interim results that may be of significant concern to the appointed actuary.

(e) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.

(f) A paragraph explaining whether the actuary is satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(4) The memorandum ~~(shall)~~ must include a statement substantially similar to the following:

"Actuarial methods, considerations, and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-07-360 Required opinions.

WAC 284-07-370 Statement of actuarial opinion not including an asset adequacy analysis.

WSR 08-01-078
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-293—Filed December 17, 2007, 8:50 a.m., effective January 17, 2008]

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

Purpose: Adopt chapter 232-13 WAC: WAC 232-13-010 Introduction, 232-13-020 Purpose, 232-13-030 Definitions, 232-13-040 Aircraft, 232-13-050 Behavior and conduct, 232-13-060 Camping, 232-13-070 Fires and campfires, 232-13-080 Commercial use or activity, 232-13-090 Non-commercial use of activity, 232-13-100 Dumping and sanitation, 232-13-110 Enforcement, 232-13-120 Erecting and use camps, blinds, and tree stand structures on department lands, 232-13-130 Firearms and target practicing, 232-13-140 Fireworks, 232-13-150 Regulating public access, 232-13-170 Parking, 232-13-180 Pets and 232-13-210 Penalties; and repealing WAC 232-12-184 Aircraft—Authorized use on department lands and 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-12-184 and 232-12-187.

Statutory Authority for Adoption: RCW 77.12.210, 77.12.880.

Adopted under notice filed as WSR 07-13-101 on June 20, 2007.

Changes Other than Editing from Proposed to Adopted Version: **Under WAC 232-13-010 Introduction:** Introduction language changed from "the department strives to maximize opportunities for people to hunt, fish, and appreciate fish and wildlife" to "The department strives to maximize fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities compatible with healthy and diverse fish and wildlife populations." Changes were made to clarify department responsibilities.

Under WAC 232-13-020 Purpose: This entire section was rewritten. Original language states: "Primary purposes for the public use of department-owned or controlled public lands, waters, or access areas are lawful hunting and fishing, wildlife observation, and other wildlife oriented recreational activities. Other activities are secondary and may be restricted or prohibited." Adopted language states: "The primary purpose of department lands is the preservation, protection, perpetuation and management of fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities when compatible with healthy and diverse fish and wildlife populations." Changes were made to clarify department land management purposes.

Under WAC 232-13-030 Definitions: The definitions below were either added or rewritten to clarify the rules and show where definitions were derived from existing statutes. Added definitions include:

"Campfire" means any open flame from a wood source.

"Director" means the department's director or his or her designee.

"Department" means the Washington department of fish and wildlife.

"Department land" means any area (including water, access areas, roads, and trails) under the ownership, management, lease, or control of the department, excluding private lands. This definition replaces the previous "Land" definition.

"Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the National Marine Fisheries Service, State Parks commissioned officers, United States fish and wildlife special agents, Department of Natural Resources enforcement officers, and United States Forest Service officers, while the agents and officers are within their respective jurisdictions.

"Fire" means any open flame from any source or device, including but not limited to campfires, stoves, lanterns and barbeques.

"Garbage," as defined in WAC 246-203-120, means all solid and semisolid kitchen refuse subject to decay or putrefaction, and all market waste of animal and vegetable matter that was intended to be used as food.

"Trash and rubbish," as defined in WAC 246-203-120, means all waste material not of putrescible nature.

New language for original definitions include:

"Firearm," as defined in RCW 9.41.010, means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. For purposes of this chapter, "firearm" does not include BB guns, pellet guns, paintball guns, or other guns that use compressed air as a propellant, or immobilization guns used in animal restraint by department personnel.

"Motorized vehicle," as defined in RCW 46.09.020 and 46.04.320, means a vehicle that derives motive power from an internal combustion engine or is propelled by electric power. For purposes of this chapter, it does not mean motorized wheel chairs used by persons with disabilities.

"Road," pursuant to RCW 46.04.500 and 46.04.197, means that portion of an every way publicly maintained for the purposes of vehicular travel. For purposes of this chapter, "road" means a road wholly or partly within or adjacent to and serving department-owned or controlled public lands, waters, or access areas under the jurisdiction of the department.

"Snowmobile," as defined in RCW 46.10.010, shall mean any self-propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to, the motor vehicle excise tax in the state of Washington.

Under WAC 232-13-040 Aircraft: The following language was added to clarify that this section does not apply when critical activities must be performed. "This section does not apply to official aircraft used in the performance of department approved scientific research, search and rescue missions, medical emergencies, law enforcement activities,

emergency evacuations, fire fighting activities, or other agency administrative activities."

Under WAC 232-13-050 Behavior and conduct: Subsections (1) and (2) were rewritten to simplify the rules and to reflect current statute. The original language reads: "(1)(a) It is unlawful to engage in disorderly conduct on department-owned or controlled public lands, waters, or access areas.

(b) For the purposes of this subsection, "disorderly conduct" means conduct that unreasonably disturbs the repose of other persons lawfully using these lands, waters, or access areas; or is of a loud, threatening, insulting, boisterous, or abusive nature towards other persons, creating a risk of assault, fight, or riot; or by its indifference to or disregard for public safety, warrants alarm for the safety or well-being of others.

(2)(a) It is unlawful to engage in activities that violate quiet hours on department-owned or controlled public lands or access areas that are designated for camping.

(b) The term "activities that violate quiet hours," as used in this section, means engaging in loud and boisterous conduct or the playing of radios, musical instruments, sound, or music systems, or the activating of sound producing electronic or mechanical devices in the camping area, between 10:00 p.m. and 6:00 a.m."

The new language reads: "(1)(a) It is unlawful to engage in disorderly conduct on department lands. Disorderly conduct is a misdemeanor, pursuant to RCW 9A.84.030.

(b) For the purposes of this subsection, a person is guilty of disorderly conduct if he or she:

- (i) Uses abusive language and thereby intentionally creates a risk of assault;
- (ii) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority; or
- (iii) Intentionally obstructs vehicular or pedestrian traffic without lawful authority."

The following language was added under subsections (2) and (3) to clearly state the type of violation associated with it. "Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230."

The following sentence was removed from the last section regarding following posted signs. "This subsection also applies to private lands that are under management or access agreement with the department." Current language reflects that this section does not apply to private lands because the director already has this authority.

Under WAC 232-13-060 Camping: Current language says "It is unlawful to establish or occupy a camp on department lands in excess of twenty-one days within a thirty-day period." The previous language indicated only "fourteen days within a thirty-day period." The longer period was adopted at the request of users to allow greater opportunity for camps to be in place throughout hunting seasons.

Under WAC 232-13-070 Fires and campfires: This section was added to reduce the risk of wildfire and to address human safety on department lands. "With the exception of campfires, fires in stoves, lanterns and barbeques, and fire used by the department for habitat management, it is unlawful to start or tend any other fire on department lands. Lawful campfires are limited to a maximum of three feet in diameter and three feet high."

Under WAC 232-13-080 Commercial use or activity:

This section was simplified to clarify [the] rule. Subsection (2) was originally written to address managing large groups. This issue is now addressed in WAC 232-13-090. The current section simply says "It is unlawful to use department lands for any commercial purposes without a permit from the director." The original language reads: "(1) It is unlawful to use department-owned or controlled public lands, waters, or access areas for any commercial purposes, including but not limited to the placement of bee hives, collecting mushrooms or plants or plant parts; guiding or outfitting hunters, anglers, or whitewater rafters; or sales or services, without a permit from the director.

(2) It is unlawful to sponsor, conduct, or hold a private or public event, race, regatta, contest, rally, rodeo, equestrian event involving more than five animals, shooting match, sporting clay competition, outdoor music festival, jamboree, field trial, hunting or fishing contest, or other similar public gathering or event on department-owned or controlled public lands, waters, or access areas without a permit from the director."

Under WAC 232-13-090 Noncommercial use or activity: This is a new section to replace subsection (2) in WAC 232-13-080. The new language clarifies the rule that a permit is needed for an event of more than thirty individuals. "It is unlawful to sponsor, conduct, or hold a private or public event, involving more than thirty people, on department lands without a permit from the director."

Under WAC 232-13-100 Dumping and sanitation:

This section has been largely rewritten to simplify the rule. The original language reads: "(1) It is unlawful for any person to throw, drop, or leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased, or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property. In addition, it is unlawful to pollute, or in any way contaminate by dumping or otherwise depositing therein, any waste or refuse of any nature, kind, or description, including human or animal bodily waste, into any stream, river, lake, or other body of water running in, through, or adjacent to any department-owned or controlled public lands, waters, or access areas.

(2) It is unlawful to burn trash on department-owned or controlled public lands, waters, or access areas.

(3) It is unlawful to drain or dump refuse or waste from any trailer, camper, automobile, other vehicle, or vessel on department-owned or controlled public lands, waters, or access areas.

(4) Except for department-owned vehicles or vehicles used by the department for department administration, it is unlawful to clean or wash any automobile, vessel, or other vehicle on department-owned or controlled public lands, waters, or access areas, except at designated areas and times for invasive species control and prevention."

The adopted language reads: "(1) It is unlawful for any person to throw, drop, or leave any discarded object, garbage, trash or rubbish, upon any department lands except into a litter or garbage receptacle or container installed for that purpose on such property. Violation of this subsection is pursuant to RCW 70.93.060, which makes it a class 3 civil infrac-

tion to litter in an amount less than or equal to one cubic foot; a misdemeanor to litter in an amount greater than one cubic foot but less than one cubic yard; and a gross misdemeanor to litter in an amount of one cubic yard or more.

(2) It is unlawful to drain or dump refuse or human waste from any trailer, camper, automobile, other vehicle, or vessel on department lands.

(3) Except for administrative purposes, it is unlawful to clean or wash any automobile, vessel, or other vehicle on department lands with any substance other than water or biodegradable soaps. This subsection does not apply to cleaning activities to control and prevent the spread of invasive species provided only water is used."

The second sentence of subsection (1) was removed because the intent of the language is already captured in the rule.

Additional language was added to clarify state statute regarding the type of violation for different amounts of litter.

The original subsection (2) was removed because **WAC 232-13-070 Fires and campfires** already prohibits burning trash.

The last subsection was rewritten to protect the environment and allow cleaning vehicles on department lands if only water or biodegradable soaps are used.

Under WAC 232-13-110 Enforcement: The following language was added under subsection (2) to clearly state the type of violation associated with it. "Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230."

Under WAC 232-13-120 Erecting and using camps, blinds, and tree stand structures on department lands: This section was completely rewritten to clarify the rule and avoid confusion. The original language reads: "(1)(a) It is unlawful to erect, establish, use, or occupy a permanent or temporary structure on department-owned or controlled public lands, waters, or access areas without a permit from the director.

(b) This provision does not apply to a tent or other temporary structure established as part of a camp. Such tents or temporary structures must be entirely removed at the end of the trip or season being hunted by the occupants of the camp. A structure may in no case remain more than fourteen days within a thirty-day period, unless otherwise posted. This provision does not apply to certain hunting blinds. Hunting blinds are defined for purposes of this section as temporary structures made entirely of natural materials and that do not use metal, cement, furniture, wire, rope, twine, plastic, or lumber in their construction. Portable hunting blinds that are designed to be removed and are removed at the end of the hunting day may be used.

(c) Unauthorized or unlawful permanent or temporary structures or hunting blinds may be declared to be public nuisances and may be removed by the department without notice or process.

(2)(a) It is unlawful to dig, use, or occupy a pit-type hunting blind on department-owned or controlled public lands, waters, or access areas except when such pit-type hunting blinds are established by the department or are authorized by a permit from the director.

(b) It is unlawful to attempt to exercise the provisions of an expired permit issued under this section by the director or

to fail to obey the terms and conditions of a permit issued under this section by the director.

(c) It is unlawful to assert or attempt to assert a claim of exclusive occupancy on department-owned or controlled public lands, waters, or access areas unless such claim is supported or authorized by a permit from the director."

The adopted language reads: "(1)(a) It is unlawful to dig pits for the purpose of hunting waterfowl, or to cut trees or attach artificial fasteners (such as wire, staples or nails) to trees for the construction of camps, blinds and tree stands on department lands.

(b) All nonnatural materials used in the construction of blinds or tree stands must be removed from department lands at the end of the hunting season.

(2) All nondepartment owned blinds shall be available to the public on a "first-come-first-served" basis.

(3) Structures established as part of a camp must be removed from department lands by camp occupants at the end of the trip."

Under WAC 232-13-130 Firearms and target practicing: The term "Projectile devices" was removed from subsection (1)(a) to make clear that this section does not restrict the use of legal firearms on department lands. This change addresses a concern expressed in several public comments.

The following language was added under subsection (1)(b) to clearly state the type of violation associated with the rule. "Violating this subsection is a gross misdemeanor if the violation creates a substantial risk of death or serious physical injury to another person, pursuant to RCW 9A.36.050."

In subsection (1)(c) the requirement to remove clay pigeons after target practice was excluded in response to public input and because they are biodegradable; and the word "any" that modified the word "debris" was deleted. This allows a Fish and Wildlife officer clear discretion to determine if an individual attempted to remove the majority of debris and therefore would not be guilty of littering.

In subsection (2) a clause was added to the end of the sentence in response to public comments that the department should have a justifiable reason to designate locations and time for target practicing. The rule now ends with the clause: "consistent with resource management or public safety concerns."

Under WAC 232-13-140 Fireworks: The following language was added. "This does not apply to gasoline or diesel powered equipment, cooking stoves or grills, lanterns, lighters, or heaters, or legal firearms." This clarifies that legal firearms, camping gear and equipment may be used on department lands.

Under WAC 232-13-150 Regulating public access: This section combines **WAC 232-13-130 Land and road closures** and **232-13-140 Regulating public access** from the original language. All references to controlling hunting methods and hunting access have been removed in the current language because these issues are under the authority of the Fish and Wildlife Commission.

Under WAC 232-13-160 Livestock: This section was not adopted and has been removed from the WAC pending further consideration by the Fish and Wildlife Commission. This means that current rule (WAC 232-12-174) remains in effect.

Under WAC 232-13-170 Parking: Subsection (1)(a) now states "It is unlawful to park or leave a vehicle unattended for more than twenty-one days on department lands without a permit from the director." The original language had a limit of "five days" without a permit. This was changed to coincide with the twenty-one day limit for camping.

Subsection (2) now states "Vehicles, vessels, motor homes, and trailers parked or abandoned for more than twenty-one consecutive days within a thirty-day period on department lands are declared to be public nuisances and may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer." The original language had a limit of "fourteen consecutive days within a thirty-day period." This was changed to coincide with the twenty-one day limit for camping.

Subsection (3) now has language "excluding floating blinds used for waterfowl hunting" when prohibiting mooring of houseboats and other floating occupancy structures on department lands without a permit. This exclusion is a response to public input to maintain waterfowl hunting opportunities.

Language was also changed in subsection (3) indicating that "unauthorized or unlawful boats, houseboats or other floating structures may be declared public nuisances and may be abated by the department after 10 days notice by the department" rather than "may be removed by the department without notice or process" as stated in the original language. This was changed to provide a notice period before action is taken.

Under WAC 232-13-180 Pets: Subsection (2) has been changed from "It is unlawful for any person to leave pets unattended on department lands" to "It is unlawful for any person to allow pets to roam unattended on department lands." This change allows pet owners to spend time away from their animals if the pets are safely secured and unable to roam.

Subsection (3)(a) originally read: "It is unlawful to cause or allow a dog to roam freely on department-owned or controlled public lands, waters, or access areas, from April 1 through August 31, except in designated areas." Subsection (3)(a) currently reads: "It is unlawful to cause or allow a pet to roam unleashed on department-owned lands from April 1 through July 31, unless posted otherwise." The new language reflects that it now applies to all pets rather than just dogs. This was in response to public comment that roaming cats can impact wildlife also. The requirement to have pets leashed was added to protect ground-nesting birds during the critical nesting and rearing period.

Subsection (3)(b) originally read: "It is unlawful to cause or allow a dog to roam freely on designated access sites or within two hundred yards of a designated campground on department-owned or controlled public lands."

Subsection (3)(b) now reads: "It is unlawful to cause or allow a pet to roam unleashed on designated access sites or within five hundred feet of a designated campground on department lands." The new language reflects that it now applies to all pets rather than just dogs. This was in response to public comment that roaming cats can impact wildlife also. The requirement to have pets leashed within five hundred feet of specific areas was added to reduce the likelihood of

user conflicts on areas typically used by large numbers of people.

Under WAC 232-13-190 Resource removal: This section was not adopted and has been removed from the WAC pending further consideration by the Fish and Wildlife Commission. This means that current rule (WAC 232-12-251) remains in effect.

Under WAC 232-13-200 Vehicle use: This section was not adopted and has been removed from the WAC pending further consideration by the Fish and Wildlife Commission. This means that current rule (WAC 232-12-177) remains in effect.

Under WAC 232-13-210 Penalties: The original language reads: "Except as provided in the "vehicle use" section, WAC 232-13-190, violation of any of the provisions of this chapter constitutes a violation of RCW 77.15.230, unlawful use of department-owned or controlled lands."

The current language reads: "Unless otherwise provided, violation of any of the provisions of this chapter constitutes an infraction, pursuant to RCW 77.15.020 and 77.15.160."

This change reflects that unless otherwise provided, a violation of this chapter will be an infraction rather than a misdemeanor.

A final cost-benefit analysis is available by contacting Lori Preuss, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail preuslmp@dfw.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 18, Amended 0, Repealed 2.

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

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

Date Adopted: December 8, 2007.

Susan Yeager for
Jerry Gutzwiler, Chair
Fish and Wildlife Commission

Chapter 232-13 WAC

PUBLIC CONDUCT IN WILDLIFE AREAS AND ACCESS SITES OWNED OR CONTROLLED BY THE DEPARTMENT OF FISH AND WILDLIFE

NEW SECTION

WAC 232-13-010 Introduction. The Washington department of fish and wildlife's (department) paramount responsibility is to preserve, protect, perpetuate, and manage

the fish and wildlife species of the state (RCW 77.04.012). The department strives to maximize fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities compatible with healthy and diverse fish and wildlife populations. (RCW 77.04.012, 77.04.020 and 77.04.055.)

NEW SECTION

WAC 232-13-020 Purpose. The primary purpose of department lands is the preservation, protection, perpetuation and management of fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities when compatible with healthy and diverse fish and wildlife populations.

NEW SECTION

WAC 232-13-030 Definitions. Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Aircraft" means any machines designed to travel through the air, whether heavier or lighter than air, including but not limited to airplanes, dirigibles, balloons, and helicopters. The term "aircraft" shall not include paragliders or remote-controlled aircraft.

(2) "Campfire" means any open flame from a wood source.

(3) "Camping" means erecting a tent or shelter or arranging bedding, or both, or parking a recreational vehicle or other vehicle for the purpose of remaining overnight.

(4) "Campgrounds" are department-designated areas where camping is allowed.

(5) "Closed or restricted access" means any department-owned or controlled public lands, waters, or access areas (including roads and trails) that are gated and locked, closed by earthen mound, or designated as closed or posted as such with signs.

(6) "Commercial use or activity" is any use or activity on department-controlled or managed lands, waters, or access areas:

(a) Where an entry or other type of fee is charged; or

(b) Where the primary purpose is the sale or barter of a good or service; and

(c) In either case, the term applies regardless of whether the use or activity is intended to produce a profit.

(7) "Director" means the department's director or his or her designee.

(8) "Department" means the Washington department of fish and wildlife.

(9) "Department land" means any area (including water, access areas, roads, and trails) under the ownership, management, lease, or control of the department, excluding private lands.

(10) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the National Marine Fisheries Service, state parks commissioned officers, United

States Fish and Wildlife special agents, department of natural resources enforcement officers, and United States Forest Service officers, while the agents and officers are within their respective jurisdictions.

(11) "Fire" means any open flame from any source or device, including but not limited to campfires, stoves, lanterns and barbecues.

(12) "Firearm," as defined in RCW 9.41.010, means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. For purposes of this chapter, "firearm" does not include BB guns, pellet guns, paintball guns, or other guns that use compressed air as a propellant, or immobilization guns used in animal restraint by department personnel.

(13) "Fireworks," as defined in RCW 70.77.126, means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and which meets the definition of articles pyrotechnic or consumer fireworks or display fireworks.

(14) "Garbage," as defined in WAC 246-203-120, means all solid and semisolid kitchen refuse subject to decay or putrefaction, and all market waste of animal and vegetable matter that was intended to be used as food.

(15) "Incendiary" means causing or designed to cause fires, such as flares, bombs or other exploding or flammable devices.

(16) "Livestock," as defined in RCW 16.57.010, includes, but is not limited to, horses, mules, cattle, sheep, swine, and goats.

(17) "Motorized vehicle," as defined in RCW 46.09.020 and 46.04.320, means a vehicle that derives motive power from an internal combustion engine or is propelled by electric power. For purposes of this chapter, it does not mean motorized wheel chairs used by persons with disabilities.

(18) "Parking," as defined in RCW 46.04.381, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(19) "Pet" means a dog, cat, or any animal that has been domesticated, except livestock.

(20) "Possession" means exercising direct physical control or dominion, with or without ownership, over weapons, traps, nets, or other property, or archeological, cultural, or natural resources.

(21) "Road," pursuant to RCW 46.04.500 and 46.04.197, means that portion of an every way publicly maintained for the purposes of vehicular travel. For purposes of this chapter, "road" means a road wholly or partly within or adjacent to and serving department-owned or controlled public lands, waters, or access areas under the jurisdiction of the department.

(22) "Snowmobile," as defined in RCW 46.10.010, shall mean any self-propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to, the motor vehicle excise tax in the state of Washington.

(23) "Trash and rubbish," as defined in WAC 246-203-120, means all waste material not of putrescible nature.

(24) "Tracer bullet or shell" means a bullet, projectile, or shell that traces its own course in the air with a trail of smoke, chemical incandescence, or fire, so as to facilitate adjustment of the aim.

(25) "Vessel" means any craft that is used or is capable of being used as a means of transportation on or under water or ice, including but not limited to powerboats, cruisers, houseboats, sailboats, airboats, hovercraft, rowboats, canoes, kayaks, or other personal watercraft. This also includes buoyant devices permitting or capable of free flotation.

NEW SECTION

WAC 232-13-040 Aircraft. (1) Except as authorized by the director or the commissioner of public lands, it is unlawful to land aircraft on department lands, except in the case of a bona fide emergency.

(2) This section does not apply to official aircraft used in the performance of department approved scientific research, search and rescue missions, medical emergencies, law enforcement activities, emergency evacuations, fire fighting activities, or other agency administrative activities.

NEW SECTION

WAC 232-13-050 Behavior and conduct. (1)(a) It is unlawful to engage in disorderly conduct on department lands. Disorderly conduct is a misdemeanor, pursuant to RCW 9A.84.030.

(b) For the purposes of this subsection, a person is guilty of disorderly conduct if he or she:

- (i) Uses abusive language and thereby intentionally creates a risk of assault;
- (ii) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority; or
- (iii) Intentionally obstructs vehicular or pedestrian traffic without lawful authority.

(2)(a) It is unlawful to possess or dispense beer or malt liquor in quantities subject to keg registration laws under RCW 66.28.210, on department lands, without a permit from the director. Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230.

(b) It is unlawful to hold, sponsor, or attend an event requiring a banquet permit under chapter 314-18 WAC from the liquor control board, on department lands without a permit from the director. Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230.

(3) Pursuant to RCW 77.15.230, it is unlawful to use department lands in a manner or for a purpose contrary to signs or notices posted on those lands, waters, or access areas. Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230.

NEW SECTION

WAC 232-13-060 Camping. (1) It is unlawful to establish or occupy a camp on department lands in excess of twenty-one days within a thirty-day period, except when allowed by department posted notice.

(2) It is unlawful to establish or occupy a residence camp on department lands. For purposes of this section, a residence camp is an encampment, occupancy, or presence on department lands that is the principal place of residence for the person or occupant.

(3) A residence camp on department lands is declared to be a public nuisance and may be abated by the department after ten days of notice by the department.

NEW SECTION

WAC 232-13-070 Fires and campfires. With the exception of campfires, fires in stoves, lanterns and barbecues, and fire used by the department for habitat management, it is unlawful to start or tend any other fire on department lands. Lawful campfires are limited to a maximum of three feet in diameter and three feet high.

NEW SECTION

WAC 232-13-080 Commercial use or activity. It is unlawful to use department lands for any commercial purposes without a permit from the director.

NEW SECTION

WAC 232-13-090 Noncommercial use or activity. It is unlawful to sponsor, conduct, or hold a private or public event, involving more than thirty people, on department lands without a permit from the director.

NEW SECTION

WAC 232-13-100 Dumping and sanitation. (1) It is unlawful for any person to throw, drop, or leave any discarded object, garbage, trash or rubbish, upon any department lands except into a litter or garbage receptacle or container installed for that purpose on such property. Violation of this subsection is pursuant to RCW 70.93.060, which makes it a class 3 civil infraction to litter in an amount less than or equal to one cubic foot; a misdemeanor to litter in an amount greater than one cubic foot but less than one cubic yard; and a gross misdemeanor to litter in an amount of one cubic yard or more.

(2) It is unlawful to drain or dump refuse or human waste from any trailer, camper, automobile, other vehicle, or vessel on department lands.

(3) Except for administrative purposes, it is unlawful to clean or wash any automobile, vessel, or other vehicle on department lands with any substance other than water or biodegradable soaps. This subsection does not apply to cleaning activities to control and prevent the spread of invasive species provided only water is used.

NEW SECTION

WAC 232-13-110 Enforcement. (1) Fish and wildlife officers and ex officio fish and wildlife officers have the authority to remove from department lands people who have violated the law or failed to obey department regulations.

(2) It is unlawful to fail, neglect, or refuse to obey the directions of such officers regarding the use of department lands. Violating this subsection is a misdemeanor, pursuant to RCW 77.15.230.

NEW SECTION

WAC 232-13-120 Erecting and using camps, blinds, and tree stand structures on department lands. (1)(a) It is unlawful to dig pits for the purpose of hunting waterfowl, or to cut trees or attach artificial fasteners (such as wire, staples or nails) to trees for the construction of camps, blinds and tree stands on department lands.

(b) All nonnatural materials used in the construction of blinds or tree stands must be removed from department lands at the end of the hunting season.

(2) All nondepartment owned blinds shall be available to the public on a "first-come-first-served" basis.

(3) Structures established as part of a camp must be removed from department lands by camp occupants at the end of the trip.

NEW SECTION

WAC 232-13-130 Firearms and target practicing. (1)(a) It is unlawful to discharge tracer or incendiary ammunition on department lands.

(b) It is unlawful to discharge firearms in those portions of department lands where or when such discharge is prohibited by department posted notice or from or within five hundred feet of a department designated campground. Violating this subsection is a gross misdemeanor if the violation creates a substantial risk of death or serious physical injury to another person, pursuant to RCW 9A.36.050.

(c) It is unlawful to fail to remove expended shell casings, ammunition packaging, or other related target debris, excluding clay pigeons, when target practicing on department lands at the conclusion of the target practice session and prior to departure from the area. Failure to remove debris constitutes littering.

(d) The use of glass, signs, appliances, mattresses, TVs, furniture, and exploding items as targets in target practicing is prohibited.

(2) The department may designate locations and times for target practicing consistent with resource management or public safety concerns.

NEW SECTION

WAC 232-13-140 Fireworks. It is unlawful to discharge or possess fireworks, model rockets, or other devices containing any explosive or flammable compounds on department lands. This does not apply to gasoline or diesel powered equipment, cooking stoves or grills, lanterns, lighters, or heaters, or legal firearms.

NEW SECTION

WAC 232-13-150 Regulating public access. (1) The director may close or restrict access to department lands by an emergency or other permanent regulation on a seasonal,

emergent, or permanent basis to protect human safety, vulnerable fish and wildlife resources or habitats, and department or other infrastructures from damage or abuse.

(2) The director may control public access on department lands to increase wildlife use in order to improve hunter success or manage wildlife viewing opportunities. Public access may be controlled by limiting the number of users in the areas and/or limiting the days of the week or hours of the day that the public can access the area.

(3) It is unlawful to enter or remain on department lands or portions thereof when such restrictions are in place or are established by department posted notice. This does not apply during the administration of authorized activities.

NEW SECTION

WAC 232-13-170 Parking. (1)(a) It is unlawful to park or leave a vehicle unattended for more than twenty-one days on department lands without a permit from the director.

(b) It is unlawful to leave a motor vehicle or trailer parked or standing on department lands when the vehicle is blocking access to a boat ramp, roadway, gate, or driveway or otherwise prevents egress or ingress to a department facility.

(c) Vehicles unlawfully parked or abandoned on department lands may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) Vehicles, vessels, motor homes, and trailers parked or abandoned for more than twenty-one consecutive days within a thirty-day period on department lands are declared to be public nuisances and may be impounded by a fish and wildlife officer or ex officio fish and wildlife officer.

(3) It is unlawful to moor a houseboat, other floating occupancy structure (excluding floating blinds used for waterfowl hunting), or dock on department lands without a permit from the director. Such unauthorized or unlawful boats, houseboats or other floating structures may be declared public nuisances and may be abated by the department after ten days notice by the department.

NEW SECTION

WAC 232-13-180 Pets. (1) The department may prohibit or regulate pets, except for bona fide service animals for persons with disabilities, on department lands.

(2) It is unlawful for any person to allow pets to roam unattended on department lands.

(3)(a) It is unlawful to cause or allow a pet to roam unleashed on department-owned lands from April 1 through July 31, unless posted otherwise.

(b) It is unlawful to cause or allow a pet to roam unleashed on designated access sites or within five hundred feet of a designated campground on department lands.

NEW SECTION

WAC 232-13-210 Penalties. Unless otherwise provided, violation of any of the provisions of this chapter constitutes an infraction, pursuant to RCW 77.15.020 and 77.15.160.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 232-12-184 Aircraft—Authorized use on department lands.
- WAC 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon.

**WSR 08-01-079
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed December 17, 2007, 9:14 a.m., effective January 17, 2008]

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

Purpose: The purpose of this rule-making order is to amend rules to implement SB 5175 (2007), which modifies the eligibility requirements for retirees, beneficiaries, or eligible ex-spouses of either the Public Employees' Retirement System (PERS) Plan 1 or Teachers' Retirement System (TRS) Plan 1 who receive a cost-of-living adjustment (COLA). Prior to SB 5175, PERS Plan 1 and TRS Plan 1 retirees, beneficiaries, and eligible ex-spouses were eligible for a COLA if they were retired for one year and reached age 66 by July 1 of the year in which the COLA was given. Now, PERS Plan 1 and TRS Plan 1 retirees, beneficiaries, and eligible ex-spouses may receive a COLA if they are retired for one year by July 1 of the year in which they reach age 66. WAC 415-02-350 needs amending to reflect this change.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-350.

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 07-22-095 on November 6, 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 1, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 17, 2007.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 06-18-009, filed 8/24/06, effective 9/24/06)

WAC 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated? (1) What is a cost-of-living adjustment (COLA)? The value of a retiree's, beneficiary's, or ex-spouse's monthly allowance may change in the years after retirement because of inflation or other factors. A COLA automatically adjusts benefits based on the cost of living changes.

(2) What retirement plans include COLAs? With one exception, all retirement plans administered by the department provide one or more of the types of COLAs listed in subsection (3) of this section. The judges retirement fund (chapter 2.12 RCW) does not provide a COLA.

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
JUDICIAL		Base	RCW 2.10.170
LEOFF	Plan 1	Base	RCW 41.26.240
LEOFF	Plan 2	Base	RCW 41.26.440
PSERS		Base	RCW 41.37.160
PERS	Plan 1	Uniform	RCW 41.40.197
PERS	Plan 1	Optional Auto	RCW 41.40.188 (1)(c)
PERS	Plan 2	Base	RCW 41.40.640
PERS	Plan 3	Base	RCW 41.40.840
SERS	Plans 2 and 3	Base	RCW 41.35.210
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional Auto	RCW 41.32.530 (1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

(3) What are the types of COLAs?

(a) Auto COLA

The auto COLA, if offered under your plan, is an option you may select at retirement. If you choose this option, your monthly retirement allowance will be actuarially reduced at retirement, and you will receive an automatic adjustment in your monthly retirement allowance each year for the rest of your life. The auto COLA has no age requirement and is limited to a maximum of (~~3% times~~) three percent of your monthly allowance.

(b) Base COLA

The base COLA is applied in July (April for LEOFF Plan 1) of each year and adjusts the benefit based on the change in the (~~CPI~~) Consumer Price Index for the Seattle area. Base COLAs are limited to a maximum of (~~3% times~~) three percent of the monthly allowance for all affected plans except LEOFF Plan 1. (~~They are~~) During a calendar year, the base COLA is payable to:

(i) Retirees(, beneficiaries, and ex-spouses) who have been retired for at least one year ((before)) by July 1st of each year (April 1st for LEOFF Plan 1); and

(ii) Beneficiaries or eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year (April 1st for LEOFF Plan 1).

(c) Uniform COLA

The uniform COLA is an annual adjustment to the benefit, based on years of service. The annual adjustment for the uniform COLA is independent from any other COLA. During a calendar year, it is payable to:

(i) ~~Retirees, beneficiaries, or ex-spouses age 66 or older who have been retired for at least one year by July 1st of each year; and~~

(ii) Retirees who, by July 1st, have received a retirement benefit for at least one year and who, by December 31st, will have reached age sixty-six or older;

(iii) Beneficiaries and eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year and who, by December 31st, will have reached age sixty-six or older; and

(iv) Retirees, beneficiaries, or eligible ex-spouses of any age whose retirement benefit is calculated under the minimum formula.

(4) Who is responsible for determining the amount of the COLA? The office of the state actuary (OSA) bases the percentages of the COLAs on the Consumer Price Index. The Index is based on wages earned by urban wage earners and clerical workers in the Seattle-Tacoma-Bremerton, Washington area. OSA provides this information to the department annually.

WSR 08-01-081**PERMANENT RULES****BOARD OF INDUSTRIAL
INSURANCE APPEALS**

[Filed December 17, 2007, 9:21 a.m., effective January 17, 2008]

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

Purpose: To revise the board's rules of practice and procedure by amending WAC 263-12-016, 263-12-018, 263-12-115, 263-12-135, and 263-12-165, and by adding new WAC 263-12-092, regarding mediation conferences.

Citation of Existing Rules Affected by this Order: Amending WAC 263-12-016, 263-12-018, 263-12-115, 263-12-135, and 263-12-165.

Statutory Authority for Adoption: RCW 51.52.020.

Adopted under notice filed as WSR 07-21-044 on October 10, 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 1, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 14, 2007.

Thomas E. Egan
Chairperson

NEW SECTION

WAC 263-12-092 Mediation conferences. (1) A statement made by any party, representative or other participant in the course of mediation conducted pursuant to RCW 51.52.095, whether verbal or written, is privileged as provided in subsection (2) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or reduced to writing and made part of a settlement agreement.

(2) In a proceeding, the following privileges apply: (a) A mediation party may refuse to disclose and may prevent any other person from disclosing a statement; (b) A mediator may refuse to disclose and may prevent any other person from disclosing a statement of the mediator; and (c) A non-party participant may refuse to disclose and may prevent any other person from disclosing a statement of the non-party participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation unless otherwise privileged by section 2(a)-(c) above.

(4) Mediation conferences are confidential and non-parties may be excluded from the proceedings.

AMENDATORY SECTION (Amending WSR 00-23-021, filed 11/7/00, effective 12/8/00)

WAC 263-12-016 Public records—Location. (1) Public records available. All public records of the board as defined in chapter 42.~~((47))~~56 RCW are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.~~((47-310))~~56.210-480.

(2) General information concerning the board may be obtained at its headquarters, 2430 Chandler Ct. S.W., P.O. Box 42401, Olympia, Washington 98504-2401.

(3) Public records officer. The public records officer shall be responsible for the following: The implementation of the board's rules and regulations regarding release of public records, coordinating the staff of the board in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.~~((47))~~56 RCW.

(4) Indices are available providing identifying information as to the following: (a) Final decisions and orders of the board, including concurring and dissenting opinions; (b) proposed decisions and orders of the board's industrial appeals judges; (c) in addition, any indices maintained for intra-agency use are available for public inspection and copying.

(5) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the board and must be accomplished without exces-

sive interference with the essential functions of the agency, and without causing damage or disorganization to public records.

(6) A fee shall be charged for copies of documents made with the board's equipment in an amount necessary to cover the cost to the agency of providing such service.

AMENDATORY SECTION (Amending Order 20, filed 1/10/86)

WAC 263-12-018 Public records—Exemptions. (1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.~~((47-340))~~56.210-480.

(2) Pursuant to RCW 42.~~((47-260))~~56.070, the board may delete identifying details when it makes available or publishes any public record in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy.

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption in chapter 42.~~((47))~~56 RCW authorizing withholding the record and a brief explanation of how the exemption applies to the record held will be included.

AMENDATORY SECTION (Amending WSR 03-02-038, filed 12/24/02, effective 1/24/03)

WAC 263-12-115 Procedures at hearings. (1) **Industrial appeals judge.** All hearings shall be conducted by an industrial appeals judge who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Order of presentation of evidence.**

(a) In any appeal under either the Industrial Insurance Act, the Worker and Community Right to Know Act or the Crime Victims Compensation Act, the appealing party shall initially introduce all evidence in his or her case-in-chief except that in an appeal from an order of the department that alleges fraud or willful misrepresentation the department or self-insured employer shall initially introduce all evidence in its case-in-chief.

(b) In all appeals subject to the provisions of the Washington Industrial Safety and Health Act, the department shall initially introduce all evidence in its case-in-chief.

(c) After the party with the initial burden has presented his or her case-in-chief, the other parties may then introduce the evidence necessary to their cases-in-chief. In the event there is more than one other party, they may either present their cases-in-chief successively or may join in their presentation. Rebuttal evidence shall be received in the same order. Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.

(3) **Objections and motions to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon. Extended argument or debate shall not be permitted.

(4) **Rulings.** The industrial appeals judge on objection or on his or her own motion shall exclude all irrelevant or unduly repetitious evidence and statements that are inadmis-

sible pursuant to WAC 263-12-095(5). All rulings upon objections to the admissibility of evidence shall be made in accordance with rules of evidence applicable in the superior courts of this state.

(5) **Interlocutory appeals to the board - Confidentiality of trade secrets.** A direct appeal to the board shall be allowed as a matter of right from any ruling of an industrial appeals judge adverse to the employer concerning the confidentiality of trade secrets in appeals under the Washington Industrial Safety and Health Act.

(6) **Interlocutory review by a chief industrial appeals judge.**

(a) Except as provided in subsection (5) of this section interlocutory rulings of the industrial appeals judge are not subject to direct review by the board. A party to an appeal or a witness who has made a motion to quash a subpoena to appear at board related proceedings, may within five working days of receiving an adverse ruling from an industrial appeals judge request a review by a chief industrial appeals judge or his or her designee. Such request for review shall be in writing and shall be accompanied by an affidavit in support of the request and setting forth the grounds for the request, including the reasons for the necessity of an immediate review during the course of conference or hearing proceedings. Within ten working days of receipt of the written request, the chief industrial appeals judge, or designee, may decline to review the ruling based upon the written request and supporting affidavit; or, after such review as he or she deems appropriate, may either affirm or reverse the ruling, or refer the matter to the industrial appeals judge for further consideration.

(b) Failure to request review of an interlocutory ruling shall not constitute a waiver of the party's objection, nor shall an unfavorable response to the request preclude a party from subsequently renewing the objection whenever appropriate.

(c) No conference or hearing shall be interrupted for the purpose of filing a request for review of the industrial appeals judge's rulings; nor shall any scheduled proceedings be canceled pending a response to the request.

(7) **Recessed hearings.** Where, for good cause, all parties to an appeal are unable to present all their evidence at the time and place originally set for hearing, the industrial appeals judge may recess the hearing to the same or a different location so as to insure that all parties have reasonable opportunity to present their respective cases. No written "notice of hearing" shall be required as to any recessed hearing.

(8) **Failure to present evidence when due.** If any party is due to present certain evidence at a hearing or recessed hearing and, for any reason on its part, fails to appear and present such evidence, the industrial appeals judge may conclude the hearing and issue a proposed decision and order on the record, or recess or set over the proceedings for further hearing for the receipt of such evidence.

(9) **Offers of proof in colloquy.** When an objection to a question is sustained an offer of proof in question and answer form shall be permitted unless the question is clearly objectionable on any theory of the case.

AMENDATORY SECTION (Amending WSR 00-23-021, filed 11/7/00, effective 12/8/00)

WAC 263-12-135 Record. The record in any contested case shall consist of the order of the department, the notice of appeal therefrom, all orders issued by the board (including litigation orders and judge's report of proceeding), responsive pleadings, if any, and notices of appearances, and any other written applications, motions, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and other proceedings at the hearing, together with all exhibits offered. No part of the department's record or other documents shall be made part of the record of the board unless offered in evidence.

The record in any appeal disposed of by order denying appeal or order granting relief on the record as provided in RCW 51.52.080, shall include those documents found in the Department record that are relevant to the board's disposition.

AMENDATORY SECTION (Amending WSR 95-12-062, filed 6/5/95, effective 7/6/95)

WAC 263-12-165 Attorney's fees. (1) **Applications for attorney's fees.** (a) For the fixing of attorney fees as provided by RCW 51.52.120, ((~~the~~ ~~board~~ shall fix a reasonable attorney fee to be paid by the worker, crime victim or beneficiary for services rendered before the board if written application therefor is made by the attorney, worker, crime victim or beneficiary, ~~((as provided in RCW 51.52.120,))~~) within one year after the board's final decision and order is communicated to the party making the application. If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered before the board in an appeal and the justification supporting the requested fee. The board shall afford to all parties affected a minimum of ten days in which to submit comments and material information which may be helpful to the board in setting a fair and reasonable fee.

(b) For the ordered payment of attorney fees as provided by RCW 51.32.185, the board shall set the attorney fee in a manner consistent with applicable provisions of subsections (2) and (3) below.

(2) **Fee fixing criteria.** All attorney fees fixed by the board, where application therefor has been made, shall be established in accordance with Rule 1.5 of the Rules of Professional Conduct and the following general principles:

(a) Only one fee shall be fixed for legal services in any one appeal regardless of the number of attorneys representing the worker, crime victim or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the board has the discretion to set more than one attorney fee if so requested.

(b) The board shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the attorney's services are instrumental in securing additional benefits to the worker, crime victim or beneficiary or in sustaining the worker's or beneficiary's right to benefits upon an appeal by another party.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the appeal.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in conducting the case.

(v) Extent and nature of the relief. In computing the extent of additional benefits, or the retention of benefits awarded by the department, the cost to the worker, crime victim or beneficiary of the litigation, i.e., medical examination and witness fees, shall be first deducted and the net benefits considered.

(vi) The amount of accrued time-loss payments as a result of proceedings before the board.

(vii) The prevalent practice of charging contingency fees in cases before the board.

(viii) The worker's or crime victim's circumstances and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(f) In those cases where the payment of accumulated benefits is insufficient to allow payment of the fee set and allow the worker, crime victim or beneficiary to retain a reasonable monetary amount, the board may also set the schedule and manner in which such fee shall be payable.

(3) **Amount of fees.**

(a) Where additional compensation for permanent partial disability, loss of earning power, or total temporary disability is obtained as a result of settlement of the appeal on agreement of the parties prior to presentation of testimony, a fee of from 10 to 25 percent of the increased compensation due the worker, crime victim or beneficiary on the date of the board's order on agreement of the parties and by reason thereof shall be fixed after considering all factors.

(b) Where additional compensation for permanent partial disability, loss of earning power or total temporary disability is obtained after the presentation of testimony, a fee of from 10 to 30 percent of the increased compensation shall be fixed after considering all factors. This provision shall also apply to retroactive permanent total disability (pension) benefits.

(c) Where no additional compensation is obtained, but the worker or crime victim is relieved of the payment for medical benefits, a fee of from 10 to 25 percent of the amount the worker or crime victim is so relieved of paying shall be fixed after considering all factors.

(d) Where permanent total disability (pension) benefits are obtained for the worker or crime victim, or death benefits are obtained for survivors of a deceased worker or crime victim, 10 percent of the first \$40,000.00 of the pension reserve as calculated by the department of labor and industries, and 15 percent of the pension reserve in excess of \$40,000.00 shall constitute the usual fee, which may be decreased or increased after weighing all factors.

(e) Where indeterminate additional compensation is obtained because the claimant is successful in establishing a proper claim for benefits which was previously rejected or for

which responsibility was denied, a fee in accordance with the preceding principles and factors shall be fixed.

(f) Where, upon an appeal by a party other than the worker or his or her beneficiary, the right to receive the benefits awarded by the department is affirmed, a fee in accordance with the preceding principles and factors shall be fixed.

(4) **Excess fee unlawful.** Where the board, pursuant to written application by an attorney, worker, crime victim or beneficiary, fixes a reasonable fee for the services of the attorney in proceedings before this board, it is unlawful for the attorney to charge or receive any fee for such services in excess of that fee so fixed, per RCW 51.52.132.

WSR 08-01-088

PERMANENT RULES

HIGHLINE COMMUNITY COLLEGE

[Filed December 17, 2007, 11:26 a.m., effective January 17, 2008]

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

Purpose: These proposed amended rules are required to comport with procedures in place at the college that deal with student complaints and to address proposed changes in the student disciplinary process. The proposed amended rules also address substantive concerns about student conduct that have evolved since these rules were last amended in 1992.

Citation of Existing Rules Affected by this Order: Amending chapter 132I-120 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 07-21-010 on October 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 2, Amended 29, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 29, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 29, Repealed 1.

Date Adopted: December 13, 2007.

Toni Castro
Dean for Student Services
Chief Student Affairs Officer

CHIEF STUDENT AFFAIRS OFFICER

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-010 Purpose. ~~((Community College District 9 serves its community and the general public by providing continuing educational opportunities for all persons who are eligible to attend. To fulfill this purpose, the college provides students with broad, comprehensive programs of general education, including university parallel transfer courses, developmental remedial programs, and vocational-technical curricula. The college also provides cultural, recreational, and community service activities. The college provides health, guidance, and counseling services which every student is encouraged to make use of on a voluntary basis. The confidentiality of counseling, health, and adviser services will be strictly maintained except as called for by legal requirement.~~

~~As members of the college community, students are encouraged through free inquiry and free expression, to develop their capacity for critical judgment and to engage in sustained and independent search for knowledge. It is the responsibility of the student to observe and help maintain appropriate conditions in the classroom, on campus, and in the larger community.~~

~~Highline Community College may take appropriate disciplinary action when student conduct unreasonably interferes with the college's educational responsibilities, its subsidiary responsibilities, or to protect the health and safety of persons on or in college facilities, to maintain and protect college property or private property on college facilities, to protect college records, to provide college services, and/or to sponsor non-classroom activities such as lectures, concerts, athletic events, and social functions.~~

~~The purpose of these rules is to prescribe standards of conduct for students of Community College District No. 9, the violations which may constitute sufficient cause for disciplinary action as described in and in accordance with the procedures established in WAC 132I-120-010 through 132I-120-520.~~

~~A student's registration constitutes acceptance of the responsibility to comply with the general policies and regulations established by the college.)~~ (1) Highline Community College serves its community and the general public by providing opportunities for all persons seeking educational and personal enrichment. The college delivers innovative education and training opportunities to foster personal and professional success in a multicultural society.

Highline Community College is committed to the following values:

Access: We believe education should be available to all who seek it.

Collaboration: We value teamwork, joint responsibility and ownership.

Community: We value our community and are dedicated to serving its educational needs.

Diversity: We respect the rights and perspectives of the diverse populations who live, learn and work in our community.

Excellence: We strive for the highest quality in all our programs and services.

Integrity: We believe in honesty and trustworthiness in all our college practices.

Internationalization: We value a global perspective and respect cultural differences.

Learning: We develop an interactive, creative, and learner-centered environment that supports student success.

(2) Students have the responsibility to observe and help maintain appropriate conditions in the classroom, on campus, and when officially representing the college in the larger community. Allegiance to these core values and the civility statement (WAC 132I-120-100(1)) allows Highline Community College to offer a learning environment that prepares students to engage actively and responsibly as citizens in the local and global communities.

(3) Highline Community College has jurisdiction to take appropriate disciplinary action when any student acts in a manner that violates this code at any college-sponsored program or event. Jurisdiction is defined in WAC 132I-120-530. The purpose of these rules is to prescribe standards of conduct for students of Highline Community College District No. 9; the violations of which may constitute sufficient cause for disciplinary action as described in accordance with the procedures established in WAC 132I-120-010 through 132I-120-530.

(4) A student's application for admission or registration constitutes acceptance of the responsibility to comply with the general policies and regulations established by the college and to meet the expectations described in this document.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-020 General policies. (1) Highline Community College is an agency of the state of Washington and adheres to all local, state, and federal laws. The college is obligated to demonstrate respect for the laws by cooperating in their enforcement.

(2) Highline Community College cannot and will not establish regulations which would abridge constitutional rights.

(3) Proper procedures are established to maintain conditions conducive to the effective performance of the function of the college, to protect (~~(individual)~~) students from unfair imposition of penalties, and to assure due process. Highline Community College is granted the right by law to adopt (~~(such)~~) rules (~~(as are)~~) deemed necessary to govern its operations.

(4) If these rules are broken, the college has the right and the obligation to take (~~(that)~~) action (~~(which)~~) that is in the best interest of the (~~(entire)~~) college and (~~(which)~~) that is commensurate with the constitutional rights of the individual.

(5) (~~(If a student is charged with an off-campus violation of the law, the matter shall be of no disciplinary concern to the college unless the student is incarcerated and unable to comply with academic requirements. If the violation of law occurs on campus and is also a violation of a published college regulation, the college may institute its own proceedings against the offender or may refer the violation to the appro-~~

~~iate civilian authorities for disposition. The college shall not proceed with a disciplinary action that in fact or appearance duplicates punishment for the same offense unless the interests of the college are implicated in some separate way by violation of law.~~

~~(6) The Highline College Student Union will have the right to participate in the formulation and review of all policies and rules pertaining to student conduct and in the enforcement of all such rules as provided by these rules.)) Highline Community College reserves the right to impose the provisions of this chapter and provide further sanctions before or after law enforcement agencies, courts, or other agencies have imposed penalties or otherwise disposed of a case. College proceedings are not subject to challenge on the ground that criminal or civil charges involving the same incident have been dismissed or reduced or in which the defendant has been found not guilty or not liable. In addition, the college reserves the right to refer incidents to the appropriate civilian authorities or law enforcement agencies.~~

~~(6) The associated students of Highline Community College have the right to participate in the formulation and review of all policies pertaining to student rights and responsibilities and its enforcement as described in the student code of conduct.~~

(7) Rules of conduct and procedures of enforcement shall be printed and made available to all students via the internet and in hard copy upon request.

~~((8) All rules herein adopted concerning student conduct shall apply to every student attending the college in any college facility.))~~

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 132I-120-030 Definitions. (1) As used in these rules, the following words and phrases shall mean:

(a) "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that acts in the same manner on the human body.

(b) "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt that acts in the same manner on the human body.

(c) "ASHCC" refers to the associated students of Highline Community College, the official student government association.

(d) "Assembly" (~~((means))~~) refers to any overt activity engaged in by three or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person(~~(, persons,))~~ or group (~~((of persons)).~~

~~((b))~~ (e) "Board of trustees" means the board members appointed by the governor of the state of Washington who have final authority for the governance of Highline Community College.

(f) "Chief student affairs officer (CSAO)" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The CSAO may designate a student judicial affairs administrator to fulfill this responsibility.

(g) "College" means Highline Community College (HCC), or any additional community college hereafter established with Community College District 9, state of Washington, and collectively, those responsible for its control and operation.

~~((e))~~ (h) "College community" means trustees, students, ~~((employees, and guests))~~ staff, faculty, and visitors on college owned or controlled facilities.

~~((d))~~ (i) "College facilities" means and includes any or all property controlled and/or operated by the college.

~~((e))~~ (j) "Day" means a calendar day ~~((except))~~. The effective ~~((day))~~ date of any provision of these rules shall be the day ~~((following))~~ other than a Saturday, Sunday or holiday.

~~((f))~~ "HCSU" refers to Highline College Student Union, the official student government association.

~~((g))~~ (k) "Faculty complaint process" is the process through which students may seek resolution of complaints against faculty members about instructional matters. The faculty complaint process is explained fully in the *Complaints Against Faculty Members* section 807 of the Highline College Education Association (HCEA) HCC negotiated agreement. Written procedures for the faculty complaint process are available in the office of the chief student affairs officer, and in the academic affairs administrative offices.

(l) "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that act in the same manner on the human body.

(m) "Initial disciplinary hearing" means a meeting between the chief student affairs officer or designee and accused party to review the charges and evidence of any code violation and give opportunity for the accused party to give their account of the incident(s) under investigation.

(n) "President" means the chief executive officer of the college appointed by the board of trustees, and for the purposes of these rules includes "acting president" or the delegated authority in the absence of the president.

~~((h))~~ "Board of trustees" means the board members appointed by the governor of the state of Washington who have final authority for the governance of Highline Community College.

~~((i))~~ (o) "Student" means and includes ~~((all))~~ any person(s) enrolled at the college, ~~((both full-time and part-time))~~ or a person seeking admission or accepted to the college for admission.

~~((j))~~ (p) "Student group" means a number of students who have not ~~((complied with))~~ met the formal requirements ~~((of becoming))~~ to be officially recognized as a student organization.

~~((k))~~ (q) "Student code of conduct" means the HCC student rights and responsibilities.

(r) "Student organization" means a number of students who have ~~((complied with))~~ met the formal requirements of ~~((college))~~ clubs and organizations recognition as provided by the ~~((HCSU))~~ associated students of Highline Community College (ASHCC).

(s) "Summary suspension hearing" means a short, concise, and timely hearing administered in emergencies, following a student being summarily suspended from attending a class or classes.

(t) "Student judicial affairs administrator" means the chief student affairs officer or designee.

(2) All other terms have their natural meaning unless the context dictates otherwise.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-100 ((Student responsibilities)) College community expectations, and code of conduct, ~~((+))~~ Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the college. As a process, learning is not a product or commodity which is bought and sold, but rather, is a relationship between teachers who are willing and competent to teach and learners who are willing and competent to learn. Therefore, the responsibility for learning is shared equally between students and staff.

(2) The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of those resources, and for the specific behavioral tasks necessary for attaining desired learning outcomes. Examples of specific student responsibilities are:

(a) To become knowledgeable of and adhere to the college's policies, practices, and procedures;

(b) To participate actively in the learning process, both in and out of the classroom;

(c) To seek timely assistance in meeting educational goals;

(d) To attend all class sessions;

(e) To adequately prepare to participate fully in class activities;

(f) To participate actively in the advising system;

(g) To develop skills required for learning, e.g., basic skills, time management, motivation, study skills, and openness to the educational process;

(h) To assume final authority for the selection of appropriate educational goals;

(i) To select courses appropriate for meeting chosen educational goals;

(j) To evaluate the quality and quantity of resources available to students; and

(k) To contribute towards improving the college.

(3) As members of the Highline community, students are expected to obey all college rules and regulations and are prohibited from engaging in any unlawful conduct. Any student shall be subject to disciplinary action as provided for in this chapter (see WAC 132I-120-410) who, either as a principal actor, aider, abettor, or accomplice as defined in RCW 9A-08-020, as now law or hereafter amended, interferes with the personal rights or privileges of others or the educational process of the college; violates any provision of this chapter; or commits any of the following personal, property or status offenses which are hereby prohibited:

(a) Personal offenses.

~~(i) Assault, reckless endangerment, intimidation, or interference upon another person in the manner set forth in RCW 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, 9A.36.050, or 28B.10.570 through 28B.10.572, as now law or hereafter amended.~~

~~(ii) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior which interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.~~

~~(iii) Failure to follow instructions. Inattentiveness, inability, or failure of student to follow instructor's instructions, thereby infringing upon the rights and privileges of other students.~~

~~(iv) Illegal assembly, obstruction, or disruption. Any assembly or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.~~

~~(v) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.~~

~~(vi) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.~~

~~(vii) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.~~

~~(b) Property offenses.~~

~~(i) Theft or robbery. Theft of the property of the district or of another as defined in the RCW 9A.56.010 through 9A.56.060 and 9A.56.100 as now law or hereafter amended.~~

~~(ii) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.~~

~~(iii) Unauthorized use of college equipment and supplies. Converting of college equipment or supplies for personal gain or use without proper authority.~~

~~(c) Status offenses.~~

~~(i) Cheating and plagiarism. Submitting to a faculty member any work product that the student fraudulently represents to the faculty member as the student's work product for the purpose of fulfilling any assignment or task required by the faculty member as part of the student's program of instruction.~~

~~(ii) Forgery or alteration of records. Forging or tendering any forged records or instruments, as defined in RCW 9A.60.010 through 9A.60.020 as now law or hereafter amended, of any district record or instrument to an employee or agent of the district acting in his official capacity as such.~~

~~(iii) Refusal to provide identification in appropriate circumstances. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.~~

~~(iv) Illegal entry. Entering any administrative or other employee office or any locked or otherwise closed college~~

~~facility in any manner, at any time, without permission of the college employee or agent in charge thereof.~~

~~(v) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or any other smoking not in compliance with chapter 70.160 RCW as now law or hereafter amended.~~

~~(vi) Controlled substances. Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now law or hereafter amended.~~

~~(vii) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the president or his or her designee in compliance with state law.~~

~~(d) Failure to comply with the following regulations governing firearms and weapons:~~

~~(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, such as a dagger, sword, knife, or any other cutting or stabbing instrument or club or any other weapons apparently capable of producing bodily harm and/or property damage is prohibited on or in college facilities.~~

~~(ii) Explosives, incendiary devices, or any weapon facsimile are prohibited on or in college facilities.~~

~~(iii) It shall be the policy of the college that carrying of firearms on college facilities is prohibited except and unless the firearm is registered with the campus security for a specific period of time that the firearm is carried on campus.~~

~~(iv) The above regulations shall not apply to equipment or material owned, used, or maintained, by the college; nor will they apply to law enforcement officers.)) (1) Civility statement. Members of Highline Community College accept the responsibility to promote a learning and working environment which ensures mutual respect, civility, honesty, and fairness. Members are expected to uphold the college's values and ethics necessary to maintain a positive campus climate, which includes health, safety and welfare of the campus community. To be active participants in the process of education, community members will strive to adhere to the following expectations:~~

~~(a) To be positive contributors to the college, the city of Des Moines, and the surrounding community.~~

~~(b) To conduct themselves with civility and be held accountable as members of the HCC community.~~

~~(c) To be honest and take responsibility for treating others with respect and dignity.~~

~~(d) To be open to the concepts of leadership, diversity, and wellness.~~

~~(e) To be open-minded and prepared to learn.~~

~~(2) Educational expectations. Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the college. As a process, learning is not a product or commodity, which is bought and sold, but rather, it is a relationship~~

between instructors who are willing to teach, staff who are willing to support, and students who are willing to learn. Therefore, the responsibility for learning is shared equally between students, staff, and faculty.

(3) Student responsibilities. The college is responsible for providing its students with an educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of these resources, and for the specific behavioral tasks necessary for attaining the desired learning outcomes. Student responsibilities include but are not limited to the following: To actively participate in the learning process by adhering to the college's policies, practices, and procedures; attending all class sessions; utilizing campus resources; participating actively in the advising process; seeking timely assistance in meeting educational goals; and assuming responsibility for the selection of courses to achieve those goals.

(4) Code of conduct. As members of the college community, students are expected to obey all college rules and regulations and are prohibited from engaging in any unlawful conduct. Any student who, either as a principal actor, aid, abettor, or accomplice as defined in RCW 9A.08.020, as now law or hereafter amended, violates any local, state or federal law, interferes with the personal rights or privileges of others or the educational process of the college, or violates the code of conduct which includes, but is not limited to, the categories listed below, shall be subject to disciplinary action as provided in this chapter (see WAC 1321-120-410).

(a) Personal offenses.

(i) Assault, reckless endangerment, intimidation, or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050, or 28B.10.570 through 28B.10.572, as now law or hereafter amended.

(ii) Disorderly, disruptive, or abusive behavior which interferes with the rights of others or obstructs or disrupts teaching, learning, research, or administrative functions.

(iii) Inattentiveness, inability, or failure to follow the reasonable instructions of any college employee acting within their professional responsibility, thereby infringing upon the rights and privileges of others.

(iv) Refusal to comply with any lawful order to leave the college campus or any portion thereof by college personnel when necessary for the college to achieve its purpose of providing educational programs and services.

(v) Unauthorized assembly, obstruction, or disruption which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the rights and privileges of others.

(vi) Filing of a formal complaint falsely accusing another member of the college community with violating a provision of this chapter.

(vii) Falsely reporting an emergency, such as by setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(viii) Submitting information known to be false, misinterpreted, or fraudulent to college officials or on college records.

(ix) Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient or a third party, causes discomfort or humiliation, or creates an intimidating, offensive, or hostile work or learning environment.

(x) Stalking behavior in which a student repeatedly engages in a course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her family; where the threat is reasonably determined by the college to seriously alarm, torment, or terrorize the person; and where the threat is additionally determined by the college to serve no legitimate purpose.

(xi) Destruction or alteration of any evidence that could be used during an investigation or college proceeding.

(xii) Any malicious act or behavior which causes harm to any person's physical or mental well-being. Harassment includes intentionally and repeatedly following or contacting another person in a manner that alarms, annoys, intimidates, harasses, or causes substantial emotional distress.

(b) Property offenses.

(i) Actual or attempted theft or robbery (RCW 9A.56.010 through 9A.56.060 and 9A.56.100) of property or services belonging to the college or college community member including but not limited to knowingly possessing stolen property.

(ii) Malicious mischief that causes damage to or destruction of any college facility or other public, private, or personal property.

(iii) Unauthorized use of college equipment and supplies for personal gain.

(iv) Unauthorized use of a motorized vehicle, skateboard, bicycle, or other personal vehicle on campus pedestrian walkways.

(v) Unauthorized entry, access, or presence upon the property of the college or into a college facility or portion thereof which has been reserved, restricted, or placed off limits or unauthorized possession or use of key, access code, or password to any college facility or system.

(vi) Misuses of information technology. The following is prohibited: Failure to comply with laws, license agreements, and contracts governing network, software and hardware; abuse of communal resources; use of computing resources for illegal or unauthorized commercial purposes or personal gain. It is the obligation of college students to be aware of their responsibilities as outlined in the *Computing Resources Appropriate Use Policy*: <http://flightline.highline.edu/ic/policies/aup.php>. Failure to comply may result in loss of access to college computing resources, as well as administrative, civil or criminal action under Washington state or federal law.

(c) Status offenses.

(i) Forgery, falsification, or alteration of official documents, records, or correspondence.

(ii) Refusal to provide positive identification (e.g., student or state identification card; valid driver's license) when requested by any identified college official.

(d) Offenses pertaining to drugs/alcohol/smoking.

(i) Smoking outside of the designated smoking areas.

(ii) Possession or consumption of alcoholic beverages on college property or at a college-sponsored event is prohibited unless attendees are over the age of twenty-one and an alcohol permit has been obtained.

(iii) Controlled substances. Using, possessing, delivering, selling or being under the influence of legend drugs, including anabolic steroids, androgens, or human growth hormones, as defined by RCW 69.41.010 and 69.41.300 or any other controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except upon valid prescription or order of a practitioner is subject to additional sanctions, including disqualification from participation in college-sponsored athletic events. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(e) Regulations governing firearms and weapons.

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, as defined in RCW 9A.41.250 as now law or later amended, is prohibited. Such weapons may include but are not limited to, dagger, sword, knife (with larger than a three-inch blade), or any cutting or stabbing instrument, club, or any other weapons, including fake weapons capable of producing bodily harm, emotional distress, and/or property damage.

(ii) Explosives, incendiary devices, or any weapons facsimiles are prohibited on college property or in college facilities.

(iii) The above regulations shall not apply to equipment or material that is owned, used, or maintained by the college, nor will they apply to law enforcement officers or authorized contractors performing work for the college.

(f) Other misconduct: Any other conduct or action in which the college can demonstrate a clear and distinct threat to college property, the educational process, or any other legitimate function of the college or the health or safety of any member of the college community.

(5) Academic honesty.

(a) Students attending Highline Community College are expected to participate as responsible members of the college community, which includes assuming full responsibility for maintaining honesty and integrity in all work submitted for credit and in any other work assigned by faculty.

(b) Violations of academic honesty include, but are not limited to:

(i) Plagiarism: The unauthorized use or close imitation of the words, ideas, data, images, or product of another and the representation of them as one's own original work.

(ii) Cheating: Use or attempted use of unauthorized materials, information, or study aids; an act of deceit by which a student attempts to misrepresent academic skills or knowledge; unauthorized or attempted unauthorized copying or collaboration.

(iii) Fabrication: Intentional misrepresentation or invention of any information, such as falsifying research, inventing

or exaggerating data, or listing incorrect or fictitious references.

(iv) Collusion: Assisting another to commit an act of academic dishonesty, such as paying or bribing someone to acquire a test or assignment, or increase the score on a test or assignment; taking a test or doing an assignment for someone else; allowing someone to do these things for one's own benefit.

(v) Academic misconduct: Intentionally violating college policies, such as altering grades, misrepresenting one's identity, failing to report known incidents of academic dishonesty, or participating in obtaining or distributing any part of a test or any information about a test.

(c) Penalties for academic dishonesty.

(d) If a student is found guilty of academic dishonesty, any one or a combination of the following sanctions may be imposed by the faculty member:

(i) Verbal or written warning.

(ii) A grade of 0% (0.0) or otherwise lowered grade for the assignment, project, or test.

(e) The following sanction may be imposed by the faculty member only after a formal hearing is conducted by the chief student affairs officer, and the chief student affairs officer approves the sanction:

A grade of 0% (0.0) or otherwise lowered grade for the course, overriding a student's withdrawal from the course.

(f) The chief student affairs officer may also issue the following disciplinary sanctions, in accordance with the Highline student rights and responsibilities code (WAC 132I-120-410(11)):

(i) Disciplinary admonition and warning.

(ii) Disciplinary probation with or without the loss of privileges for a definite period of time. The violation of the terms of the disciplinary probation or the breaking of any college rule during the probation period may be grounds for suspension or expulsion from the college.

(iii) Suspension from Highline Community College for a definite period of time.

(iv) Dismissal from Highline Community College.

(g) Academic dishonesty complaint and hearing procedures.

(i) The faculty member observing or investigating the apparent act of academic dishonesty shall document the incident by writing down the time, date, place, and a description of the act and/or any other pertinent information.

(ii) The faculty member may collect evidence to corroborate the allegation.

(iii) The faculty member shall provide the student an opportunity to explain the incident.

(iv) The faculty member shall explain to the student the procedures and penalties for academic dishonesty and shall give the student a copy of the Highline Community College academic honesty policy.

(v) The faculty member may resolve the matter informally by determining an appropriate sanction, which may include a verbal or written warning, or a grade of 0% (0.0) or otherwise lowered grade on an assignment, project, or test, or no further action.

(vi) The faculty member shall submit a copy of the Academic Dishonesty Report form to the office of the chief stu-

dent affairs officer. The report shall be kept on file and may be presented as evidence for more stringent sanctions, should the student commit subsequent violation(s) of the academic honesty policy.

(vii) If the faculty member wishes to initiate more stringent sanctions in addition to lowering or failing an assignment and/or verbal or written warning (e.g., assign a failing grade for the course), the student must be entitled to a formal hearing with the chief student affairs officer. Following a formal hearing, sanctions imposed by the chief student affairs officer may range from no further action (no failing grade for the course) to dismissal from the college (WAC 132I-120-410(11)). The chief student affairs officer may not overturn the sanctions imposed by the faculty member ((d)(i) and (ii) of this subsection).

(viii) The faculty member shall submit a copy of the Academic Dishonesty Report form and any additional evidence to the chief student affairs officer within ten days of the alleged act of academic dishonesty, which initiates the formal hearing process.

(ix) Within ten days of receiving an Academic Dishonesty Report form, the chief student affairs officer or designee shall notify the student in writing of the date, time and location of the hearing. At the hearing, the student shall meet with the chief student affairs officer or designee to hear the charges and present his/her side of the case. If the student chooses not to attend or fails to appear, the hearing will be conducted in the student's absence.

(x) The chief student affairs officer or designee will consider any evidence submitted within seven days of the hearing, and interview persons as warranted. The chief student affairs officer or designee determines if the action recommended by the faculty member is appropriate.

(xi) Within ten days of the hearing, the chief student affairs officer or designee shall send written notification of the results to the student and faculty member. The decision of the chief student affairs officer or designee is final. (With permission, contents of this policy were adapted from "Academic Integrity Policy," Portland Community College, Portland, Oregon.)

(6) Violation of any of the above regulations may also constitute violation of criminal laws or ordinances of various cities, municipalities, counties, the state of Washington, or the United States and may subject a violator to criminal sanctions in addition to any sanctions imposed by the college.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-105 Student rights. The following ~~((enumerated))~~ rights are guaranteed to each student within the limitations of statutory law and college policy ~~((which are))~~ as deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and

services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary ~~((, prejudiced,))~~ or capricious, but are responsible for meeting the standards of academic performance established by ~~((each of))~~ their instructors. Grade complaints are administered through the *Complaints against Faculty Members* section 807 of the Highline College Education Association (HCEA) HCC negotiated agreement.

(d) Students have the right to a learning environment ~~((which))~~ that is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) ~~((The rights of students))~~ It is guaranteed that students have the right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures ~~((is guaranteed)).~~

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this ~~((code of))~~ student rights and responsibilities code is entitled ~~((, upon request,))~~ to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official written procedures ~~((printed and))~~ available in the ~~((dean of))~~ student ~~((s))~~ programs office. All free publications not in violation of state and/or federal laws ~~((such as books, magazines, newspapers, handbills, leaflets, or similar materials))~~ may be distributed ~~((on campus. The college may restrict the distribution of any publications, where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the dean of students so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual))~~ from authorized public areas subject to time, place, and manner as determined by the college. Material may not be distributed in college parking lots or be placed on or in automobiles. Students distributing printed materials are responsible for litter control of all distributed material.

(4) Off-campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the ~~((administrative))~~ student programs office.

(5) ~~((Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.~~

~~((6))~~ Commercial activities. The use of college grounds or facilities for commercial or private gain ~~((purposes))~~ is prohibited except ~~((where commercial activity such as sale of~~

books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of students for the benefit of an approved activity.

~~(7) Fund raising. Students have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of students.~~

~~(8)) with the approval of the student programs office consistent with vending and fundraising guidelines. Commercial activities which generate contractual and/or financial debt relationships with students are prohibited. The college reserves the right to charge commercial vendors for the use of college facilities.~~

(6) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the ~~((dean of))~~ student~~((s))~~ programs office or affiliated academic department as part of the cocurricular experience.

AMENDATORY SECTION (Amending Order 023, filed 3/27/89)

WAC 1321-120-315 Right of assembly. (1) Students have the right to conduct or ~~((may))~~ participate in any assembly as defined in WAC 1321-120-030~~((+))~~ on facilities that are generally available to the public provided that such assemblies:

- (a) Are conducted in an orderly and respectful manner;
- (b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or ~~((regular functions of the))~~ college sponsored events;
- (c) Do not unreasonably interfere with pedestrian or vehicular traffic; or
- (d) Do not cause destruction or damage to college property~~((, including library materials, or private property on college facilities))~~.

(2) Any student, group, or ~~((student))~~ organization ~~((which wishes to schedule))~~ planning an assembly on college property must reserve the college facilities ~~((in the office of the coordinator of student activities))~~ with the student programs office.

(3) Assemblies which violate these rules may be ordered to disperse by ~~((the))~~ college personnel in accordance with Washington state statutes.

(4) ~~((A nonstudent who violates any provision of the rule will))~~ Any campus community member who violates any provision of this rule may be required to leave the campus or facility and/or be referred to civilian authorities for criminal prosecution.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 1321-120-330 Rights of ownership of works. It shall be the policy of Highline Community College that employees of the college shall not use students' published ~~((and))~~ or unpublished works for personal gain without written consent of the student.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 1321-120-340 Right to be interviewed. (1) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the college.

(2) Any student, student group, or student organization may assemble in protest against any such organization, provided that such protest does not interfere with ~~((any))~~ other ~~((student's))~~ students' right to have such an interview, and provided that such protest is in accordance with WAC 1321-120-315.

NEW SECTION

WAC 1321-120-350 Student complaint process. (1) Purpose and definition. The purpose of this procedure is to provide students with guidelines which promote constructive dialogue, understanding, and informal resolution of student complaints and concerns. This process also provides an avenue for formal procedures should an informal approach be ineffective. A complaint is hereby defined as a statement that expresses a student's dissatisfaction with the performance or action of a college employee, which the student believes to be unfair or inconsistent with college policy or procedures.

(2) Exclusions of complaint process. This procedure is not to be used where other procedures are required for the resolution of specific categories of student complaints or student appeals. Student concerns covered by existing college policy or procedures (e.g., *Complaints Against Faculty Members* section 807 of the HCEA/HCC negotiated agreement) are excluded from this complaint process and should be brought to the attention of the appropriate college administrator.

(3) Time limitations. A student wishing to express a complaint, as previously defined, should do so no later than two weeks from the time the student should have been aware of the concern. Timely initiation of a complaint rests with the student.

(4) Complaint process procedures.

(a) Step 1: Discuss complaint with staff member. The student should discuss the complaint informally and thoroughly with the staff member to whom the complaint is directed. Both parties should openly discuss the student complaint/concern and attempt to understand the other's perspectives, explore alternatives, and arrive at a satisfactory resolution to the complaint. If the student and staff member are unsuccessful at finding a resolution, or the student is dissatisfied with the complaint resolution, the student should then move to step 2.

(b) Step 2: Express complaint in writing. Within ten days of meeting with the staff member, if resolution is unsuccessful through informal discussion, the student shall express the complaint in writing and forward the written complaint to the staff member and the staff member's immediate supervisor. At the student's request, the chief student affairs officer will assign an HCC community member to serve as an advocate to assist in clarifying the complaint process and guiding the student through the complaint process.

(c) Step 3: Supervisor conference. Upon receiving the student's written complaint, the immediate supervisor may

ask the staff member for a written response and shall, within five days following receipt of the student's written complaint, hold a conference with the involved parties. The supervisor may request supporting materials from either the staff member or student. If after discussion, mediation, and review of materials at the conference, the involved parties are unable to find a mutually acceptable resolution, the supervisor shall render a verbal decision on the complaint to all parties or shall within five days provide a written copy of his/her decision of the complaint to each involved party.

(d) Step 4: Executive conference. If the decision of the immediate supervisor does not resolve the complaint to the satisfaction of the student, the chief student affairs officer or designee shall, on request of the student, convene a conference of all previously involved parties and any additionally affected supervisors within seven days. All written statements and supporting materials from involved parties will be provided to the chief student affairs officer or designee prior to the conference. Written materials will be retained in the chief student affairs officer's office. If after discussion, mediation, and review of materials at the conference, the involved parties are unable to find a mutually acceptable resolution, the chief student affairs officer or designee shall within seven days render a written decision on the complaint and will provide copies to all involved parties. The decision of the chief student affairs officer or designee will be final.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-400 Authority and responsibility for discipline. (1) The board of trustees, acting by written order and in accordance with Washington state statutes (~~does by written order~~), delegates to the president of the college the authority to administer disciplinary action. (~~All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 132I-120-030(1)(g).~~)

(2) Administration of the disciplinary procedure is the responsibility of the ~~(dean of students.~~

~~(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be so serious as to result in expulsion from the class, the instructor must report the infraction in writing to the dean of students at the earliest opportunity.~~

~~(4) The student has the right to appeal any disciplinary action of an instructor to the dean of students as in accordance with the procedures set forth in WAC 132I-120-426 through 132I-120-432.)~~ chief student affairs officer. The chief student affairs officer or designee(s) shall serve as the principal investigator and administrator for alleged violations of this code.

(3) Summary action (emergency procedure).

(a) The instructor and students are responsible for conduct in the classroom or at any course-related activity or event. The instructor is authorized to take reasonable steps as necessary when behavior of the student materially or substantially disrupts normal classroom procedures. Instructors may

remove a student for the single class session in which disruptive behavior occurs. When such behavior results in expulsion from a class session, the instructor must report the infraction in writing to the chief student affairs officer at the earliest opportunity. When the faculty member, division chair and chief student affairs officer concur that such behavior poses a serious threat, the student may be removed from class pending the outcome of disciplinary action. In all cases involving classroom disruption, the chief student affairs officer or designee will proceed with the investigation and/or disciplinary proceedings at the earliest opportunity consistent with the procedural requirements established in this chapter.

(b) The administrator in charge of any college office, department, or facility is responsible for conduct in that area. Staff shall take reasonable action in response to urgent situations as may be necessary to maintain order when they have reason to believe that such action is necessary for the safety and well-being of the student or the protection of the college community or facilities. Any such summary action must be reported to the chief student affairs officer at the earliest opportunity.

(c) A student being formally charged or under investigation for a violation of this code may not excuse him or herself from disciplinary proceedings by withdrawing from the college.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-410 Definition of disciplinary action. Disciplinary actions include, but are not limited to, the following (~~disciplinary action~~) sanctions that may be imposed upon students according to the procedure outlined in WAC 132I-120-421.

(1) Admonition: An oral statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Warning: Notice in writing that (~~continuation or repetition of conduct deemed wrongful, within a period of time stated in the warning, may be cause for~~) the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions upon the student's continued attendance and warning the student that further misconduct may subject (~~him/her to~~) the student to suspension or dismissal. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) Restitution: Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(5) (~~Summary suspension: Exclusion from classes and other privileges or activities in accordance with WAC 132I-120-426.~~

~~(6) Suspension: Exclusion from classes and other privileges or activities as set forth in the notice for a definite period of time.~~

~~(7) Dismissal: Termination of student status for an indefinite period of time. Conditions of reinstatement, if any, shall be stated in the order of dismissal.)~~ Suspension: Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Dismissal: The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(7) Professional evaluation: Referral for drug, alcohol, psychological or medical evaluation by a certified or licensed professional may be required. The student will sign all necessary releases to allow the college access to any such evaluation. Recommendations as part of any such evaluation may become part of any sanction. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-415 Authority to request identification. In situations of apparent misconduct or apparent unauthorized presence in a college facility, it may be necessary for properly identified college personnel to ask a person to produce evidence of being a currently enrolled student at the college. Failure to comply with a legitimate request for identification from a properly identified college ~~((personnel))~~ employee is a violation of ~~((this chapter (see)))~~ WAC 132I-120-100 ~~(4)(c)((iii)))~~ (ii) and may result in a disciplinary action if the person is found to be a student. In emergency situations, cases of serious misconduct, or where there is a substantial danger to the college community or college property, failure to produce identification by a student may result in the assumption by college personnel that the person questioned is not a student and may result in ~~((direct))~~ civil or criminal action.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-421 Initial disciplinary proceedings. (1) All disciplinary proceedings ~~((will))~~ shall be initiated by the ~~((appropriate dean or his or her designated representative))~~ chief student affairs officer or designee. ~~((The))~~ Students may be placed on suspension pending commencement of disciplinary action, pursuant to the conditions set forth in WAC 132I-120-426.

(2) Any student accused of violating any provision of the rules of conduct shall be ~~((called for))~~ notified of an initial ~~((meeting and receive written notice of such meeting by first class mail with the appropriate dean or his or her designated representative))~~ disciplinary proceeding either in person or by certified mail and shall be given written notice of such

meeting with the chief student affairs officer or designee. The student will be informed in writing of ~~((what))~~ the provision(s) ~~((or provisions of the rules of conduct he/she))~~ the student is charged with violating, and ~~((what appears to be the range of penalties, if any, which might result from initiation of disciplinary proceedings))~~ the range of possible sanctions for the offense. The student will be given seven days to respond. If the student fails to respond or fails to appear, the initial disciplinary hearing may be held in the student's absence.

(3) After considering the evidence in the case ~~((and)),~~ interviewing the accused student, ~~((if the accused student has appeared at the initial meeting, the dean))~~ giving the student the opportunity to respond, and then again reviewing the case with any new information, the chief student affairs officer or designee may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students~~((s))~~;

(b) Dismiss the case after whatever ~~((counseling))~~ intervention and advice ~~((the dean deems))~~ is deemed appropriate;

(c) Impose ~~((verbal warning to student directly, not subject to the student's right of appeal as provided in this chapter;~~

~~((d) Impose additional sanctions of reprimand, probation, suspension, or dismissal, subject to the student's right of appeal as provided in the following provisions))~~ any of the sanctions listed in WAC 132I-120-410;

(d) Any disciplinary action taken by the chief student affairs officer or designee may be appealed by the student in accordance with WAC 132I-120-441.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-424 Purpose of summary suspension (—Purpose). (1) The purpose of summary suspension is to preserve safety, to protect the educational process of the institution, or to restore order.

(2) The purpose of WAC 132I-120-426 through 132I-120-432 is to establish rules implementing RCW 34.05.410 (1)(b) and 34.05.479, which outline authority to conduct emergency adjudicative proceedings at state agencies.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-426 Summary suspension proceedings. (1) If ~~((a dean or his or her))~~ the chief student affairs officer or designee~~((s))~~ has cause to believe that any student(s):

(a) ~~((Has committed a felony; or~~

~~((b)))~~ Has violated any provision of this chapter; and

~~((c))~~ (b) Presents an imminent danger ~~((either to himself or herself, other persons on the college campus, or to the educational process; that student shall be summarily suspended and shall be served by certified and regular mail at the student's last known address, or shall be personally served.~~

Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection. The dean or his or her designee shall enter an order as provided by law if the student is to be) to other student(s) and/or community members, then

the student(s) shall be summarily suspended, and a "notice of summary suspension proceedings" will be served to the student's last known address by regular mail, certified mail and/or in person. The chief student affairs officer or designee shall enter an order as provided by law if the student(s) is to be summarily suspended.

(2) The notice shall be entitled "notice of summary suspension proceedings" and shall state:

(a) The charges against the student(s) including reference to the provisions of WAC 132I-120-100 or statutory law involved; and

(b) That the student(s) charged must appear before the ~~((appropriate dean or his or her))~~ chief student affairs officer or designee at a time specified in the notice for ~~((a))~~ the hearing. The hearing shall be held as soon as ~~((practical after the summary suspension))~~ practicable after the "notice of summary suspension" has been served to the student(s). The hearing may be combined with an initial disciplinary proceeding in accordance with WAC 132I-120-421.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-427 Procedures of summary suspension hearing. (1) The summary suspension hearing shall be considered an emergency adjudicative proceeding. The proceeding must be conducted as soon as ~~((possible and the appropriate dean will preside over the meeting-~~

~~(2) The dean))~~ practicable. The chief student affairs officer or designee will preside over the hearing.

(2) The chief student affairs officer or designee shall, at a summary suspension proceeding, determine whether there is probable cause to ~~((believe that continued))~~ continue suspension ~~((is necessary))~~ and/or whether ~~((some))~~ disciplinary action is appropriate.

(3) The student(s) shall have the opportunity to explain why summary suspension is not necessary either through oral testimony or written statement.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-428 Posthearing decision by the ~~((dean))~~ chief student affairs officer. (1) If the ~~((dean))~~ chief student affairs officer or designee, ~~((following))~~ at the conclusion of the summary suspension hearing, finds that there is probable cause to believe that:

~~((1))~~ (a) The student(s) against whom specific violations are alleged has actually committed one or more such violations; and

~~((2))~~ (b) Summary suspension of the said student(s) is necessary for the safety of the student(s) ~~((- other students or persons on college facilities, the educational process of the institution, or))~~ and members of the campus community, or to protect the college facilities and/or educational process, and/or to restore order to the campus; and

~~((3))~~ (c) Such violation(s) ~~((or violations))~~ constitute grounds for disciplinary action as provided for in WAC 132I-120-100;

(2) Then the ~~((dean))~~ chief student affairs officer may continue to enforce the suspension of the student(s) from col-

lege and may impose any other appropriate disciplinary action(s) ~~((appropriate))~~.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-429 Notice of suspension. (1) If a student's summary suspension is upheld and/or if the student(s) is otherwise disciplined, the student(s) will be provided with a written ~~((notice))~~ notification including the ~~((dean's))~~ findings of fact(s) and conclusions ~~((which))~~ that lead ~~((the dean to believe that the))~~ to the decision that summary suspension of the student should continue.

(2) ~~((The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified and regular mail at the student's last known address within three working days following the conclusion of the hearing with the dean-))~~ The suspended student(s) shall receive a "notice of suspension," which will be served to the student's last known address by regular mail, certified mail and/or in person within three working days following the conclusion of the hearing with the chief student affairs officer or designee.

(3) The "notice of suspension" shall state the duration of the suspension or nature of the disciplinary action(s) and conditions under which the suspension may be terminated.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-431 Suspension for failure to appear. The ~~((dean))~~ chief student affairs officer or designee is authorized to enforce the suspension of the summarily suspended student in the event the student has been served ~~((pursuant to the))~~ notice ~~((requirement))~~ and fails to appear at the time designated for the summary suspension proceeding.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-432 Appeals from summary suspension hearing. (1) Any suspended or disciplined student aggrieved by an order issued at the summary suspension proceeding may appeal to the discipline committee. However, no such appeal shall be entertained, ~~((however,))~~ unless:

~~((1))~~ (a) The student has first appeared ~~((before the appropriate dean))~~ at the student hearing in accordance with WAC 132I-120-427;

~~((2))~~ (b) The student has been officially notified of the outcome of the hearing;

~~((3))~~ (c) Summary suspension or other disciplinary sanction has been upheld; and

~~((4))~~ (d) The appeal conforms to the standards set forth in WAC 132I-120-441(2).

(2) If the student has met the above criteria, the discipline committee shall ~~((- within five working days,))~~ conduct a formal hearing in the manner described in WAC 132I-120-442.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-435 Discipline committee. (1) The ~~((college))~~ discipline committee ~~((will))~~ shall hear and make recommendations on all disciplinary cases referred ~~((to it))~~ by the ~~((dean of students))~~ chief student affairs officer or designee, or appealed ~~((to it))~~ by students who have been disciplined by the ~~((dean))~~ chief student affairs officer or designee.

~~((H))~~ (2) The ~~((college))~~ discipline committee ~~((will))~~ shall be composed of the following members, and efforts will be made to ensure that there is gender and racial balance in the makeup of the committee members:

(a) A chair ~~((will))~~ shall be designated by the president of the college ~~((for a period of one year. The chair will be nonvoting. It is the responsibility of the chair to ensure that all procedural guidelines specified in WAC 132I-120-440 are followed))~~ and shall continue in office until the person resigns or is recalled by the president. It is the responsibility of the chair to ensure that all procedural guidelines specified in WAC 132I-120-440 are followed, to call the discipline committee into session, to preside at all meetings and hearings of the committee, to take whatever steps are necessary during the hearing itself to ensure that the hearing is conducted in a ~~((safe))~~ respectful and orderly manner, to advise the members of the committee concerning precedents and guidelines affecting the individual case, and to inform the student in writing of the action taken by the ~~((college))~~ discipline committee following the hearing.

(b) Two full-time tenured faculty members shall be recommended by the faculty senate and appointed by the president. Two alternatives shall be recommended and appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for ~~((one))~~ two-year terms. Terms shall begin with the first day of fall quarter and shall include summer quarter.

(c) Two full-time student representatives in good standing shall be chosen by the ~~((HCSU))~~ ASHCC in such manner as the members thereof shall determine. For the purposes of these rules, a full-time student shall be defined as currently enrolled in twelve or more credit hours. Two alternates shall be appointed to serve in the event that members are unable to serve or complete their term. The committee members shall serve for one-year terms. Terms shall begin with the first day of summer quarter and extend through the following spring quarter.

~~((2))~~ (3) The disciplinary committee shall be ~~((formed as early as possible in the fall quarter and shall be))~~ convened by the ~~((dean of students))~~ chief student affairs officer or designee during the ~~((first four weeks of))~~ fall quarter to discuss these rules. Other meetings may be held as determined by the chairperson or requested by the committee members.

~~((3))~~ (4) Faculty or student members may be excused from service ~~((for the entire year, for a particular period of time, or after a particular case))~~. Replacement ~~((of excused))~~ members shall be ~~((made from respective panels))~~ appointed in accordance with subsection (2)(b) of this section.

(5) A quorum is required to conduct a disciplinary hearing. In addition to the chair, at least one faculty member and one student is required for a quorum.

(6) If a quorum cannot be formed because of the non-availability of members, the president may appoint an ad hoc committee with the same composition as the regular discipline committee, including the temporary appointment of a chair.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 132I-120-441 Appeals of disciplinary action~~((—Generally))~~. (1) Appeals contesting any disciplinary action may be made in the following order by the student(s) involved~~((—Such appeals shall be made in the following order))~~:

(a) Disciplinary action taken by the ~~((dean or his or her designee(s))~~ chief student affairs officer or designee may be appealed to the discipline committee, which ~~((may, at the request of the dean, hear the case de novo))~~ shall hear the case and make a decision to uphold or modify the decision or to exonerate the student.

(b) Disciplinary ~~((recommendations))~~ decisions made by the discipline committee may be appealed by the student to the president of the college. The president shall review the record of the proceedings which ~~((give))~~ gave rise to the appeal, as well as the recommendations made by the ~~((dean))~~ chief student affairs officer or designee and the discipline committee. The president will make a decision to uphold or modify the decision or to exonerate the student. The president's decision shall be final.

(2) Any appeal by a student receiving a disciplinary sanction must ~~((meet the following conditions:~~

~~((a) The appeal must be in writing and must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal; and~~

~~((b) The appeal must be filed within twenty-one days from the date of service upon the student of notice that disciplinary action was being taken.~~

~~((3) All decisions shall be sent from the office of the dean to the president. Written decisions shall include the signature of the discipline committee chair. Copies shall be sent to the president of the college or his or her designee and the student involved in the proceeding))~~ be in writing and is limited to the following grounds:

~~((a) New evidence not available during the hearing;~~

~~((b) The hearing was not conducted according to the procedures outlined in this document; and~~

~~((c) The sanction was too severe for the charges.~~

(3) The appeal of any action taken by the chief student affairs officer or designee shall be submitted in writing to the chair of the discipline committee, with a copy of all materials submitted also sent to the chief student affairs officer.

(4) The appeal of any action taken by the discipline committee shall be submitted in writing to the president, with a copy of all materials submitted sent to the chief student affairs officer.

(5) Any appeal must be filed within ten days from the date that the student was served notice of disciplinary action.

(6) Written decisions from the discipline committee shall be signed by the discipline committee chair and shall include findings of facts and conclusions that lead to the final deci-

sions made by the discipline committee. Copies shall be sent to the chief student affairs officer or designee and the student through certified mail at the most current registered student address.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-442 Hearing procedures before the discipline committee. (1) The discipline committee shall conduct a hearing within ~~((fourteen working))~~ fifteen days after ~~((disciplinary action has been referred to it.~~

~~(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person:~~

~~(a) Waives the opportunity for a brief adjudicative proceeding; or~~

~~(b) By his conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding; or~~

~~(c) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.~~

~~(3))~~ the formal written appeal has been received. The hearing will be conducted pursuant to RCW 34.05.413 through 34.05.476.

~~(2) The student has a right to a fair and impartial hearing ((before the discipline committee on any charge of violating the rules of conduct)). However, the student's failure to cooperate with the committee's hearing procedures or failure to appear shall not preclude the discipline committee from making its findings of fact, conclusions, and recommendations.~~

~~((4))~~ (3) The student may be represented by ((counsel of his or her choice)) a licensed attorney admitted to practice in the state of Washington as counsel at the disciplinary hearing. If the student elects to ((choose a duly licensed attorney admitted to practice in the state of Washington as)) be represented by counsel, the student shall notify the chair at the time of appeal or, if the hearing is held at the request of the college, at least ((five working)) fifteen days prior to the hearing.

~~((5))~~ (4) In all disciplinary proceedings, the college ((may)) shall be represented by ((a designee appointed by the president. That designee will then)) the chief student affairs officer or designee. The chief student affairs officer shall present the college's case against the student accused of violating the rules of conduct((; provided, that in those)). In cases in which the student elects to be represented by a licensed attorney, the ((president)) chief student affairs officer may elect to have the college represented by an assistant attorney general with the assistance of the chief student affairs officer.

~~((6))~~ (5) The record in a formal hearing shall consist of all documents as required by law and as specified in RCW 34.05.476 as ((new)) now law or hereafter amended.

~~((7))~~ (6) All records of disciplinary proceedings shall be maintained in the ((administrative)) chief student affairs officer's office and shall be available only during the course of the disciplinary proceeding((s)) to the discipline committee, the student, ((and his/her)) representing attorneys, and any ((other)) other college official designated by the ((president)) chief student affairs officer or as otherwise required by law.

~~((8))~~ (7) Following the conclusion of the disciplinary proceeding, access to records of the case and the hearing files ((will)) shall be limited to those designated by the ((college president)) chief student affairs officer or as otherwise required by law.

~~((9))~~ (8) Following final disposition of the case and any appeals therefrom, the ((president)) chief student affairs officer may direct the destruction of any records of any disciplinary proceedings, provided that such destruction is in conformance with the requirements of chapter 40.14 RCW, as now law or hereafter amended.

~~((10))~~ (9) The discipline committee may expedite the time of the hearing ((may be advanced by the discipline committee)) at the request of the student or ((continued)) continue for good cause.

~~((11))~~ (10) If at any time during the hearing, a visitor disrupts the proceedings, the chair of the discipline committee may exclude that person from the hearing ((room)).

~~((12))~~ (11) Any student of the college attending the disciplinary hearing who ((continues to)) disrupts the proceedings after the presiding officer has asked ((him/her)) the student to cease or to leave the hearing room, shall be subject to disciplinary action.

(12) All testimony of parties and witnesses shall be made under oath or affirmation.

(13) Members of the discipline committee must avoid ex parte (one-sided) communications with any party involved in the hearing regarding any issue other than communications necessary to maintain an orderly procedural flow to the hearing.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-443 Evidence admissible in hearings.

(1) Only those matters presented at the hearing((;)) in the presence of the accused student (except where the student fails to attend after receipt of proper notice) ((will)) shall be considered in determining whether the discipline committee has sufficient cause to believe that the accused student is guilty of ((violating the rules he or she is charged with having violated. Hearsay evidence is admissible in the hearing.

~~(2) The presiding officer of the discipline committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.~~

~~(3) Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be pre-~~

~~presented or considered until all substantive evidence or testimony has been presented))~~ misconduct. The rules of evidence as described in the Administrative Procedure Act (RCW 34.05.452), incorporated herein as subsection (2) of this section will be utilized in code hearings.

(2) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(a) If not inconsistent with this subsection, the presiding officer shall refer to the *Washington Rules of Evidence* as guidelines for evidentiary rulings.

(b) All testimony of parties and witnesses shall be made under oath or affirmation.

(c) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(d) Official notice may be taken of:

(i) Any judicially cognizable facts;

(ii) Technical or scientific facts within the agency's specialized knowledge; and

(iii) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

(3) Such evidence shall be considered as part of the determination of appropriate sanctions, if the accused has been found guilty of misconduct.

(4) Disciplinary hearings are intended to affirm or modify the sanction, or exonerate the student of alleged violations of the student code of conduct based on evidence and testimony presented at the hearing.

(5) It shall be the responsibility of the college to prove its case by a preponderance of the evidence.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-444 Decision by the discipline committee. (1) Upon conclusion of the disciplinary hearing, the discipline committee shall consider all the evidence ((therein)) presented and decide by majority ((vote whether to uphold the initial disciplinary action or to recommend institution of any of)) the following actions:

(a) ((That the college)) Terminate the proceedings and exonerate the student; or

(b) ((That the college impose any of the disciplinary actions as provided in this chapter.)) Uphold the initial disciplinary action; or

(c) Impose any of the disciplinary actions as provided in this chapter, and impose more serious sanctions if warranted.

(2) The committee's written decision shall include findings of fact, conclusions ((of law)), and recommendations for the final disposition of the matter ((at issue)).

(3) Within ((seven working)) ten days ((of the conclusion of)) after the hearing, the student will be provided with a copy of the committee's findings of fact and conclusions. The copy shall be dated and contain a statement advising the student of ((his or her)) their right((s)) to submit a written statement to the president of the college appealing the recommendation of the discipline committee.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-450 Final appeal. Any student who is aggrieved by the findings or conclusions of an appeal to the discipline committee may appeal ((the same)) in writing to the president within ((twenty-one)) ten days of ((service of)) official notice ((upon)) to the student ((of the action taken)) by the committee. The president may, at his or her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions, and disciplinary actions imposed. In the consideration of such an appeal, the president shall base his or her findings and decision on only ((an)) the official written record of the case. The president shall not engage in an ex parte communication with any of the parties regarding the appeals. The president shall conduct the review within fifteen days of notice of appeal and shall provide a written conclusion to all parties within twenty days after completion of the appeal process. The president's decision shall be final.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 1321-120-500 Review of rules. ((These rules will be reviewed annually by the dean of students. A review committee shall convene upon the request of the dean of students.)) The HCC student rights and responsibilities code shall be reviewed at regular intervals by the chief student affairs officer. An ad hoc review committee shall convene upon the request of the chief student affairs officer.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-510 Membership of review committee. ((+)) The review committee shall be composed of ((eight)) nine members. Four of these members shall be students appointed by the ((HCSU chair)) ASHCC president. ((Four members shall be appointed by the dean of students. Each member shall have one vote. The dean of students shall serve as a nonvoting chair.

(2) The term of office shall be for one academic year starting at the beginning of fall quarter.)) The chief student affairs officer shall accept recommendations from the faculty senate for faculty representation on the review committee, and shall at his or her discretion appoint a maximum of four faculty and/or staff to the committee. Each member shall

have one vote. The chief student affairs officer shall serve as a voting chair who shall vote in the case of a tie.

AMENDATORY SECTION (Amending Order 022, filed 3/23/88)

WAC 1321-120-520 Function of the review committee. (1) The review committee will establish procedures for review and possible revision of these rules.

(2) All proposed amendments shall be submitted to the ~~((dean of students))~~ chief student affairs officer, who will send copies of each proposal to members of the review committee for their consideration. The review committee will hear and consider all proposed amendments and publish proposed recommendations for review by the ~~((college community))~~.

~~(3) Recommendations for revision of these rules shall be made to the board of trustees.~~

~~(4) These))~~ Highline Community College (HCC) policy development council.

~~(3) After completion of the above steps, the recommendations for revision of these rules shall be made to the president, who, upon approval and review by the college counsel, shall make final recommendation to the board of trustees.~~

~~(4) Upon approval of the board of trustees, the new rules shall be published and be made immediately available to the college community.~~

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

WAC 1321-120-530 Jurisdiction. (1) All rules adopted in this chapter shall apply to every student whenever said student is present upon or in any college or college-controlled facility and whenever said student is present at or engaged in any college-sponsored ~~((activity))~~ program, activity, or event which is held on or in noncollege facilities.

(2) ~~((Faculty members, other college employees, students, and))~~ Members of the ((public)) campus community who breach or aid or abet another in the breach of any provision of this chapter shall be subject to:

(a) Possible prosecution under ~~((the))~~ Washington state criminal law;

(b) Any other civil or criminal remedies available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board's rules or the district's policies and regulations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 1321-120-445 Readmission after dismissal.

WSR 08-01-094

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 17, 2007, 4:50 p.m., effective January 17, 2008]

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

Purpose: The department is amending chapter 16-86 WAC to update requirements related to disease and change of ownership of cattle and bison, to establish testing requirements for livestock whose raw milk and raw milk products are offered for sale, and to adopt the UMRs for brucellosis and tuberculosis eradication. In addition, the chapter is amended to make it specific to cattle and bison diseases; current rules that relate to goats are being moved to chapter 16-89 WAC. These changes are necessary to prevent the spread of disease in the state, to protect the public's health and welfare, and are a part of the department's commitment to regulatory improvement.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-86-030, 16-86-050, 16-86-055, 16-86-060, 16-86-070, 16-86-080 and 16-86-090; and amending WAC 16-86-005, 16-86-015, 16-86-017, 16-86-020, 16-86-040, 16-86-092, and 16-86-095.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-21-154 on October 24, 2007.

Changes Other than Editing from Proposed to Adopted Version: (1) Definitions for the following terms have been added to WAC 16-86-005: (a) "official identification," (b) "premises," (c) "timed events."

(2) WAC 16-86-026, 16-86-110, and 16-86-140 are amended to emphasize that livestock disease testing is at the owner's expense and that the rules pertain to animals whose raw milk and raw milk products are being offered for sale. Animals whose raw milk and raw milk products are consumed solely by the animal's owner are not required to be tested.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, 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 9, Amended 7, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 6, Repealed 7.

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 9, Amended 7, Repealed 7.

Date Adopted: December 14, 2007.

Valoria H. Loveland
Director

Chapter 16-86 WAC

~~(BRUCELLOSIS AND TUBERCULOSIS IN CATTLE AND GOATS)~~ CATTLE AND BISON DISEASES IN WASHINGTON STATE

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-005 Definitions. ~~((For purposes of))~~ In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

~~((1))~~ "Accredited veterinarian" means a veterinarian licensed to practice veterinary medicine, surgery, and dentistry in the state of Washington and approved by the United States Department of Agriculture (USDA) Veterinary Services to participate in state-federal cooperative programs.

~~((2))~~ "Adult vaccination" means the whole herd vaccination of a herd infected with or exposed to the *Brucella abortus* organism when conducted under a herd plan agreed to by the owner and the director. A USDA approved adult dosage *brucella* vaccine will be used to vaccinate all female cattle in the herd above twelve months of age.

~~(3)~~ "Approved *brucella*)" "Breed registry tattoo" means individual registry tattoos issued by breed associations.

"Brucellosis vaccine" means only those ~~((biological))~~ *Brucella abortus* products that are approved by and produced under license of the USDA for injection into cattle ~~((for the purpose of enhancing))~~ to enhance their resistance to brucellosis.

~~((4))~~ "Department" means the Washington state department of agriculture.

~~(5)~~ "Director" means the director of agriculture of the state of Washington or his or her duly authorized representative.

~~(6)~~ "Immediate slaughter" means delivery within seven days to an inspected slaughter facility or restricted feedlot as defined in chapter 16-30 WAC and operating under the permission of the director.

~~((7))~~ "Official calfhood vaccinate" means ~~((a))~~ female ~~((bovine animal))~~ cattle between four and twelve months of age that are vaccinated with ~~((an approved *brucella abortus*))~~ *brucellosis* vaccine (such as strain 19 vaccine or RB-51 vaccine) at a calfhood dose ~~((between the ages of four and twelve months of age (one hundred twenty days to three hundred sixty-five days))~~ (2cc subcutaneously).

~~((8))~~ "Official identification" means identifying an animal or group of animals using devices or methods approved by the director, including, but not limited to, official tags, unique breed registry tattoos, and registered brands when accompanied by a certificate of inspection from a brand inspection authority who is recognized by the director.

"Official Washington mature vaccinate" means ~~((a))~~ female ~~((bovine))~~ cattle over the age of twelve months that are native to Washington state, or originate from other class free states or countries to be determined on a case-by-case investigation by the director, and vaccinated with ~~((an approved adult dosage *brucella*))~~ a reduced dose of *brucellosis* vaccine (0.25cc subcutaneously) under directions issued by the ~~((state veterinarian))~~ director. ~~((Mature vaccinates~~

must be blood tested for brucellosis at the time of vaccination and a copy of the test chart submitted to the state veterinarian with the vaccination record.

~~(9)~~ "Registry tattoo" means a tattoo identifying the individual as a registered animal within the breed association.

~~(10))~~ "Premises" means a location or physical address.

"Timed events" means competitive events that take place where time elapsed is the factor that determines the placing of individuals competing in the event.

"USDA" means the United States Department of Agriculture.

"Vaccination tattoo" means a tattoo in the right ear bearing the United States registered shield and V preceded by a number indicating the quarter of the year and followed by a number corresponding to the last digit of the year in which the animal was vaccinated with strain 19 ~~((brucella))~~ *Brucella* vaccine. For strain RB-51 calfhood vaccination, an R precedes the shield and V. In the case of strain RB-51 mature vaccination, an M precedes the shield and V. ~~((In the case of strain RB-51 adult vaccination an A precedes the shield.))~~ For strain RB-51 vaccinates, the last number of the tattoo corresponds to the last digit of the year in which vaccine was administered.

NEW SECTION

WAC 16-86-008 Forms used in this chapter. Forms used in this chapter may be obtained from the department at:

Animal Services Division
Washington State Department of Agriculture
1111 Washington St. S.E.
Olympia, WA 98504-2560
Phone: 360-902-1878.

BRUCELLOSISNEW SECTION

WAC 16-86-014 Adoption of United States Department of Agriculture Brucellosis Eradication Uniform Methods and Rules. In addition to the rules adopted in this chapter, the Washington state department of agriculture adopts the procedures and methods of the *USDA Brucellosis Eradication Uniform Methods and Rules*, effective October 1, 2003. The department maintains a copy of this document for public inspection. You may also find the information on the internet at: www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-015 ~~((Washington cattle sale requirements))~~ Change of ownership requirements for cattle and bison in Washington. (1) ~~((Effective January 1, 1984, within thirty days prior to any change of ownership and in a manner prescribed by the state veterinarian, all dairy breed cattle shall be tested negative for brucellosis. The following classes of cattle are exempt from this test requirement:~~

~~((a) Calves under four months of age.~~

~~(b) Cattle sold or consigned to a restricted feedlot.~~

~~(e) Cattle sold or consigned to a federally inspected slaughter plant.~~

~~(d) Steers and spayed heifers.~~

~~(e) Official calfhood vaccinates under twenty months of age and not parturient or post parturient.~~

~~(f) Official Washington or Canadian calfhood vaccinates under thirty months of age as evidenced by less than full development of the lower permanent second incisors. This exemption applies only to Washington resident cattle which bear an eartag showing a Washington vaccination (91-V series) or a Canadian vaccination certificate. Subdivision (e) of this subsection applies to all other female dairy breed cattle unless exempted by (a), (b), (c) or (d) of this subsection. Cattle exempted under this subsection may be tested if requested by a prospective buyer or to meet import requirements of another state or foreign country.~~

~~(2)) **Cattle.** All female cattle ~~((shall))~~ must be ~~((an))~~ official calfhood or official Washington mature vaccinates and bear ~~((a))~~ legible vaccination tattoos ~~((prior to))~~ before being sold or introduced into any breeding herd in the state of Washington. This rule does not apply to the following:~~

~~(a) ((Calves under four months of age. Female calves under four months acquired by any herd and natural female additions must become official calfhood vaccinates or official Washington mature vaccinates, as provided for in this chapter, to be sold for any purpose other than those set forth in (b), (c), (d), (e), or (f) of this subsection.~~

~~((b)) Cattle sold or consigned to a restricted feedlot((-);~~

~~((e)) b Cattle sold or consigned to a federally inspected slaughter plant((-);~~

~~((d)) c Cattle sold or consigned to a public livestock market for immediate slaughter ~~((only-))~~ within three days of sale;~~

~~((e)) d Spayed heifers((-);~~

~~((f)) e Cattle sold to buyers in states or countries without brucellosis vaccination import requirements; and~~

~~(f) Calves under four months of age.~~

~~((3) All Washington cattle shall be individually identified and permanently recorded as to herd of origin prior to being sold or consigned for slaughter. Such identity shall be transferred to the blood sample taken for market cattle identification (MCI) test purposes. These records shall be made available to the department upon request. The following classes of cattle shall be exempt from these requirements:~~

~~(a) Cattle under twenty-four months of age and not parturient or post parturient.~~

~~(b) Steers and spayed heifers.)~~ (2) **Bison.** All bison except calves under eight months of age at the side of their negative-tested mothers, are required to test negative for brucellosis upon change of ownership.

(3)(a) Under RCW 20.01.380, as cattle and bison move throughout the marketing system, livestock dealers are required to retain cattle and bison identification to the herd of origin. Official identification devices provide permanent identification of livestock and ensure the ability to find the source of animal disease outbreaks.

(b) Removing an official animal health tag, or official animal identification tag, permanent mark, or other device is prohibited except at the time of slaughter.

(c) If an official identification device is lost and it is necessary to retag an animal, the new official number shall correlate, whenever possible, with the previous official number of the animal and shall be reported to the office of the state veterinarian.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-017 Grazing permits. (1) Washington herd owners desiring to move cattle interstate for grazing purposes and return to Washington shall request a permit for such movement from the animal health program of the department. The state to which the animals are to be moved for grazing must approve the movement. A separate permit must be obtained from the animal health program for the return of such cattle.

(2) Grazing permits will be issued only for movements to states ~~((which))~~ that are class free or A for brucellosis and ~~((which))~~ that share common borders with the state of Washington.

(3) Cattle moving interstate on grazing permits are generally exempt from interstate health certificate and testing requirements unless required by the state veterinarian in either state due to changing disease conditions.

(4) Cattle moving interstate on grazing permits must meet the brand or animal identification requirements of each state before interstate movement.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-020 Quarantine. ~~((All cattle or goats))~~ Cattle or bison that are infected or suspected of being infected with ~~((brucellosis or tuberculosis))~~ an infectious or communicable disease after an official test ~~((shall))~~ will be quarantined as provided ~~((by law))~~ under RCW 16.36.010. If owners refuse to allow the department to test for ~~((the above))~~ diseases provided for in this chapter, all cattle or ~~((goats))~~ bison will be regarded as a menace to the health of livestock, and the premises on which they are kept ~~((shall))~~ will be immediately quarantined and no animals or products of ~~((such))~~ these animals ~~((shall))~~ may be removed from the premises ~~((as outlined in RCW 16.36.010)).~~

NEW SECTION

WAC 16-86-026 Brucellosis testing requirements for raw milk dairies. (1) All cattle whose raw milk or raw milk products are offered for sale must be from a herd that has tested negative to a serological test for brucellosis within the previous twelve months.

(2) Any additions to the herd must be serologically tested negative at the owner's expense for brucellosis within thirty days before introduction into the herd.

(3) Herds must be serologically tested negative at the owner's expense annually to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for brucellosis are prohibited from sale and must be destroyed.

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-040 Brucellosis quarantine and release.

(1) ~~(Brucellosis:~~

~~(a)) Any herd of cattle or ((goats)) bison in which brucellosis reactors are found will be quarantined. Positive or reactor classification shall be based on standards listed in ((U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication. Animals positive to the brucellosis test must not be sold or offered for sale except for immediate slaughter. Quarantined animals may only be moved when accompanied by an official form number VS1-27)) USDA Brucellosis Eradication Uniform Methods and Rules, effective October 1, 2003.~~

~~(2) The quarantine will be released when the entire quarantined herd has passed two consecutive negative blood tests without reactors.~~

~~(a) The first test must be not less than thirty days following removal of all reactors from the herd ((and)). The second test must not be less than ninety days nor more than one year following the date of the previous test.~~

~~(b) Steers, spayed heifers ((and)), officially vaccinated dairy ((animals)) cattle under twenty months of age, and officially vaccinated beef animals under twenty-four months of age need not be tested.~~

~~((b)) (c) Adult vaccination for cattle may be used as a whole herd vaccination under the terms of a herd plan and based on the standards listed in ((U.S. Department of Agriculture Uniform Methods and Rules for Brucellosis Eradication dated May 6, 1992, and revised February 2, 1993, and June 16, 1994)) USDA Brucellosis Eradication Uniform Methods and Rules, effective October 1, 2003.~~

~~((2) Tuberculosis:~~

~~(a) Any herd of cattle or goats in which tuberculosis reactors are found will be quarantined and except for immediate slaughter the sale or removal of any animal out of such herds is prohibited. Herds in which only no gross legions (NGL) reactor(s) occur and in which no evidence of Mycobacterium bovis infection has been disclosed may be released from quarantine after a sixty-day negative caudal fold retest of the entire herd.~~

~~(b) Herds containing one or more suspects to the caudal fold tuberculosis test shall be quarantined until the suspect animals are:~~

~~(i) Retested by the comparative cervical tuberculosis test within ten days of the caudal fold injection and the tuberculosis status of the suspect(s) has/have been determined; or~~

~~(ii) Retested by the comparative cervical tuberculosis test after sixty days and the tuberculosis status of the suspect(s) has/have been determined; or~~

~~(iii) Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect(s) has/have been determined.~~

~~(e) Herds in which Mycobacterium bovis infection has been confirmed and the herd has not been depopulated will~~

~~remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. These herds will also be subject to five annual tests on the entire herd following the release from quarantine.)) (3) Cattle or bison that test positive to the brucellosis test must not be sold or offered for sale except for immediate slaughter.~~

~~(4) Quarantined cattle and bison may only be moved when accompanied by an official USDA form number VS1-27.~~

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-092 Indemnity for brucellosis affected or exposed cattle. (1) As provided under RCW ((16.36.096)) 16.36.090, the director may order the slaughter or destruction of any cattle affected with or exposed to brucellosis.

~~((2) Under RCW 16.36.096, subject to the availability of ((sufficient funds, the director may pay an indemnity for any cattle)) amounts appropriated for this specific purpose, owners, individuals, partnerships, corporations or other legal entities whose animals have been slaughtered or destroyed by order of the director may be eligible for indemnification in an amount not to exceed seventy-five percent of the appraised or salvage value of the animal ordered slaughtered or destroyed. ((When indemnity is approved, the amount that will be paid is fifty dollars for any grade beef breed female, one hundred dollars for any purebred registered beef breed bull or female, two hundred dollars for any grade dairy breed female or two hundred fifty dollars for any purebred registered dairy breed bull or female.))~~

AMENDATORY SECTION (Amending WSR 99-09-025, filed 4/15/99, effective 5/16/99)

WAC 16-86-095 Official brucellosis vaccination. (1)

An official vaccination report of all brucellosis vaccinations must be made to the department within thirty days of vaccination by the accredited veterinarian who performed the vaccination. The vaccination report must be made on an approved report form (USDA form number VS 4-26) issued by the department for the purpose of individually identifying the cattle and recording ~~((by))~~ official brucellosis vaccinations ~~((ear tag or registry tattoo cattle officially brucellosis vaccinated))~~.

~~((2)) (a) All vaccinations must be ((done)) performed by a licensed accredited veterinarian or federal or state employed veterinarian and are not official until they are reported to the department. ((Vaccinated animals must be permanently identified as vaccinates by a vaccination tattoo in the right ear. An official vaccination ear tag or registry tattoo shall be used for individual animal identification.))~~

(b) Veterinarians must record all vaccinations in a ledger that records the owner of the animal, tag numbers, and the date of vaccination. These records must be maintained for seven years.

(2) Official calfhood vaccinates must be:

(a) Permanently identified by official vaccination eartag (orange tag); and

(b) Vaccinated with 2cc subcutaneous RB-51 *Brucella* vaccine and permanently identified as vaccinates by a vaccination tattoo in the right ear. For strain RB-51 calfhood vaccination, the tattoo consists of an R, the United States registered V-shield, and the last digit of the year of vaccination.

(3) (~~Brucellosis vaccinations are not official until they are reported to the department on official, completed and signed forms.~~) Official mature vaccinates (over twelve months of age) must have prevaccination blood samples for brucellosis submitted on USDA form number VS4-33 to the office of the state veterinarian. An official mature vaccinate must be:

(a) Vaccinated with 0.25cc subcutaneous RB-51 *Brucella* vaccine;

(b) Permanently identified by an official USDA identification (silver tag) and a USDA brucellosis vaccination tag (orange tag); and

(c) Permanently identified as a vaccinate by a vaccination tattoo in the right ear. For strain RB-51 mature vaccination, the tattoo consists of an M, the United States registered V-shield, and the last digit of the year of vaccination.

Q FEVER

NEW SECTION

WAC 16-86-110 Q fever testing requirements for raw milk dairies. (1) All cattle whose raw milk or raw milk products are offered for sale must be from a herd that has tested negative serologically for Q fever within the previous twelve months. Q fever is caused by the coccobacillus *Coxiella burnetii* and is highly infectious to humans.

(2) Any additions to the herd must be tested negative for Q fever at the owner's expense within thirty days before introduction into the herd.

(3) Herds must be tested negative annually at the owner's expense to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for Q fever are prohibited from sale and must be destroyed or pasteurized according to industry standards.

TUBERCULOSIS

NEW SECTION

WAC 16-86-120 Adoption of United States Department of Agriculture Bovine Tuberculosis Eradication Uniform Methods and Rules. The Washington state department of agriculture adopts the *Procedures and Methods of the USDA Bovine Tuberculosis Eradication Uniform Methods and Rules*, effective January 1, 2005. The department maintains a copy of the *Bovine Tuberculosis Eradication Uniform Methods and Rules* for public inspection. You may also find the information on the internet at: www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf.

NEW SECTION

WAC 16-86-130 Cattle used in rodeo or timed events.

All cattle used for rodeo or timed events must be accompanied by proof recorded on a tuberculosis test chart (USDA form number VS6-22) of a negative bovine tuberculosis test within twelve months of the event. Calves under six months old that were born and have continuously resided in the state of Washington and Washington origin timed event cattle that are not commingled with high-risk are excluded from this requirement.

NEW SECTION

WAC 16-86-140 Tuberculosis testing requirements for raw milk dairies.

(1) All cattle whose raw milk or raw milk products are offered for sale must be from a herd that has tested negative for tuberculosis within the previous twelve months.

(2) Any additions to the herd must be tested negative for tuberculosis at the owner's expense within thirty days before introduction into the herd.

(3) Herds must be tested negative annually at the owner's expense to maintain the dairy's raw milk license.

(4) The state veterinarian shall direct all testing procedures in accordance with state and federal standards for animal disease eradication.

(5) All raw milk and raw milk products from animals that test positive for tuberculosis are prohibited from sale and must be destroyed.

NEW SECTION

WAC 16-86-150 Tuberculosis quarantine and release.

(1) Any herd of cattle or bison in which tuberculosis reactors are found will be quarantined. The sale or removal of any animal out of a quarantined herd is prohibited except for removal for immediate slaughter.

(2) Herds in which no gross lesions reactors occur and in which no evidence of *Mycobacterium bovis* infection has been disclosed may be released from quarantine after a sixty-day negative caudal fold tuberculosis retest of the entire herd.

Herds containing one or more suspects to the caudal fold tuberculosis test will be quarantined until the suspect animals are:

(a) Retested by the comparative-cervical tuberculosis test within ten days of the caudal fold injection; or

(b) Retested by the gamma interferon tuberculosis test and the tuberculosis status of the suspect has been determined; or

(c) Retested by the comparative-cervical tuberculosis test after sixty days and the tuberculosis status of the suspect has been determined; or

(d) Shipped under permit directly to slaughter in accordance with state or federal laws and regulations and the tuberculosis status of the suspect has been determined.

(3) Herds in which *Mycobacterium bovis* infection has been confirmed and the herd has not been depopulated will remain under quarantine and must pass two tuberculin tests at intervals of at least sixty days and one additional test after six months from the previous negative test. Following the

release from quarantine, these herds will also be subject to five annual tests on the entire herd.

NEW SECTION

WAC 16-86-160 Indemnity for tuberculosis affected or exposed cattle and bison. (1) As provided under RCW 16.36.090, the director may order the slaughter or destruction of any cattle and bison affected with or exposed to tuberculosis.

(2) As provided for under RCW 16.36.096, subject to the availability of amounts appropriated for this specific purpose, owners, individuals, partnerships, corporations or other legal entities whose animals have been slaughtered or destroyed by order of the director may be eligible for indemnification in an amount not to exceed seventy-five percent of the appraised or salvage value of the animal ordered slaughtered or destroyed.

NEW SECTION

The following sections of the Washington Administrative Code are decodified as follows:

Old WAC Number	New WAC Number
16-86-020	16-86-013
16-86-095	16-86-025

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-86-030	Sale of quarantined animals.
WAC 16-86-050	Disinfecting premises.
WAC 16-86-055	Disinfecting vehicles.
WAC 16-86-060	Sale of brucellosis reactors.
WAC 16-86-070	Sale of tuberculosis reactors.
WAC 16-86-080	Branding and tagging of tuberculosis reactors.
WAC 16-86-090	Branding and tagging of brucellosis reactors.

WSR 08-01-095

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 17, 2007, 4:50 p.m., effective January 17, 2008]

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

Purpose: In order to control brucellosis, tuberculosis, and other infectious and communicable livestock diseases, the department is establishing restricted holding facilities for cattle that enter Washington without first meeting animal import health requirements. In addition, the department is eliminating the category II restricted feedlot and eliminating the option for feedlot operators to purchase cattle from places

under quarantine. Other amendments were made to make the rules easier to read and understand.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-30-020, 16-30-080 and 16-30-090; and amending WAC 16-30-010, 16-30-025, 16-30-030, 16-30-040, 16-30-050, 16-30-060, and 16-30-070.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-21-154 [07-21-152] 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 3, Amended 7, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 7, Repealed 3.

Date Adopted: December 14, 2007.

Valoria H. Loveland
Director

Chapter 16-30 WAC

RESTRICTED FEEDLOTS AND RESTRICTED HOLDING FACILITIES

AMENDATORY SECTION (Amending WSR 99-14-032, filed 6/29/99, effective 7/30/99)

WAC 16-30-010 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Department" means the Washington state department of agriculture (WSDA).

"Director" means the director of the department of agriculture or the director's authorized representative.

"Official individual identification" means identifying an animal or group of animals using devices or methods including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of brand inspection from a brand inspection authority who is recognized by the director.

"Restricted cattle" means cattle being held in a restricted holding facility or a restricted feedlot.

"Restricted feedlot" means a dry feed yard ((where) with no provision for grazing where cattle ((not known to be exposed to brucellosis and not vaccinated against brucellosis are restricted to prevent their use for breeding purposes)) specified in this rule are confined for feeding and kept separate and apart from all other cattle.

"Restricted holding facility" means a dry feed yard with no provision for grazing where cattle are held to meet import test requirements.

"Test-eligible" means bulls over six months of age, brucellosis vaccinated female dairy cattle over twenty months of age, and brucellosis vaccinated beef breed female cattle over twenty-four months of age.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

WAC 16-30-025 Restricted feedlots (~~(categories)~~).
~~((There shall be Category I and Category II restricted feedlots.~~

~~(1) Category I restricted feedlots may, upon approval of the state veterinarian, buy and import cattle from feedlots in states classified "Class A" for brucellosis that may be under state quarantine if the feedlot does not contain reactors or has not had reactors for a minimum period of one hundred eighty days. Such cattle may move interstate if they are not test eligible without further restriction. Test eligible cattle which are not brucellosis exposed and from herds not known to be affected (state quarantined feedlots) may be moved interstate to Category I restricted feedlots if they are tested negative within thirty days prior to movement and are accompanied by a health certificate. Category I restricted feedlots may not import cattle from a state federal quarantined feedlot.~~

~~(2) Category II restricted feedlots may not import cattle from any feedlot which is classified as a quarantined feedlot by another state. Category II restricted feedlots may sell cattle to Category I restricted feedlots but may not receive cattle from Category I feedlots.)~~ (1) A restricted feedlot is a designated area that is isolated from all other nonrestricted areas within a feedlot. Restricted feedlots must meet the following standards:

(a) Cattle in the restricted feedlot must not share water or feeding facilities accessible to other areas.

(b) Restricted feedlots must be clearly identified as such by signs permanently affixed at all corners stating "restricted feeding area" in letters a minimum of six inches in height.

(c) There must be a minimum of thirty feet between restricted feedlots and other lots and facilities.

(d) No common fences and gates may be used.

(2) The purpose of a restricted feedlot is to accept for feeding purposes with no provision for grazing:

(a) Female cattle from a Class Free state that are not officially brucellosis vaccinated and not knowingly exposed to brucellosis;

(b) Cattle that enter Washington state on a brand certificate that includes the permit number and without a certificate of veterinary inspection; and

(c) Cattle imported from Canada. These cattle must be confined to the initial restricted feedlot until moved to slaughter.

(3)(a) Restricted feedlots may buy and import cattle from a Class A state if the cattle do not originate from a herd known to be exposed to brucellosis. Female cattle entering a restricted feedlot from a Class A state must be:

(i) Officially brucellosis vaccinated; or

(ii) Brucellosis tested negative within thirty days prior to movement.

(b) Cattle may not be imported from restricted feedlots that accept cattle known to be exposed to brucellosis.

(4) The classification of states and areas as Class Free and Class A is designated by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) in Title 9 CFR Part 78.41 (January 1, 2006) and is defined in *Brucellosis Eradication: Uniform Methods and Rules*, effective October 1, 2003.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

WAC 16-30-030 Conditions of permit to operate a restricted feedlot. ~~((+))~~ The operator of a ~~((Category I))~~ restricted feedlot must abide by the following conditions:

~~((a) That))~~ (1) There ~~((shall))~~ may be no contact ~~((with other))~~ between animals not also similarly ~~((and commonly))~~ restricted.

~~((b) That))~~ (2)(a) No ~~((animal, except steers and spayed heifers for temporary grazing purposes only, shall))~~ cattle, except for brucellosis vaccinated females, may be ~~((moved))~~ removed from the ~~((feed yard))~~ restricted feedlot except to a federally inspected slaughter plant ~~((or to a licensed public livestock market for immediate slaughter))~~ or a restricted feedlot of like status or to a licensed public livestock market where they will be marketed for immediate slaughter.

(b) Cattle that move from a restricted feedlot to a public livestock market must be identified with an "F" brand and remain in the slaughter channels.

(c) Female cattle that are calfhood vaccinated may be removed from the restricted feedlot for breeding purposes only and by permit from the director. Calfhood vaccinated female cattle that are test-eligible must also test negative for brucellosis and tuberculosis before removal from the restricted feedlot for breeding purposes.

(d) Bulls under six months of age may be removed from the restricted feedlot for breeding purposes only.

~~((e) That))~~ (3) The ~~((yard))~~ restricted feedlot will be maintained in a sanitary condition.

~~((d) That))~~ (4) The department ~~((of agriculture))~~ will be notified immediately of any outbreak of any infectious or contagious disease.

~~((e) That))~~ (5) The ~~((disposition))~~ disposal of dead ~~((animals))~~ livestock will be in accordance with the laws relating to the disposal of dead ~~((animals))~~ livestock and in accordance with chapter 16-25 WAC.

~~((f) That))~~ (6) Accurate records will be kept for six years accounting for all ~~((animals))~~ cattle entering and leaving the restricted feedlot.

~~((2) The operator of a Category II restricted feedlot must abide by the following conditions:~~

~~((a) That there shall be no intermingling with other animals not also similarly and commonly restricted.~~

~~((b) That no animal shall be moved from the feed yard except to a federally inspected slaughter plant, to a licensed public livestock market for immediate slaughter, or to a feedlot of like status, except:~~

~~(i) Steers and spayed heifers which are unrestricted in movement.~~

~~(ii) Calves born in the feedlot which are unrestricted in movement.~~

~~(iii) Restricted cattle moved for temporary grazing purposes.~~

~~(e) Nonbrucellosis vaccinated females must be "F" branded when moved other than directly to slaughter or to another feedlot of like status.~~

~~(d) That the yard will be maintained in a sanitary condition.~~

~~(e) That the department of agriculture will be notified immediately of any outbreak of any reportable infectious or contagious disease.~~

~~(f) That the disposition of dead animals will be in accordance with the laws relating to the disposal of dead animals.~~

~~(g) That accurate records will be kept accounting for all animals entering and leaving the feedlot and open for review by authorized department of agriculture personnel during any normal business hours.~~

~~(h) That any bulls or brucellosis vaccinated females removed from the yard for any other than the above purposes must move by permit from the state veterinarian and on an official certificate of veterinary inspection prepared by an accredited veterinarian.))~~ (7) Proper facilities shall be provided for inspection of brands, branding, and identification of cattle.

NEW SECTION

WAC 16-30-035 Restricted holding facilities. (1)

Restricted holding facilities are areas approved by the director, as advised by the designated brucellosis and tuberculosis epidemiologist. Such facilities are specifically for cattle that have been imported into the state but have not met the department's brucellosis and tuberculosis entry requirements.

(2) The restricted holding facility area shall house restricted cattle separate and apart from all other cattle.

(3) Upon negative brucellosis and tuberculosis test results, restricted cattle will be released from the holding facility.

(4) Milk from restricted cattle may not be used for human consumption.

(5) Restricted holding facilities must be clearly identified as such by signs permanently affixed at all corners stating "restricted holding facility" in letters a minimum of six inches in height.

NEW SECTION

WAC 16-30-038 Conditions of permit to operate a restricted holding facility. The operator of a restricted holding facility must abide by the following conditions:

(1) All cattle entering restricted holding facilities must have official individual identification listed on the certificate of veterinary inspection.

(2) There may be no contact between cattle not also similarly restricted and no commingling between separate shipments of cattle.

(3) No cattle may be removed from the restricted holding facility until they meet state and federal import regulations.

(4) Cattle may be removed from the restricted holding facility without meeting state and federal import regulations if they are sent to a federally inspected slaughter plant.

(5) The restricted holding facility will be maintained in a sanitary condition.

(6) The department of agriculture will be notified immediately of any outbreak of any infectious or contagious disease.

(7) The disposition of dead cattle will be in accordance with the laws relating to the disposal of dead livestock and in accordance with chapter 16-25 WAC.

(8) Accurate records will be kept for six years to account for all cattle entering and leaving the restricted holding facility. Records must be open for review by authorized department of agriculture personnel during normal business hours, and must be provided to the department upon the director's request.

NEW SECTION

WAC 16-30-039 Permit applications for a restricted feedlot or restricted holding facility. (1) Application forms to establish a restricted feedlot or restricted holding facility may be obtained from:

Washington State Department of Agriculture
Animal Services Division
1111 Washington St. S.E.
P.O. Box 42577
Olympia, Washington 98504-2577
Phone: 360-902-1878.

(2) Applicants for restricted feedlots and restricted holding facilities must provide the following information on the application form:

(a) Name and address of applicant;

(b) Location of the restricted feedlot or restricted holding facility; and

(c) Drawing of the layout of the restricted feedlot or restricted holding facility.

AMENDATORY SECTION (Amending Order 1964, filed 2/5/88)

WAC 16-30-040 Expiration and revocation of restricted feedlot and restricted holding facility permits.

(1) All permits for restricted feedlots ((shall)) and holding facilities expire on the 30th day of June ((next subsequent to)) of the year following the date of issue ((and may be sooner revoked or suspended by the director of agriculture upon reasonable notice to the permittee for violations of the disease control or brand inspection laws of this state or any lawful regulations issued and promulgated by the director of agriculture under said laws. Any permittee shall have the right to request a hearing before a revocation is made permanent)). Restricted feedlots and holding facilities must be inspected annually upon renewal and at any other time as determined by the director. Renewal of a restricted feedlot is contingent upon accurate recordkeeping.

(2) Any violation of chapter 16.36 RCW or any of the rules adopted under that chapter is sufficient cause for the

suspension or revocation of any permit to operate a restricted feedlot or restricted holding facility. In all proceedings for suspension or revocation of a restricted feedlot or restricted holding facility permit, the owner or manager has the right to request a hearing before revocation is made permanent. Any action shall be taken under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

WAC 16-30-050 Brands. Before a permit is issued for a restricted feedlot the operator or owner must have an "F" brand and number recorded with the state department of agriculture (~~(an "F" brand number to be used exclusively by said operator)~~). Such a brand (~~(shall)~~) consists of the letter "F" followed by (~~(a)~~) an assigned number (~~(assigned by said department)~~) and is to be used only by the restricted feedlot to which it is recorded.

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

WAC 16-30-060 Brand time. For the purpose of proper identification, all cattle (~~(except steers and spayed heifers, arriving at a Category I)~~) moving from a restricted feedlot to a public livestock market must be branded with (~~(the aforementioned)~~) an "F" brand (~~(within forty eight hours after arrival. Use of such brands on steers and properly identified spayed heifers shall be optional)~~).

AMENDATORY SECTION (Amending Order 1995, filed 2/23/89)

WAC 16-30-070 Place of brand. (1) The (~~(aforementioned)~~) "F" brand shall be placed immediately behind the shoulder and high on the back. In the event a brand is already situated there, the feedlot brand may be placed directly in front of or below the existing brand, but must not deface the existing brand (~~(: Provided, The restricted feedlot operators or owners who now place their duly recorded "F" brands in the area between the point of the shoulder and the jaw shall continue to so brand, or they may apply to the registrar of brands, department of agriculture, to change the position to which their brand is affixed to the new position without charge)~~).

(2) Restricted feedlots may apply for an "F" series brand from the department at the following address:

Brand Registrar
Washington State Department of Agriculture
P.O. Box 42577
Olympia, WA 98504-2577
Phone: 360-725-5505.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-30-020 Permit applications.

WAC 16-30-080

Lot size.

WAC 16-30-090

Feedlot requirements.

WSR 08-01-101 PERMANENT RULES BUILDING CODE COUNCIL

[Filed December 18, 2007, 10:44 a.m., effective April 1, 2008]

Effective Date of Rule: April 1, 2008.

Purpose: To amend portions of chapter 51-54 WAC, the 2006 International Fire Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54-0200 and 51-54-0900.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 07-16-029 on July 23, 2007.

Changes Other than Editing from Proposed to Adopted Version: The amendments proposed to Sections 604.2.20 and 604.2.21 were not adopted. Language missing from the definition of Residential Group R was reinstated for consistency with chapter 51-50 WAC, the 2006 International Building Code.

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 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 2, Repealed 0.

Date Adopted: November 9, 2007.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 07-01-093, filed 12/19/06, effective 7/1/07)

WAC 51-54-0200 Chapter 2—Definitions.

SECTION 202 GENERAL DEFINITIONS.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

ELECTRICAL CODE is the National Electrical Code, promulgated by the National Fire Protection Association, as adopted ~~((in chapter 296-46 WAC, or the locally adopted Electrical Code))~~ by rule or local ordinance under the authority of chapter 19.28 RCW.

FAMILY CHILD DAY CARE HOME is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

NIGHTCLUB. ~~((An establishment, other than a theater with fixed seating, which includes all of the following:~~

~~1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;~~

~~2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;~~

~~3. Has an occupant load of 100 or more as determined by the fire code official; and~~

~~4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.~~

Paid performing artists are those entertainers engaged to perform in a for-profit business establishment.)) An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixated chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

EDUCATIONAL GROUP E. Educational Group E Occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 302.2 of the IBC and have occupant loads of less than 100, shall be classified as Group A-3 Occupancies.

Day Care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age, shall be classified as a Group E Occupancy.

EXCEPTION: Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R3.

INSTITUTIONAL GROUP I. Institutional Group I Occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people, cared for or living in a supervised environment and having physical limitations because of health or age, are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other

reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Residential board and care facilities

Assisted living facilities

Halfway houses

Group homes

Congregate care facilities

Social rehabilitation facilities

Alcohol and drug centers

Convalescent facilities

A facility such as the above with five or fewer persons and adult family homes licensed by the Washington state department of social and health services shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in IBC Section 310.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Group R-2.

Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals

Nursing homes (both intermediate-care facilities and skilled nursing facilities)

Mental hospitals

Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in IBC Section 310.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Group R-2.

Group I-3. (Remains as printed in the IFC.)

Group I-4. Day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code*. Places of worship during religious functions are not included.

Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

EXCEPTION: Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group A-3.

Child care facility. A facility that provides supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS: 1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
2. Family child day care homes licensed by the Washington state department of social and health services for the care of 12 or fewer children shall be classified as Group R3.

RESIDENTIAL GROUP R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or Licensed Care Group LC. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Boarding homes as licensed by the department of social and health services under chapter 388-78A WAC
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (nontransient)
- Motels (nontransient)
- Monasteries

Residential treatment facilities as licensed by the department of health under chapter 246-337 WAC

Vacation timeshare properties

Congregate living facilities with sixteen or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of 12 or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours, or congregated living facilities with sixteen or fewer persons. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code* in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 classification is not adopted. Any reference in this code to R-4 does not apply.

AMENDATORY SECTION (Amending WSR 07-01-093, filed 12/19/06, effective 7/1/07)

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

~~((903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout an occupancy with a nightclub. Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2007. The fire code official, for the application of this rule, may establish an occupant load based on the observed use of the occupancy in accordance with Table 1004.1.2.))~~

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m²); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
2. Group E Occupancies with an occupant load of 50 or less.

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION: Group R-1 if all of the following conditions apply:
1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

903.6.2 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. An existing nightclub constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2009.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 6 of IBC Section 707.14.1, the pressurization system shall comply with and be maintained in accordance with IBC 707.14.2.

909.6.3.1 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the build-

ing official and fire code official. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.2 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

**WSR 08-01-102
PERMANENT RULES
BUILDING CODE COUNCIL**

[Filed December 18, 2007, 10:46 a.m., effective April 1, 2008]

Effective Date of Rule: April 1, 2008.

Purpose: To amend portions of chapter 51-51 WAC, the 2006 International Residential Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0202, 51-51-0301, 51-51-0302, 51-51-0317, 51-51-0404, 51-51-0602, 51-51-0703, 51-51-1501, and 51-51-2439.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 07-16-026 on July 20, 2007.

Changes Other than Editing from Proposed to Adopted Version: The amendment to Section R2439.5 was corrected to read R2439.5.3.

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 9, 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 9, Repealed 0.

Date Adopted: November 9, 2007.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 07-01-090, filed 12/19/06, effective 7/1/07)

WAC 51-51-0202 Section R202—Definitions.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

BALCONY, EXTERIOR. Definition is not adopted.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24 hour day.

CHILD DAY CARE HOME, FAMILY is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

DECK. Definition is not adopted.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling units may also include the following uses:

1. Adult family homes, foster family care homes and family day care homes licensed by the Washington state department of social and health services.
2. Offices, mercantile, food preparation for off-site consumption, personal care salons or similar uses which are conducted primarily by the occupants of the dwelling unit and are secondary to the use of the unit for dwelling purposes, and which do not exceed 500 square feet (46.4m²).

SMALL BUSINESS. Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees, or which has a million dollars or less per year in gross sales, of window products.

UNUSUALLY TIGHT CONSTRUCTION. Construction meeting the following requirements:

1. Walls exposed to the outside atmosphere having a continuous water vapor retarder with a rating of 1 perm (57 ng/s·m²·Pa) or less with openings gasketed or sealed;
2. Openable windows and doors meeting the air leakage requirements of the *International Energy Conservation Code*, Section 502.1.4; and
3. Caulking or sealants are applied to areas such as joints around window and door frames, between sole plates and floors, between wall-ceiling joints, between wall panels, at penetrations for plumbing, electrical and gas lines, and at other openings; or
4. Buildings built in compliance with the 1986 or later editions of the Washington State Energy Code chapter 51-11 WAC, Northwest Energy Code, or Super Good Cents weatherization standards or equivalent.

NEW SECTION

WAC 51-51-0301 Section R301—Design criteria.

**TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)**

USE	LIVE LOAD
Attics with limited storage ^{b,g,h}	20
Attics without storage ^b	10
Decks ^e and exterior balconies	40

USE	LIVE LOAD
Fire escapes	40
Guardrails and handrails ^d	200 ⁱ
Guardrails in-fill components ^f	50 ⁱ
Passenger vehicle garages ^a	50 ^a
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40 ^c

^aElevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.

^bAttics without storage are those where the maximum clear height between joist and rafter is less than 42 inches, or where there are not two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high by 2 feet wide, or greater, located within the plane of the truss. For attics without storage, this live load need not be assumed to act concurrently with any other live load requirements.

^cIndividual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.

^dA single concentrated load applied in any direction at any point along the top.

^eSee Section R502.2.1 for decks attached to exterior walls.

^fGuard in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.

^gFor attics with limited storage and constructed with trusses, this live load needs to be applied only to those portions of the bottom chord where there are two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high or greater by 2 feet wide or greater, located within the plane of the truss. The rectangle shall fit between the top of the bottom chord and the bottom of any other truss member, provided that each of the following criteria is met:

¹The attic area is accessible by a pull-down stairway or framed opening in accordance with Section R807.1; and

²The truss has a bottom chord pitch less than 2:12.

^hAttic spaces served by a fixed stair shall be designed to support the minimum live load specified for sleeping rooms.

ⁱGlazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

NEW SECTION

WAC 51-51-0302 Section R302—Location on lot.

R302.1 Exterior walls. Exterior walls with a fire separation distance less than 3 feet (914 mm) shall have not less than a one-hour fire-resistive rating with exposure from both sides. Projections shall not extend to a point closer than 2 feet (610 mm) from the line used to determine the fire separation distance.

EXCEPTION: Detached garages accessory to a dwelling located within 2 feet of a lot line may have roof eave projections not exceeding 4 inches.

Projections extending into the fire separation distance shall have not less than one-hour fire-resistive construction on the underside. The above provisions shall not apply to

walls which are perpendicular to the line used to determine the fire separation distance.

EXCEPTION: Tool and storage sheds, playhouses and similar structures exempted from permits by Section R105.2 are not required to provide wall protection based on location on the lot. Projections beyond the wall shall not extend over the lot line.

R302.2 Openings. Openings shall not be permitted in the exterior wall of a dwelling or accessory building with a fire separation distance less than 3 feet (914 mm). This distance shall be measured perpendicular to the line used to determine the fire separation distance.

EXCEPTION: 1. Openings shall be permitted in walls that are perpendicular to the line used to determine the fire separation distance.
2. Foundation vents installed in compliance with this code are permitted.

R302.3 Penetrations. Penetrations located in the exterior wall of a dwelling with a fire separation distance less than 3 feet (914 mm) shall be protected in accordance with Section R317.3.

EXCEPTION: Penetrations shall be permitted in walls that are perpendicular to the line used to determine the fire separation distance.

AMENDATORY SECTION (Amending WSR 07-01-090, filed 12/19/06, effective 7/1/07)

WAC 51-51-0317 Section R317—Dwelling unit separation.

R317.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302 for exterior walls.

EXCEPTION: A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Penetrations of electrical outlet boxes shall be in accordance with Section R317.3.

R317.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance-rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Where a story extends beyond the exterior wall of a story below:

1. The fire-resistance-rated wall or assembly shall extend to the outside edge of the upper story; or
2. The underside of the exposed floor-ceiling assembly shall be protected as required for projections in Section R302.

R317.2.4 Structural independence. Each individual townhouse shall be structurally independent.

EXCEPTIONS: 1. Foundation supporting exterior walls or common walls.
2. Structural roof and wall sheathing from each unit may be fastened to the common wall framing.
3. Nonstructural wall coverings.
4. Flashing at termination of roof covering over common wall.

5. Townhouses separated by a common 2-hour fire-resistive rated wall as provided in Section R317.2.

6. Floor sheathing may fasten to the floor framing of both units.

AMENDATORY SECTION (Amending WSR 07-01-090, filed 12/19/06, effective 7/1/07)

WAC 51-51-0404 Section R404—Foundation and retaining walls.

R404.1 Concrete and masonry foundation walls. Concrete and masonry foundation walls shall be selected and constructed in accordance with the provisions of Section R404 or in accordance with ACI 318, ACI 332, NCMA TR68-A or ACI 530/ASCE 5/TMS 402 or other approved structural standards. When ACI 318, ACI 332 or ACI 530/ASCE 5/TMS 402 or the provisions of Section R404 are used to design concrete or masonry foundation walls, project drawings, typical details and specifications are not required to bear the seal of the architect or engineer responsible for the design, unless otherwise required by the state law of the jurisdiction having authority.

~~((Foundation walls that meet all of the following shall be considered laterally supported:~~

~~1. Full basement floor shall be 3.5 inches (89 mm) thick concrete slab poured tight against the bottom of the foundation wall.~~

~~2. Floor joists and blocking shall be connected to the sill plate at the top of the wall by the prescriptive method called out in Table R404.1(1), or, shall be connected with an approved connector with listed capacity meeting Table 404.1(1).~~

~~3. Bolt spacing for the sill plate shall be no greater than per Table R404.1(2).~~

~~4. Floor shall be blocked perpendicular to the floor joists. Blocking shall be full depth within two joist spaces of the foundation wall, and be flat blocked with minimum 2-inch by 4-inch (51 mm by 102 mm) blocking elsewhere.~~

~~5. Where foundation walls support unbalanced load on opposite sides of the building, such as a daylight basement, the building aspect ratio, L/W, shall not exceed the value specified in Table R404.1(3). For such foundation walls, the rim board shall be attached to the sill with a 20-gage metal angle clip at 24 inches (610 mm) on center, with five 8d nails per leg, or an approved connector supplying 230 pounds per linear foot (3.36 kN/m) capacity.~~

~~EXCEPTION: Foundations constructed entirely of concrete with stem walls not exceeding 5 feet (1524 mm) in height and supporting less than 4 feet (1220 mm) of unbalanced backfill are exempt from the lateral bracing requirements of Section R404.1.)~~

Tables R404.1(1), R404.1(2), and R404.1(3) are not adopted.

**TABLE R404.1(3)
10-INCH MASONRY FOUNDATION WALLS
WITH REINFORCING
WHERE $d > 6.75$ INCHES^a**

(no changes to Table R404.1.1(3) or footnotes)

R404.3 Wood sill plates. Wood sill plates shall be a minimum of 2-inch by 4-inch nominal lumber. Sill plate anchor-

age shall be in accordance with Sections R403.1.6 and R602.11.

AMENDATORY SECTION (Amending WSR 07-01-090, filed 12/19/06, effective 7/1/07)

WAC 51-51-0602 Section R602—Wood wall framing.

R602.3 Design and construction. Exterior walls of wood light-framed construction shall be designed and constructed in accordance with the provisions of this chapter and Figures R602.3(1) and R602.3(2) or in accordance with AF&PA's NDS. Components of exterior walls shall be fastened in accordance with Table R602.3(1) through R602.3(4). Exterior walls covered with foam plastic sheathing shall be braced in accordance with Section R602.10. Structural sheathing shall be fastened directly to structural framing members.

R602.3.4 Bottom (sole) plate. Studs shall have full bearing on a 2-inch nominal (38 mm) or larger plate or sill having a width at least equal to the width of the studs.

R602.9 Foundation cripple walls. Foundation cripple walls shall be framed of studs not smaller than the studding above. When exceeding 4 feet (1219 mm) in height, such walls shall be framed of studs having the size required for an additional story.

Cripple walls supporting exterior walls or interior braced wall panels as required in Section R403.1.2 and R403.1.2.1 with a stud height less than 14 inches (356 mm) shall be sheathed on at least one side with a wood structural panel that is fastened to both the top and bottom plates in accordance with Table R602.3(1), or the cripple walls shall be constructed of solid blocking. Cripple walls supporting exterior walls or interior braced wall panels as required in Section R403.1.2 and R403.1.2.1 shall be supported on foundations.

R602.10 Wall bracing. All exterior walls shall be braced in accordance with this section. In addition, interior braced wall lines shall be provided in accordance with Section 602.10.1.1. For buildings in Seismic Design Categories D₀, D₁ and D₂, walls shall be constructed in accordance with the additional requirements of Sections R602.10.11 through R602.11.3.

R602.10.2 Cripple wall bracing.

R602.10.2.1 Seismic Design Categories Other than D₂. In Seismic Design Categories other than D₂, cripple walls supporting exterior walls or interior braced wall panels as required in Section R403.1.2 and R403.1.2.1 shall be braced with an amount and type of bracing as required for the wall above in accordance with Table R602.10.1 with the following modifications for cripple wall bracing:

1. The percent bracing amount as determined from Table R602.10.1 shall be increased by 15 percent; and
2. The wall panel spacing shall be decreased to 18 feet (5486 mm) instead of 25 feet (7620 mm).

R602.10.2.2 Seismic Design Category D₂. In Seismic Design Category D₂, cripple walls supporting exterior walls or interior braced wall panels as required in Section R403.1.2

and R403.1.2.1 shall be braced in accordance with Table R602.10.1.

R602.10.2.3 Redesignation of cripple walls. In any Seismic Design Category, cripple walls are permitted to be redesignated as the first story walls for purposes of determining wall bracing requirements. If the cripple walls are redesignated, the stories above the redesignated story shall be counted as the second and third stories, respectively.

R602.10.5 Continuous wood structural panel sheathing. When continuous wood structural panel sheathing is provided in accordance with Method 3 of Section R602.10.3 on all sheathable areas of all exterior walls including areas above and below openings, braced wall panel lengths are not required to be in accordance with Section R602.10.4 provided they are in accordance with Table R602.10.5. Wood structural panel sheathing shall be installed at corners in accordance with Figure R602.10.5. The bracing percentages in Table R602.10.1 for Method 3 shall be permitted to be multiplied by a factor of 0.9 for exterior walls with a maximum opening height that does not exceed 85 percent of the wall height or a factor of 0.8 for exterior walls with a maximum opening height that does not exceed 67 percent of the wall height.

TABLE R602.10.5
LENGTH REQUIREMENTS FOR BRACED WALL PANELS IN A
CONTINUOUSLY SHEATHED WALL^{a,b,c}
(no proposed changes to contents of Table R602.10.5)

For SI: 1 inch = 25.4 mm, 1 foot = 305 mm, 1 pound per square foot = 0.0479 kN/m².

- a. Linear interpolation shall be permitted.
- b. Full-height sheathed wall segments on either side of garage openings that support roofs of light-framed construction only, with roof covering dead loads of 3 psf or less shall be permitted to have a 4:1 height-to-width ratio.
- c. Walls on either or both sides of openings in garages attached to fully sheathed dwellings shall be permitted to be built in accordance with Section R602.10.6.2 and Figure R602.10.6.2 except that a single sill plate shall be permitted and two anchor bolts shall be placed at 1/3 points. In addition, tie-down devices shall not be required and the vertical wall segment shall have a maximum 6:1 height-to-width ratio (with height being measured from top of header to the bottom of the sill plate). This option shall be permitted for the first story of two-story applications in Seismic Design Categories A through C.

R602.10.6 Alternate braced wall panel construction methods. Alternate braced wall panels shall be constructed in accordance with Sections R602.10.6.1 and R602.10.6.2.

R602.10.6.1 Alternate braced wall panels. Alternate braced wall panels constructed in accordance with one of the following provisions shall be permitted to replace each 4 feet (1219 mm) of braced wall panel as required by Section R602.10.4. The maximum height and minimum width of each panel shall be in accordance with Table R602.10.6.

1. In one-story buildings, each panel shall be sheathed on one face with 3/8-inch-minimum-thickness (9.5 mm) wood structural panel sheathing nailed with 8d common or galva-

nized box nails in accordance with Table R602.3(1) and blocked at all wood structural panel sheathing edges. Two anchor bolts installed in accordance with Figure R403.1(1) shall be provided in each panel. Anchor bolts shall be placed in from each end of the panel a horizontal distance of one-fourth the panel width. Each panel end stud shall have a tie-down device fastened to the foundation, capable of providing an uplift capacity in accordance with Table R602.10.6. The tie-down device shall be installed in accordance with the manufacturer's recommendations. The panels shall be supported directly on a foundation or on floor framing supported directly on a foundation which is continuous across the entire length of the braced wall line. This foundation shall be reinforced with not less than one No. 4 bar top and bottom. When the continuous foundation is required to have a depth greater than 12 inches (305 mm), a minimum 12-inch by 12-inch (305 mm by 305 mm) continuous footing or turned down slab edge is permitted at door openings in the braced wall line. This continuous footing or turned down slab edge shall be reinforced with not less than one No. 4 bar top and bottom. This reinforcement shall be lapped 15 inches (381 mm) with the reinforcement required in the continuous foundation located directly under the braced wall line.

2. In the first story of two-story buildings, each braced wall panel shall be in accordance with Item 1 above, except that the following:

- 2.1 The wood structural panel sheathing shall be provided on both faces;
- 2.2 Sheathing edge nailing spacing shall not exceed 4 inches on center; and
- 2.3 Anchor bolts shall be placed at the center of the panel width and in from each end of the panel a horizontal distance of one-fifth the panel width (three total).

R602.10.7 Panel joints. All vertical joints of panel sheathing shall occur over, and be fastened to, common studs. Horizontal joints in braced wall panels shall occur over, and be fastened to, common blocking of a minimum 2 inches in nominal thickness.

EXCEPTION: Blocking is not required behind horizontal joints in Seismic Design Categories A and B and detached dwellings in Seismic Design Category C when constructed in accordance with Section R602.10.3, braced-wall-panel construction Method 3 and Table R602.10.1, Method 3, or where permitted by the manufacturer's installation requirements for the specific sheathing material.

R602.10.8 Connections. Braced wall panel bottom (sole) plates shall be fastened to the floor framing and top plates shall be connected to the framing above in accordance with Table R602.3(1). Sill plates shall be fastened to the footing, foundation or slab in accordance with Sections R403.1.6 and R602.11. Where joists are perpendicular to the braced wall lines above, blocking shall be provided under and in line with the braced wall panels. Where joists are perpendicular to braced wall lines below, blocking shall be provided over and in line with the braced wall panels. Where joists are parallel to braced wall lines above or below, a rim joist or other parallel framing member shall be provided at the wall to permit fastening per Table R602.3(1). For buildings in Seismic Design Categories D₀, D₁ and D₂, braced wall panels shall also be fastened in accordance with Section R602.11.2.

R602.10.9 Interior braced wall support. This section is not adopted. See Section R403.1.2.

R602.10.10 Design of structural elements. Where a building, or portion thereof, does not comply with one or more of the bracing requirements in Sections R602.10 through R602.10.9, those portions shall be designed and constructed in accordance with accepted engineering practice.

R602.10.11 Bracing in Seismic Design Categories D₀, D₁ and D₂. Structures located in Seismic Design Categories D₀, D₁ and D₂ shall have exterior and interior braced wall lines.

R602.10.11.1 Braced wall line spacing. Spacing between braced wall lines in each story shall not exceed 25 feet (7620 mm) on center in both the longitudinal and transverse directions.

EXCEPTION: In one- and two-story buildings two adjacent braced wall lines shall not exceed 35 feet (10,363 mm) on center in order to accommodate an area not exceeding 900 square feet (84 m²) in each dwelling unit. Spacing between all other braced wall lines shall not exceed 25 feet (7620 mm).

R602.10.11.2 Braced wall panel location. Exterior braced wall lines shall be provided with a braced wall panel located at each end of the braced wall line.

EXCEPTION: For braced wall panel construction Method 3 of Section R602.10.3, the braced wall panel shall be permitted to begin no more than 8 feet (2438 mm) from each end of the braced wall line provided one of the following is satisfied:

1. A minimum 24-inch-wide (610 mm) panel is applied to each side of the building corner and the two 24-inch-wide (610 mm) panels at the corner shall be attached to framing in accordance with Figure R602.10.5; or
2. The end of each braced wall panel closest to the corner shall have a tie-down device fastened to the stud at the edge of the braced wall panel closest to the corner and to the foundation or framing below. The tie-down device shall be capable of providing an uplift allowable design value of at least 1,800 pounds (8 kN). The tie-down device shall be installed in accordance with the manufacturer's recommendations.

R602.10.11.3 Collectors. A designed collector shall be provided if a braced wall panel is not located at each end of a braced wall line as indicated in Section R602.10.11.2 or, when using the Section R602.10.11.2 Exception, if a braced wall panel is more than 8 feet (2438 mm) from each end of a braced wall line.

R602.10.11.4 Cripple wall bracing. In addition to the requirements of Section R602.10.2, where interior braced wall panels occur without a foundation below, the length of parallel exterior cripple wall bracing shall be one and one-half times the length required by Table R602.10.1. Where cripple walls braced using Method 3 of Section R602.10.3 cannot provide this additional length, the capacity of the sheathing shall be increased by reducing the spacing of fasteners along the perimeter of each piece of sheathing to 4 inches (102 mm) on center.

R602.10.11.5 Sheathing attachment. Adhesive attachment of wall sheathing shall not be permitted in Seismic Design Categories C, D₀, D₁ and D₂.

R602.11 Framing and connections for Seismic Design Categories D₀, D₁ and D₂. The framing and connection details of buildings located in Seismic Design Categories D₀, D₁ and D₂ shall be in accordance with Sections R602.11.1 through R602.11.3.

R602.11.1 Wall anchorage. Braced wall line sill plates shall be anchored to concrete or masonry foundations in accordance with Sections R403.1.6 and R602.11. For all buildings in Seismic Design Categories D₀, D₁ and D₂ and townhouses in Seismic Design Category C, plate washers, a minimum of 0.229 inch by 3 inches by 3 inches (5.8 mm by 76 mm by 76 mm) in size, shall be installed between the foundation sill plate and the nut. The hole in the plate washer is permitted to be diagonally slotted with a width of up to 3/16 inch (5 mm) larger than the bolt diameter and a slot length not to exceed 1-3/4 inches (44 mm), provided a standard cut washer is placed between the plate washer and the nut.

R602.11.2 Interior braced wall panel connections. Interior braced wall panels shall be fastened to floor and roof framing in accordance with Table R602.3(1), to required foundations in accordance with Section R602.11.1, and in accordance with the following requirements:

1. Floor joists parallel to the top plate shall be toe-nailed to the top plate with at least 8d nails spaced a maximum of 6 inches (152 mm) on center.

2. Top plate laps shall be face-nailed with at least eight 16d nails on each side of the splice.

R602.11.3 Stepped foundations. Where stepped foundations occur, the following requirements apply:

1. Where the height of a required braced wall panel that extends from foundation to floor above varies more than 4 feet (1220 mm), the braced wall panel shall be constructed in accordance with Figure R602.11.3.

2. Where the lowest floor framing rests directly on a sill bolted to a foundation not less than 8 feet (2440 mm) in length along a line of bracing, the line shall be considered as braced. The double plate of the cripple stud wall beyond the segment of footing that extends to the lowest framed floor shall be spliced by extending the upper top plate a minimum of 4 feet (1219 mm) along the foundation. Anchor bolts shall be located a maximum of 1 foot and 3 feet (305 and 914 mm) from each end of the plate section at the step in the foundation.

3. Where cripple walls occur between the top of the foundation and the lowest floor framing, the bracing requirements for a story shall apply.

4. Where only the bottom of the foundation is stepped and the lowest floor framing rests directly on a sill bolted to the foundations, the requirements of Section R602.11.1 shall apply.

NEW SECTION

WAC 51-51-0703 Section R703—Exterior covering.

R703.1 General. Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section R703.8. The exterior wall envelope shall be designed and

constructed in a manner that prevents the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior veneer as required by Section R703.2 and a means of draining water that enters the assembly to the exterior.

- EXCEPTIONS:
1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapter 6 and flashed according to Section R703.7 or R703.8.
 2. Compliance with the requirements for a means of drainage, and the requirements of Section R703.2 and R703.8, shall not be required for an exterior wall envelope that has been demonstrated to resist wind-driven rain through testing of the exterior wall envelope, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E 331 under the following conditions:
 - 2.1. Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.
 - 2.2. Exterior wall envelope test assemblies shall be at least 4 feet (1219 mm) by 8 feet (2438 mm) in size.
 - 2.3. Exterior wall assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (299Pa).
 - 2.4. Exterior wall envelope assemblies shall be subjected to a minimum test exposure duration of 2 hours.

The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate: Control joints in the exterior wall envelope; joints at the perimeter of opening penetration; or intersections of terminations with dissimilar materials.
 3. The requirement for a means of drainage shall not be construed to mean an air space cavity under the exterior cladding for an exterior wall clad with panel siding made of plywood, engineered wood, hardboard, or fiber cement. A water-resistive barrier as required by Section R703.2 and Table R703.4 will be required on exterior walls.

NEW SECTION

WAC 51-51-1501 Section M1501—General.

M1501 Outdoor discharge. The air removed by every mechanical exhaust system shall be discharged to the outdoors. Air shall not be exhausted into an attic, soffit, ridge vent or crawl space.

EXCEPTION: Whole-house cooling attic fans that discharge into the attic space of dwelling units having private attics shall be permitted.

NEW SECTION

WAC 51-51-2439 Section G2439—Clothes dryer exhaust.

G2439.5.3 Protection required. Plates or clips shall be placed where nails or screws from finish or other work are likely to penetrate the clothes dryer exhaust duct. Plates or clips shall be placed on the finished face of all framing members where there is less than 1 1/4 inches (32 mm) between the duct and the finished face of the framing material. The plate or clip shall be steel not less than 1/16 inch (1.59 mm) in thickness and of sufficient width to protect the duct.

WSR 08-01-103 PERMANENT RULES BUILDING CODE COUNCIL

[Filed December 18, 2007, 10:47 a.m., effective April 1, 2008]

Effective Date of Rule: April 1, 2008.

Purpose: To amend chapter 51-51 WAC, the 2006 International Residential Code, Section R403.1.6.1 to reinstate the requirement that bearing walls be anchored to the foundation in certain seismic design categories.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0403.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 07-16-109 on July 31, 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 1, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 9, 2007.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 07-01-090, filed 12/19/06, effective 7/1/07)

WAC 51-51-0403 Section R403—Footings.

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads specified in Section R301 and to transmit the resulting loads to the supporting soil within the limitations determined from the characteristics of the soil. Footings shall be supported on undisturbed natural soil or engineered fill. Foundation walls complying with Section R404 or stem walls complying with Section R403.1.3 shall be permitted to support exterior walls, exterior braced wall lines and exterior braced wall panels provided they are supported by continuous footings.

R403.1.2 Braced Wall Panels in Seismic Design Categories D₀, D₁ and D₂. The braced wall panels at exterior and interior walls of buildings located in Seismic Design Categories D₀, D₁ and D₂ shall be supported by foundations.

EXCEPTIONS: 1. In buildings in Seismic Design Categories D₀ and D₁, and in one-story buildings in Seismic Design Category D₂, interior braced wall panels are not required to be supported

by foundations, provided no building plan dimension perpendicular to the interior braced wall lines is greater than 50 feet.

2. In two-story buildings in Seismic Design Category D₂, interior braced wall panels are not required to be supported by foundations, provided all of the following conditions are met:

2.1. No building plan dimension perpendicular to the interior braced wall lines exceeds 50 feet;

2.2. The distances between braced wall lines do not exceed twice the building width measured parallel to the braced wall lines;

2.3. The braced wall panels at the first story are continuously supported by floor joists, blocking or floor beams; and

2.4. The heights of braced wall panels in under-floor spaces do not exceed 48 inches (1219 mm).

R403.1.2.1 Foundations. Foundations at braced wall panels shall be constructed of masonry or concrete foundation walls in accordance with Sections R402 and R404, and masonry or concrete footings in accordance with Sections R402 and R403.

EXCEPTIONS: 1. In under-floor spaces, cripple walls shall be permitted to substitute for masonry or concrete foundation walls provided they comply with the following:

a. They are located directly below the interior braced wall panels above;

b. They are braced in accordance with Sections R602.10.2 and R602.10.11.4 for cripple wall bracing; and

c. They are supported by footings complying with Sections R402 and R403, except that the footing of a foundation supporting an interior braced wall panel is not required to be continuous.

2. Footings of foundations supporting interior braced wall panels are not required to be continuous but shall be constructed beyond the ends of foundation walls, stem walls and cripple walls supporting braced wall panels for a minimum distance of 4 inches and a maximum distance of the footing thickness. The footing extension is not required at intersections with other footings.

R403.1.3 Seismic reinforcing in Seismic Design Categories D₀, D₁ and D₂. Concrete footings of buildings assigned to Seismic Design Categories D₀, D₁ and D₂ shall comply with this section and have minimum reinforcement as specified by Section R403.1.3.1 or R403.1.3.2. Bottom reinforcement shall be located a minimum of 3 inches (76 mm) from the bottom of the footing.

Where a construction joint is created between a concrete footing and a concrete stem wall, minimum vertical reinforcement of one No. 4 bar shall be provided at not more than 4 feet (1219 mm) on center. The bars shall extend to 3 inches (76 mm) clear of the bottom of the footing, have a standard hook, and extend into the stem wall the lesser of 2 inches (49 mm) clear of the top of the wall and 14 inches (357 mm).

Where a solidly grouted masonry stem wall is supported on a concrete footing, minimum vertical reinforcement of one No. 4 bar shall be provided at not more than 4 feet (1219 mm) on center. The bars shall extend to 3 inches (76 mm) clear of the bottom of the footing, have a standard hook, and extend into the stem wall to 2 inches (49 mm) clear of the top of the wall.

Masonry stem walls without solid grout and vertical reinforcing are not permitted.

Concrete and masonry stem walls shall comply with the requirements of Section R404 for foundation walls.

EXCEPTION: In detached one- and two-family dwellings of light-framed construction and three stories or less above grade, plain concrete footings supporting walls, columns or pedestals are permitted.

R403.1.3.1 Foundation stem walls. Foundation stem walls shall have installed a minimum of one No. 4 bar within 12 inches (305 mm) of the top of the stem wall and one No. 4 bar located 3 inches (76 mm) to 4 inches (102 mm) from the bottom of the footing.

R403.1.4 Minimum depth. All exterior footings shall be placed at least 12 inches (305 mm) below the undisturbed ground surface. Where applicable, the depth of footings shall also comply with Sections R403.1.4.1 through R403.1.4.2.

R403.1.4.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extend below the frost line specified in Table R301.2(1);

2. Construct in accordance with Section R403.3;

3. Construct in accordance with ASCE 32; or

4. Erect on solid rock.

EXCEPTIONS: 1. Protection of freestanding accessory structures with an area of 600 square feet (56 m²) or less and an eave height of 10 feet (3048 mm) or less shall not be required.

2. Protection of freestanding accessory structures with an area of 400 square feet (37 m²) or less, of other than light-framed construction, with an eave height of 10 feet (3048 mm) or less shall not be required.

3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line.

Footings shall not bear on frozen soil unless such frozen condition is of a permanent character.

R403.1.6 Anchorage at braced wall panels. Where braced wall panels are supported by monolithic slabs, footings or foundations, the wood sole plates, wood sill plates or cold-formed steel bottom tracks shall be anchored to the slab cast monolithically with a footing, footing or foundation in accordance with ~~(this)~~ Section R403.1.6.

The wood sole or sill plate shall be anchored to the monolithic slab, footing or foundation with anchor bolts spaced a maximum of 6 feet (1829 mm) on center. There shall be a minimum of two bolts per plate section with one bolt located not more than 12 inches (305 mm) and not less than seven bolt diameters from each end of the plate section. Bolts shall be at least 1/2 inch (13 mm) in diameter and shall extend a minimum of 7 inches (178 mm) into masonry or concrete. A nut and washer shall be tightened to a snug-tight condition on each bolt to the plate.

Cold-formed steel framing systems shall be fastened to wood sill plates or anchored directly to the foundation in accordance with Section R505.3.1 or R603.3.1.

EXCEPTIONS: 1. Foundation anchorage, spaced as required to provide equivalent anchorage to 1/2-inch-diameter (13 mm) anchor bolts.

2. Walls 24 inches (610 mm) in total length or shorter connecting offset braced wall panels shall be anchored to the footing or foundation with a minimum of one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels as specified in Figure R602.10.5 at the corners.

3. Walls 12 inches (305 mm) in total length or shorter connecting offset braced wall panels shall be permitted to be connected to the footing or foundation without anchor bolts. The wall shall be attached to adjacent braced wall panels as specified in Figure R602.10.5 at the corners.

R403.1.6.1 Foundation anchorage in Seismic Design Categories C, D₀, D₁ and D₂. In addition to the requirements of Section R403.1.6, the following requirements shall apply to wood light-frame structures in Seismic Design Categories D₀, D₁ and D₂ and wood light-frame townhouses in Seismic Design Category C.

1. Bearing walls and interior braced wall sill plates shall be anchored to footings or foundations with anchor bolts spaced at not more than 6 feet (1829 mm) on center and located within 12 inches (305 mm) from the ends of each plate section when supported on a continuous foundation.

2. The maximum anchor bolt spacing shall be 4 feet (1219 mm) for buildings over two stories in height.

3. Plate washers complying with Section R602.11.1 shall be provided for all anchor bolts over the full length of required braced wall lines. Properly sized cut washers shall be permitted for anchor bolts in wall lines not containing braced wall panels or in braced wall lines.

4. Stepped cripple walls shall conform to Section R602.11.3.

5. Where wood foundations in accordance with Sections R402.1 and R404.2 are used, the force transfer shall have a capacity equal to or greater than the connections required by Section R602.11.1 or the braced wall panel shall be connected to the wood foundations in accordance with the braced wall panel-to-floor fastening requirements of Table 602.3(1).

**WSR 08-01-106
PERMANENT RULES**

WESTERN WASHINGTON UNIVERSITY

[Filed December 18, 2007, 11:25 a.m., effective January 18, 2008]

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

Purpose: Due to legislative amendments in 2005 of the state's public records law, Western Washington University proposes to repeal its existing public record rules and adopt new public records rules. New rules will streamline compliance and provide clearer guidelines for the public.

Citation of Existing Rules Affected by this Order: Repealing chapter 516-11 WAC, Public records.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Other Authority: RCW 42.56.100.

Adopted under notice filed as WSR 07-19-093 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 9, Amended 0, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 0, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 9, Amended 0, Repealed 8; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 14, 2007.

Suzanne M. Baker
Rules Coordinator

Chapter 516-09 WAC

PUBLIC RECORDS

NEW SECTION

WAC 516-09-010 Authority and purpose. (1) For the purposes of this chapter, the Public Records Act, chapter 42.56 RCW, is referred to as the act. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures Western Washington University will follow in order to provide full access to public records. Western Washington University shall hereinafter be referred to as the "university." Where appropriate, the term university also refers to the staff and employees of Western Washington University. These rules provide information to persons wishing to request access to public records of the university and establish processes for both requestors and university staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the university will be guided by the provisions of the act describing its purposes and interpretation.

NEW SECTION

WAC 516-09-020 Agency description—Contact information—Public records officer. (1) Western Washington University is an institution of higher education, authority for which is located in chapter 28B.35 RCW. The administrative offices of the university are located at the university's main campus at Bellingham, Washington. The university also has education centers in Seattle, Everett, Mount-

lake Terrace, Shoreline, Bremerton, Oak Harbor, Anacortes, and Port Angeles.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request, should contact the university's public records officer located at the main campus listed below:

Public Records Officer
Western Washington University
516 High Street
Bellingham, WA 98225
Phone: 360-650-3051
Fax: 360-650-3044

Current contact information and additional information regarding release of public records can be found on the university web site at http://www.library.wwu.edu/info/pubrecords_procedures.html.

(3) The public records officer will oversee compliance with the act but another university staff member may process the request. Therefore, these rules will refer to the public records officer or "designee." The public records officer or designee and the university will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the university.

NEW SECTION

WAC 516-09-030 Availability of public records. (1)

Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the university in the presence of university staff. For the purposes of this chapter, the normal business hours for the public records office are from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding university holidays. Other hours of inspection may be arranged if the requestor and the public records officer or designee agree on a different time. Records must be inspected at the offices of the university in the presence of university staff.

(2) Index of records. The Western Washington University records retention schedule is the index of records created after June 30, 1990. Links to many of these schedules can be located at <http://www.wwu.edu/depts/recgmt/>.

(3) Organization of records. The university will maintain its records in a reasonably organized manner. The university will take reasonable actions to protect records from damage and disorganization. A requestor shall not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university web site at www.wwu.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university must make the request in writing on the university's request form, appended to this chapter and located at http://www.library.wwu.edu/info/pubrecords_request.pdf; or by letter or fax addressed to the public records officer and including the following information:

- (i) Name of requestor;
- (ii) Address of requestor;
- (iii) Other contact information, including telephone number and any e-mail address;
- (iv) Date of the request;
- (v) Identification of the public records adequate for the public records officer to locate the records; and
- (vi) A verification that the records requested shall not be used to compile a commercial sales list.



Western Washington University
Public Records Office
Western Libraries; HH231
516 High St.
Bellingham, WA 98225 - 9103
Phone: (360) 650-3051
FAX: (360) 650-3044

Request for Public Records

IDENTIFICATION
Name Date of Request
Street Address Phone
City / State / Zip Representing
Records to be: Viewed Copied
The University charges 15¢ per page for standard copies. There is no charge for viewing records. Requester must pay in advance by check, made payable to WWU; please remit to above address. Materials will be released when payment is received.

NATURE OF REQUEST
Description of Records - Please give a written description of the records you wish to see and, where possible, indicate dates, topic, and person(s) referenced. Please be as specific as possible.
I hereby certify that the information obtained as a result of this request for public records will not be used in whole or in part to compile a list for commercial purposes. (RCW 42.56.070)
Requester's Signature:

DISPOSITION OF REQUEST - OFFICE USE ONLY
Date Received Request Number
Request Referred to: Name / Department Date Sent
1.
2.
REQUEST APPROVED Date: By:
Copies @ 15¢ per page, for total of \$
No charge; request was less than 10 pages.
REQUEST DENIED Date: By:
Reasons for Denial:

Revised May 2007

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies will be provided at a rate of no more than fifteen cents per page, or such amount as may be established in law.

NEW SECTION

WAC 516-09-03001 "Public record" defined. Courts use a three-part test to determine if a record is a "public record." The document must be: A "writing," containing information "relating to the conduct of government" or the

performance of any governmental or proprietary function, "prepared, owned, used, or retained" by an agency.¹

(1) **Writing.** A "public record" can be any writing "regardless of physical form or characteristics." RCW 42.17.020(41). "Writing" is defined very broadly as: "...handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated." RCW 42.17.020(48). An e-mail is a "writing."

(2) **Relating to the conduct of government.** To be a "public record," a document must relate to the "conduct of government or the performance of any governmental or proprietary function." RCW 42.17.020(41). Almost all records held by an agency relate to the conduct of government; however, some do not. A purely personal record having absolutely no relation to the conduct of government is not a "public record." Even though a purely personal record might not be a "public record," a record of its existence might be. For example, a record showing the existence of a purely personal e-mail sent by an agency employee on an agency computer would probably be a "public record," even if the contents of the e-mail itself were not.²

(3) **"Prepared, owned, used, or retained."** A "public record" is a record "prepared, owned, used, or retained" by an agency. RCW 42.17.020(41).

A record can be "used" by an agency even if the agency does not actually possess the record. If an agency uses a record in its decision-making process, it is a "public record."³ For example, if an agency considered technical specifications of a public works project and returned the specifications to the contractor in another state, the specifications would be a "public record" because the agency "used" the document in its decision-making process.⁴ The agency could be required to obtain the public record, unless doing so would be impossible. An agency cannot send its only copy of a record to a third party for the sole purpose of avoiding disclosure.⁵

Sometimes agency employees work on agency business from home computers. These home computer records (including e-mail) were "used" by the agency and relate to the "conduct of government" so they are "public records." RCW 42.17.020(41). However, the act does not authorize unbridled searches of agency property.⁶ If agency property is not subject to unbridled searches, then neither is the home computer of an agency employee. Yet, because the home computer documents relating to agency business are "public records," they are subject to disclosure (unless exempt). Agencies should instruct employees that all public records, regardless of where they were created, should eventually be stored on agency computers. Agencies should ask employees to keep agency-related documents on home computers in separate folders and to routinely blind carbon copy ("bcc") work e-mails back to the employee's agency e-mail account. If the agency receives a request for records that are solely on

employees' home computers, the agency should direct the employee to forward any responsive documents back to the agency, and the agency should process the request as it would if the records were on the agency's computers.

Notes: ¹*Confederated Tribes of the Chehalis Reservation v. Johnson*, 135 Wn.2d 734, 748, 958 P.2d 260 (1998). For records held by the secretary of the senate or chief clerk of the house of representatives, a "public record" is a "legislative record" as defined in RCW 40.14.100. RCW 42.17.020(41).

²*Tiberino v. Spokane County Prosecutor*, 103 Wn. App. 680, 691, 13 P.3d 1104 (2000).

³*Concerned Ratepayers v. Public Utility Dist. No. 1*, 138 Wn.2d 950, 958-61, 983 P.2d 635 (1999).

⁴*Id.*

⁵*See Op. Att'y Gen. 11* (1989), at 4, n.2 ("We do not wish to encourage agencies to avoid the provisions of the public disclosure act by transferring public records to private parties. If a record otherwise meeting the statutory definition were transferred into private hands solely to prevent its public disclosure, we expect courts would take appropriate steps to require the agency to make disclosure or to sanction the responsible public officers.")

⁶*See Hangartner v. City of Seattle*, 151 Wn.2d 439, 448, 90 P.3d 26 (2004).

NEW SECTION

WAC 516-09-040 Processing of public records requests—General. (1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available;

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification shall be requested and provided in writing by mail or fax. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Consequences of failure to respond. If the university does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) Informing persons of records request. In the event that the request seeks records of named persons to whom the records pertain, the public records officer may, prior to pro-

viding records, give notice to such persons named in the request whose rights may be affected by the disclosure. The notice to the affected persons will include a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university shall promptly provide space to inspect public records in the presence of university staff. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the university to copy.

(b) The requestor must claim or review the assembled records within thirty days of the university's notification to him or her that the records are available for inspection or copying. The university will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the university to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the university may close the request. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee shall make any copies of records requested by the requestor or arrange for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the university has completed a diligent search for the requested records, made any located nonexempt records available for inspection, and provided copies.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the university has closed the request.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will make them available for inspection or provide copies upon payment on an expedited basis.

NEW SECTION

WAC 516-09-050 Reserved.

NEW SECTION

WAC 516-09-060 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the university for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside the act. The university's failure to list an exemption here shall not affect the efficacy of any exemption.

(a) RCW 5.60.060 - Privileged communications;

(b) 20 U.S.C. 1232g - Family Education Rights and Privacy Act (FERPA);

(c) 42 U.S.C. 405 (c)(2)(vii)(1) - Social Security numbers;

(d) 45 CFR 16-0164 - HIPAA Privacy Rule;

(e) Chapter 19.108 RCW and RCW 4.24.601 - Uniform Trade Secrets Act; and

(f) Chapter 10.97 RCW - Regarding criminal history information.

(2) The university is prohibited by RCW 42.56.070(9) from providing lists of individuals for commercial purposes.

NEW SECTION

WAC 516-09-070 Costs of providing copies of public records. (1) Costs for providing copies.

(a) Costs for paper copies. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page. Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require payment of the costs of copying an installment before providing that installment. The university will not charge sales tax when it makes copies of public records.

(b) Costs for duplicating electronic and other records. The university may charge actual costs for special arrangements necessary for providing copies of records when required by the requestor, e.g., costs of color copying, oversized records, tapes, CDs, or records in other formats. Prior to making duplicate copies, the public records officer or designee may request a deposit of ten percent of the estimated cost of reproduction.

(2) Costs of mailing. The university may also charge actual costs of mailing, including the cost of the shipping container.

(3) Payment. Payment may be made by cash, check, or money order to the university.

NEW SECTION

WAC 516-09-080 Review of denials of public records. (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(3) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 516-11-010	Definition and classification of public records.
WAC 516-11-040	General course and method of decision making.
WAC 516-11-060	Designation of public records officers.
WAC 516-11-070	Availability for public inspection and copying of public records.
WAC 516-11-080	Requests for public records.
WAC 516-11-090	Charges for copying.
WAC 516-11-100	Determination regarding exempt records.
WAC 516-11-110	Review of denials of public records requests.

WSR 08-01-110

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed December 18, 2007, 1:50 p.m., effective April 1, 2008]

Effective Date of Rule: April 1, 2008.

Purpose: To amend portions of chapter 51-50 WAC, the 2006 International Building Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-0200, 51-50-0310, 51-50-0903, 51-50-1403, 51-50-1607, 51-50-1613, and 51-50-3001.

Statutory Authority for Adoption: RCW 19.27.190 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 07-16-025 on July 23 [20], 2007.

Changes Other than Editing from Proposed to Adopted Version: The amendments proposed to sections 308, 406, 702, 704, 705, 2702, and Table 2902.1 were not adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 5, 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 7, Repealed 0.

Date Adopted: November 9, 2007.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. See Section 310.2.

CHILD DAY CARE. See Section 310.2.

CHILD DAY CARE HOME, FAMILY. See Section 310.2.

NIGHTCLUB. (~~An establishment, other than a theater with fixed seating, which includes all of the following:~~

~~1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;~~

~~2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;~~

~~3. Has an occupant load of 100 or more as determined by the fire code official; and~~

~~4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.~~

Paid performing artists are those entertainers engaged to perform in a for-profit business establishment.)) An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and

primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

PORTABLE SCHOOL CLASSROOM. See Section 902.1.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. See Section 310.2. This definition is not adopted.

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above, including basements (also see "Mezzanine" and Section 502.1). It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

STORY ABOVE GRADE PLANE. Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor or roof next above the basement is:

1. More than 6 feet (1829 mm) above grade plane; or
2. More than 12 feet (3658 mm) above the finished ground level at any point.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-0310 Section 310—Residential Group R.

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code in accordance with Section 101.2. Residential occupancies shall include the following:

R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Boarding homes as licensed by department of social and health services under chapter 388-78A WAC
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (nontransient)
- Monasteries
- Motels (nontransient)
- Residential treatment facilities as licensed by department of health under chapter 246-337 WAC
- Vacation timeshare properties

Congregate living facilities with sixteen or fewer occupants are permitted to comply with the construction requirements for Group R-3.

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of twelve or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours, or congregate living facilities with sixteen or fewer persons. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the International Residential Code in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 classification is not adopted. Any reference in this code to R-4 does not apply.

310.2 Definitions.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

CHILD DAY CARE HOME, FAMILY is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. This definition is not adopted.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-0903 Section 903—Automatic sprinkler systems.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout ~~((an occupancy with a nightclub))~~ Group A-2 nightclubs as defined in this code. An existing nightclub(s) constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, ~~((2007))~~ 2009. ~~((The fire code official, for the application of this rule, may establish an occupant load based on the observed use of the occupancy in accordance with Table 1004.1.2.))~~

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (465 m²); and clusters of portable school classrooms shall be separated as required in chapter 5 of the building code.
2. Group E occupancies with an occupant load of 50 or less.

903.2.7 Group R. An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION: Group R-1 if all of the following conditions apply:
1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

NEW SECTION

WAC 51-50-1403 Section 1403—Performance requirements.

1403.2 Weather protection. Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section 1405.3. The exterior wall envelope shall be designed and constructed in such a manner as to prevent the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior veneer, as described in Section 1404.2, and a means of draining water that enters the assembly to the exterior. An air space cavity is not required under the exterior cladding for an exterior wall clad with panel siding made of plywood, engineered wood, hardboard, or fiber cement.

EXCEPTIONS: 1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapters 19 and 21, respectively.
2. Compliance with the requirements for a means of drainage, and the requirements of Sections 1404.2 and 1405.3, shall not be required for an exterior wall envelope that has been demonstrated through testing to resist wind-driven rain, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E 331 under the following conditions:
2.1 Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.
2.2 Exterior wall envelope test assemblies shall be at least 4 feet by 8 feet (1219 mm by 2438 mm) in size.
2.3 Exterior wall envelope assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (psf) (0.297 kN/m²).
2.4 Exterior wall envelope assemblies shall be subjected to a minimum test exposure duration of 2 hours.
The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate control joints in the exterior wall envelope, joints at the perimeter of openings or intersections of terminations with dissimilar materials.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-1607 Section 1607—Live loads.

IBC Table 1607.1 MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS AND MINIMUM CONCENTRATED LIVE LOADS

OCCUPANCY OR USE	UNIFORM (psf)	CONCENTRATED (psf)
4. Assembly areas and theaters		
Fixed seats (fastened to floor)	60	
Follow spot, projections, and control rooms	50	
Lobbies	100	=====
Movable seats	100	
Stages and platforms	125	
Other assembly areas	100	
5. (Reserved)		-----
9. Decks ^h and Balconies	Same as occupancy served	-----
28. Residential		
One- and two-family dwellings		
Uninhabitable attics without storage ⁱ	10	
Uninhabitable attics with limited storage ^{e, j}	20	
Habitable attics and sleeping areas	30	-----
All other areas	40	
Hotels and multifamily dwellings		
Private rooms and corridors serving them	40	
Public rooms and corridors serving them	100	

NEW SECTION

WAC 51-50-1613 Section 1613—Earthquake loads.

1613.7 Modification of ASCE 7. ASCE 7-05 including Supplement #1 is modified according to this section.

1613.7.1 The following equations found in Section 12.8 and Section 15.4 expressing limitations for the seismic response coefficient C_s shall be defined as follows:

Equation 12.8-5 C_s = 0.044S_{DS}I ≥ 0.01

Equation 15.4-1 C_s = 0.044S_{DS}I ≥ 0.03

Equation 15.4-3 C_s = 0.044S_{DS}I ≥ 0.01

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

WAC 51-50-3001 Section 3001—General.

3001.1 Scope. This chapter governs the design, construction, installation, alteration and repair of elevators and conveying systems and their components.

3001.2 Referenced standards. Except as otherwise provided for in this code, the design, construction, installation, alteration, repair and maintenance of elevators and conveying systems and their components shall conform to ASME A17.1, ASME A90.1, ASME B20.1, ALI ALCTV, and ASCE 24 for construction in flood hazard areas established in Section 1612.3.

3001.3 Accessibility. Passenger elevators required to be accessible by Chapter 11 shall conform to ICC A117.1.

3001.4 Change in use. A change in use of an elevator from freight to passenger, passenger to freight, or from one freight class to another freight class shall comply with Part XII of ASME A17.1.

Section 3002—Hoistway enclosures.

3002.4 Elevator car to accommodate ambulance stretcher. In buildings four stories in height or more, and in buildings which are required to have an elevator and contain Group R-1, R-2 or I Occupancies on a level other than the exit discharge level, at least one elevator shall be provided for fire department emergency access to all floors. Such elevator car shall be of such a size and arrangement to accommodate a 24-inch by 84-inch (610 mm by 2134 mm) ambulance stretcher in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) high and shall be placed inside on both sides of the hoistway door frame.

WSR 08-01-121

PERMANENT RULES

WESTERN WASHINGTON UNIVERSITY

[Filed December 18, 2007, 4:15 p.m., effective January 18, 2008]

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

Purpose: As required by RCW 28B.10.590, Western Washington University's new rules provides students with more choices for purchasing educational materials and encourages faculty and staff to work closely with bookstores and publishers to implement the least costly option without sacrificing educational content and to provide maximum cost savings to students.

Statutory Authority for Adoption: RCW 28B.10.590 and 28B.35.120(12).

Adopted under notice filed as WSR 07-19-029 on September 11, 2007.

Changes Other than Editing from Proposed to Adopted Version: Upon review of written testimony received from public hearing, an editorial amendment to WAC 516-40-030(2) was made that added the language "that faculty and staff members are required to consider the least costly option for such materials, including that they...." Legal counsel recommends an editorial amendment since the change was not substantive.

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

Recently Enacted State Statutes: New 3, Amended 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 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 3, 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 14, 2007.

Suzanne M. Baker
Rules Coordinator

Chapter 516-40 WAC

COURSE MATERIALS

NEW SECTION

WAC 516-40-010 Purpose. The purpose of this chapter is to give students more choices for purchasing educational materials and to encourage faculty and staff to work closely with bookstores and publishers to implement the least costly option without sacrificing educational content.

NEW SECTION

WAC 516-40-020 Definitions. For the purposes of this chapter, the following words and phrases mean:

(1) "Course materials." Any supplies or texts required or recommended by faculty or staff for a given course. Course materials may include, but are not limited to, texts, workbooks, study guides, CD-ROMs, art supplies, and other ancillary materials.

(2) "Bundle." A group of course materials joined together by packaging or required to be purchased as an indivisible unit.

NEW SECTION

WAC 516-40-030 Providing cost savings to students for course materials. (1) The affiliated bookstore for Western Washington University is the Western Associated Students (AS) Bookstore. The AS Bookstore will:

(a) Provide students the option of purchasing course materials that are unbundled whenever possible;

(b) Disclose to faculty and students the retail costs of textbooks on a per book and per course basis and such information will be made publicly available;

(c) Disclose publicly, when such information is available, how new editions vary from previous editions; and

(d) Actively promote and publicize book buy-back programs.

(2) To provide cost savings to students for course materials, Western faculty and staff members are required to consider the least costly option for such materials, including that they:

(a) Are encouraged to consider adopting the least expensive edition of course materials available when educational content is comparable.

(b) Are encouraged to work closely with publishers and the AS Bookstore to create bundles and packages if they provide a cost savings to students.

WSR 08-01-137

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 19, 2007, 11:32 a.m., effective January 19, 2008]

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

Purpose: New WAC 246-817-450 and 246-817-460, sexual misconduct rules for dentists, the purpose of the sexual misconduct rules is to establish clear definitions for sexual misconduct by dentists. In its efforts to ensure public safety, the commission is helping dentists avoid sexual misconduct and educating consumers regarding what they should expect from health care providers.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.130.050 (1) and (12).

Adopted under notice filed as WSR 06-21-105 on October 17, 2006, and 07-13-098 on July [June] 20, 2007.

A final cost-benefit analysis is available by contacting Allen Spaulding, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4863, fax (360) 664-9077, e-mail al.spaulding@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: December 19, 2007.

Pramod Sinha, DDS, BDS, Chair
Dental Quality Assurance Commission

SEXUAL MISCONDUCT RULES FOR DENTISTS

NEW SECTION

WAC 246-817-450 Definitions. (1) "Dentist" means an individual applying for a credential or credentialed specifically as defined in chapter 18.32 RCW.

(2) "Health care information" means any information, whether oral or recorded in any form or medium that identi-

fies or can readily be associated with the identity of, and relates to the health care of, a patient.

(3) "Key party" means a person legally authorized to make health care decisions for the patient.

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients, including palliative care, as consistent with community standards of practice for the dental profession. The activity must be within the scope of practice of the dentist.

(5) "Patient" means an individual who receives health care services from a dentist. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the dentist and the person. The fact that a person is not receiving treatment or professional services is not the sole determining factor.

NEW SECTION

WAC 246-817-460 Sexual misconduct. (1) A dentist shall not engage, or attempt to engage, in sexual misconduct with a current patient, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the dentist's scope of practice;
- (c) Rubbing against a patient or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient or key party;
- (j) Removing patient's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the dentist;
- (l) Masturbation or other sex act by the dentist in the presence of the patient or key party;
- (m) Soliciting a date with a patient or key party;
- (n) Discussing the sexual history, preferences or fantasies of the dentist;
- (o) Any behavior, gestures, or expressions that can reasonably be interpreted as seductive or sexual;
- (p) Sexually demeaning behavior including any verbal or physical contact which can reasonably be interpreted as

demeaning, humiliating, embarrassing, threatening or harming a patient or key party;

(q) Photographing or filming the body or any body part or pose of a patient or key party, other than for legitimate health care purposes; or for the educational or marketing purposes with the consent of the patient; and

(r) Showing a patient or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A dentist shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the dentist's sexual needs.

(3) A dentist shall not engage in the activities listed in subsection (1) of this section with a former patient or key party if the dentist:

(a) Uses or exploits the trust, knowledge, influence or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the dentist's personal or sexual needs.

(4) When evaluating whether a dentist has engaged or has attempted to engage in sexual misconduct, the commission will consider factors, including but not limited to:

(a) Documentation of a formal termination;

(b) Transfer of care to another health care provider;

(c) Duration of the dentist-patient relationship;

(d) Amount of time that has passed since the last dental health care services to the patient;

(e) Communication between the dentist and the patient between the last dental health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's personal or private information was shared with the dentist;

(g) Nature of the patient's health condition during and since the professional relationship; and

(h) The patient's emotional dependence and vulnerability.

(5) Patient or key party initiation or consent does not excuse or negate the dentist's responsibility.

(6) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to the dental profession; or

(c) Providing dental services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the dentist where there is no evidence of, or potential for, exploiting the patient.